



## Diane E. Webster

### Partner in Charge of Chicago Office

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Diane Webster is a trial attorney who focuses her practice on civil defense litigation including medical and healthcare litigation, products liability, pharmaceutical liability, and medical/surgical device litigation. Her clients include hospitals and physicians, insurance companies, a medical/surgical device company, state and county governments, and a major league baseball organization, as well as corporations and school districts. Her practice also includes premises liability, municipal law, and government litigation.

Diane has defended a number of complex/catastrophic litigation cases involving medical negligence, birth trauma, obstetrical, neonatal negligence and neurologic injuries. For example, Diane defended a \$21 million claim against an oncologist for an alleged failure to diagnose and treat underlying cardiomyopathy which led to heart failure and a decreased life expectancy. The jury returned a same day verdict of not guilty as to all counts. She has been an integral player in a number of multimillion dollar litigation cases that were successfully resolved to the satisfaction of her clients, including a \$25 million claim against a local hospital, alleging obstetrical negligence, that was successfully settled on behalf of the hospital. Diane also has experience litigating cases involving allegedly defective or malfunctioning medical devices. For example, she successfully defended a wrongful death action involving a high tech interventional vascular closure device.

Diane also practices in all aspects of insurance and general liability defense, including allegations of sexual abuse, personal injury, premises liability, product liability, and wrongful death. She also practices in the area of commercial litigation and has defended class action lawsuits alleging violation of the Illinois Biometric Information Privacy Act (BIPA).

Diane is the Partner in Charge of Hinshaw's Chicago office, which was recognized as one of the "11 Coolest Offices" in Chicago by *Crain's Chicago Business*.

The former co-chair of Hinshaw's Hispanic/Latino Attorney Network, Diane currently serves on the firm's Executive Committee, Hiring Committee, and Attorney Life Committee. She is also active in the firm's mentoring program, where she mentors both associate attorneys and summer associates.

During law school, Diane was involved in a number of activities, including serving as the Associate Editor and Lead Articles Editor for the *Journal of International Comparative Law*.

### Practices

Biometric Information Privacy Act

Commercial Litigation

Product Liability

Professional Liability

### Industries

Health Care

Health Care Defense

### Education

J.D., *cum laude*, New England School of Law, 2004

B.A., Arizona State University, 2001

### Admissions

Illinois

U.S. District Court for the Central and Northern Districts of Illinois

### Languages

Spanish



## Professional Affiliations

- Association of Latino Professionals For America (ALPFA)
- Chicago Bar Association Alliance For Women (CBAAW), Executive Committee
- Hispanic Lawyers Association of Illinois (HLAI)
- Hispanic National Bar Association (HNBA) Illinois Association of Defense Trial Counsel (IADTC)
- Leadership Council on Legal Diversity (LCLD), Inaugural Fellow
- National Association of Women Lawyers (NAWL)

## Honors & Awards

- Recognized on the Super Lawyers list by *Illinois Super Lawyers* magazine, 2021
- Recognized as a "Salute! Women in Law" honoree by the *Chicago Daily Law Bulletin* and the *Chicago Lawyer*, 2020
- Recognized on the Rising Stars list by *Illinois Super Lawyers* magazine, 2013 – 2019
- Named to the "Most Influential Minority Lawyers in Chicago" list by *Crain's Chicago Business*, 2017
- Recognized as a "Leading Lawyer" by *Leading Lawyers Magazine*, 2017
- Invited to participate in World Heritage Event at the White House, 2016
- Recognized as an "Emerging Lawyer" by *Leading Lawyers Magazine*, 2015 – 2016
- Named to the "40 Under Forty" list by the *Chicago Daily Law Bulletin* and *Chicago Lawyer Magazine*, 2013
- Named to *Diversity MBA's* list of "Top 100 under 50 Diverse Executive & Emerging Leaders," 2012

## Representative Matters

Diane has defended a number of complex/catastrophic litigation cases involving medical negligence, birth trauma, obstetrical, neonatal negligence and neurologic injuries. She has been an integral player in multimillion dollar litigation cases that were successfully resolved to the satisfaction of her clients.

