

# TIM TOMASIK

## Gifted Trial Lawyer Engages in Fair Fights for Injured Clients

by J.J. Bailey

Timothy S. Tomasik has a dual reputation. He has tried over 100 criminal and civil trials to verdict, handled some of the most high-profile cases of his generation, and is a member of some of the nation's most prestigious trial advocacy groups.

But for all his skill in the courtroom, what precedes him most is reputation as a person.

"I think you could call 10 lawyers in this area, and they'd all say the same thing about him," says Donald Mrozek, a lawyer and former client of Tomasik. "He's a very well rounded, excellent attorney, and he carries the reputation with him. He's very respectful of other people and what they bring to the table, and he's just a really solid citizen and a fun guy."

Tomasik, founding partner of Tomasik Kotin Kasserman, LLC, was born to be in a courtroom. Even when he was a student at Joliet Catholic High School, he was drawn to the electricity of trial advocacy.

"I used to walk across the bridge downtown to the courthouse when we had half days or in the afternoon, and I would sit in and watch trials. I started doing that probably when I was a freshman in high school," he recalls. "Watching trials really inspired me early on to become a trial lawyer."

When he graduated and enrolled at the University of Colorado, he first picked journalism as his major.

Tomasik was drawn to the idea of standing up for the little guy, of finding out the things powerful entities didn't want exposed, and then using that information to protect people and effect change.

The spirit of the two professions are intertwined, but he was never able to shake the passion that drew him into courtrooms in his teenage years.

"My interest in journalism was, I think, very driven by my interest in law. It was a decision I had to make. For a while, there I was thinking maybe I'll be a journalist, but by the time I started my senior year, I was certain that the law was where I belonged."

The path to becoming an attorney is different for every lawyer, but one fairly consistent factor is that law school students



learn early on whether they enjoy litigation or transactional work. Trial advocacy calls out to some and holds no interest for others.

After graduating from the University of Colorado, he enrolled at the University of Denver for law school where his path became clear. "While I enjoyed law school and research and writing, I really enjoyed trial advocacy from the very moment I was exposed to it," he says. "I was just drawn to the courtroom."

### GREAT YEARS AS A STATE'S ATTORNEY

For a young attorney hungry for the courtroom, there's no better place to get trial experience than criminal court. When Tomasik graduated from the University of Denver, he returned to Illinois and joined the Cook County State's Attorney's Office. It was the perfect fit for a trial lawyer.

"Being able to try dozens and dozens of high profile felony cases and multiple murder cases to a jury was just unbelievable," he says. "I reflect so much on the eight years I spent there surrounded by some of the best trial lawyers in America. I actually believe there's no better place in the criminal justice system for young lawyers to gain trial experience."

Originally, Tomasik planned to move on after three or four years, but he stayed longer. During that time, he began to build his reputation as an incredibly detailed and prepared attorney

with a true gift for trial advocacy.

"When he was in court, you could just see it. He just comes alive. There is no doubt he is a born litigator," says Justice Bernita Lampkin, an Illinois appellate judge in the First District, Fifth Division.

"(When he walked into a courtroom) it was just a joy. There are some people, when they walk in, you say, 'Oh my God, I'm going to have to tell them how to ask questions and tell him or her what they're leaving out in laying the foundation of their case. You don't have those issues with him. It's going to be an enjoyable experience. It's going to be a tough fight and a fair fight.'"

And Tomasik is committed to making sure it's a fair fight. Tomasik isn't just gifted when it comes to trial advocacy. He's passionate about it and is committed to preserving it.

He is the president-elect of the American Board of Trial Advocates' Chicago chapter, one of the most exclusive and respected groups of trial lawyers in America. Tomasik is also the treasurer for the Chicago Bar Association, and he sits on the Board of Governors for the International Society of Barristers. In March 2018, he became a Fellow of the American College of Trial Lawyers, one of the premier legal associations in the country.

Tomasik is committed to such organizations for two reasons. First, he believes in the justice

system. Second, he knows trial lawyers must respect that system for it to serve the people it's designed to protect.

"I'm a lawyer's lawyer, and I respect greatly my opponents on the opposite side of the aisle. That's why I'm so committed to ABOTA and similar organizations, because true trial lawyers really care, truly care, about the system," Tomasik says, "and about civility, professionalism and making sure we get the right result for the right reasons."

"He is an i-dotting, t-crossing follower of the rules of evidence," Lampkin adds. "He fights hard, but he fights fair. He follows the rules. He's not a person who would take advantage of someone who doesn't know the rules to do something he wasn't supposed to do. That's one of the most ethical things that I admire."

### AN AWESOME RESPONSIBILITY

Despite the opportunity the State's Attorney's Office offered Tomasik to experience courtroom work, in 1998 he decided to make a change.

"When I finished law school, I always saw myself eventually getting into civil trial work as a plaintiff's trial lawyer," he says. "I was at a point in my career where I felt such loyalty to the state's attorney's office, but I also realized, being in my 30s, it was sort of now or never if I was going to make the switch."

