

LAWDRAGON

Lawyer Limelight: Matthew Schwencke



By Emily Jackoway

When Matthew Schwencke started his defense practice fresh out of law school, he jumped in with both feet. Right away, he litigated a range of matters including medical malpractice, insurance coverage defense and premises liability cases, gaining valuable experience in the courtroom. There was just one thing missing: Schwencke wanted to connect with people, rather than corporations.

So, just over a decade ago now, Schwencke switched over to the plaintiffs' side. Now a shareholder at renowned Florida personal injury firm Searcy Denney Scarola Barnhart & Shipley, Palm Beach County native Schwencke still tries cases in many of the same practice areas he did as a defense lawyer. He represents victims of catastrophic personal injury, wrongful death, medical malpractice, nursing home abuse and defective products.

Schwencke immediately saw success on the plaintiffs' side: In 2013, he represented the family of a little boy who was struck by a car and killed while on a bicycle with his father. The pair were biking by a condominium driveway when the crash occurred. While the driver was included in the suit, Schwencke and his team placed primary blame on the condominium association, which had committed property violations that resulted in impaired sightlines for drivers. The jury found

in favor of Schwencke's clients: The verdict came to \$12M, with 90 percent of the award paid by the condominium association and the property management company.

While he always aims to get a fair settlement for his clients rather than put them through the stress of trial, Schwencke is ready to fight for his clients in court when the situation demands it. In other precedent-setting results, Schwencke obtained the largest surgical error verdict in Florida in 2017 and, earlier this year, achieved the largest wrongful death verdict in the history of Volusia County.

Nothing compares to getting justice for individuals in cases like those, Schwencke feels. When the jury returns a favorable verdict, he says, "I cry every time."

Lawdragon: Tell me about the start of your career, over on the defense side. How did that come about?

Matthew Schwencke: My dad was a lawyer, and, like me, went to the University of Florida for undergrad. Those four years were the quickest of my life, as my dad told me they would be. I had to figure out what to do, and my dad was a lawyer, so I decided to go to law school.

Then, in my third year of law school, my dad passed away unexpectedly. At his funeral, a defense lawyer who was his fraternity brother knew that I was leaving school, and one of his law partners had an opening for a civil litigation defense attorney.

Now, I had no idea what that meant, but I knew that litigators were in court a lot, and I knew that I enjoyed the speaking component of my classes. I was on Moot Court, and I liked oral argument. So, I interviewed for the job and took the job. I don't think I really understood the difference between a plaintiffs' lawyer and a defense lawyer at that point. But it was honestly the best thing that could have happened to me.

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LD: How so?

MS: It exposed me at a very early stage in my legal career to a multitude of different areas of law.

But I quickly realized that I really didn't enjoy the defense side of things as much as I thought I would enjoy the plaintiffs' side. That said, I owe a lot of my success to those early years of being a defense lawyer and learning different areas of the law. My superiors at the time put their confidence in me to do complex matters that ended up preparing me for handling those matters when I did make the jump over to the plaintiffs' side.

LD: How else does having experience on both sides help you in your plaintiffs' practice?

MS: My defense experience helps me understand what the other side is going through. As my career has progressed, I've gone from being someone who fought every issue to someone who will try to work out any issue if I can make some sort of reasonable compromise.

LD: Other than seeking compromise, how else would you describe your style?

MS: You change your style depending on the case, the venue and the facts. I don't think I have one specific style.

The big thing that I tell all my clients is that my goal is not to try their case. My goal is to get them a reasonable settlement offer, which takes away the uncertainty of a jury trial.

That said, I find myself trying a couple cases a year, which is a decent amount for a civil litigator. So, when I'm in trial, I would say my style is very aggressive. But when I'm not in trial and I'm just trying to work up the case to get a good resolution for my client, I would say it's probably the opposite. The longer I've been doing this, the more I like to be easygoing until I can't be.

LD: What advice would you give to current law school students?

MS: In law school, you're told, "Get the best grades you possibly can because you want to get the best job you possibly can." It's overwhelming.