Her representative matters include:

- Secured a preliminary injunction for a major commuter rail system in its breach of contract dispute with a national railroad company regarding the latter's contractual responsibilities on the former's train cars. The railroad had unilaterally suspended its activities related to fulfillment of those responsibilities in response to the COVID-19 pandemic.
- Served as trial counsel in multimillion dollar case on behalf of concrete company in a construction accident resulting in left foot amputation and left leg disfigurement in a 28 year old male plaintiff. Successfully resolved the case while on trial for one third of the plaintiff's settlement demand prior to opening statements.
- Represented a geriatrician in a three-and-a-half week wrongful death trial of a 36 year old woman. Plaintiff alleged the defendant physician failed to appropriately manage the 34 year old plaintiff's condition, failed to write the appropriate orders and failed to bring in the appropriate specialists which led to an overall decline in the patient's condition including weight loss, development and exacerbation of decubitus ulcers in excess of 15 before her death, osteomyelitis, sepsis and death at the age of 36. Plaintiff further alleged that the plaintiff was being physically and sexually abused while a resident in the nursing home and that the defendant was aware of the abuse having secretly ordered a pregnancy test after the resident who was unable to communicate, walk or provide consent to sex, developed repeated urinary tract infections and a herpetic outbreak on her genitals while under the defendant's care. The defendant also testified in a deposition he suspected someone was hitting her yet allegedly failed to document or report the abuse while she was a resident in the home. The defense argued that the defendant appropriately managed her condition, that it was the nursing home's responsibility to carry out his orders and provide daily care and that the weight loss and decubitus ulcers were instead caused by the resident's progressive and fatal neurodegenerative disease. The defense also argued that the defendant was neither physically nor sexually abused. Instead, the patient's



bruises were a result of documented falls in the home in a resident who was on blood thinners which are known to cause bruising. Furthermore, the defense argued that the resident had known preexisting herpes and the pregnancy test was ordered as routine for women of child-bearing age. Plaintiff asked for \$6.25 million. Won a complete jury verdict for the defendant, and defeated the plaintiff's subsequent appeal.

