

Sam Unsell

Belleville Trial Lawyer Is Powerful Advocate for People Facing Extreme Crises

by Mike Bailey



BELLEVILLE — When Samantha S. Unsell was a teenager, she would literally beg her lawyer parents not to discuss law at the dinner table.

“I wanted to be anything but a lawyer,” says Unsell, now a partner with the prestigious Belleville firm of **Keefe, Keefe & Unsell, P.C.**

“I graduated with a philosophy degree. Yes, I know,” she says, laughing.

“Somehow my Dad convinced me to give the law a chance, so I enrolled in Saint Louis University. After two weeks, I told him that I was born to do this. It was so interesting. I felt like it was a perfect fit.”

Her clients, like Vietnam veteran Mike Gunter, would agree.

“I’m a wounded Vietnam veteran,” Gunter says. “When I came home from Vietnam in 1969, I went to the VA hospital in Marion, Illinois, for surgery. They took good care of me and, over the years, I’ve used them for my primary care. In October of 2009, routine blood tests showed that my PSA was rising,

so they sent me to a urologist.”

Prostate-Specific Antigen (PSA) is a protein produced by the cells of the prostate gland, and it can be elevated secondary to (possibly a result of) prostate cancer. A PSA above 4 is considered abnormal and grounds for further testing, including a biopsy.

“When I met with the urologist, he patted me on the back and said, ‘You have nothing to worry about.’ At that time, I didn’t understand the significance of the PSA test, but I left there feeling pretty good. He said I had nothing to worry about.”

What Gunter did not know at the time and would not discover until Unsell filed a medical malpractice case against the Veterans Administration, was that the urologist recorded on his chart that there was a 42 percent chance that he had prostate cancer and a four-month follow-up exam should be scheduled.

No one ever told Gunter. He continued to see his primary care physician, who continued to order blood tests measuring

his PSA, but ignored the results for three years and did not send Gunter back to the urologist. During that time, Gunter believed he had nothing to worry about, despite the rising PSA levels.

“One day I was in a group meeting with fellow Vietnam veterans who have post-traumatic stress syndrome, and I mentioned that my PSA was over 10. They told me to get back to the urologist right away because (a reading that high) could mean cancer.”

Gunter returned to the VA hospital where he was seen by a different urologist who carefully explained what an elevated PSA meant and recommended a biopsy.

He returned home and waited for a call from the doctor’s office, informing him of the results. No call came, so he called them. “A nurse who answered the phone told me, ‘You have cancer.’”

For three years, Gunter had relied on the initial diagnosis without ever being told he needed to return for a follow-up examination. Now, he says, he was

confronting one of the worst fears any person can face.

“My wife and I sat down with the urologist and we discussed some options. I told him I had done some reading and wanted to do the seeds.”

In that form of treatment, radioactive “seeds” that attack the tumor without the side effects associated with the removal of the prostate are implanted in the gland. Seed implants are relatively low-energy sources, and subsequently have limited tissue penetration. Therefore, the best candidates for these procedures are patients who have a cancer that is contained within the prostate and is not very aggressive.

“The urologist told me the seeds were not an option because my Gleason score was too high and that what I had was a very aggressive form of cancer.”

Gunter sought a second opinion at Barnes Jewish Hospital in St. Louis where a specialist confirmed the diagnosis and said surgery was the best option. But just prior to the surgery, Gunter got more bad news. Further testing revealed the cancer had spread to nearby lymph nodes.

“He told me if they removed my prostate, I would still have cancer.”

So, surgery was no longer an option. Gunter was given radiation and put on several medications, some of which adversely affected him. “One of the drugs was Lupron. It shuts off testosterone production,” which has resulted in hair loss, sexual dysfunction and shrinking genitalia.

“I had seven primary care appointments between the time I went to the urologist the first time and (the diagnosis),” he says. “The doctor never mentioned anything about an elevated PSA or going back to the urologist.”

So Gunter filed the necessary paperwork, called a form 95, against the VA in 2013, a procedure in which the VA is required to respond to his complaints in a specified period of time. He never received a response. “I have always been a strong supporter of the VA. So I went to the director and I told him that I was sorry, but that I was going to have to file a suit in federal court.”

Through research and reputation, the law firm of Keefe & Keefe in Belleville stood out. “I knew he (Tom Keefe) had donated to several veterans agencies, so I went to see him. He pulled all the documents and got Sam involved.”

“I was outraged,” Unsell says. “It was ridiculous. For three years, no one told him he needed to go back and see the urologist. No one told him he might have prostate cancer. In the meantime, his PSA continued to rise. By the time the diagnosis was made, it was too late. The cancer had spread to his lymph nodes. The treatment options were extremely limited, and his risk

of distant metastases was high.” So Unsell went to work.

‘Showed Me Respect as a Veteran’

“What impressed me about her was that she showed me respect as a veteran and she explained everything that was going on along the way. She kept me informed and made me feel comfortable. She always allowed me to give my input, and she always offered me encouragement.”

As Unsell explored the documents, it became clear the VA had breached the standard of care.

“In depositions, one doctor blamed the other,” she says. “The urologist said the primary care physician should have told him (about the need for a follow-up exam). The primary care doctor said it was the urologist’s responsibility. Because it is a clinic, you might get different doctors on different days, so one doctor would say that he didn’t order the test so it wasn’t his responsibility.”

The government’s position left Unsell with no alternative but to try the case. The case went to trial before a federal district judge in January 2016.

“At trial she was brilliant,” Gunter says. “She came up with things that were right on target. Because she prepped me so well, the government only had me on the stand for about 15 minutes because they knew what I was going to say. I really could not have had better representation, even though she’s younger than both of my kids.”

