



Brian LaCien

Applying What He's Learned From Three Of the Country's Best PI Trial Lawyers

by Mike Bailey

Brian LaCien says he is always learning.

An associate at **Power, Rogers & Smith PC**, LaCien has an opportunity to work with and observe three of Illinois' best personal injury attorneys.

"I've had the privilege to work under and try cases with some of the best trial lawyers in the country," he says of Joe Power, Larry Rogers Sr. and Todd Smith. "I've learned so much about trial work and preparation from these three great attorneys."

While his education and background laid the groundwork for success, the 13 years he has spent with the named partners and other lawyers at the downtown Chicago firm taught him so much about how to be a successful trial lawyer.

LaCien says empathy is essential in dealing with potential clients, but also important is explaining fully to them what litigation involves. People who come to them for help face an uncertain future.

"They worry about whether they can work again, how they will pay the rent or make the house payments, or how they will pay the often times mounting medical bills. They need help, and they look to us to ensure that they will receive fair compensation."

In addition to help, they need something else, he says. They need answers.

"They want to know how their injury or loss occurred, how they are going to manage their life and deal with future responsibilities. Most importantly, they are looking for an explanation. We describe very clearly what our role in the case will

be, and we give them answers.”

He says potential plaintiffs have to understand that litigation can take years. “We tell them (that) while we will focus on their case, they have to focus on the other things, like their recovery.”

Cut From the Same Cloth

LaCien may believe he is still learning, but his peers say he has already distinguished himself as an excellent lawyer in what some call the premier personal injury firm in the state.

“Brian is just a terrific lawyer,” says Charles Rantis of Johnson & Bell. “He follows the same model as everyone in that firm, a firm I believe is the best and foremost personal injury firm in Illinois. He is always prepared and he asks good questions in depositions. He has no weaknesses that I can see, and I have about 10 to 15 years on him.”

LaCien mentions a case on which he worked with Rogers involving a vehicle carrying a family of five on Chicago’s South Side.

The family was traveling behind a large truck, which lost control temporarily before coming to a stop. The family’s vehicle stopped behind that truck because its driver was unsure whether or not to proceed. A second truck struck the family’s vehicle from behind, killing a young girl and injuring other family members.

LaCien was part of the litigation team that sued both trucking companies on behalf of the family. Because the trucking companies were headquartered in different states, the case went to federal court.

“Each defendant blamed the other,” LaCien says. “The trucker in front said the family was able to stop its vehicle. Why couldn’t the truck that struck them? The trucker who hit the family said the fault lay with the truck that caused the family to stop in the first place.”

In the end, both were found liable, and the family received an award in excess of \$10 million.

“What I learned in these large cases is the amount of preparation involved in taking depositions, locating the best expert witnesses and planning. We must not leave any questions unanswered. There should be no surprises at trial. As second chair, I assist with the preparation while learning how to prove the case to a jury.”

He has done that very thing, says Dan Kotin of Tomasik Kotin Kasserman. “Even though he’s younger, he carries himself with such professionalism and class that he reminds me of a much more seasoned lawyer,” says Kotin.

“We’ve worked together on a case involving multiple plaintiffs for a number of years. He’s such a pleasure to work with. He’s like a different generation of lawyer; courteous and responsive, and his word is always good.”

LaCien is the son of a judge and the grandson of a Chicago labor union leader. He developed an early respect for the rights of working men and women. He also knew he wanted to be a lawyer well before he entered the University of Iowa.

“I always heard about cases my dad presided over while I was younger. He went on the bench when I was 4 and retired when I was 26, so he was a judge pretty much my whole life.

“He didn’t really bring his work home with him, but he would use examples of cases to demonstrate what not to do in life and what can happen to you.”

He also taught LaCien the importance of the right of a jury trial to hear disputes. That upbringing has paid tremendous dividends in his career.

“Brian is an excellent lawyer,” says Cook

“We tell them (that) while we will focus on their case, they have to focus on the other things, like their recovery.”

County Circuit Court Judge Thomas Lyons.

