

# Barry Conybeare

## Keeping Injury Law Practice and Family in Perfect Balance

by Mike Bailey

ST. JOSEPH — Finding that delicate balance between a professionally satisfying and successful career and a fulfilling family life requires thoughtful decisions and a commitment to both.

Barry R. Conybeare of **Conybeare Law Office PC** has managed to accomplish that goal.

“It all comes back to a decision we made in 1994 that we didn’t want the big city, big law firm career,” he says of the choice he and his wife made to leave a large Chicago law firm where he was routinely churning out long hours. There had to be a better balance than endless hours of work in a big city law firm, they felt.

“I was working in commercial litigation with Skadden Arps Slate Meagher & Flom when I married my wife, Jody,” he recalls.

“I was getting tired of eating dinner at my desk. After about a year and a half, we had a discussion and asked ourselves, ‘Where do we want to be?’”

It wasn’t, they agreed, where they were. So, they moved to southwest Michigan, and Conybeare joined his father’s small personal injury law firm. Today, his family and his law practice are in equal balance, and his life is the one he and his wife envisioned more than two decades ago.

Conybeare has what he terms a general personal injury practice, including everything from auto and truck accidents, medical malpractice, product liability, general insurance and, he chuckles, dog bites. The firm also handles worker’s compensation, Social Security disability and VA benefits claims. After 23 years in

practice, his six-lawyer firm handles many of the personal injury cases in the southwest corner of the state.

“My personal philosophy is that I want to give the client as much information as possible. If we move forward with a case, I give them lots of information about the law and how the legal system works. An educated client is more comfortable with what is occurring as the process moves along. I explain there will be roadblocks along the way and how the insurance process works. It’s better that the client understands the pluses and minuses of the case from the beginning and along the way.”

Conybeare also begins to acquaint himself with his clients to learn as much as he can about their family situation and their expectations. “We’ll have a long



interview about their current situation and their family. I try to spend about an hour with them on the law and the theories we might pursue. In the end, I give them a road map of how the claim will go. It's not a prediction, it's just an outline."

Achieving a comfort level with his clients is essential to a successful outcome, he says. But at the end of the day, whether to file or not is a business decision. "We look at the claim and assess the chances of success. We look at the potential theory of liability, the nature of the injury and sources of recovery. This is not revenge; it's not an eye for an eye. We pursue significant and modest claims for our clients if it makes reasonable business sense to do so. I like helping folks in my community. And whether their claim is big or small, it is important to them. It's their only claim."

Tracy Hyatt came to Conybeare in the summer of 2014 after a botched surgery for a hiatal hernia nearly killed her. "I had such terrible heartburn that I had trouble eating or drinking almost anything," she recalls, remembering bouts of vomiting. Her surgeon told her a relatively simple procedure would eliminate that, and she agreed to the surgery.

"I went in that morning and was laughing that when I came out I was going to eat and drink whatever I wanted," she remembers. The rest is just a blur to her now. She returned home after the surgery, but was not feeling well and returned to the hospital where it was discovered she had a massive infection. She was rushed to a hospital in Kalamazoo where she endured 16 surgeries in eight weeks. "They saved my life," she says.

Because of Conybeare's reputation, her husband contacted him and set up an appointment. "He was awesome," Tracy says. "And so was his assistant, Julie. He informed us of what we could expect in language we could understand. He answered all our questions. He spent many hours with my husband and me explaining the issues and making sure we were comfortable with everything. He gave us advice about medical care and financial management. He didn't have to do any of those things for us. He was like a member of our family. I would recommend him to anyone."

### First 'Fantasy Law Firm' Pick

She is not alone. Norman Tucker of Sommers Schwartz in Southfield has more than 30 years' experience in medical malpractice law, has published books and articles on the subject, and lectures across the country. When people ask him for an attorney to represent them in southwestern Michigan, he says, "The only name I give them is Barry. I was the managing partner of an 80-person firm, and I told Barry that

sometimes I play a game with myself. I call it 'Fantasy Law Firm.' If I was going to start a new firm and I could pick any lawyers in the state to join the firm, he would be the number one pick. He is all about the client and the profession, not self-promotion. He

raises us all up."

Conybeare says his firm takes a range of cases (big and small) that larger firms in bigger cities might not because those firms and lawyers often specialize and have much larger population centers. But he is



From left: father Bruce Conybeare, son Barry Conybeare in the firm's St. Joseph office



At Lake Garda in northern Italy in July 2016. From left: daughter Avery, son Zachary, daughter Rowan, wife Jody, son Rhys and Conybeare



Conybeare poses with the firm's mascot, decked out after the Cubs' World Series win.

certainly not a stranger to major claims.

“One that had a huge impact on me was a group of postal workers who went to a local restaurant for a meal. There was an outbreak of Hepatitis A, and one woman fell ill. She went to a local hospital here where they did a scan and initially diagnosed her with pancreatic cancer. Her family transferred her to a teaching hospital in Chicago, and they did a complicated procedure on her called the Whipple Procedure.”

