

BOB SPEERS

Experience, Credibility
to Serve Competing
Sides

by Mike Bailey

AURORA—Framed in the office of Aurora attorney Robert Speers hangs a saying by Voltaire: “I was never ruined but twice. Once when I lost a lawsuit and once when I won one.”

Voltaire’s wisdom has served Speers well over the years as he concentrates most of his practice these days on civil mediation and arbitration. The Aurora firm of **Speers, Reuland and Cibulskis** has built a solid reputation in Kane County as one of the foremost personal injury and civil litigation firms.

Speers’ reputation as a skilled mediator has earned him the trust and respect of attorneys and parties seeking a decisive and expedited end to a lawsuit.

“I began mediation and arbitration in 1997,” Speers recalls. “The state had a pilot program in Winnebago County that met with good success and so Kane became the second county in Illinois to use the program. Several lawyers were invited to the training and I accepted and became a certified as a civil mediator by the 16th Judicial Circuit in January of 1997.”

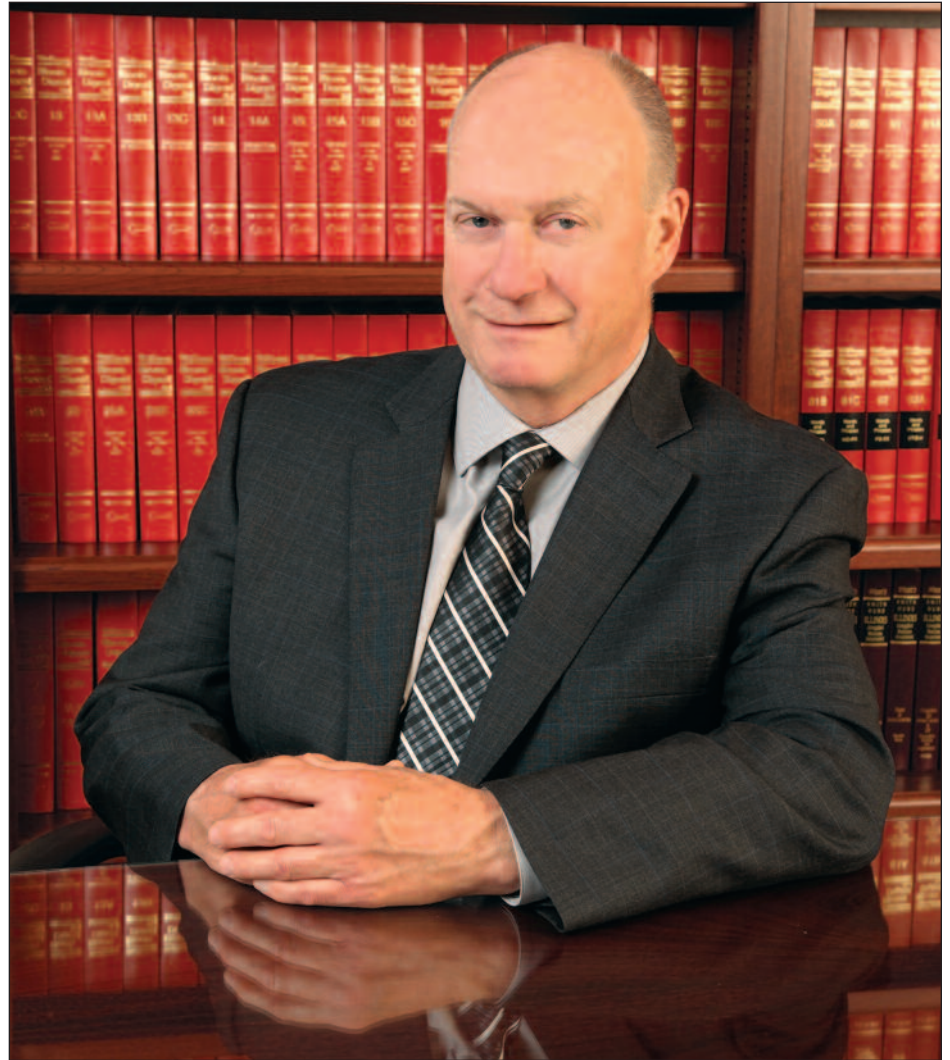
Mediation instead of trial or settlement conferences was slow to catch on, Speers remembers, with just a handful of parties agreeing to enter into mediation by the late 1990s. But mounting legal costs, judicial backlogs and the grinding process of litigation spurred more interest in the process. By about 2002, 60 to 70 cases a year were referred to Speers. To date, he has handled more than 500 mediations and more than 100 arbitrations.