- Represented a gastroenterologist and his group in a three-and-a-half week wrongful death trial of a 64 year old woman. Plaintiff alleged defendants misdiagnosed the patient with gall bladder disease. They alleged defendants further failed to timely diagnose and treat a paraesophageal hernia by failing to order a CT scan after the patient presented to the emergency department with persistent abdominal pain and subsequent testing had ruled out the gall bladder as the etiology of her pain. Plaintiff contended a CT scan would have timely made the diagnosis and would have avoided subsequent strangulation, rupture, cardiac arrest and death. The defense argued plaintiff presented with the classic signs of a gall bladder attack which later showed signs of improvement allowing the defense to wait to order further testing. When the patient's condition deteriorated the following day, appropriate testing had been ordered, an EGD, which would have diagnosed a hernia, but the plaintiff refused to undergo the testing allegedly due to excruciating pain. Shortly thereafter, the patient arrested, coded, and was taken to emergency surgery, dying four days later. Plaintiff asked for \$3.65 million, and the jury returned a not guilty verdict the same day.
- Represented an oncologist in a medical malpractice suit in which plaintiff, a 44 year old woman, presented to our client with stage 3 breast cancer and was treated with Adriamycin chemotherapy which has a known risk of cardiotoxicity or heart damage. Plaintiff alleged a failure to diagnose a subclinical or underlying cardiomyopathy as well as a failure to order an echocardiogram, MUGA scan, and cardiology consult after the patient later developed signs and symptoms of cardio toxicity which led to permanent heart failure and the need for a heart transplant. Plaintiff also alleged a decreased life expectancy, with approx 10 years of life remaining. After a two week trial, plaintiff's counsel asked the Cook County jury for \$21 million, and the jury returned the same day with a verdict of not guilty as to all counts.
- Represented a Chicagoland hospital in an obstetrical negligence action involving an alleged failure to timely perform a Cesarean section resulting in fetal brain damage and cerebral palsy. Plaintiff specifically alleged that the fetus sustained brain damage during the second stage of labor due to venous sinus stagnation thrombosis (VSST). VSST is a condition that allegedly occurs from excessive pressure placed on the fetus' head while in the occiput posterior position during a prolonged second stage of labor, and with an arrest of descent. The plaintiff, now 15 years old, suffers spastic triplegia and is wheelchair-bound. After two weeks of trial, plaintiff asked in excess of \$19 million and the jury returned a not guilty verdict in favor of the hospital.
- Represented an internist in a medical malpractice action involving an alleged failure to timely diagnose and treat a spinal hematoma in a 61-year-old female after undergoing a femoral popliteal bypass graft surgery rendering her paraplegic. Plaintiff specifically alleged that the internist was negligent in relying on medical advice given by a neurosurgeon over the telephone, rather than transferring the patient to a hospital where a neurosurgeon could perform an in-person consultation which would have necessitated immediate neurosurgery to evacuate the hematoma. Due to the multiple defendants' alleged negligence, the patient became paraplegic, wheelchair-bound, and subsequently had both legs amputated. The patient also suffered bilateral pulmonary emboli and required placement of a permanent suprapubic catheter. After 3.5 weeks of trial, plaintiff asked for more than \$21 million and the jury returned a not guilty verdict in favor of defendants.
- Tried a wrongful death medical malpractice case in Cook County, Illinois. Defendant nephrologist had been managing a patient on anticoagulant medication as an inpatient at a hospital. On the day of discharge, the patient went into a violent seizure and was diagnosed with a massive subarachnoid hemorrhage. Plaintiffs argued that the nephrologist was negligent because he had been contacted the evening before by a nurse, advising him that the patient was complaining of a severe headache despite having been given morphine and several vicodin pills. Plaintiffs argued that this fact, along with the fact that the patient's anticoagulation levels were over the therapeutic limits, meant that the standard of care required an emergency CT scan and neurology consult to rule out the beginnings of a subarachnoid bleed as the cause of this headache. Plaintiffs asked the jury for \$7.7 million. The jury returned a verdict of not guilty.
- Successfully defended a \$1.25 million claim against a local physician for failure to properly perform surgery where the jury returned a not guilty verdict on behalf of the physician.
- Successfully defended a \$25 million claim against a local hospital, alleging obstetrical negligence. Case was settled on behalf of the hospital.



## Presentations

Diane is involved with Hinshaw University, the firm's nationwide attorney training and education program. She has also participated in the firm's Trial Advocacy program, demonstrating direct and cross examination techniques in a mock trial setting. Select presentations Diane has conducted to train Hinshaw attorneys include:

- "Child Abuse Obligations for Doctors," 2020 Midwest Podiatry Conference, Virtual Event, October 29, 2020
- Panelist, "Networking: Inside & Out While Doing Good," Chicago, Illinois, September 20, 2019
- Co-Presenter, "Closing Arguments," Hinshaw's Trial Advocacy Program, Chicago, Illinois, August 13, 2019
- "The Ethics of Diversity and the Economics of Inclusion," The Institute for inclusion in the Legal Profession, March 19, 2017
- "Trial Advocacy Series: Session 2- How to Pick the Right Jury for Your Case- Do's and Don'ts," Chicago, Illinois, January 2016
- "Use of Learned Treatises at Trial," Hinshaw & Culbertson LLP, national teleconference, June 2012
- "Motions in Limine," Hinshaw's Trial Advocacy Program, Chicago, Illinois, June 2011
- "Presenting Your Own Expert at Trial," Hinshaw & Culbertson LLP, national teleconference, April 2011

Her other presentations include:

