

# MARK McNABOLA

## Putting 'Boundless Energy' To Work for Injured Clients

by Pat Milhizer

With her mother permanently confined to a wheelchair after a car accident, Cathy Harvey-Slawkin reached out to a family friend who has a law degree.

That lawyer then called Mark McNabola for help.

"And it's the best thing that happened to our family," Harvey-Slawkin says.

McNabola, a plaintiff's personal injury lawyer at **Cogan & McNabola P.C.**, handled

the 2006 trial in the Richard J. Daley Center and secured a guilty verdict from the jury that brought a judgment of more than \$10 million.

The jury award ensured that Harvey-Slawkin's mother and father could afford the care that was needed, and it compensated them for their changed lives.

"It wasn't an easy case," she says, noting that the cause of the car accident was contested at trial. "But he's obviously very

experienced and tough when and where he needs to be. And he was very compassionate with my family."

Entering his 25th year in the legal business, McNabola has helped scores of families get compensation through verdicts and settlements after catastrophic accidents.

McNabola grew up in Wilmette, the son of a surgeon who also played on DePaul University's National Invitation Tournament championship basketball team that was coached by Ray Meyer and starred George Mikan in 1945.

His mother was a homemaker who raised the family's five children, and growing up in an Irish Catholic family, "you were not allowed to come in the house complaining unless you were bleeding," McNabola recalls.

"My dad's work ethic, he was out of the house at 5 a.m. every morning. And always throughout my life, he worked six days a week. And my mom was the social chairman, the most positive person I've ever met," McNabola says.

"So my parents instilled all the virtues that have helped me find my way to be a successful lawyer."

In those days, if the neighborhood kids wanted to go anywhere, they could ride their bikes or hitch hike. And the McNabola family of seven was small compared to the other families.

"The vast majority of my friends came from larger family and had 10, 12 kids. And one had 16," McNabola says. "And every one knew everyone. Everywhere you went, you knew somebody there."

### Learning Independence

McNabola, 50, traces his legal roots back to a great-great-uncle who was Abraham Lincoln's legal apprentice. Another great-great-uncle was a priest from County Cavan, Ireland who was one of the founders of Saint Vincent's College in Chicago's Lincoln Park neighborhood. The school eventually became DePaul University.

McNabola started high school at a boarding school, La Lumiere in La Porte, Ind., where he learned a little more about being independent.

"If you didn't do your own wash, your wash wouldn't be done. If you missed a meal, you went hungry. If you missed an assignment, you didn't go home," McNabola says.

He transferred to Loyola Academy as a junior and competed in football, rugby,



track, and basketball—winning team and individual awards.

McNabola was one of the point guards on the 1976 basketball team that won the Catholic League and finished third in the state. The following year, he was on the rugby team that won the state title, and he was the city pole vault champ on the track team.

He started college at DePaul University but transferred to Northern Arizona University to play basketball. He eventually returned to DePaul to graduate in 1981 with majors in English and communications.

Throughout his life, McNabola had dozens of different odd jobs, including delivering papers, working on lawns, at the city water department, construction, and on the Cicero Avenue docks for the 7-Up Bottling Co. He also worked as a bartender, lifeguard, bus boy, clerk in the Cook County circuit clerk's office, and a pit observer at the Chicago Mercantile Exchange.

But it was his work as a Daley Center sheriff's deputy during law school that exposed him to litigation and the different styles that attorneys used in the courtroom.

"You also learned how hard lawyers worked, especially on trial," McNabola says.

After earning a law degree from DePaul University College of Law in 1984, McNabola landed an internship at the U.S. attorney's office.

He worked as a gopher on the first case that went to trial from Operation Greylord, the federal investigation into case-fixing in Cook County that led to the indictments and convictions of many judges, lawyers, and courthouse personnel.

On the government side of the courtroom was Scott Turow, now a well-known author, and Jim Ferguson, now an attorney at Mayer Brown LLP.

Representing the defendant was Anton Valukas, a former U.S. attorney in Chicago now the chairman of Jenner & Block LLP.

