

PAUL PRICE

Looking Forward to Sharing the Spotlight in Malpractice Defense

by Keith D. Picher

After 41 years as a defense trial lawyer, Paul L. Price is preparing for a “slow descent.”

A Chicago-based partner in **HepplerBroom LLC**, Price quotes his mantra after grasping a nearby copy of *Sacred Hoops: Spiritual Lessons of a Hardwood Warrior*. Price has read Phil Jackson’s book five times and highlighted many quotes.

“What I’m trying to do now, and have always done, is to ‘share the spotlight with your

The Changing Face of Defense Litigation

Price shares stories of the great trial lawyers of yesteryear to help preserve history through the younger attorneys he mentors. Much as the players have changed, so has the work of defending professionals in negligence cases and representing companies in commercial litigation.

The risks of medical malpractice litigation have skyrocketed as healthcare inflation and the cost of living escalated. Years ago, it was unusual to

otherwise shouldn’t be important, but 12 people tell you now it is important.”

Price has always believed in proper preparation and in being “super detailed” during litigation. Some of that comes from his accounting background, which taught him to be organized.

But Price also attributes his desire to master details to a generational difference in the practice of law. “Younger people look at me like I’m from Mars. ‘Why are you doing all that?’ they ask. ‘Well, you never know when that one detail is going to make a difference, so let’s know it,’ I tell them.”

Price believes it’s important to have a basket of facts when trying a case. When attorneys fill up that basket, suddenly the scales of justice will tip in their favor. And he believes it’s important to have supporting details in his favor as well.

“I’m thoroughly convinced that the jury system still works,” he says, “although it doesn’t work in every case.”

Courtroom Influence

Price is a past president of the Federation of Defense and Corporate Counsel, where one of his mentors was Marvin L. Karp. Karp served as FDCC president and led the litigation team at Ulmer & Berne in Cleveland until a few years ago. The two met in the mid-1980s and worked closely together when Price chaired a national convention.

“He provides excellent guidance, excellent insight, and is fair-minded in his approach to things,” all qualities that are important in an effective trial lawyer, Karp says.

“Paul is extremely well prepared, very analytical, very bright, very knowledgeable, and very effective in communicating what he wants other people to understand and what directions he wants other people to go in,” says Karp.

To say Price comes across as knowledgeable is an understatement, says William J. Rodgers, a partner with Swanson, Martin & Bell. The two have represented co-defendants and had trials together since the late 1970s.

Rodgers remembers a trial where Price represented a gastroenterologist. One issue in the case involved an esophagogastroduodenoscopy. With good reason, it’s usually abbreviated EGD.

“He had learned about the procedure to the point where you almost thought he could go into



teammates so the team can grow and flourish.”

Price, 67, wants that to happen more now and to foster steady business growth for the firm’s younger attorneys. When clients try to engage Price, he will spread the wealth so the firm’s next generation of lawyers can handle substantial cases as his generation did. He started transferring cases last year.

“I will still be here to hover in case there’s any need, and I’ll second chair a couple cases,” he says.

Price retains several medical negligence files he’s heavily invested in. None of those disputes is easy; it’s been a long time since he’s had a simple case. But Price still enjoys the work. He plans to delegate more, operate at a more leisurely pace, and take more time off when possible.

“I can do what I want to do,” he says, “but still do more of what I really want to do.”

have a case valued at more than \$1 million. Now, Price rarely encounters a case that small.

All too often, Price’s role is trying to protect a client’s personal assets.

“If we lose the case, more often than not the award is very high and the doctor’s entire career is at risk financially,” he says. “The price of poker has gone up.”

Although some cases should be settled, Price believes a lot should be defended.

Doctors have been forced to practice defensively, and so have medical malpractice defense and plaintiff’s lawyers. But lately, juries have used a more acute process to judge cases, occasionally more than 20-20 hindsight.

“Now, it’s at a warp speed, and sometimes you wonder why you’re using so thorough an approach,” he says. “You’re doing it only because you don’t want to lose the case because you missed some little sliver that

the hospital and do it himself," Rodgers recalls.

Price admits that learning about medicine is one of the wonderful parts of being a trial lawyer. "I'm a great diagnostician in our family now," he jokes. "I can pick out a malady and am usually right."