But the thing is, I think law students should find out more about what the job *is*. For example, I know a lot of people who are transactional lawyers who love it. I could never be a transactional lawyer; I was meant to be a litigator. I also know a lot of people who went to law school and never became lawyers because they found another career that law school prepared them for. Do your research and make sure the job matches your skillset.

LD: Now that you've been on this side of the V for 10 years or so, what have you found most fulfilling about your current practice?

MS: We get a lot of clients who are just thankful we were there to fight for them, because a lot of people don't have the voice that we have for them in court.

We represent catastrophically injured people or people who have lost a loved one. The human component of the job can be very challenging. There are lots of problems our clients have that we just can't fix. We can never bring a loved one back. We can never un-injure somebody. Once clients get through that initial emotional component and understand the purpose of civil litigation, which is to try to get them compensation for the harm they've been through, we're able to get the case behind them.

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LD: Looking into some of those cases more specifically, are there any that stand out in your memory as particularly impactful?

MS: The ones that stick out are cases where you go to trial and win. I have rarely tried a case when there was an offer that made sense for the client. So, usually if I'm in trial, I'm trying a case for someone where there is no offer, or there's an insulting offer, and I have to champion their cause.

When the jury comes back on those cases and says, "Yes, the defendant was negligent. And yes, plaintiff, you were harmed," I get very emotional. It's emotional for me and for the client, because they know the jury understood and agreed that they were harmed. It's an incredibly good feeling to be able to give your client that experience.

LD: I imagine one of those memorable cases had to be the \$12M jury verdict for the boy who was killed in the bike accident.

MS: Yes, that was the most adorable little boy, Andrew Curtis, who died on a bicycle with his father. The loss those parents had to go through is indescribable.

Death cases are unique in that aspect, when the parents are reliving the trauma. We don't get from initiating a lawsuit to trial all that quickly. Especially in a big case like that, it takes years. So, time helps heal some wounds, but when you go back in trial and you're going through what happened from beginning to end, you're right back at that event.

It was an interesting case because while we did sue the driver who ran over the little boy, we mainly sued the property manager and the landowner for essentially creating a visual trap. The landowner and property manager had years to follow the right codes to get this right, so these people could see each other on the road. They put the driver and the bicyclist in a situation where they had less than seconds to act. And the jury understood that. So, not only winning that case, but being able to win it against the primary responsible party, was excellent.

LD: What kind of matters are you working on right now?

MS: I recently tried a case in Volusia County with my partner Brian Denney. It was a wrongful death case involving a 29-year-old man. We were able to get a \$10M verdict for the parents, which I understand to be the largest wrongful death verdict in the history of the county. The jury actually gave us \$2M more than we asked for. That does not happen often.

LD: Wow. That must have been incredibly impactful.

MS: Yes. These parents were the most deserving people. They had to sit there in court and listen to the defense say that their son's death was his own fault. So, like I said earlier, they had to relive that trauma repeatedly. And then for the jury to reject that and say, "No, the plaintiff's case was right," was just... that's why you wake up and do this again and again. Delivering justice for that family was an incredible feeling.

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LD: Are there any trends or kinds of cases keeping you particularly busy at the moment?

MS: Florida is a state with a lot of nursing homes, so I've been doing a lot of nursing home malpractice cases, unfortunately.

LD: What do you enjoy about working with the team at Searcy Denney?

MS: This is just a fantastic place to work. We have a lot of resources here to try these cases, including resources in the form of the experience of law partners who have been practicing for 35 years. My partners will drop everything and try a case with me if I say, "I need help, and this one's going to trial."

That ability to try cases successfully helps us maximize our recoveries for all of our clients, because when a defense lawyer gets on one of our cases, they know we'll go to trial if we don't get a reasonable offer. The jury trial is the most important thing to a civil litigator, because the threat of trial is what is going to get the best offer for your client.

LD: What do you do for fun when you're not prepping your next case?

MS: I hang out with my wife and my two kids a lot. My children are four and two. They're only 20 months apart, so it's busy in our home. And, though I don't get out there as much as I'd like to, I'm also an avid golfer.

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