“He tried one case to verdict in front of me and got a nice verdict on behalf of his client. And he was flying solo in that one. He was by himself. What really impressed me was his professionalism. Brian was succinct in his reasons why a motion should be granted, and after I ruled, he didn’t sigh or roll his eyes like some young lawyers do.

“He was also very well prepared for the jury instructions conference. He knew his case very well and although he was aggressive when he needed to be, he knew not to push certain things. I would say he was wise beyond his years. It was a pleasure to have him in my courtroom.”

Analyzed Legislation for Dems

With an undergrad degree in finance, LaCien enrolled at DePaul University College of Law because he knew he wanted to practice in Chicago. After graduation, he worked for a few months in Springfield, one of several lawyers analyzing bills for House Speaker Michael Madigan and the

Democratic Party.

“We weren’t as involved in crafting the bills, more in analyzing them and presenting that to house members and (Madigan’s office).”

Having previously worked for a large law firm during law school, LaCien knew that wasn’t a good fit for him. So when he heard of an opportunity in the Power firm, he applied and was hired in 2003.

Early on LaCien learned quickly the amount of research and preparation that goes into highly complex litigation, such as suits arising from aviation crashes, an area of law in which he and the firm provide representation.

More recently, LaCien has focused on the Takata litigation following Todd Smith’s appointment to the leadership committee in what will likely be the largest class action in history. Cases are often complex, can involve identifying defective parts, and can take exhaustive research to prepare, such as in their representation of a helicopter pilot who died in a crash on a routine flight, a case LaCien handled with Smith.

The helicopter pilot flew for a company that transports patients from accident scenes to trauma centers. LaCien says the pilot was by himself on a routine run for fuel when a tail rotor drive shaft bearing failed. The helicopter crashed near West Chicago, killing the pilot.

“He was an experienced pilot with a wife and two kids,” LaCien says. “It was scheduled to be his last day of work with the company.”

From the beginning, the case was complex as the firm investigated the exact cause of the crash and then had to identify the part that failed.

“We had to analyze the wreckage and hire the right experts, such as a retired bearing expert from NASA. There was also a jurisdictional issue.”

The manufacturer of the bearing was a French corporation, which claimed because the part was manufactured in France, the Illinois courts had no jurisdiction. The case went all the way to the Illinois Supreme Court, which found in favor of jurisdiction, and the case was set for trial.

“It was the first published opinion on personal jurisdiction in 20 years,” he says. The case is scheduled for trial in the fall of 2016.

“Another thing I learned (at Power, Rogers & Smith) is the importance of cross-examination and the preparation that goes into each exam. An effective cross-examination can help the jury evaluate a case. Each of these lawyers (at a firm) has a different style.

“While working with them at trial, I try

to learn from their approaches and then see what I can incorporate into what I do. They have their own mannerisms, but I pick up how they prepare for and conduct cross-examination and weave the evidence together for the jury during close.”

LaCien has learned well from the attorneys in the firm. “If something does not go his way, you’d never know it. He never blinks or shows emotion. I was impressed by the exceptionally good questions he asked at a deposition that lasted five to six hours involving a medical expert,” Rantis recalls.

“He turned a non-liability case into a seven figure settlement. Those guys (at Power, Rogers & Smith) are the best, and Brian follows that model. If we have a disagreement, we work it out on the telephone. No petty motions to compel, no arguments. He is an example of how the law should be practiced. He is old school.”

LaCien has also had the opportunity to second chair a case with Joe Power, one of the best trial lawyers in the country. “We represented a woman who suffered compartment syndrome after a routine knee procedure,” he recalls.

Below the knee, muscles are organized into areas called compartments. Strong webs of connective tissue called fascia form the walls of these compartments. After an injury or surgery, blood or fluid may accumulate in the compartment. The tough walls of fascia cannot easily expand, and compartment pressure rises, preventing adequate blood flow to tissues inside the compartment. Severe tissue damage can result, with loss of body function or even death.

The case involved a young woman from the Scranton, Pennsylvania, area who traveled to Chicago to see a specialist concerning a genetic knee condition. The knee required some relatively minor surgery to correct the condition, and the operation occurred at a Chicago hospital.