“Both sides have to agree to mediation,” he says. “The court can recommend it, but it is mostly used when the two parties want the matter settled with certainty.”

Approximately 80 percent of the cases Speers mediates are personal injury and wrongful death cases. The rest are civil cases, such as shareholder disputes, estates, construction cases between the sub-contractors and the general contractor, etc.”

Settlement Desire Imperative

The process for mediation is similar to trial. Both sides send Speers pertinent information with a synopsis of the case and the relevant issues. Speers examines all the material and



schedules a mediation conference at his offices.

“We use separate rooms for the two parties,” he says. “I talk to each group to determine what the main issues are and how they believe it can best be settled. Of course, one side wants to pay the absolute least it can and the other side wants the most it can get.”

In order for mediation to work, both lawyers and both parties have to want to settle the case.

“I try to find a solution that both sides can agree upon,” Speers says. “I respect the abilities of the lawyers to analyze their own cases. Very occasionally I have to tell them that I think either the demand or the offer is way off the mark, but generally, we discuss the issues and

work to find an agreeable resolution.”

“Bob Speers has the most established mediation practice in the area,” says Judge Keith Brown, former chief judge of the 16th Judicial Circuit, which includes Kane County.

“He really understands people. Bob is smart and well prepared and yet he brings the issues to a level that everyone can understand. But not only is he a top lawyer, he’s also an everyday kind of guy. The first time you meet him you might not know how successful and well respected he is.”

Arbitration is an agreement by both sides to submit the case for an award rather than taking it to a jury. It is binding, but less expensive and

time-consuming than a jury trial.

Arbitration usually involves a sole arbitrator or a three-arbitrator panel, one chosen by each side and the third chosen by those two arbitrators. The sole arbitrator or the panel reviews evidence and hears testimony much like might occur at a bench trial. Decisions are final and generally not appealable, one of the attractions of that process.

“People want certainty,” he says. “They submit to arbitration because it generally offers a faster and less expensive way to finalize a decision.”

Like other mediators and arbitrators, Speers has become a more effective attorney through his participation in the mediation/arbitration process.

“I see the weaknesses in cases and the various ways evidence can be presented,” he says. He has also drawn conclusions about the abilities of certain attorneys in Kane County based on what he has observed.

While mediation and arbitration are about 80 percent of his practice these days, Speers has had a very active and successful practice, securing two jury verdicts of more than \$1 million, and winning a controversial case for the family of a woman and her unborn child killed by a drunken driver.

In May 2002, a 25-year-old man was involved in an accident on Orchard Road not too far from Speers’ current offices. He suffered a badly fractured femur. He was taken to Mercy Center Hospital in Aurora where orthopedic surgeons attempted to repair the leg.

But, Speers recalls, he suffered a condition called compartment syndrome, which resulted in severe swelling and, ultimately, infection. After 10 surgeries, the fractured femur finally healed, but the client was left with a permanent disability.

Speers refused the final settlement offer of \$1.5 million, and his client was awarded \$4 million by the jury. Brown was the presiding judge in the trial court and recalls how compelling Speers was at trial.

“He was just excellent, one of the best trial lawyers I have seen in my 21 years on the bench,” Brown says.

“People who have been injured often contact our firm because they find all of the issues involved in a personal injury claim very stressful. We tell them we have a lot of experience in this area of law and we take them through the process of what will happen and how we will handle it so they can concentrate on getting well and getting their lives back together. Sometimes you even have to tell people that they don’t have a case and that is very hard.”

Some personal injury cases involve ancillary issues, which complicate the matter.

