

JIM BEST

Old School Defense Lawyer Lays His Cards on the Table

by Mike Bailey

When other lawyers speak of him, they use terms like “old school” and say he does not just respect the law, he respects his opponents and above all, what the law stands for.

They speak of him with reverence for his unfailingly respectful demeanor, his sense of fairness and his honesty.

James F. Best, of Best, Vanderlaan and Harrington, Chicago, says simply this was the way he was raised and that his greatest pleasure is to work with “honorable” lawyers who lay their cards on the table so together they can work toward equitable solutions.

Shawn Kasserman, of Tomasik Kotin Kasserman, LLC, says his longtime adversary embodies those very qualities. “I’ve had cases against Jim and his firm for 20 years,” Kasserman says.

He recalls a case in which he opposed Best and learned firsthand that Best was both “a fantastic representative of his clients and a man of his word.”

Kasserman says Best’s client ran out of gas on the Kennedy Expressway on a Sunday and left his truck in the traffic lanes while he went for help. Kasserman’s client ran into the rear of the stopped truck at a high speed, and he was killed. Kasserman contended that the truck driver should have been able to get the truck off the road and by not doing so, he was responsible for the accident.

“Jim came into the case a little late. There was another lawyer involved,” Kasserman says. “Jim did such a great job defending his client that he got the case into a position to be able to settle it.”

Kasserman says Best subpoenaed telephone records, was able to calculate the speed of his client’s vehicle, and broke down the time frame of the accident to show that some of the blame belonged to the deceased.

“He had a sound defense and therefore was able to keep the damages down. In settlement talks, he was very fair. He knew his client had some liability, and we were able to settle the case. He was a man of his word all the way through.”

To what does Best attribute this untarnished



reputation as a man of principle and integrity? “It is because of my mother, Betty Best,” he says. “She was loving and smart—one of the smartest people I have ever met. And there was no BS with her. She taught me to be straightforward with people. I found that applies in trial work as well. When you are working with honorable people like Shawn, you’re not going to put something over on him. He’s too good. So, just lay your cards on the table.”

Best has cultivated that reputation as someone who can be trusted to keep his word, be fair, and represent his clients’ best interests. Some of that came from his roots as the son of southern Illinois farmers. His

family raised hybrid seed corn near Alton, which was packaged and sold to farmers. Like his father before him, Best attended the Missouri Military Academy in Mexico, Missouri, before heading to Drake University for undergraduate work.

While he didn’t know with certainty what he wanted to do with his life, he knew what he didn’t want to do, which was work in the family business. While that decision initially displeased his parents, the farming and seed business eventually dissolved, making his decision prescient.

He enrolled in law school at Drake and the “bug” of trying cases infected him in his second year. “I was in (evidence class) and my

instructor got a grant to put on mock jury trials in front of other students. He took the top four evidence students, and we did these trials.” The fuse was lit.

He met and married his wife, Barbara, during that second year. Upon graduation, he “ran for daylight,” to use an old football coach’s expression. His wife was from the Chicago area and so they returned. He seized his opportunities and pursued his dream of opening his own law firm.

“We’re known as an insurance defense firm, and we also work with self-insured government entities, like municipalities, townships and housing authorities. With insurance companies, we defend them in actions relating to commercial and personal lines.”

Over the years, the firm has remained at about 20 to 25 lawyers and support personnel, large enough to handle complex cases but small enough to remain nimble and maintain a personal relationship with clients.

EARLY INTERNET DEFAMATION CASE

Best’s practice remains stimulating because of the variety of cases he handles, such as the time he and Lori Vanderlaan tried what he believes was the first defamation case involving comments on the Internet.

“This was a long time ago, like 1996. The Internet was still evolving. When we interviewed jurors, we found a wide variety of opinions about the Internet. Some believed it should not be regulated, that there should be no governmental interference whatsoever—that it should just ‘be.’ Others disagreed.”

The case involved a man who launched a marketing company and announced on the Internet that he was looking for people to join his company. Potential marketers were to pay him a fee and then he would line up marketing jobs with various companies using his online marketing team to promote and publicize a product. His online force would be paid accordingly.

“It wasn’t necessarily a bad idea, but I think he was surprised when 32,000 people signed up,” Best says. “Our client was one of the 32,000, and he wanted to become a partner, but the originator of the idea refused. Our client then disseminated some unflattering information on the Internet about him which the (originator) alleged was false.”

Best was challenged not only by the allegations but also the uncertainty of what should govern conduct on the new medium. So, he chose instead to go at this from a different direction.

“We said the business was essentially a pyramid scam. We pointed out that it was

unraveling anyway.” He says the originator provided no work and continued to provide excuses in the form of illnesses and unrelated delays in explaining why progress was slow.

“We said the defendant’s comments were coincidental to (the dissolution of the business) and therefore there was no real damage.” The plaintiff sought millions but received \$8,000 in actual damages and \$25,000 in punitive damages.

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These kinds of cases stimulate Best, who thoroughly enjoys learning about someone else’s job and becoming an expert in just what he needs to know to defend his client.