"Looking back at the Greylord case, it was such a high-profile case, but you realized that putting on a case was nuts and bolts. It was less theatrics than you'd imagine but more just submitting facts," says McNabola, acknowledging, though, that the cross examinations were fairly intense.

McNabola worked in the federal prosecutor's office for less than a year before he got a job at a firm formed by a group of attorneys who left Phil Corboy's office.

## **A Business Partnership That Works**

After working at the firm for seven years, he opened his firm in April 1992 with Michael Cogan, who had also worked at the previous firm. On the day the firm opened, downtown

workers endured the great flood that evacuated the city's business district in the Loop.

With the streets soggy, McNabola remembers going with Cogan to a bar to have a drink. The way Cogan tells it, the two went to play basketball.

Whatever the story is, Cogan says that he went into business with McNabola because he had excellent courtroom skills and the ability to multi-task.

"He has boundless energy. He seems to be able to be not only three places at the same time, juggle three different cases at the same time, but he also has an incredible ability to ready a case for trial in record time," Cogan says.

In front of juries, McNabola has an "extraordinary presence," Cogan says, attributing some of that skill to McNabola's days as a sheriff's deputy watching trials handled by the retired icons of the Chicago bar.

Part of the reason the business partnership works, Cogan says, is that the two lawyers have access to different pools of clients and referring attorneys due to their different social backgrounds.

And for a sense of the firm's success, consider what Cogan says about McNabola's referral history: "The lawyers that refer him cases today are the same lawyers that referred him cases five, 10, 15, 25 years ago."

For McNabola, one of the biggest changes in the legal professional has been the diminishing interaction between judges and lawyers.

"When I first came up, all the lawyers would finish trial and go across the street with the judge and talk about the testimony or talk about anything. That social aspect doesn't occur as much as it used to," McNabola says.

McNabola's younger brother by seven years, Ted, also practices at Cogan & McNabola as a partner.

"It's great to have your brother as your partner because growing up, as all Irish brothers are, we're blunt with each other. And I think that kind of honesty is helpful when you're trying to do the best you can for your clients," Ted McNabola says.

"When I started out as a young lawyer," he adds, "I think he taught me many of the things you need to be a good trial attorney. I would say most importantly, he taught me the first rule of being a good trial attorney is humility, and that's making sure you study the law and prepare your case before you go into court, and also, you never underestimate opposing counsel."

His older brother's success in the legal field is "rooted not only in exceptional legal knowledge but also his compassion for the clients," the younger McNabola says. "He is fortunate to be in a point in his career where he

takes cases he really believes in, and that passion and belief in his cases comes through in the courtroom."

When working with clients, Mark McNabola's goal is to protect the interests of injured people who have been emotionally and physically devastated by some incident.

With clients who may include families who have lost a relative or clients who have suffered brain damage, lost limbs, paralysis or medical malpractice, McNabola's cases involve a "family's biggest nightmare."

"It runs the gamut of emotions. And I think people need to have a security blanket in their lawyers," McNabola says. "They need to have a confidence and comfort level with the lawyer. I have vivid examples that I think about often—parents losing a child tragically."

"Those types of things are really hard for anybody to rationalize, but the fact that I've seen them regularly over 25 years, you have the ability to hopefully help people try to cope with that and at least take the pressure away of this unknown legal process which they have all kinds of improper assumptions about," McNabola says.

"So that is in one way a very shocking aspect of the type of practice. But on the other hand, it's one that you know helps people. You can't bring a person back, but you could be for them what the law entitles them."

The cases and clients also have helped McNabola develop a perspective on life.

"It really confirms that I should not be praying for things I want or need but instead be thanking for what blessings have already been bestowed on my family. ...Not to be all philosophical about it, but it's really changed that aspect of it," McNabola says.

At trial, McNabola tries to avoid being condescending to the jury and instead "peel the onion back on cross examination and try to get details that some people may assume are obvious."

