

CRAIN'S DETROIT BUSINESS

March 3, 2008

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A CONVERSATION WITH



Brian McKeen,
McKeen &
Associates
P.C.

Brian McKeen began practicing law in 1982, started his own firm in 1998 and has become one of Michigan's foremost medical malpractice attorneys. In 2001, McKeen won what is believed to be the largest malpractice verdict ever in Michigan, a \$55 million judgment against **Henry Ford Hospital Systems** for a 5-year-old girl who suffered severe brain damage after improper treatment for respiratory arrest.

He currently serves on the executive boards of the **Michigan Association of Justice** and the **American Association of Justice**, and was named one of the Top 10 Lawyers of the Year for 2006 by *Michigan Lawyers Weekly*, a statewide publication for the legal industry.

With tort reform, Michigan's drug shield law and generally poor economic conditions, Michigan attorneys aren't seeing as many big cases, with large jury awards or settlements, as in the past. What's been the effect of tort reform on plaintiff law firms? It's put a lot of attorneys out of business, frankly. A lot of Michigan firms no longer do medical malpractice.

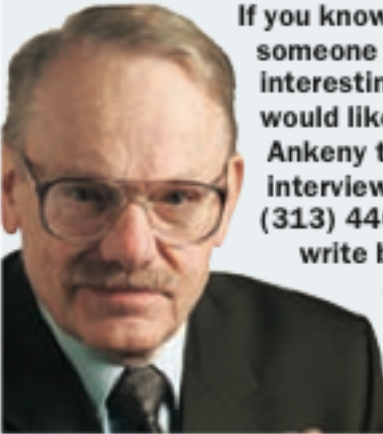
They will no longer take cases where elderly patients or babies died, because they don't see the opportunity for sufficient verdicts or settlements. That has disenfranchised many medical litigants.

Ironically, as more law firms have gotten out of doing those cases, they have sought out firms like mine and made referrals to people like me.

Since virtually all your cases are on contingency (where attorney fees are based on a portion, usually one-third, of the amount paid), how do you decide which cases to take, since you need to win to win? No. 1, you need to be careful which cases you accept for litigation, and No. 2, pursue them passionately, diligently and expertly. And manage each case so you maximize chances of winning. By and large, most cases are still settled, but there has been some uptick of cases going to trial and jury verdict.

Your practice takes you all over the country. How do you find the situation for medical malpractice cases in Michigan compares with that in other states?

Caps on noneconomic damages in Michigan are among the worst in the country, and the procedural obstacles are most onerous here. Plus we have an appellate judiciary hostile to victims of negligence and medical malpractice in particular. It's not true in trial courts, although some judges are more conservative than others. But we see appellate judges and panels overtly hostile to rights of people injured by negligence of physicians.



**If you know
someone
interesting you
would like Bob
Ankeny to
interview, call
(313) 446-0404 or
write [bankeny@
crain.com](mailto:bankeny@crain.com)**