“Alison Harrington and I defended an internist in Ottawa several years ago,” he recalls. “A woman went to the hospital for a Caesarian section, and her white blood count was very high. The obstetrician called in the

internist (her doctor) for an opinion, but he said she was OK. Several days after the birth, the baby developed meningitis and was permanently blind and deaf.”

The woman sued, claiming the internist should have realized that antibodies from a high white blood count would be passed through the placenta to the child and would thus destroy the baby’s immune system. Best says the woman’s condition was rare in that her elevated white count meant she was essentially attacking her own immune system.

Best says there were two issues. First, was it indeed possible for the mother’s antibodies to be passed to the child and attack the baby’s immune system? Second, should the internist have known this?

The trial started on Halloween and lasted until Thanksgiving, encompassing the suspense and uncertainty over the Bush-Gore presidential election outcome. Six Harvard medical experts testified, half for each side. “As soon as the (trial was over for the day), I would get a limo to drive me from Ottawa

to O’Hare Airport, pick up the doctor and prep him during the drive back to Ottawa to the hotel where we were staying. The next day he would testify and then be driven back to O’Hare.”

As if this wasn’t enough strain on Best and his legal team, they were involved in a traffic accident one day on the way to court. Additionally, the plaintiff’s family and friends



Best with his daughters (from left: Mary, Carol and Susan), on a Colorado dude ranch in 2017

packed the courtroom, creating a somewhat hostile venue.

After weeks of testimony, including the acknowledgment that the mother's elevated white count was essentially attacking her own immune system, the plaintiffs still could not clearly show that it was possible to so affect the unborn child. Best says there was a research paper done by the University of Washington. It implied the phenomenon was possible, but no definite link could be established. His client was exonerated.

"When I have clients that I like and respect, part of my job is to shepherd them through this process," he says. "It is very stressful for them. They are smart people, and they are not used to sitting there, being attacked."

Attorney Allen N. Schwartz, of Kralovec, Jambois & Schwartz, has such great respect for Best that, even though he has opposed him on several matters, he freely recommends his adversary to clients looking for representation in employment issues. "He's the go-to guy for figuring out how to handle difficult employment issues," he says.

What separates Best from others is the way he treats people, Schwartz says. "He's just a lawyer's lawyer. He sees things clearly, and he treats people respectfully. He's not afraid to try a case, but he is also very fair. He never loses his temper, and he is always professional, even if the other side is not treating him that way.

"He is 'old school' honest and trustworthy. As good as he is as an attorney, I don't mind facing him because I know everything will be above board and that he is interested in finding a (beneficial) solution."

ORGANIZING JURY'S THOUGHTS

Like most successful trial lawyers, Best has a simple process to prepare for his trials, something he imparts to his colleagues.

"I tell them, 'Do the math.' Get the facts (you need) to the jury that will control their decision. As trial lawyers, our job is to organize the thought process of the jury."

That process was extremely useful when he tried a multijurisdictional case over five weeks that involved three plaintiffs and two defense teams.

"It was a horrible accident," Best recalls. "Two boys in one car hit a car driven by another young man in rural Will County." The accident happened at an intersection where four townships met. It occurred in late summer when high corn in surrounding fields blocked the sight lines.

Best represented two of the four townships against allegations they were negligent in that there were no stop signs and that they should



Best sitting on his father's lap with family friend Bud Martin in Eldred, Illinois, in 1953

have corrected the vision issues at that location. What exacerbated the defense even further was that residents had petitioned for signage at the intersection the previous year.

One young man suffered brain damage with residual cognitive problems, a second suffered

to post signs. Second, and more crucially, Best pointed out this was basically the way rural intersections are, and drivers themselves have the responsibility, not the government.

"This was about the time that Will County began to develop rapidly. Many people were moving out from the cities to the rural areas where open intersections are common. It was obvious there was corn blocking the views (of oncoming traffic) and that it was appropriate, given the nature of the area. The case was very emotional, but the conduct of the plaintiff's attorneys was professional and honorable."

Best enjoys tennis and golf in his spare time but cherishes the time he and Barbara spend with their three daughters. Mary is an award-winning interior designer in Milwaukee; Carol is an assistant principal at Morton East High School ("She is a warrior for her students," Best says); Susan is a trial attorney for the Chicago Public Schools ("She is very good," he says proudly.)

And, Best unashamedly says, he is a lifelong St. Louis Cardinals fan, something he playfully notes he has indoctrinated in his children. "We go to a series every year in St. Louis."

But the law is never far from his mind, despite many years in practice. "I still enjoy the idea, the thrill, of the unpredictability of trial. Some people like to ski or drive fast. For me, the thrill, the vitality I love is the rawness of the case and the anxiety of waiting for a jury's verdict. I never get tired of that." ■

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massive paralysis, and the third was killed at about the time he was to leave for study at the Bob Jones University, a Christian liberal arts school in Greenville, South Carolina. Emotions were raw, and the witness testimony was often poignant.

After five weeks of trial, the jury deliberated for 2½ days before reaching the verdicts. "When they came out, several of them were crying," Best recalls. "We didn't know what that meant. Then the court started reading the verdicts. Not guilty on all counts."

Best's defense was twofold. First, in Illinois, governmental bodies do not have an obligation