

Tom O'Neal

Building a Practice in Business Law with Many Dimensions

by Jo Layne



PEORIA — When Thomas W. O'Neal described his practice to his new colleagues at **Howard & Howard Attorneys PLLC** in Peoria two years ago, he told them that no one else would ever graduate from law school and design a practice like his.

O'Neal, 59, has represented hospitals and small health-care service providers in central Illinois. He has represented agribusinesses and farmers. He has also represented businesses in commercial litigation and bankruptcy.

"When you put the three of those together, you wonder, 'What's the commonality there?'" he says. "The commonality is that I've had the pleasure over 30-some-odd years of working with colleagues throughout Illinois and Iowa who thought to continue to refer cases to me over the course of my career.

"My principal business plan has been to rely on the kindness not of strangers but of fellow lawyers."

In a typical day, O'Neal moves fluidly between all three areas of his practice. He may

deal with issues involving the recruitment of physicians to a hospital, while also reviewing a contract between a general contractor and a subcontractor for a new hotel. At the same time, he may also offer two or three other attorneys input on a commercial litigation that involves a local agribusiness.

"That's more often than not the kind of everyday caseload I have," he explains. "As I say to my friends, it's a great country we live in that a guy like me can do as well as I've done."

Gaining Diverse Experience

O'Neal grew up in Augusta, a small town in Hancock County. He thought he would grow up to be an auto mechanic or a professional baseball player. He realized in high school that his skills did not lie in industrial arts. In college, he spent more time on the bench than on the field.

He remembers an old friend, David, who was a banker's son, talking about his plans to become a lawyer. He decided he could also go that route, especially since it would give him a good reason not to join

his family's limestone quarrying business.

"I'm humbled by what my mom and dad, and my dad's family, accomplished in running their own business," O'Neal says. "But it was also motivation for me to do something else. I remember working over the Christmas holiday, filling in for a truck driver down at the quarry, driving a truck with no doors on it when it was zero or below, the wind blowing 30 miles an hour.

"I said to myself, 'I think I'm going to do something else, something other than work in a limestone quarry when I get out of school.'" O'Neal graduated from Knox College in Galesburg with a degree in political science in 1977. He then went to Southern Methodist University Law School in Dallas, graduating in 1980.

He initially intended to practice as a tax lawyer and returned to Hancock County to work with Hartzell, Glidden, Tucker & Neff. Instead, he handled a mix of real estate and divorce cases, and assisted with tax returns.

"I practiced with four other guys who

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started out as my employers and a few years later became my partners,” O’Neal says. “I would say those were the formative years for me. There isn’t a day that goes by that I don’t think of those guys and what they did for me, that they didn’t have to do.”

O’Neal also points out that he gained experience in trial work the “old-fashioned way.”

“My first jury trial was as court-appointed counsel in a criminal case, a theft over \$300 felony,” he says. “The county didn’t have a public defender, so young guys like me did the work. Although that case itself is kind of an involved story, it ended up in my first trial being a directed verdict for the defendant.”

In the 1980s, O’Neal signed up to work with the Illinois Legal Assistance Foundation, which was established to help the state’s farmers work through the growing Midwest farm crisis. He also became a special assistant attorney general for agricultural law and, along with University of Illinois extension employees, counseled farmers once a week at Western Illinois University.

“Through that process, the state of Illinois allowed me an education I probably never would’ve gotten in the depth and breadth within the time period I did,” he says. “What ended up happening, I got an education about the bankruptcy code, and that’s what brought me to Peoria.”

O’Neal began representing both debtors and creditors in bankruptcy (since, he says, lawyers out in the country can do that). After appearing more often in bankruptcy court in Peoria, he and his wife, Marcia — who he met on a blind date — made their move.

In 1988, he joined Westervelt, Johnson, Nicoll & Keller LLC and transitioned into health-care work. He represented hospitals in collecting bills and also represented other health-care entities in due process hearings involving medical privileges for physicians.

In 2001, Tony Ashenhurst joined the Westervelt firm, an event that shaped O’Neal’s health care practice more than any other.

Ashenhurst, who now works in the legal department at UnityPoint Health, recalls first meeting O’Neal in the early ’80s when they were young lawyers practicing in small towns about 30 miles apart. Since then, they have become close colleagues and friends.