That surgery involves removal of the head of the pancreas, the duodenum, the gallbladder, part of the stomach and the proximal jejunum. This operation is performed to remove cancerous tumors of the head of the pancreas. Her situation deteriorated following the surgery and she “died in pieces” over several months, Conybeare says, never leaving the hospital.

While the woman was in the hospital, her family met with Conybeare to discuss the potential claim. As an Illinois licensed lawyer, Conybeare offered to pursue the medical malpractice claim. He was also aware of the hepatitis outbreak because a couple others who contracted it had hired him. But the woman’s family hired a successful personal injury firm in Chicago to represent them instead. Almost two years later and on the eve of the statute of limitations, that firm sent back all the paperwork—about two feet high—and said they were declining the case. The family turned to Conybeare.

“I understood that the file had been handed off to different associates, and finally they decided they couldn’t or didn’t want to pursue it,” he says. And so, with the clock running, Conybeare and his legal assistant with 34 years of experience at the firm examined the file.

In reviewing the medical records, Conybeare noticed that the liver enzyme tests were abnormal—a sign of hepatitis, not pancreatic cancer. “The world-renowned surgeon who performed the Whipple operation apparently did not review the enzyme results, and no one else brought them to his attention,” Conybeare recalls.

Pathology results after the surgery revealed a benign pancreatic cyst, not pancreatic cancer. The real problem was simply Hepatitis A. The woman had undergone a needless, complex surgery and lost her life as a result. Working with medical experts to obtain confirming opinions, a suit was filed and a large settlement was obtained for the family.

Those are the kinds of cases that brought him to the law, he says. “My dad was a trial lawyer and he would tell us these stories about his clients and the drama of the cases. I heard stories about the unfortunate losses people suffered, and I learned his goals and beliefs as a lawyer. I didn’t realize at the

time how much it captivated me, but it did. I didn’t go to college thinking I wanted to be a lawyer.”

Former Berrien County Judge John Dewane, a family friend, has known Conybeare since birth. He also has the unique perspective of having worked with him in mediation and arbitration, as an opposing counsel in insurance cases, and in cases in which Conybeare appeared before him in court.

“He is a tenacious advocate for his clients but unlike a lot of what we see today (from attorneys), he does it with civility and dignity. He is very high class and prepared, but he also is a very effective communicator. He is very skilled and he knows what he is talking about.”

Conybeare’s grandfather was an obstetrician who delivered over 6,000 babies in Benton Harbor. But Conybeare’s father went to law school at the University of Michigan, tilting the balance away from medicine and toward law, he says. “Three of my four siblings are also lawyers. There may have been several more doctors in the world (if his father had decided on medicine instead of law),” he laughs.

Enrolling in the University of Michigan, as all of his family members had done, Conybeare received a degree in political science. “I said to myself, ‘What am I going to do with this degree?’ So, I went to a school counselor and we discussed it. I wasn’t really interested in politics. The counselor said I could go into sales, like for Proctor & Gamble. That sounded miserable.”

Instead, Conybeare decided law school was the likely path. He took a year off school, worked for his father’s law firm and then for Kirkland & Ellis in Chicago, while also taking the LSAT and applying to law school.

During law school, Conybeare earned a summer internship with Skadden Arps, which led to the full-time employment after law school graduation.

### Some Cases Hit Close to Home

Twenty-four years later, his family life is ideal, and his professional life is successful and rewarding. “One of the cases that affected me the most as a person, and made me realize how important our job is, occurred in the 1990s when my wife was eight months pregnant with our daughter. It was December 1995. A local school bus driver was dropping off school children on a rural route. She stopped in front of the house where a 7-year-old and a 5-year-old lived. The children had to walk in front of the bus to get to their homes. The 7-year-old got out and walked across the road but the bus driver started to drive away while the 5-year-old was still in front of the bus. The little girl was run over by the bus and killed.”

“The bus driver simply lost track of the

child.” The fact that the children’s mother saw the entire event through a kitchen window compounded the tragedy. “The family had three boys aged 11, 9 and 7 and their precious little girl,” which resonated brutally with Conybeare as he and his wife expected their first child.

“My dad had the case, and he made me a large part of it. We had to help the family get through that. It was so powerful, so real to me.”

The defense attorney immediately offered a modest settlement. “He told us the largest settlements and verdicts in the county’s history were about this amount, and we would not get more than that. The county where this occurred is very conservative and rural, and we knew he might be right. But we could not accept that.”

So, the Conybeares went to work, fashioning a legal theory that allowed them to file the case in federal court under Section 1983 of the federal code. That section makes relief in the form of money damages available to those whose constitutional rights have been violated by a person acting under state authority.

“We said that this little girl had a right to life and safety and that the deliberate indifference of the school district in training and supervision, as well as the way the bus routes were laid out, had caused her death.”

The case survived a legal challenge and was ultimately settled with a favorable outcome. That strategy and the resulting settlement was a hallmark of the Conybeare practice.

