

# Miller | Schirger LLC

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## John J. Schirger

For over 20 years John has represented businesses and individuals nationwide in disputes concerning breach of contract, fraud, business torts, consumer protection, insurance and reinsurance, securities and commodities, whistle-blower claims, and environmental matters. He also has significant experience in personal injury and wrongful death cases on both the plaintiff and defense side. John has successfully handled cases in federal or state courts in over 20 states, has argued before federal and state appellate courts, and has represented parties in AAA and Financial Industry Regulatory Authority (FINRA) arbitrations.

John began his career at a large regional law firm where he was elected partner after four years of practice. After only five years of practice, he obtained an "AV" rating from law publisher Martindale-Hubbell, the highest rating a lawyer can receive for competence and ethics. John has been named a "Top 100 Missouri & Kansas Super Lawyer" and "Best of the Bar" by the Kansas City Business Journal.

John is currently representing clients in a wide variety of cases involving business and commercial disputes, securities litigation matters, and class actions. In these cases, his clients include business owners, individuals and family members, investors including community banks and hedge funds, and members of the Forbes 400. John is known for his disciplined and thorough approach in cases, but also for being practical and creative in resolving disputes. One client recently stated: "John has the ability to sort through complex information and decide what is most important. He'll develop a litigation plan, and execute on it, but looks for opportunities to creatively resolve a case."

For a general description of cases in which John has been involved, please refer to the Representative Cases section of this website.

John is a native of Rockford, Illinois, and now lives in Mission Hills, Kansas with his wife and two daughters.

## AREAS OF PRACTICE

- Banking Litigation
- Commercial Litigation
- Class-Action Lawsuits
- Construction Law
- Construction Litigation
- Fiduciary Litigation
- Insurance Litigation
- Mass Torts Litigation
- Personal Injury & Wrongful Death Litigation
- Products Liability Litigation

- Real Estate Litigation
- Securities Litigation
- Antitrust, Unfair Competition and Deceptive Trade Practices Litigation
- Whistleblower Litigation

## **BAR ADMISSIONS**

- Missouri
- Nebraska (inactive)
- U.S. District Court District of Nebraska
- U.S. District Court Northern District of Illinois
- U.S. District Court District of Colorado
- U.S. District Court District of Kansas
- U.S. District Court Western District of Missouri
- U.S. District Court Eastern District of Wisconsin
- U.S. Court of Appeals 3rd Circuit
- U.S. Court of Appeals 7th Circuit
- U.S. Court of Appeals 8th Circuit

## **EDUCATION**

- **Creighton University School of Law**
  - Juris Doctor - 1992
- **University of Notre Dame**
  - Bachelor of Arts - 1988

## **HONORS & AWARDS**

- Best of the Bar – Kansas City Business Journal
- Martindale Hubbell – AV Highest Rating
- SuperLawyers – SuperLawyer Magazine

## **PROFESSIONAL ASSOCIATIONS & MEMBERSHIPS**

- American Bar Association
  - Section on Tort Trial and Insurance Practice
  - Section on Litigation
- Missouri Bar Association
- Kansas City Metropolitan Bar Association
  - Civil Litigation Section
  - Business Litigation Committee (Former Chair)
- Missouri Association of Trial Attorneys
- Nebraska Bar Association
- American Association for Justice
  - Section on Business Torts

- Section on Insurance Law
- Section on Product Liability

## **CIVIC & CHARITABLE ACTIVITIES**

- Member, Board of Trustees of La Lumiere School, La Porte, Indiana
- St. Ann's Finance Council
- CYO and YMCA Youth Basketball Coach

## **REPRESENTATIVE CASES**

*Business Litigation* — Represented plaintiff in action on a guaranty related to a securities purchase. Defeated defendant's attempt to force the case to arbitration; affirmed on appeal.

*Business Litigation* – Represented defendant in alleged internet fraud case where plaintiff claimed \$2.5 million in damages; favorable settlement reached for client shortly before trial.

*Business Litigation* – Represented defendant majority owner in minority shareholder dispute where plaintiff claimed \$1.5 million in damages; case dismissed in favor of defendant after full evidentiary hearing and plaintiff elected not to appeal.

