

# BLAZING THROUGH MASS TORTS



## DENVER ATTORNEY **AIMEE WAGSTAFF**

took a circuitous route to the plaintiff bar—from sailing instructor to insurance defense attorney to running her own firm. But her desire to make a difference in the lives of thousands of people harmed by defective drugs and devices is what motivates her through the long nights and weekends and the heartbreaking phone calls from distraught clients.

It's not just the clients who have been deeply affected by Wagstaff. Last year, she founded Women En Mass—a women-only retreat that drew more than 100 mass tort attorneys to Aspen, Colo.—as a way to build relationships among female plaintiff attorneys and promote diversity in leadership roles across the mass torts spectrum.

*Trial* Associate Editor **Alyssa Lambert** spoke with Wagstaff about Women En Mass, the value of attorney mentoring, and what both men and women can do to foster diversity in leadership roles.



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extraordinary women together for a relaxing and energizing retreat, while also inviting the next generation of up-and-coming female mass tort lawyers to learn and grow from the experience.

Practicing mass tort law is very difficult—the travel coupled with the high level of stress make this one of the most stressful niches in the law. So the ultimate goal was to bring us all together in a tranquil location like Aspen to strengthen old relationships and create new friendships, so that when we’re on the road practicing law we will see more familiar faces in depositions, meetings, and conferences. It will help us grow stronger as a community of female mass tort attorneys.

the biggest and most powerful names of women in mass tort history were on the agenda, and it was great to be a part of that. Those who attended the retreat know that the experience brought a togetherness to our community that was lacking in some sense. The feedback I have received is overwhelming. Both my male and female colleagues have expressed a sincere appreciation and need for the retreat. Following the retreat, a list server was created for attendees that is used to generate ideas, congratulate subscribers on trial victories, and refer cases, which is great. The second retreat is scheduled for June 16–17 in Aspen.

**Q Why did you start Women En Mass, and what are your goals for it?**

**A** The mass tort community has several very strong women trailblazers—women who have made it possible for me and for hundreds of other women to do what we love, which is representing clients against those who have injured them. I founded Women En Mass because I wanted to create an environment that brought some of those

**Q How did you first come up with the idea for the retreat?**

**A** Often I was the only woman in the room or the only woman in the courthouse, on either the defense or the plaintiff side. I didn’t create Women En Mass to alienate or exclude the male attorneys at all; I created it to help women foster relationships with each other while strengthening our ability to handle positions of leadership and responsibility.

**Q How have the attorneys who attended responded to the retreat?**

**A** The retreat last March was truly a magical experience. Some of

**Q You were a defense attorney for the first part of your career. Tell me about that and your switch to the plaintiff’s side.**

**A** I went to law school in Colorado, and when I graduated, I started working for an insurance defense firm; the experience that I gained there was invaluable, and I had a fantastic mentor. I was given a very large docket of small-value cases and from almost the first day was given authority to do everything on the case, from initial intake through the trial or settlement. The experience that gave me was something that a lot of my colleagues at the larger law firms did not have, and it allowed me to grow very quickly as an attorney.

Even so, fairly early in my career, I realized that I no longer wanted to work on the defense side. My father is an attorney in Kansas City with Wagstaff & Cartmell, and his partner, Tom Cartmell, mainly focuses his practice on mass tort work. By the luck of grace, Cartmell introduced me to my current partner, Vance Andrus, who was looking to hire an attorney—one year later, we started our law firm. The switch was relatively seamless, and I must admit that life on this side is much better!

**Q How did your experience as a defense attorney help you in your practice representing plaintiffs?**

**A** You think differently as a defense attorney than you do as a plaintiff attorney. Being on the plaintiff's side now and envisioning how the defense is thinking helps me represent my clients better. It helps me get a better understanding of what defendants are looking for and helps me understand the legal issues better. You can see the big picture when you've done both sides.

**Q You mentioned your dad is an attorney, too. Was law always in the cards for you?**

**A** Law was always sort of on the horizon for me. Pretty much every male on my dad's side is an attorney, and I am the first female attorney. But as anyone reading this magazine will know, attorneys think differently sometimes, and growing up with an attorney as a father encourages you into thinking that way. I remember having very logical conversations with him—such that you would see in a brief—at a very young age, and because of that, I find attorneys to be the best company in the world. It was always something that I thought about doing.

That being said, after college I took a pretty circuitous route to law school. A week after I graduated from college in San Diego, I moved to Club Med in

Florida to be a sailing instructor. Very soon after my arrival in Florida, I was transferred to the Club Med resort in Cancun, Mexico, to continue my career as a sailing instructor. It was a great job—I played on the beach and taught people how to sail by day and enjoyed the Cancun nightlife by night.

**Q Is opening your own firm something that you always had in the back of your mind, or did you do it because the right circumstances presented themselves?**

**A** Both. I think that I had always wanted to open my own law firm, but I was nervous to do so and never really had the opportunity until recently. One of the cool things about my situation is that I was given the opportunity to open a law firm with a partner who has 40-plus years of experience owning his own law firm and who took a chance on me and, in doing so, allowed me and

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my career to go to the next level. Some of the risk that I had in opening a new law firm was different than if I had opened it on my own or with a younger partner.

**Q How has having your own firm shaped your career to this point?**

**A** There are so many things involved in running a law firm that you don't think of when it's not your own—staffing, personnel issues, how you are going to fund the law firm, logos, office space, and, most importantly, how you are going to get clients. Having my own law firm helped me grow up as an attorney very quickly, and it also gave me the confidence to take on more leadership roles as they were presented to me. All lawyers work hard, so it's not necessarily that you work any harder; it's just a different kind of work when you're working for yourself, and I really find it enjoyable.