He got an opportunity to join Clifford Law Offices, where he became a partner. Over 15 years, he fell in love with the added challenges of being a civil attorney, namely the need to quickly become knowledgeable to prepare for both the law and the professional industries where cases arose. He saw hidden worlds within the discipline, learning the intricacies of everything from surgery to scaffolding.

"You develop a wealth of knowledge about a lot of things when you do trial work," he says.

"Putting all the law aside, one of the great things about being a trial lawyer is you learn about the design and research that goes into a pharmaceutical product or drug. You learn about a very complicated surgical procedure. You get into a case where you're learning about maritime operations because there's been a boating mishap of some kind, or aviation where you're learning about the federal aviation regulations. I've learned so much about construction, architecture and structural engineering because of the fascinating cases I've worked on."

It was at the Clifford firm that his diligence and preparation, along with trial skills sharpened by eight years in criminal court, coalesced and earned him a chance to work on one of the biggest cases of the century. It would result in a settlement of more than \$1 billion, and it changed the way Americans travel forever.

"The morning of 9/11, we as a nation were

shocked, stunned and mourning the biggest attack on America since Pearl Harbor. So, to shift my practice from handling cases in the Daley Center of Cook County to suddenly investigating and conducting discovery as to what security failures occurred on 9/11 was an awesome responsibility."

Tomasik and Bob Clifford acted as lead counsel for the Plaintiffs' Executive Committee, a duty that would eventually result in nearly 200 depositions and the poring over of millions of discovery documents in nearly nine years of litigation.

During that time, Tomasik learned the intimate details of one of the nation's greatest tragedies. He interviewed the security agents who screened the airline hijackers. He talked to flight instructors and airline employees who had contact with the hijackers.

While a nation reeled, he got closer to the tragedy in the search for justice.

"We deposed the flight instructors who got Mohamed Atta certified on twin engine planes down in Florida. To be sitting in a room with the guy who has a clear memory of Mohamed Atta and teaching him to fly was surreal," Tomasik says.

### HIGH AND LOW PROFILE CASES

"The events of 9/11 should never have happened," Tomasik says. "But to kind of peel back all the layers and see why it did happen was quite an experience. It was an enormous professional responsibility."

Much of the discovery in the case remains confidential. Even now, nearly 20 years after the attack, a lot of what Clifford and Tomasik uncovered in their depositions cannot be discussed.

But their work paid off. After years of litigation and flights totaling 100,000 miles annually—all while continuing to handle his caseload in Chicago—the sides reached a \$1.2 billion settlement.

It ended a career-defining case and cemented Tomasik's reputation as a premier civil trial attorney.

"When I was taking those depositions, there were times I was struck by the awesome responsibility all of the lawyers in that case had to effectively capture the truth. And I ended up making sure justice was brought to all victims," he says.

"Given the magnitude of 9/11, I'm not sure I'll ever have another legal experience like it, but I hope so."

Even during that period, Tomasik never lost sight of why he was drawn to the profession of law. He's quick to point out his immense pride at being able to serve dozens of other clients while working on the 9/11 case, still standing up for the little guy.

"Oftentimes, we get recognized for our high

profile cases. I think it's important to recognize that committed trial lawyers take cases where we can truly help someone who needs legal assistance. These are not always high value cases, but rather matters where a person's life has been altered due to the carelessness of someone else," he says.

"It's gratifying to stand up in court and say, 'I represent the Duffy family.' It's always terrific to get a big result against a Fortune 500 company or a hospital. But, those aside, some of the most important cases to me are cases that have made a difference in a person's life."

As an example, Tomasik mentions not the 9/11 case nor even a major class-action judgment as a gratifying result. He relates a story about a family who lost a wife and mother, and it likely didn't grab a single headline.

A former colleague of Tomasik at the state's attorney's office wasn't feeling well and went to a north suburban hospital.

While there, physicians took an x-ray and discovered a lesion on her lung. The report was sent to the doctor's office, but he never acted. A year later, the woman returned to the hospital.

"She was sick again, ended up in the emergency room, and they did a comparison of films and realized that the initial lesion was never followed up on. Sadly, she was a nonsmoker who died of lung cancer at age 43, leaving a husband and two beautiful children," he says.

"Her question to me when I entered the case, and again a month before she died, was, 'Will my family see justice?' You know, you usually don't promise results to your clients. But I promised her I would make sure her family got justice. That was a very important case to me."

The case was settled for \$5 million. It couldn't replace the loss for the family, but it ensured they got to see the justice system work the way it was supposed to.

"They understand that our system of justice has worked on their behalf. You know, it's not always the biggest verdict or the biggest settlement. But there was somebody who was harmed, and the justice system worked on their behalf," he says.

Despite the long list of high profile cases and the unequivocal praise from his opponents, colleagues and those who have watched him work, Tomasik's greatest impact is on his clients.

Whether it's a front-page case or a deeply intimate one, the people he serves watch him give everything he has to make the law work for them and to turn his love for trial advocacy into their justice.

"I always felt very strongly that, while he had a booming practice, he made you feel as if you were the most important person in his group of clients," Mrozek says.

"That's the way it made you feel. It's such a rare quality in lawyers." ■