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MICHIGAN LAWYERS WEEKLY

February 11, 2002

News Story

Auto Law Guru Blazing The Trail For Michigan Lawyers

By Kelly A. McCauley

Lawrence Gursten

Education: Wayne State University Law School (1965)

Experience: Gursten, Koltonow, Gursten, Christensen & Raitt, Southfield

Professional Affiliations: Michigan Trial Lawyers Association; American Trial Lawyers Association; State Bar of Michigan

A successful law career that spans nearly 40 years has to start somewhere.

For Lawrence Gursten, it started when he joined his father Nat Gursten's firm in 1965. Even though it was a general law practice, Gursten quickly found his niche.

"I began to achieve excellent results in the field of automobile negligence and was able to have many happy clients, doctors and other lawyers refer to me," he said. "The practice geometrically grew to the point that it became a total specialty."

Gursten is now one of the most well-known auto negligence attorneys in Michigan, if not the country. He heads Michigan's largest law firm that completely specializes in serious automobile accidents. And it appears that this particular legal bug has bitten yet another member of the Gursten family.

"This is a third-generation law firm," Gursten told Lawyers Weekly. "I am very proud that my son, Steve, joined the firm. It has been great to mentor my son and work together with him to achieve excellent results for our clients."

'Sophisticated' Knowledge

Because his career is now going into its fifth decade, Gursten can claim to have learned a few valuable lessons along the way.

First and foremost, he is a firm believer in the use of demonstrative evidence. In fact, he uses this in almost every case for evaluation, depositions of doctors and at trial. To accomplish this, Gursten lets on that he has a little help.

"We have a computerized anatomical program called ADAM, which can show hundreds of different injuries," he explained. "We use 30" x 40" boards that blow up X-rays, CT scans, MRIs, SPECT and PET images. This is an extremely powerful tool and should be used by every negligence lawyer."

Gursten added that attorneys involved in closed-head injury cases must "have the medical

knowledge to ask the proper questions on their first conversations with their clients. This medical background will not only benefit attorneys in their dealings with clients, but also when questioning defense experts."

Attorneys should "gain the sophisticated knowledge of traumatic brain injury and major depression so that they can obtain the raw data from the defense neuropsychologist," he noted. "Then you can meet with your expert to go over the findings."

This insight, according to Gursten, can help attorneys prevent the unexpected at trial.

"You must be able to effectively cross-examine the defense neuropsychologist and know his bias," Gursten declared, "or it can severely hurt your client's case."

Do Your Homework

Another helpful bit of advice Gursten shared is that savvy attorneys always get the endorsement page from either the insurance company or the defense attorney on the matter.

"A trend can clearly be seen of 'mistakes' in telling you the correct insurance policy and excess insurance," Gursten asserted. "Do not take the word of the adjuster or defense attorney. Request a copy of the actual contracts, and look for umbrella coverages and additional underinsured motorist coverage."

Smart attorneys also have several meetings with their clients, extensively communicating their ideas and the steps to be taken. However, this phase of the legal process, according to Gursten, is one often overlooked — and can have dire consequences.

"Most injured people fail to properly tell the attorney of all doctors, injuries and problems with the spouse," he said. "It is crucial to have a six-week face-to-face pre-evaluation conference as there will be inevitable failure of communication over the telephone."

Many times, this client communication doesn't come easy — either for the attorney or for the client. Therefore, Gursten said it is imperative that the client be made to feel as if he is a part of the case.

"Make your client feel like a partner in the medical decisions and documentation of the injuries," Gursten advised. "You also have to understand the consortium claim and need for other specialities to be used to prove all the injuries."

Finally, Gursten said that attorneys should never stop documenting their cases.

"Learn the 'holes' of your case upon understanding the defense analysis," he counseled. "Consider hiring economists, accident reconstruction experts, biomechanical engineers and other doctors for forensic testimony at trial."

Other Words Of Wisdom

Gursten knows that being a successful attorney doesn't necessarily mean "going it alone." In fact, perhaps one of the biggest downfalls for an attorney is not having an adequate support staff.

"It is vital that attorneys have excellent paralegals and others who can help them to achieve outstanding results," he stated. "It is a mistake for an attorney to attempt to do everything himself."