Price also has an excellent rapport with juries. Rodgers remembers talking to jurors at the conclusion of a trial he shared with Price. Price was seated closest to the jury, almost as if he were sharing a dining room table with them, says Rodgers.

"They liked him so much," he says, "that I thought one of the jurors wanted to marry him, and one wanted to adopt him as a son."

Price knows the strengths and weaknesses of his case and the strengths and weaknesses of all the other lawyers, says Rodgers. Price works from his strengths, avoids his weaknesses, and finds new weaknesses in others. And although Price represents clients passionately, he always shows respect for opposing counsel, injured plaintiffs, and the court system.

Bruce R. Pfaff, a personal injury attorney and founder of Pfaff & Gill, agrees that Price knows his role in the courtroom. He always is congenial and polite, never taking himself too seriously.

"At trial, he only fights the battles he needs to fight, so there's no wasted motion and no wasted energy in the work he does," Pfaff says. Price has many traits that defense and plaintiff's lawyers would do well to emulate, he adds.

"Paul will always be very humble about his abilities, but he is really smart. He knows the law, he knows medicine, and he knows people. And if you're going to try medical malpractice cases, you'd better know all three of those pretty well."

Keith A. Hebeisen, a partner with Clifford Law Offices, has tried a few cases against Price. He describes Price as very well prepared, smart, straightforward, and honest in dealing with his opponent. The two met about 20 years ago and recently became involved in another case.

"He's the same Paul Price I knew years ago," Hebeisen says. "He's the kind of defense lawyer I admire and hope to work with on cases as often as I can."

"He does a great job for his client," says Hebeisen, "but also is someone you can get through the litigation process with, without any unnecessary problems."

Judge Terrence J. Lavin of the First District Illinois Appellate Court had several cases with Price when Lavin was a plaintiff's malpractice lawyer. In those cases, says Lavin, Price showed the combination of brains, street smarts, and professionalism that every trial lawyer needs to be excellent.

"You have to have that on-your-feet alertness, the ability to listen to everything that

happens in the courtroom," he says.

Like a well-trained fighter, Lavin says Price always showed an ability to punch and to counterpunch based on what he observed in the courtroom.

Price came from blue-collar roots and was the first in his family to attend college, let alone law school. After graduating from Weber High School, he intended to major in English at Loyola.

Price took some vocational aptitude tests after advisers suggested liberal arts might not be for him. "For once in my life, I listened to authority."

Instead, Price took up accounting. Then in his junior year, he had a business law course that seemed easy compared to the world of credits and debits.

Toward the end of his law school studies at Chicago-Kent, Price had an unplanned break to serve in the Marine Corps Reserve. When he finished, Jerry Vainisi of eventual Chicago Bears fame recruited him for Arthur Andersen's tax department. Price worked there during the day to finally support his wife, who previously supported him through full-time law school. He completed his law degree at night.

"Working in the tax department gave me a bird's eye view of tax accounting, and I learned it wasn't for me," Price says. "You're chained to your desk, you're filling out tax returns, and you're doing research on some nuance that maybe three people in the whole world are going to use."

By contrast, Price had clerked at a general practice firm and was amazed how quickly the day passed. It was exciting, and he enjoyed dealing with people. So Price became the third litigator in a three-person firm where he had five years of unimaginable experience.

After 20 years at Pretzel & Stouffer, Price and his two longtime friends and partners, Tony Tunney and Cathy Reiter, formed their own firm. They combined their practice with HeplerBroom five years ago.

Looking back on his career, Price highlights three significant trials. In one, he successfully defended an anesthesiologist who passed away during a case. The jury delivered a \$17 million verdict against a co-defendant surgeon, however.

In another trial, Price obtained one of the country's most celebrated defense verdicts of 1992. He offered \$2.7 million to settle a case involving a brain-damaged baby. The plaintiff refused the offer, and the jury found for the defendant.

He also had a nine-week trial with opponent Barry D. Goldberg, who was known for marathon courtroom endeavors. The case resulted in a mistrial, and eventually the sides settled.

When he has time, Price mediates disputes involving malpractice, construction and general

liability. Occasionally he participates in the activities of the Defense Research Institute, the Illinois Association of Defense Trial Counsel, and the American College of Trial Lawyers.

With the "slow descent" of his practice, Price speculates that he might have time for more of those activities. But priorities are priorities.

"I still need my CLE to keep my license going just a little longer," he says. ■