

JIM GRUMLEY

Good Fortune ‘Finds’ Meticulously Prepared Med Mal Defense Lawyer

by Chris Bailey

JOLIET—Nearly everyone can look back at their lives and see how chance and choice played a role in their journey. On reviewing his own life, James D. Grumley believes they created “a life of good fortune.”

Grumley, a partner at Kavanagh, Grumley & Gorbold LLC in Joliet, says he came very close to not attending law school.

“I was scheduled to go to the Philippines with the Peace Corps but was unexpectedly accepted by the Loyola University School of Law just a few months before I was scheduled to leave,” he says. It wasn’t the only educational choice that likely altered his path, either, though economics shared a role in another.

“I was accepted to Georgetown and Notre Dame for undergraduate school and couldn’t make up my mind where to go,” says Grumley. “My dad finally suggested Notre Dame was cheaper, so that is where I went. Who knows what I would have ended up doing if I had gone to Georgetown in Washington, D.C.”

Grumley says the development of his legal career might be “an example of a ‘C’ student who probably overachieved due to a lot of good breaks.” Calling himself the “wallflower of the family,” he says he is more like an accountant than a lawyer.

Upon graduation from law school, Grumley went to work for Thomas, Wallace, Feehan & Baron Ltd. in Joliet.

“To say getting a job with that firm was a stroke of luck would be an understatement,” Grumley relates. “Tom Feehan and Bob Baron were well-known litigators in Will County at the time. Tom used to work for the attorney general’s office and would introduce himself when appearing on motions as ‘appearing on behalf of the taxpayers of the State of Illinois.’ And it was commonly acknowledged that Bob Baron was the best trial attorney in Will County.”

Although his law office has been part of different firms due to various mergers, Grumley has worked with the same group of people in the same law office on Ottawa Street in Joliet for more than 40 years. In 2008, the members of the Joliet office of a large Chicago firm left together to become Kavanagh, Grumley & Gorbold LLC.



“It has worked out amazingly well,” says Grumley.

Grumley primarily represents doctors and hospitals in medical malpractice suits and feels lucky to practice in an area of the law where clients care as much about the outcome as he does.

“I had a doctor who handed me a fully typed closing argument after the parties rested,” says Grumley. “Although I didn’t use it, it was pretty good.”

Grumley also has been involved in some memorable cases outside the medical malpractice area.

“I was defending a young man in an auto case, and he decided not to show up one day in the middle of the trial,” says Grumley. “I had to ask the judge to suspend the trial so I could find my client. I hired a private investigator who found him two days later in Wisconsin. We persuaded him to come back so we could finish the trial.”

Another case involved an intoxicated woman who walked into the street in front of a vehicle driven by the elderly woman Grumley came to represent. He says the only independent witness was also intoxicated at the time, and he likely had a long-term problem with alcohol. He was also prone to driving around in the middle of the night.

“We had to hire a private investigator to watch his home all night to make sure he didn’t leave,” says Grumley. “I had to wake him up after he overslept and persuade him to take a shower, get dressed and appear at trial that morning.”

The vast majority of Grumley’s work, though, is in the realm of medical malpractice defense. Trials in this legal genre are “just plain demanding,” he says, adding that doctors generally cannot get enough insurance to cover the potential liability.

DROP IN THE BUCKET

Many doctors can only buy \$1 million in malpractice insurance because that’s the maximum coverage most insurance companies offer. Some belong to a medical group, which can provide another \$1 million in insurance, according to Grumley.

“In many cases, that’s a drop in the bucket,” says Grumley. “Those amounts can be far less than a plaintiff’s demand or a jury award at the end of the trial, especially in the fields of heart surgery, obstetrics and neurosurgery. In all those practice areas, when things go wrong, it’s a catastrophe.”

Given the financial threat if they should lose at trial, doctors certainly consider the option of settlement.

“But if there is a settlement, the doctors still get reported to the National Practitioner Data Base,” says Grumley, explaining why settlements can be less than appealing despite the financial risks.

It’s not difficult to understand why doctors who’ve been sued, particularly for the first time, can be shaken to the core. Someone believes they are incompetent at their chosen profession, an appalling notion to those who’ve spent years in training.

To represent them, Grumley works long hours in pre-trial preparation because the last thing he wants is to be surprised in a courtroom.

“I’m not as good at being spontaneous as some other attorneys are,” says Grumley. “I have to make up for not having those qualities by being prepared for every aspect of litigation, especially during a trial.”

According to clients and peers, he has succeeded with that approach.

“If you are new in practice and get named in a suit, you think the sky is falling,” says Dr.

David Cziperle, a thoracic and cardiovascular surgeon with Cardiac Surgery Associates in Downers Grove.

“The first thing Jim will tell you is that it’s a process and to trust in the system,” says Cziperle. “The most important thing he told me was ‘If you’ve done the right thing, the system will work for you.’”

Cziperle says he has never had a settlement or a judgment against him, despite working in a medical area prone to generating lawsuits.

“Jim puts his soul into your defense and is always thirsting for medical knowledge,” says Cziperle, who has worked with Grumley late into the night to prepare for the cases in which he has been involved. “I’ve worked hard to protect my reputation, and he’s been a big part of it. We are friends now as well.

“Some attorneys are into theatrics,” says Cziperle. “They confuse facts with show. Jim doesn’t, and that’s why he’s respected by colleagues and clients. And he shows the same respect for everybody, whether custodian, bailiff or judge. Some attorneys yell, scream or boast, but he’s the guy who prevails. If you want results, Jim Grumley is your guy.”

Dr. Mike Tucheck, a cardiothoracic surgeon and a senior partner with Cardiac Surgery Associates in Downers Grove, agrees. Beyond high-risk heart surgeries, he is also involved in developing experimental procedures and has performed numerous surgical trials.