“We had a case in 1994 in which a 55-year-

old man riding a motorcycle was struck by a car driven by a priest from the Virgil Catholic Church. My client suffered a serious leg injury that was repaired but blood clots formed which traveled to his lungs and he died. It became a wrongful death case.”

Exhuming the Truth

The defense questioned whether the death occurred as the result of the accident or because of a heart attack.

“No autopsy had been performed so we located a pathologist who said he could determine the cause of death if we exhumed the body. The widow approved it and we invited the defense to have its own expert there. Both pathologists agreed death was the result of the blood clot. And that took that issue out of the case.”

At trial, Speers presented a most compelling piece of evidence: a 15-minute video compilation of home movies, showing the deceased with his wife and sons, interacting at various stages of their lives. The tape was created after Speers and the family went through dozens of hours of home movies, piecing together some of the most poignant scenes. “It was a significant piece of evidence,” he remembers.

The defense offered to settle for \$1.069 million. He declined. The jury award was for \$1.861 million.

Speers founded his firm along with Timothy Reuland and George Lindner in 1979, when they broke away from the venerable firm of Reid, Ochsenschlager, Murphy and Hupp.

“That was a very dynamic law firm,” he remembers. “A lot of energy and electricity. A lot of trials. I was trained by Chuck Thompson, an expert trial lawyer.”

Thompson remembers his protégé as very smart and well prepared.

“From the beginning of the case through the trial, he pursued a case with energy and a passion,” Thompson says. “Bob was always willing to try a case. And this was an environment in which trials were nurtured and encouraged. Our lawyers learned how to take short depositions because that way it was possible to try more cases. That was the firm’s approach. But we also learned how to put in the time necessary to have a successful outcome.”

Speers has made several friends in the legal community, including fellow attorney Steve Sullivan, with whom he went to the University of Illinois law school 41 years ago.

“We all socialize at bar events and golf outings,” Sullivan says. “Bob is very bright and well read on topics like music, art, literature, and politics. He’s a regular Renaissance man.”

He’s also a man with a sense of humor, says Sullivan.

“Sometimes when Bob calls my office, he’ll use an alias, some famous and well-known person. So one day my receptionist tells me that Cardinal Cody is on the line. I pick it up and ask, ‘So how are you this morning, your Eminence?’ And it really was Cardinal Cody. That was embarrassing.”

Speers forms fast and binding friendships that endure through the years.

“Tim and I are very good friends,” he says of Reuland, his longtime partner. “He lives a block and a half away from us. Our wives and children are friends. We’re lucky to have each other.”

And his clients are lucky to have him.

Creating New Law

Willing to face long odds or challenge convention, Speers proved his skill in the 2005 case in which a drunken driver killed a pregnant woman and her unborn child, a case that clearly bothers Speers to this day.

Two young men were at a strip club in West Chicago and became extremely intoxicated. The strip club did not sell alcohol. Patrons brought their own. The men were so drunk they were vomiting in the bathroom and were kicked out of the club. They decided to head toward another club in rural Elgin, Speers says.

According to police, the driver was traveling north on Illinois 25 when it passed a car at 80 mph, striking another car head-on. The woman driving that car was a dealer at the Grand Victoria Casino in Elgin and was on her way home from work. She, her unborn child, and a passenger in the speeding car were killed.

Even though the club did not sell alcohol, Speers filed a suit on a common law theory.

“All the cars had to be valeted,” he recalls. “Since the club knew the two men were intoxicated and because they delivered their car to them, we claimed they had ultimate responsibility.”

The defense filed a motion to dismiss the case, arguing that the strip club was not liable as a matter of law. The trial judge, Keith Brown, denied the motion and certified the issue for appeal. The Appellate Court in Elgin affirmed the trial court’s decision.

The strip club appealed to the Illinois Supreme Court, which agreed the case was a very narrow exception to the general rule of law. The strip club’s insurance company immediately settled for the policy limit.

“We wrote new law with that case in that their liability was that the patrons were allowed and encouraged to drink and then encouraged to leave in their car,” Brown says. “He won that case by narrowing the scope to just those limited facts.”

Results like that have given Speers the ultimate credibility he needs in mediation and arbitration. ■