Shortly after the procedure, she experienced significant pain in her leg and, LaCien says, it was clear she had compartment syndrome. The pressure from the swelling and the lack of sufficient blood flow caused her to lose 90 percent of the muscle in her lower leg.

“They should have recognized the signs and symptoms of compartment syndrome right away,” he says. “They were negligent in assessing her neurovascular status. There was an untimely diagnosis of compartment syndrome which resulted in permanent damage.”

The plaintiff was a pleasant young woman in her early 20s, he says, who ultimately married a man she had been dating prior to

the surgery. They have a child, but her life has been forever changed.

At trial, the jury heard how she wore a boot or a sleeve on her foot. “She could not hold her foot upright and could not walk long distances. She had to check (the status of her skin and tissue condition) every day and perform exercises (to maintain what little muscle she has left.”

The case went to trial and she received a judgment in excess of \$14 million.

“What I learned from that case is how much people really need our help. This was life changing for her in many ways. She had just started a small business with her stepfather back in Pennsylvania. They opened a small convenience-type store and sandwich shop. Her stepfather wasn’t prepared to work every day. He just wanted to participate with his stepdaughter. She certainly could not (keep up with the demands of running that type of business on a daily basis). So the business closed.”

“She was just a regular person with the same hopes and dreams that many of us have. She came to Chicago to see a specialist, and within 48 hours her life had changed forever.”

Dollar Figures and Suffering

In that case and others like it, he says, he learned one of the most difficult skills a trial lawyer in the area of personal injury and medical malpractice can master — the ability to convey to a jury the concept of awarding a dollar amount for pain and suffering.

LaCien says jurors often rhetorically ask how they can assess the amount of pain and suffering a plaintiff has endured and assign a dollar figure to that.

“What I learned here — in this firm from these three partners — is how to help a jury understand what goes into pain and suffering and loss of life and what type of evidence is needed to prove that. To do that, you have to know your clients and the life they had before the injury and how dramatically that has changed.”

LaCien says that carefully interviewing clients to determine what they did during the day, such as the type of work, parental responsibility, hobbies and activities, is groundwork that must be carefully assembled. Helping a jury understand the life the person had before the injury or malpractice and the limited life available now as a result is essential in helping them understand the extent and severity of the damages suffered.

“If it involves loss of life, we explore how that changed the dynamic of the family. Of course it is profound, such as in the loss of

a child, but the jury needs to understand what that loss meant to that family.”

In another case, Todd Smith and LaCien represented a young professional who was riding his motorcycle near the triangle formed by Armitage, Western and Milwaukee avenues in Chicago. A vehicle entered the intersection he was in and struck him, causing brain damage. He was wearing a helmet and other protective clothing, LaCien says, and was not at fault in the collision.

“He was a young, motivated professional, recruited to come to Chicago to work in sales for a supplier of building materials, part of a multinational corporation,” LaCien says. “He was just going out to quickly drop something off when the accident occurred.

“He suffered a brain injury and, though he recovered enough to return to work, the company had to modify his duties. He could not interact with other people as well and, as a result, he worked by himself. His employer really did right by him, and they tried hard to make this work. He did well in that new position, but we sought (and were able to reach a resolution of) the damages related to what may likely to happen in the future.”

LaCien says science and extensive research into brain injuries has shown what was apt to happen to him over the course of his life. Many of the effects of traumatic brain injuries do not manifest until later in life.

“He was able to work, but it was probable that he would not be able to stay employed as his situation deteriorated due to a loss of cognitive reserve. He was also susceptible to early onset dementia.” As a result, the parties reached a multimillion-dollar settlement before trial.

A Chicagoan at heart, LaCien lives and works in the city he loves and fervently follows its sports teams. “I like both the Cubs and the Sox,” he laughs, something friends don’t always understand. “I’m a huge Bears fan and a college football fan. Of course, I love the Hawkeyes.”

LaCien remains close with his father, but they seldom talk about the law.

“My dad was great in allowing me to find my own way. But he did not like to bring his work home. He stressed to all of his children to do the very best you can and give it your all, but there needs to be a separation — a skill LaCien admits he is still working on.

“But,” he says, “if I needed advice about something, he would always be there to help.” ■