Although tort reform has significantly reduced the number of viable cases and the size of the recoveries, Conybeare continues to accept a wide range of cases. He aggressively provides a complete representation and seeks the greatest recovery he can for his clients. Coupled with the fact that the southwestern portion of Michigan is very conservative in general, successfully prosecuting claims for clients is doubly difficult, making Conybeare’s success even more remarkable, says product liability lawyer Craig Hilborn of Hilborn & Hilborn, PC, in Birmingham.

“There’s not a better attorney in western Michigan. He’s done an amazing job. When we’ve worked together on a case, I knew he would be fully prepared and knowledgeable about the case. He’s an excellent advocate, and he has the ability to persuade. But he’s also active in his community and in the profession of law. He’s just very enjoyable to work with.”

A substantial portion of successful legal work occurs in preparation, often involving dogged detective work and innovative technological approaches. An example is a current case where Conybeare is trying to hold a bar liable for over-serving a customer.

“A 20-year-old was in a tavern one

Saturday watching a football game. He had six beers and four shots during a two-hour span,” Conybeare recalls. “A credit card receipt shows he settled his bill at 6:08 p.m. The bartender says he observed no visible signs of intoxication. At 8:50 p.m., he causes a car crash, killing my client on the highway.”

With dram shop cases notoriously difficult to prove, Conybeare and his associates had a dilemma: how to hold a bar responsible for an accident that occurred hours after the patron left the bar. Or did he leave?

Since the accident occurred about 30 minutes’ travel time from the bar, the lawyers assumed the driver had been in the bar until shortly after 8 p.m. The drunk driver in his statement to police seemed to confirm that he’d only been drinking in this one bar. But the bartender on duty said he cashed out, and the one who relieved him insisted he left the bar very shortly after doing so.

“The bar’s surveillance video is taped over every 14 days and is no longer available. We tried to find whether his cell phone had pinged any cell towers in the area, but the phone’s battery had died earlier in the day,” he recalls. Dead ends, all.

As Conybeare went over the driver’s statement again, he noticed the driver had been playing darts at the tavern. Conybeare looked into it and learned that the dartboard was electronic and allows players to compete with others who are simultaneously logged on in other locations. “From the dartboard manufacturer, we learned that he logged on at 4:50 p.m. and played 16 games of darts ending at 7:50 p.m.”

Pulling on that thread a little more, Conybeare discovered that the driver used his debit card when he initially entered the bar, spending a known amount of money on darts and, consistent with the driver’s statements, using the other money to purchase additional alcohol after he had settled his bill at 6:08 p.m. Conybeare confirmed through the inventory that the driver had no money left in his wallet when he was booked at the jail after the crash.

A suit is pending on behalf of the 20-year-old victim, who is survived by his mother, father and sisters. “He and his girlfriend were driving to Kalamazoo with another friend when they got a flat tire. My client changed the tire and was ready to pull out when they were hit by this highly intoxicated driver.”

That singular moment when the confluence of circumstances produces tragedy always touches Conybeare. “In almost every one of these cases, it’s people just trying to get home or get to work or do the right thing or get good medical care for themselves or family.”

Life’s capricious nature makes family

time more poignant and more essential. Conybeare and his wife, Jody, are celebrating 24 years of marriage with their two daughters, ages 21 and 17, and two sons, 15 and 11.

### Family Stays Close on Vacation

“When we moved to St. Joe, I told Jody I would be home for dinner,” he says, recalling those nights in Chicago eating dinner at his desk. “We are busy with hockey, cello, robotics and homework. It has slowed down with our daughters in college, but it is still a very active household.”

They are not only caught up in the day-to-day, but they also find time to get away, including at a rustic, family cabin in the Upper Peninsula woods, at sporting events, and through travel.

In 2013, Conybeare’s family took a once-in-a-lifetime vacation: nine weeks traveling through western Europe, starting in Rome and ending in London. “We moved by plane, train, automobile and boat, visiting 16 cities and spending an average four of nights in each,” he says. “We are all strong-willed people, but we got along great. There was just one moment in Barcelona where we agreed we had to separate for dinner. Otherwise, we had three meals a day together for the full nine weeks” he laughs.

He has also found time to be active in his community and was recently elected to a six-year term on the St. Joseph school board. He has served on the board of directors of Planned Parenthood of Southwest Michigan, Planned Parenthood Mid-Michigan Alliance, the Curious Kids’ Museum and the Lake Michigan College Foundation. He is a longtime member of the executive board of the Michigan Association for Justice. An avid golfer, he served as the five-term president of the board of directors of the Point O’ Woods Golf & Country Club.

As a family of Michigan alums (and of course, his daughters are students there now), the extended Conybeare family has 17 seats together at The Big House for Michigan football games, which become weekend events with meals, tailgating and time with family and friends.

“It all goes back to that decision Jody and I made 24 years ago. We live in a great place on Lake Michigan right between two of our favorite cities, Chicago and Ann Arbor. I have a successful law practice, a great family and a really good life.” ■