Moreover, this sense of teamwork must extend beyond the scope of the practitioner's office.

"The attorney must return — or have a paralegal return — every telephone call from the client, and follow up on all the details of every case to be able to achieve excellent results," he explained. "It takes teamwork and constant communication with the client to understand the injuries and the law."

Knowledge Is 'Vital'

Gursten's secret to success is quite simple: knowledge is power. He believes practitioners should attend seminars and "extensively read and use the new MTLA Listserve, which has turned out to be a tremendous asset to our members."

Because Gursten believes continuing education is "vital," he doesn't limit his learning to the legal arena. As a personal injury lawyer, Gursten felt he needed additional information in medical studies to help him better represent his clients.

"I took classes at Wayne State's medical school on gross anatomy and gained tremendous medical knowledge to understand the injuries that could be caused by trauma," he said. "I was able to properly document and verify closed-head injuries and other traumatic injuries, when most practitioners did not appreciate the lifetime serious effect on the brain that can occur in an automobile accident."

Thus, Gursten can now use this new-found knowledge in his practice quite effectively, both before and during trial.

"[I] continue to create new and more powerful visual and demonstrative evidence to convince insurance companies as to the seriousness of the injuries — and the very large exposure at a jury trial," he asserted.

Memorable Moments

Any career spanning almost 40 years is sure to have some memorable moments, and Gursten's is no different. He counts three cases among his most interesting.

The first involved a doctor who was injured but went back to work within three weeks. This fact didn't deter Gursten from asking for a fair amount for his client.

"I claimed, properly, an extremely large excess economic loss based on his inability to work the tremendous hours that he performed prior to the accident," he asserted. "The offer was \$200,000. After a week in a jury trial, however, the case settled for over \$750,000."

Gursten's second most memorable case involved a senior citizen who had no lost wages. The 73-year-old man had a severely-fractured femur and Gursten, through the use of demonstrative evidence, achieved a settlement of \$1.25 million.

Finally, Gursten tells the story of a young boy with a head injury whose previous attorney failed

to collect attendant care benefits where the defendant said there was only a \$500,000 policy limit. However, Gursten, who is known for his tenacity, refused to accept this information and did some investigating.

"Two weeks before trial, the defense attorney 'found' a \$1 million excess policy," he said. "I achieved a settlement for the full policy limits of \$1.5 million, plus substantial no-fault attendant care benefits."

Balancing Act

While Gursten maintains his passion for personal injury matters, he concedes it's not always easy.

"Ninety-six percent of all injured Michigan residents can not collect pain and suffering damages based on the interpretation of the test of 'serious impairment of body function,'" he said. "AAA and State Farm refuse to allow their insureds to obtain underinsured motorist coverage to protect themselves in case there was a serious injury and the wrongdoer had only a \$20,000 policy limit."

Gursten explained that he gave these insights to the Michigan Legislature back in 1991 — and he doesn't believe the climate has changed too much this past decade.

"Unfortunately, 10 years later, many courts are interpreting this law extremely harshly to the detriment of citizens who may have pain for the rest of their lives," he commented. "The Legislature has not even required the insurance companies to explain underinsured motorists to its insureds, and AAA and State Farm still refuse to explain or even offer this coverage."

However, Gursten added that the "best portion of our law is clearly the no-fault benefits that can be collected for seriously-injured victims. And as excellent as the claim is for no-fault benefits, the exact opposite is how unduly harsh the interpretation of the 1996 amendment to our law is coming down against residents by our appellate courts."

According to Gursten, this is exacerbated by Michigan's "extremely conservative" Supreme Court.

"The impression of most lawyers is that the justices will be overly harsh to the detriment of most injured Michigan residents," he said. "It is sincerely hoped that the Michigan Supreme Court will take a balanced view."

Despite these observations, Gursten still remains a passionate advocate for personal injury victims.

"Although there is always stress and difficulty helping people with automobile insurance companies in Michigan, I believe that I am providing a major service," he asserted. "You must really care and want to help people when they are in serious physical pain with emotional problems and their own insurance companies are giving them terrible troubles."

Gursten's Top Practice Tips

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“Use demonstrative evidence in almost every case for evaluation, depositions of the doctor and trial. This is an extremely powerful tool and should be used by every negligence lawyer.”

Knowledge Is Power

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