“Jim is one of my favorite people on the planet, and doctors mostly don’t like lawyers,” Tucheck says. “Getting sued is like playing the lottery. You pour everything into something that still might not go well. It’s very demoralizing. Sometimes a patient gets an infection no matter what we do. Suits are part of the mentality that everything that happens has to be somebody’s fault. It’s a game to some of them, but it’s a personal slash to my chest.”

14 MOVES AHEAD

“Jim is quiet and unassuming,” says Tucheck. “Those are superstar attributes. He takes tough cases, complicated cases. Everybody wants him. He’s the ultimate medical malpractice defense attorney. He’s a rock star. He’s a saint, a Boy Scout and the pope all in one.”

Despite the risks associated with his practice, Tucheck says he’s never been successfully sued and has had many nonsense suits dropped.

“Jim was very good at educating me about what I needed to discuss,” he says. “He knows what a jury can understand. And he’s like a grandmaster chess champion. He’s always about 14 moves ahead.”

Dr. Bryan Foy, also a cardiothoracic surgeon with Cardiac Surgery Associates, says he would never go to trial without Grumley. “He taught me that a case exists in its details. His mastery of the details is meticulous. I was converted

to the Grumley School of Defense—know everything; own all the info.”

Foy calls being sued “one of the most difficult things in my life.”

“It’s a foreign environment, truth often has little bearing, and it is not really a jury of our peers. I’d say 50 percent of what Jim provides is legal knowledge, and the other 50 percent is support group. Jim is the guy to be with in the trenches.”

Beyond his medical clients, other attorneys also appreciate his skills and approach. Tom Leinenweber of Leinenweber, Baroni & Daffalo LLC in Chicago and a Joliet native like Grumley, says he and Grumley were opposing counsel in a wrongful death suit involving an elderly woman whose death prompted a good deal of sympathy.

“He had to overcome that,” says Leinenweber. “I lost, but Jim and his team did a great job. One of his strengths is the way he connects with a jury. He’s a nice person, and he comes across that way to a jury. His attention to detail is among the best I’ve ever seen in court.”

Charlie Hughes of Hughes, Tenney, Postlewaite and Coal LLC in Decatur has tried cases with Grumley. He, too, understands that the psyches of doctors who’ve been sued can be very fragile.

“It’s not just a threat to their reputation or to their standing in their profession,” says Hughes. “It’s a fundamental assault on their integrity. Unlike (doctors), nobody lives or dies as the result of my work. And too often, somebody who has had a bad thing happen simply wants a pound of flesh.”

Hughes says he was the lead lawyer in case where he represented the main defendant and Grumley represented the “big pocket” defendant.

“He was in a position any lawyer hates,” says Hughes. “But Jim just helped enhance my arguments and tried to add to what I was trying to do.”

Hughes also confirms that pre-trial preparation is an area at which Grumley excels.

“A good trial is not getting surprised—because you were well-prepared. Jim is 100 percent an example of that.”

CALM UNDER PRESSURE

Lou Varchetto of Mulherin, Renfro & Varchetto P.C. in Wheaton is a defense attorney who has known Grumley for decades and worked with him on many cases.

“He is the calmest individual I’ve ever met,” says Varchetto. “I tend to be a little frenetic, and he’ll just lean across and whisper, ‘Lou, you just gotta calm down.’ True trial lawyers have all the details at hand, and Jim is one of them. He’s also one of the real true gentlemen in our business. He’s always willing to help out. He has loaned us his staff and opened his office for us to use. I don’t think he’s ever made an enemy in this business.”

Grumley may not be frenetic by nature, but his life is certainly made more complex by living in two places every week. His mother is 95 and lives alone in Joliet. Several days a week he lives with her and helps her with day-to-day activities.

Grumley says she helps him by rather relentlessly reinforcing his grammar skills. He does not know how many times she has corrected him on the forms of the verbs “lay” and “lie.” She also reminds him often that she majored in English and is a graduate of the University of Illinois.

He spends the rest of his week with Gale, his wife of 41 years, at their Chicago home. They have three children: a daughter, Beth, who lives in New York; a son, Mike, who lives in Ann Arbor, Michigan, with wife Christine and daughter Margot; and a son, Patrick, who lives in Chicago.

“My wife’s parents told her that women needed to become nurses or teachers, so my wife became a teacher,” says Grumley. “My wife did not want our children to ever say they went into a particular field because we told them to.”

Beth works in television and movies in New York, doing background and promotional work. She participates in community musicals.

“We probably go to New York at least two or three times a year to see Beth in one of her plays,” says Grumley.

Mike works in logistics, but Grumley says his son’s co-production of the family’s first grandchild, Margot, is the work Grumley appreciates most now.

“You don’t understand the effect a grandchild will have on your life until you have one,” says Grumley. “It’s unbelievable.”

Patrick is in the music business in Chicago.

“My wife and I went to one of the hip-hop concerts his company was putting on at Soldier Field,” says Grumley. “Kids would come up and congratulate us for being at a concert at our age.”

Grumley says that living in two different cities does make his life more complicated, but he has never regretted the move to Chicago.

“I love Joliet and it was a wonderful place to bring up kids,” says Grumley. “But after our children left home, Gale and I moved back to where we met in Chicago. We have subscriptions with friends and family to Steppenwolf, Red Orchid and Timeline Theatre, and to the Joffrey Ballet and Hubbard Street Dance.”

He and Gale also enjoy traveling. They went to Israel last summer and Alaska is in their plans this year.

Grumley can still see how different his life might have been had he made different choices or fallen into different opportunities early on, but he’s happy with the road he has traveled.

“If you work hard and get some breaks, life will be good.” ■