“He’s highly intelligent,” Ashenhurst says. “He is very passionate about the work he does. He is very analytical. And he always has his clients’ best interests at heart when he’s providing legal services to them.

“That’s how he approaches everything. That’s just the way he is and the way he practices law.”

In 2012, O’Neal moved to Howard & Howard, where he now handles nearly 75 active cases spanning the three areas of his diverse practice.

Representing Those in Need

When O’Neal describes his most memorable cases, he puts *Commissioner v. Pearl Kennedy* at the top of the list.

His mentor, Franklin Hartzell, served as lead counsel in the tax case, which went up to the 7th U.S. Circuit Court of Appeals and became the leading authority for the manner in which disclaimers of joint tenancy interests should be handled in order to avoid estate tax. He wrote the brief to the appellate court, sat at the counsel’s table, and watched Hartzell prevail in that case.

O’Neal says he “thought the world of Franklin,” a well-known and respected trusts and estates lawyer who allowed him to be part of the experience.

“It was particularly touching for me that his son, Tom, would ask me to give Franklin’s eulogy at his funeral,” O’Neal says. “And here I thought lightning would come through the church steeple — Tom was part of the eulogy ceremony presentation, and he referenced the *Pearl Kennedy* case as the one where Tom O’Neal and my dad kicked the government’s ass.”

O’Neal also mentions that although he has been fortunate to represent a number of prominent businesses, some of his most memorable moments have come from working with people who are not as well known.

In one case, he represented a small millwright operation south of Peoria that had been sued in the bankruptcy court by the trustee in a fraudulent transfers action. He explains that if the trustee had prevailed, the amount in question would have been sufficient to wipe out the business.

However, O’Neal says, that didn’t happen. When he sent his client the court’s favorable opinion, he received a response half an hour later, all in capital letters: “OMG. I can’t believe this. I’m glad that you stuck by a couple of country boys who stood on principle.”

His other memorable cases include representing a family that had a special needs child who was being unfairly treated by a local school district. In that case, he helped the child receive the specialized education he needed, even though the

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From left: daughters Brinnie O’Neal and Jessie O’Neal.



From left: wife Marcia O’Neal and Tom O’Neal.

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school district resisted over a two-year period and brought in a specialized school counsel from Chicago.

“This was at a time where I was only a couple years out of law school, and I was concerned about whether I’d be able to prove the sun rises in the East if I went into court,” O’Neal says.

“Not a lot of people would have thought there was much of a chance there, but the little guy prevailed in that case. Those cases, at least for me, stick with me all my life.”

Throughout his career, O’Neal has taken the opportunity to represent pro bono clients who are in dire need of legal assistance. He is especially proud of his work as a past board member and volunteer attorney for Prairie State Legal Services.

“The only regret I have is that I haven’t had the courage to make that a full-time job,” O’Neal says. “I have the greatest respect for the people who do so. If I have a secondary regret, it’s that I haven’t done more work in the representation of those types of folks.”

O’Neal also considered taking his career in another direction, running for the Illinois Appellate Court in 2006. Illinois Appellate Judge Vicki Wright, who defeated him in the primary, contends that he was a “very, very worthy opponent” who soon became one of her biggest supporters.

“We ran a very active campaign against each other, and I don’t know that there are very many people who call a person they ran against a true friend,” Wright says. “It just speaks volumes that once I won the primary, Tom was the first one to be willing to step in for me if I couldn’t make an appearance here or there. He spoke on my behalf. He introduced me to other people.”

“He’s a true gentleman,” she adds. “He’s very kind. He’s very honest. He’s everything you would want your personal lawyer to be.”

O’Neal contends that apart from the guidance, referrals and imparted wisdom he has received from colleagues over the years, he wouldn’t have gotten anywhere without his wife, Marcia.

“She keeps me organized and focused, and she puts up with me,” he says. “Few others would put up with a guy reading books all weekend when the leaves need to be raked or watching Cardinal baseball when the grass should be mowed.”

They have twin daughters, Brianna and Jessie, who live in the Minneapolis-Saint Paul area. Brianna is an engineer for 3M and Jessie is a doctor of pharmacy at the Hennepin County Medical Center. ■