One attorney who has handled several high-stakes and highly emotional cases against McNabola says that he always expects their courtroom battles to focus only on the important matters instead of wasting time and money on irrelevant issues.

"He's got a great way about him, and he really understands how people think, and that translates into his preparation for trial and presentation at trial," says Rob Smyth at Donohue Brown Mathewson & Smyth LLC.

"If you're going to be handling high-stakes cases on the defense, you're almost invariably going to be dealing with a top-flight personal injury lawyer opposing you," Smyth says. "And so if you have your thinking cap on as a

defense lawyer, you want [an opponent] who understands his own case and prosecutes it the right way. And Mark certainly fits that bill perfectly,” Smyth says.

For his part, McNabola says that he doesn’t like attorneys who commit improper courtroom acts after the judge has informed them that they’re improper. He especially doesn’t like opposing attorneys who speak objections without having a legal basis, because they’re essentially trying to coach the jury.

“The judge will sanction that lawyer in chambers, but there’s no recrimination of the lawyer’s acts in front of the jury. So they can try to take a couple free shots,” McNabola says.

“But you have to be calm in front of the jury. And you have to be balanced in what you’re saying and how you react—which takes time to develop. I wasn’t that way early on,” McNabola says. He adds a basketball analogy: “I jumped for every head fake.”

## **Taking His Word to the Bank**

In October of last year, McNabola was handling a product liability case against Bill Beatty of Johnson & Bell Ltd. The case involved a boom lift accident in which one of the occupants fell about 30 feet to the ground.

During the trial, McNabola demonstrated more than just being a strong litigator and advocate for his client, Beatty says.

“And in this practice, when things are contested, when the stakes are high, sometimes that tests people’s character. But Mark was not only thoroughly professional in terms of his ability as a lawyer, but he was a gentleman in every step of the case. When Mark gave you his word on something, you could take it to the bank,” Beatty says.

During the case, an expert witness for the defense passed away shortly before the trial date. Beatty appreciated that McNabola didn’t exert any undue pressure to replace the expert.

“And we had to scramble to find someone else to take his place, and Mark, who obviously wanted to get his case resolved on behalf of his client, understood this situation and didn’t give us any difficulty to afford us the time needed to find a new expert,” Beatty says.

“And in terms of the way he deals with people, not only other lawyers, but in terms of the way he deals with witnesses on both sides of the case, he has always been a gentleman,” Beatty says.

Asked about his accomplishments, McNabola recounts that he had nearly 20 jury verdicts in a row without losing from the mid-1980s to the early 1990s.

“But I have lost a couple cases over the years,” he says, recalling five cases in which

juries issued “not guilty” verdicts.

And he tries to keep his courtroom victories in perspective.

“You won a lot of cases you shouldn’t have won as big as you did. And that’s part of the system. Sometimes it’s not fair; there’s not a guarantee when you deal with a jury,” McNabola says.

“You keep learning. I feel like I’m always an aspiring lawyer. You have different personalities that come into play, which makes the job fascinating: clients, judges, how fact patterns work in,” McNabola says.

“I looked at things differently when I was 25 years old than I do at 50. And I’ll probably look at it different when I’m 65.”

For his success, he credits the attorneys and staff at his firm. As for a case that stands out the most, McNabola says he can’t pick one because “it’s like asking a coach ‘Who’s your favorite player?’”

Active in the sports that his children play, McNabola and his wife, Eileen, have two boys and two girls who are between kindergarten and eighth grade.

In fact, this interview had to be postponed a day because McNabola coaches a youth football team that plays at Welles Park on Chicago’s North Side, and he was concerned that the players didn’t know how to properly get in a three-point stance at the line of scrimmage.

“As he and I have both matured,” Cogan says, “I’ve watched Mark, and he has a truly remarkable balance between work and family. He is not a passive observer.”

“I can’t even tell you the number of sports and kids of his that he’s coaching,” Cogan continues. “But he’s coaching at least three different sports as we speak. This afternoon, he had to leave early because he’s coaching a [football] game.”

“I think there’s too little of that in our profession.” ■