

## THE GOLDBERG TWINS

### Champions for Brain Damage, Cancer Victims

by Olivia Clarke

Barry and Barth Goldberg want to stress that their law firm wasn't built overnight.

It has taken many years of hard work and determination.

The Goldberg twins, along with their now-deceased brother Jerome, built **Goldberg & Goldberg**, which opened in 1967. They've concentrated the firm's efforts on medical malpractice, with a special interest in litigation concerning catastrophically brain injured children and obstetrical malpractice.

They've tried to verdict or settled cases in 23 states, and both are licensed to practice before the bars of Illinois, Florida, Colorado and California. Barry is also licensed in New York.

Through 2007, they have obtained about 136 separate verdicts or settlements in excess of at least \$1 million with an aggregate total in excess of over \$500 million—which includes structured settlements.

"We deal with cases that are very tragic and we come up against the finest medical minds and legal minds in the country," Barth, the younger twin, says. "It's a very sophisticated area and requires a great command of medicine and law, so you are always challenged and always learning. I don't think there is ever a minute when you are bored."

Throughout their lives, they've almost always worked together. And they say they love what they do, and do not plan to retire any time soon.

When asked their age, they jokingly say they are "old enough."

"Our firm has brought in new and talented lawyers to help with the workload and to insure a presence for many years in the future when, and if, the Goldbergs ever decide to retire—which by the way is unlikely," Barry says.

Those who know them describe them as tenacious, fearless, bright and often relentless in fighting for their clients' cases.

"If we elect to carry your banner, so to speak, or take your case, you know it is going to be pursued zealously and you know it's going to be uncompromised at every stage," Barth says.



Barth Goldberg, right, and his twin Barry were born poor but worked hard from age 13 until today.

"We fight until the end."

Born on Chicago's North Side, the twins' father was in the liquor business and owned several liquor stores. After their father died when they were age 13, their mother moved the family to Miami Beach, Florida.

Beginning their senior year of high school, they owned and operated Twin Tours, a travel agency that specialized in taking tourists' children on day trips to Miami area attractions. They also sold encyclopedias door-to-door beginning in the summer of 1957, and did that for several summers thereafter.

"We were poor kids," Barth says. "We had to work from age 13 until this moment... 'Entrepreneurial' to me is sort of a luxury position where you get to develop a business and watch it grow. For us it was hunger—when you go into it to make money so that you can live."

#### Becoming lawyers

Walking together in their caps and gowns after graduation from the University of Miami they asked each other what they should do next.

But before either could answer, their mother chimed in that they would be going to law school because she didn't believe people could do anything with only one degree, and she was fascinated by the legal profession.

After graduating from the University of Miami School of Law, the twins returned in 1965 to Chicago.

Barth worked in the Cook County state's attorney's office for several years. Barry worked as in-house counsel for the Atchison Topeka and Santa Fe Railroad from 1965 to 1966; and he then worked from 1966 to 1967 for Herzl Levine, whom he says was the only Chicago

lawyer he was aware of who handled plaintiff's malpractice work at that time.

Jerome and Barth started the firm, and Barry joined them shortly after.

"We were doing malpractice cases before most of the people now who are doing it were out of school—grammar school," Barry says. "We really grandfathered this whole area."

They both say the malpractice area has changed over the years.

"It used to be that you could try cases with your opponents and not only were you civil, but afterwards you were friends," Barry says. "Now it's much more difficult. Unfortunately, there is lack of civility because of the high stakes involved."

They typically divide the caseload in their nine-lawyer firm, with Barry handling most brain damage cases, and Barth handling most cancer and cancer-related cases. The rest of the work gets split up, they say.

Cook County Circuit Court Judge Daniel Locallo describes them as very thorough lawyers who know how to work up a case.

"At one time, I would say the defense bar probably didn't appreciate their thoroughness because they would depose everyone," Locallo says. "They both have success in their preparation and ability to know the medicine. They are not afraid to try a case."

## Making an impression

Barry says he had the first Illinois million-dollar malpractice settlement and verdict in 1974 in *Bonnie Cistaro v. Sisters of St. Mary*.

And they say many of their cases resulted in changes to rules or laws.

For example, in *Frankie Nelson v. the City of Chicago*, the case resulted in the city requiring playgrounds be built on a soft foam-like material to help prevent accidents.

*Bruso v. Alexian Brothers Hospital* was an Illinois Supreme Court case that resulted in extending the statute of limitations for those who suffer brain damage. *Bruso* gave brain-injured people the unlimited right to file a lawsuit as long as they're still suffering from the disability.

And *Jackson v. Michael Reese Hospital & Medical Center* established a law of spoliation of evidence. The *Jackson* case established the pleading requirements for this brand new tort, which had previously been unrecognized in Illinois.

"We've been involved in many cases that have been on the cutting edge of the law, and

have successfully broadened as well as created new laws protecting the rights of the injured," Barry says.

Barry holds the largest personal injury verdict in Illinois, with *Proctor v. Upjohn Co.*, a drug liability case that resulted in a \$127 million verdict—one of the largest in the country. It also resulted in the largest punitive damages award in Illinois.

"[Barry] did a marvelous job on this," says Leonard L. Levin, the judge who handled this case. "I don't know how he won the case, but he won the case. It was a very difficult case, and he did everything right... He handled himself magnificently before the jury."

Ian R. Alexander, a partner at Goldberg & Goldberg, has worked with the firm for 10 years and says it's been a "real learning experience at the hands of true masters."

Barry, Alexander says, has a philosophy that the deposition is the trial. Before the rules changed, he had depositions that lasted for days.

"These two are the most tenacious, driven people I've ever met," Alexander says. "One thing about Barry and Barth and our firm is we are never out-gunned. We routinely go up against law firms with unlimited resources and we are never going to be outspent. If they have 10 experts, then we have 20. It's really resource-intensive. Defense lawyers love us or hate us, but they all respect us."

Richard Donohue, who handles significant medical malpractice defense and professional liability work as a partner at Donohue Brown Mathewson & Smyth, says both lawyers have mellowed over the years but they still bring many talents to their cases.

"Barry is a very, very bright man who spends a lot of time studying the medicine and tries very hard to understand the technical aspects of the case," Donohue says. "He's extremely thorough."

"[Barth] tried a lot of cases and still tries a lot of cases, and I respect Barth for that."

When asked what they do when they aren't working on their firm's cases, Barth says he spends time with his four children, ages 12 to 19, and his wife. Barry spends time with his girlfriend of seven years and his two children, ages 14 and 17.

"We intend to keep working," Barry says. "This is my real passion. It's my only passion. There really is nothing I love doing more than trying cases and being in the courtroom." ■

## BARRY & BARTH GOLDBERG

**Goldberg & Goldberg**

33 North Dearborn Street

Suite 1930

Chicago, Illinois 60602

312.368.0255

312.368.0368 fax

info@BGGoldbergLaw.com

www.bgoldbergLaw.com