**Q When you were a new associate, did you have any female mentors?**

**A** Unfortunately, I didn't have any female mentors when I was an associate. When I was a young attorney, all my mentors were men. I have been blessed to have some of the best mentors a young attorney could ask for, including my current partner. With Women En Mass, one of my goals is to create a mentor-mentee relationship between attendees; mentoring is one of the most important things that we, as more experienced attorneys, can give the next generation. Yet, often, we are too busy to slow down and be a good mentor, because it takes a lot of energy and patience, which we all lack sometimes.

**Q There are some disturbing statistics, even today, regarding the ratios of women to men in litigation. For example, only four percent of the 200 largest law firms have female managing partners.<sup>1</sup> What do**



**you think women can do to overcome these numbers?**

**A** The biggest thing we can do is really good work; we need to be prepared. We need to advocate for ourselves, and we need to be ready to jump in and take advantage of an opportunity that comes our way.

**Q You're a member of the eight-person executive committee overseeing all six MDLs in the Southern District of West Virginia that involve transvaginal mesh products. But there's a lack of diversity in MDLs and in plaintiff steering committees, especially in mass torts. Why do you think it is crucial to have diversity in the leadership, especially when the litigation involves issues that specifically affect women?**

**A** Interestingly, the transvaginal mesh litigation has more women in leadership positions than any other MDL in which I have been involved, which I think is great. And why do I think diversity in leadership is important? Diversity is what breeds the marketplace of ideas. It's what allows different points of view to come into play. It allows for innovation and for the best representation of our clients—to have different viewpoints, styles, and ideas coming into every decision that we make.

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**Q Why do you think there is still a lack of diversity in mass torts?**

**A** I think there are dozens and dozens of wonderful and very able, diverse attorneys who could be in leadership positions. It just takes time, and it takes opportunity. Mass torts is extremely demanding, and it's very hard on every single aspect of your life. We have to find women who are equipped to handle all those stresses and demands. It also takes commitment on the part of some of our male colleagues to support the diversity in leadership and promote their female partners and colleagues for leadership positions.

**Q What challenges have you faced as a female trial lawyer?**

**A** There are a lot of challenges that women generally face, not just necessarily in the law. I don't think that women should just be given opportunities: Those should be earned, and the best way to do that is to make sure you are prepared and work really hard. To the extent that you can, when you go to a meeting or hearing, make sure you know more than anyone else in the room about whatever topic. Make yourself so necessary to the partners that they can't help but realize your value and promote you. Be loyal to those who have helped you, and never forget those people.

**Q What is one of the best pieces of advice you've received about working as a lawyer?**

**A** That's a tough question, but I would say a great piece of advice is to never forget the client. Often, lawyers start thinking it is their fight or their case, but it's not. The case belongs to the client, whom we have the privilege of representing. This advice was given to me early on in my legal career, and it's even more important when we are doing mass torts, because we have hundreds if not thousands of clients at one time.

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**Q I've read some of the plaintiffs' stories in the transvaginal mesh MDLs, and they are heartbreaking. How do you deal with clients who are so traumatized?**

**A** It is hard when clients call you crying on the phone and you know that you can't immediately help them; it's hard when you know that no matter what amount of money you recover for them, it will never be enough. It's very difficult, and I don't know that I'm the best person at separating myself from that pain.

**Q Do you think clients in litigation such as transvaginal mesh feel more comfortable dealing with an attorney who is a woman?**

**A** I don't want to make a broad statement, because, obviously, there are men who can be very understanding of the issues in the transvaginal mesh litigation. But yes, it's important to have women available to talk to female clients when they are talking about very sensitive, personal and often embarrassing issues that make them extremely uncomfortable. It's important to have a woman on the other end of the phone or sitting across the table. I do my best to

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try to make all my clients feel as though they shouldn't be embarrassed to tell me this stuff. I often tell them something embarrassing about me to try to make them feel more comfortable in the process—sometimes that works, and sometimes it doesn't.

**Q** A lot has been said about trying to have a life outside the office while still meeting career goals, whether it's the law or another profession. How do you try to achieve work-life balance, and what advice would you offer to others looking to do the same?

**A** It's very challenging, but it's one of the most important things we can do for ourselves. Through my MDL work, I have created some amazing friendships with folks involved in similar litigation, so, we do (sometimes) have some fun when we are working. But trying to find balance is extremely difficult. I haven't perfected that yet, but I'm trying. The advice I would give myself is to turn off my phone at night and take one day a week without work. It's hard to do in MDL litigation, but I think it will make you a better attorney if you can carve out time for your family and make sure they remain your priority.

**Q** For the female attorneys who have just started their careers—what is the one piece of advice you would offer them?

**A** I have three pieces of advice: Find a good mentor, be prepared, and do great work. □

### NOTE

1. Natl. Assn. of Women Laws. & NAWL Found., *Report of the Seventh Annual NAWL National Survey on Retention and Promotion of Women in Law Firms 5* (Oct. 2012), [www.nawlfoundation.org/pav/docs/surveys/NAWL%202012%20Survey%20Report%20final.pdf](http://www.nawlfoundation.org/pav/docs/surveys/NAWL%202012%20Survey%20Report%20final.pdf); see also ABA Comm. on Women in the Profession, *A Current Glance at Women in the Law* (Feb. 2013).

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