“Mike is a Marine so he is normally stoic, but he can get emotional,” says Unsell. “He attended every deposition and wanted to be involved in every part of the case.”

“He held it together until he got on the stand. Then he got emotional. He will never be cured because it was his lymph nodes. Our expert testified that there is greater than a 50 percent chance of distant metastasis sometime in the future because of that.”

All testimony has concluded and final briefs were filed this spring. Unsell and Gunter are currently awaiting a decision.

Unsell did one more thing that resonated with Gunter. “On Veteran’s Day she sent me a card that said ‘Happy Veterans day to my favorite veteran.’”

Unsell says she chose to be a plaintiff’s attorney because she didn’t want to represent big insurance companies or large corporations.

“If you do defense work, you don’t get to pick your clients. I get to choose my clients, and I believe in the people I represent and in their cases. It is more satisfying to represent people and find a way to help them.”

Her thorough approach and careful preparation is the hallmark of her firm and the reason it is considered one of the best litigation firms in southern Illinois.

“When I have a case against Sam, I have to make sure our clients are prepared because I know she will be,” says James Neville of Neville, Richards & Wuller, who has opposed Unsell in several matters.

“She’s a young lawyer, but she’s very good and increasingly developing more skills. In any case out of that (law firm), you have high expectations of the quality of representation, and she lives up to that. Her arguments are civil, but she is not intimidated.”

Unsell says she takes only about 10 percent of the medical malpractice cases that come to her. “Most of the people who come here want answers. They typically say, ‘If the doctor would have just talked to me and explained what happened...’”

She asks potential clients to tell her everything they know about what occurred, and she asks a lot of questions. “I ask them who was there, what was said. I tell them from the beginning that even if I can’t take their case, I will explain in detail why and get them answers.”

Unsell then does her own medical research to determine if the matter should be sent out for review by an expert in that field. If she believes the doctors or hospitals acted correctly or if she finds that wrongdoing would be difficult to prove, she sends a turndown letter that is very specific as to the reasons why she cannot represent them so that people understand.

“If they understand the reason why (something happened), it is easier for them to accept.”

But some cases are not easy to accept, even with a favorable result. Take the Hennemann case, for example.

Ryan Hennemann was a 9-year-old boy who was riding his bicycle with a 12-year-old friend when they stopped by a dump truck loaded with stone. “It was summertime in Cahokia,” Unsell recalls. “Two kids out riding their bicycles like kids everywhere.”

“They stopped to watch this man who had a truck with a rigged (not factory) dump attached. The bed was loaded with so much rock that it was pressing against the truck’s wheels and he could not move.”

So the truck driver was trying to remove enough of the stone to relieve the weight and move the bed off the tires.

“He told the 12-year-old to sit in the cab and (operate the makeshift dump) so he could watch the bed and tell him to stop dumping when enough stone had been removed.”

As that happened, Hennemann sat on his bicycle next to the truck to watch the stones being dumped out the rear. Because it was not an actual factory dump truck, however, the truck tipped onto its side when the bed was raised. The truck’s load spilled and crushed Hennemann to death. The driver was charged with operating a motor vehicle

without a valid driver's license and having no insurance, Unsell says.

Finding the Family Some Relief

The truck was owned by a construction company, but the company went out of business. Its owner died of a heart attack shortly thereafter, leaving no assets. The driver had no assets and tried to commit suicide after the incident.

Unable to sue any entity that had assets, Unsell racked her brain for some relief for the family and found a solution.

"The family's car insurance policy had \$50,000 in coverage for accidents involving uninsured motorists. We were able to collect that. It wasn't a lot, but at least it was something," she says.

"The family was so grateful that they bought me a beautiful necklace, and they send me a Christmas card every Christmas. You have to be so delicate in times like these. Everyone who walks into my office has had something horrible happen to them through no fault of their own. Someone was reckless or not paying attention, and their lives have been forever changed."

And, Unsell confides, it is not just the victim's lives that are affected.

"It made me sick to my stomach. Reliving that scenario, it makes you sick,

but it also makes you angry."

As much as she wants and needs to separate her cases from her own life, sometimes it is difficult. Often the cases and the impact on her clients remain with her.

"If I feel I have done my very best for them and, at the end of it, they get some closure, I have to be satisfied with that."

"You have to hold (clients') hands through the worst time of their lives. They often can't grieve and can't get closure until the suit is over. I have to see them through that."

Unsell, like many trial lawyers, loves the competition and the challenge of litigation. "We don't get to try as many cases as we would like," she admits.

She has tried cases in several southern Illinois counties as well as in the federal district court in Benton, Illinois.

"Sam is very professional and well prepared," says Phillip Frazier, United States Magistrate for the Southern District in Benton. Frazier, who is retired after more than 29 years on the bench, says he has the highest respect for Keefe, Keefe & Unsell, a firm he calls one of the best and most successful in Illinois.

"Tom Keefe asked me to keep my eye on her, and I can tell you she made very few mistakes and never made the same one

twice. She is never flustered and is very comfortable in federal court.

"I've seen her in action in one or two jury trials, some pre-trial matters and a couple of settlement conferences. She is always professional and considerate, but she doesn't let anyone run over her."

In order to free her mind and keep her emotional balance, Unsell loves to run. And, in the antithesis of her teenage years, often calls her mother while jogging to discuss cases and approaches.

Jane Unsell still practices, as does Samantha's father, Ed. Jane has a general litigation practice in Wood River. Ed Unsell has a general litigation practice in East Alton.

"I would not be where I am today if it wasn't for them," Samantha Unsell says. "(My mom) is a sounding board for me. I'll explain the case and then what I'm thinking and listen to what she says. I do the same for her."

"Sometimes we talk a couple of times a day," she says, smiling as she acknowledges the irony of how she once felt about discussing the law. ■