*Business Litigation* – *American Shizuki Corp. v. International Business Machines*, Represented defendant IBM in alleged fraud case where plaintiff claimed \$8.5 million in damages; summary judgment granted in favor of defendant on all counts and affirmed by the Eighth Circuit. (8th Cir. 2001)

*Mass Torts (Environmental) Litigation* – *Truck Components, Inc., et al. v. Beatrice Company, Inc. et al.*, Represented defendant Beatrice Company in complex environmental case where plaintiff claimed \$30 million in damages in connection with acquisition and divestiture of a foundry plant; summary judgment granted in favor of defendant on all counts and affirmed by Seventh Circuit. (7th Cir. 1998)

*Construction Litigation* – Represented defendant steel contractor in lawsuit involving the construction of a power plant; defeated 90% of plaintiff's claims and damages in week-long arbitration.

*Construction Litigation* – Represented plaintiff underground utility contractor in complex lien foreclosure lawsuit resulting in settlement the morning of trial where plaintiff received 100% of monies claimed.

*Construction Litigation* – Represented general contractor in dispute with surety concerning the construction of a food processing facility; favorable settlement reached for client without initiating lawsuit.

*Class Action* — *Bezich v. Lincoln Nat'l. Life Ins. Co.*, Represented plaintiff class of policyholders in nationwide class action against The Lincoln National Life Insurance Company alleging life insurance policy overcharges including "cost of insurance" overcharges. Lincoln National agreed to settle the case by, among other things, issuing term life insurance certificates to a settlement class consisting of approximately 77,000 policy owners across 30 states. The term life insurance certificates have a total face amount of death benefits estimated at

\$2.25 billion, with a market value of approximately \$171.8 million. (Allen County Circuit Court, Fort Wayne, IN 2016)

*Cost of Insurance Class Action - Bezich v. Lincoln Nat'l. Life Ins. Co.*, Represented plaintiff in alleged class action involving cost of insurance overcharges in life insurance policies. Case of first impression holding Class Action Fairness Act's (CAFA) securities exception allowed alleged class action involving variable life insurance policy to proceed forward in state court; case was not subject to removal to federal court. (7th Cir. 2010)

*Cost of Insurance Class Action – Freeman Investments, L.P. v. Pac. Life Ins. Co.*, Represented plaintiff in alleged class action involving cost of insurance overcharges in life insurance policies. Securities Litigation Uniform Standards Act (SLUSA) did not preclude plaintiff's claim for breach of contract even though such claim was related to the purchase or sale of a covered security under SLUSA (9th Cir. 2013)

*Employment Law and Litigation* – Represented defendant manufacturer in dispute with former employee. Summary judgment entered in favor of defendant on all counts. Plaintiff elected not to proceed with an appeal.

*Insurance Litigation* – Represented plaintiff property-owner in direct action against property-casualty insurer involving risk of loss provision in purchase and sale agreement. Case settled through mediation shortly before trial where plaintiff recovered 125% of specified damages.

*Mass Torts Litigation* – Represented defendants nationwide in lead paint products liability cases; cases resolved through successful summary judgment practice or mediation.

*Personal Injury and Wrongful Death Litigation* – Represented widower and young children in personal injury and wrongful death case; obtained maximum recovery for clients under various insurance policies without initiating a lawsuit.

*Products Liability Litigation* – Represented plaintiff widow and family members in wrongful death case of husband/father involving a defective consumer product. Confidential settlement reached after minimal discovery.

*Real Estate Litigation* – Represented defendant owner/landlord in complex dispute with tenant; favorable settlement reached for client after successful trial.

*Securities Litigation* – Represented plaintiff Colorado Bank in dispute with its broker-dealer involving the marketing and sale of mortgage-backed securities. Confidential settlement reached for client resulting in substantial recovery. Within two weeks of finalizing the settlement, regulatory officials substantially upgraded the Bank's rating.

*Securities Litigation* – Represented plaintiff Texas bank in dispute with its broker-dealer involving the marketing and sale of mortgage-backed securities. Confidential settlement reached for client resulting in substantial recovery.

*Securities Litigation* – Represented individual investor in alleged ponzi scheme. Seven-figure settlement reached with broker/advisor; all invested funds were recovered for client.

*Securities Litigation* – Represented defendant broker/dealer in complex securities and commodities' ponzi scheme cases where plaintiffs claimed damages in excess of \$100 million; after close of discovery, favorable settlements reached for client through mediation.

*Unfair Competition and Deceptive Trade Practices Litigation* – Represented defendant New York investment banking firm in commercial dispute involving alleged breach of nondisclosure agreement. Successful settlement reached for client after minimal discovery; client paid no money to Plaintiff.

*Whistleblower Litigation - U.S. ex rel. Bahrani v. ConAgra, Inc.*, Represented defendant ConAgra Foods, Inc. in alleged civil false claims case where plaintiff claimed \$1.2 billion in damages; summary judgment granted in favor of defendant on all counts. (D. Colorado 2004)