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Education:

Boston College, B.A., 1973;

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Wisconsin Association
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■ PATRICK O. DUNPHY

Dunphy's law: Put clients first

Law student Brian Dunphy was certain he was going to be called on in his Torts class, so he studied closely the next case in the book, *Bittner v. American Honda Motor Co.* Suddenly, he realized that his dad, attorney Patrick O. Dunphy, was plaintiff's counsel.

Brian wasn't called on. (Incidentally, Brian is the third-generation Dunphy lawyer; his grandfather was a professor at Marquette University Law School.)

Bittner was a products liability case involving a 3-wheel ATV that left Patrick Dunphy's client with profound brain injuries. At trial, the court permitted Honda to introduce "comparative risk" evidence, meaning that the ATV design supposedly wasn't unreasonably dangerous because other products and activities, such as sky diving, are more likely statistically to result in death or injuries. The Wisconsin Supreme Court found that irrelevant and inadmissible.

Although it's a significant legal principle, it's not Dunphy's career highlight.

Instead, Dunphy, of Cannon & Dunphy S.C. in Brookfield, identifies his representation of Karin Smith, a 29-year-old who ultimately died of cervical cancer after an HMO repeatedly failed to diagnose the disease through its improper testing of pap smears. In discovery, he learned that a lab technician had read close to four times the recommended number of slides annually. Dunphy ultimately garnered a \$6.3 million award in her medical malpractice case. In addition, then-District Attorney E. Michael McCann pursued the defendants criminally for their negligence, and the case was featured in *People Magazine*, *Milwaukee Magazine*, *The New York Times* and on "20/20." Most importantly, says Dunphy, the case changed the standard of care for cytotechnologists across the country.

More recently, Dunphy obtained a record-breaking medical malpractice award, in *Bartowitz v. Waukesha Memorial Hospital*. The case resulted in a \$35.3 million verdict in 2008 for a brain-injured child whose severe deficits were caused in his premature infancy by the accidental introduction of air into an IV line during a blood transfusion.

Reflecting on what governs every aspect of his lawyering, Dunphy says, "I think it's so important to be professional, and to put your client first. I think the lawyer has an obligation to try to do things right. I've always tried to do that, and I like to think that I could look my dad, who passed a long time ago, in the eye and say, 'Dad, I've done things the way you wanted me to.'"

■ JANE PRIBEK