- Panelist, "Hinshaw's Diverse Law Student Interview Strategies Workshop," Virtual Event, December 7, 2021
- Panelist, "Best Practices in Litigation Management," Hispanic National Bar Association/Vision in Action's (HNBA/VIA) Corporate Counsel Conference & Annual Convention 2020 (CCC-AC2020), Virtual Event, September 24, 2020
- Panelist, "Learning Your Leadership Language," CBA's 2nd Annual Working Women's Legal Summit, Chicago, Illinois, March 6, 2020
- Panelist, "Medical & Life Sciences Forum," RPC's Medical & Life Sciences Seminar Series, London, October 3, 2019
- Co-Presenter, "Stem Cell Therapies, Life Science, and Unique Exposures in the Marketplace," Presented to GenStar & Genesis Insurance, a Member of the Berkshire Hathaway Family of Companies, Chicago, Illinois, August 8, 2019
- Co-Presenter, "Anesthesia Outside the Surgical Suite: Legal Trends and Case Studies," Merus Management Group, Ltd and The Horton Group, Spring 2019 Educational Program, Illinois, April 25, 2019
- Panelist, "Path to Leadership" *What Kind of Leader Are You?* a CBA Leadership Institute event, Chicago, Illinois, April 10, 2019
- Panelist, "Managing Up and Down the Generations," *The Exchange 2019* a Chicagoland Chamber of Commerce event, Chicago, Illinois, April 9, 2019
- Panelist, "Women in the Law," *DePaul Law Review* Panel, Chicago, Illinois, March 18, 2019
- "Pathway to Partnership," An HLAI Latina Lawyers Commission and HNBA Region IX Panel, Chicago, Illinois, March 6, 2019
- Moderator, "Leadership Council on Legal Diversity Luncheon and Panel," Chicago, Illinois, February 11, 2019
- "Medical Law Updates," Broadspire National, Webinar, May 17, 2017
- "Navigating Your Firm," The Chicago Committee Association, 2017 Annual Law Firm Boot Camp, Chicago, Illinois, February 10, 2017
- "Making A Good First Impression At Your New Job," WBAI New Lawyer Bootcamp, Chicago, Illinois, February 2, 2017
- "Preparing For Expert Witness at Deposition and Trial," Chicago Bar Association, Chicago, Illinois, June 2016
- "Diversity's Role in the Path to Success," LCLD Regional Roundtable, moderator, Chicago, Illinois, May 2016
- "Leading and Succeeding from the Courtroom to the Corporate Room," Latina Leading Lawyers, Chicago, Illinois, September 2015
- "Three's Company? Insurance Company's Counsel and Settlement Negotiations," IICLE Representing Medical Practices and Physicians, Chicago, Illinois, April 2015
- "How to be Successful in Law: Top Attorneys Under 40," The Chicago Bar Association, Chicago, Illinois, April 2014



- Moderator, "Advancing Latina Leaders Through the Power of Influence," Association of Latino Professionals in Finance and Accounting (ALPFA) Chicago Chapter, September 2013
- "Building Relationships With In-House Counsel: A Guide for Business Managers and Outside Counsel for Mutual Success," ALPFA Chicago Chapter, Chicago, Illinois, June 2012
- "Incivility in the Legal Profession: When Your Client Pays the Price," American Bar Association, live webinar, February 2012
- "Catastrophic Injuries Affecting Latinos and Other Minorities," ALPFA Chicago Chapter, Chicago, Illinois, June 2011
- "Transitioning Closely Held Businesses," ALPFA Chicago Chapter, Chicago, Illinois, October 2010

## Publications

- Media Mentions
  - "The Creme de la Creme: Learning from the best with Diane Webster," The Chicago Bar Association's @theBar blog, October 24, 2019
  - "View from the top," *Chicago Lawyer*, July 2019
  - "Let there be light," *Chicago Lawyer*, July 2019
  - "Confidentially speaking," *Chicago Lawyer*, June 2019
  - "The New Face of Leadership," *Emerging Lawyers Magazine*, 2016

## Personal

Diane lives with her husband in Chicago. In her free time, she enjoys fitness, nature, travel and spending time with her friends and family.

## Community/Civic Activities

Diane is a supporter of numerous organizations including:

- Junior Achievement;
- Little Brothers;
- Metro Achievement Center; and the
- Step-Up Women's Network.