

Small-Town Practice Suits This Lawyer Just Fine

By [Kelly A. McCauley](#)

CAROL JONES DWYER

Education: University of Michigan Law School, J.D. (1980); University of Michigan, B.A. (1974).

Experience: Sole practitioner, Hastings (1992-present); House of Representatives, Office of the Speaker of the House, Lansing (1985-92); Davidson, Gottschall, Kohl, Secrest, Wardle, Lynch & Clark (1980-85).

Professional Affiliations: Barry County Bar Association; Family Law Section, State Bar of Michigan; General Law Practice Section, State Bar of Michigan; Michigan Trial Lawyers Association; Legal Aid of Central Michigan (board of directors).

Carol Jones Dwyer was a front-runner in the rat race even before she graduated from the University of Michigan Law School. In fact, her tenure there was postponed so that she could serve out her elected term of office on the Ann Arbor City Council.

Upon receiving her law degree in 1980, Dwyer began practicing in a large Oakland County insurance defense firm. But after a mere five years of handling medical malpractice and auto negligence matters, she jumped back into the world of politics, joining the office of the Speaker of the Michigan House of Representatives.

Yet, after almost a decade there, something was still missing from her professional life.

"Too often attorneys get caught up in the rat race, the status race, the money chase and forget why they are there in the first place," Dwyer asserted. "That is what I felt in all the legal positions I held before I opened my sole practice."

Dwyer explained that she suffered from professional malaise because she never felt connected with the law. For example, while she enjoyed her time at the large firm, Dwyer never felt like a "real lawyer."

"I felt a bit inadequate as an attorney because I couldn't answer the most commonly-asked legal questions by family and friends," she told *Lawyers Weekly*. "I would explain to people, 'I'm not a real lawyer. I just know about medical malpractice and auto negligence.'"

Next on her career path — an interesting opportunity that "doesn't come along too frequently" — was her stint in the office of the Democratic Speaker of the House.

But while she "enjoyed it immensely" and probably "learned more than I could have in any other capacity," something was still missing professionally.

"I could tell you how laws are written and I played a role in writing those laws and negotiating things," she explained, "yet I still didn't feel like I was a real lawyer."

So after slogging through the political trenches for seven years, Dwyer stepped back and took a look at her life.

"I found that as you get older, you define more precisely for yourself what you want," she said. "Because you're holding yourself to a stricter standard, there are fewer things available that fit precisely what you need."

It was after this self-examination that she moved herself and her child to Hastings, a "small" town in Barry County. And she couldn't be happier.

"I did not find exactly the atmosphere I wished to practice in so I created for myself what I most wanted: a general practice of law serving a community which I felt at that time was under-served," she explained.

Step Back In Time

Dwyer told Lawyers Weekly that moving from the hustle and bustle of Oakland County and then the Capitol to a community like Hastings was "like stepping back in time," particularly in regard to practicing law.

"I've often imagined that this might be similar to what the practice of law was in many areas of the state that are now more populated than they were 40 years ago," she said. "This is worlds away from practice in [southeast Michigan.]"

According to Dwyer, there are many benefits of small-town practice, chief among them the "far more civil" atmosphere. Even as she reads about the "general lack" of civility among those in her profession, she finds it to be "far less the case" in a small county with a small bar association.

Even so, Dwyer believes there really isn't that much of a difference between herself and her hometown colleagues and the big-city brethren.

"Most of the attorneys I deal with from out county seem to enjoy practicing in our county," she remarked. "The openness of the bench to the bar is a refreshing change."

Meanwhile, just as life in a small town comes with its own set of quirks, the practice of law in such an environment is no exception, Dwyer told Lawyers Weekly.

"Sometimes the procedures we use locally are a mystery — or annoying at best — to out-county attorneys when they come in," she acknowledged. "But once they find out what it is that's expected, it works out conveniently for all."

Finally, Dwyer credits the Barry County court system for keeping matters moving along at a speedy clip, much to the benefit of counsel and their clients alike.

"It's easy to accomplish things in [Barry County] largely due to good administration of the courts and a remarkable amount of cooperation that exists among the judges," she explained. "We have a unified court that works exactly the way it's supposed to."

Survival Tips

According to Dwyer, while real estate and estate planning matters make up part of any solo's practice, it is typically family issues that comprise a "very significant portion" of the small-town attorney's practice.

And while it may have personal rewards, these cases can definitely take a psychic toll on the unprepared attorney.

"The practice of family law is probably at once the most fulfilling personally, if not professionally, and the most stressful," she explained. "I used to find it much more so until I discovered the right amount of emotional distance for me from the clients. It took me about three or four years and I'm still discovering it on an ongoing basis."

Dwyer finds it crucial to have a support network that includes everything from bar associations to mentors. However, the most important advice she can offer to attorneys — from fresh-faced new graduates to those who have been around the block a few times — isn't found in any law school tome.

"Your enjoyment of your legal practice and those you work with will ultimately have a greater bearing on your job satisfaction than will your billable hours and your bottom line," she explained.

One way in which Dwyer achieves this is through her pro bono work, which she believes every attorney takes on more of than what actually shows up on the ledgers. Dwyer has clients she'll not bill as much — or won't bill at all — because of her passion for their cause.

"There is probably a little more of this among small-town attorneys because the pace is a little less hectic," she said. "They tend to be more driven by the intangibles in life and that goes to the quality of their life and the quality of their community."

Dwyer also sits on the board of directors of Legal Aid of Central Michigan, and accepts court-appointed indigent clients. This, she said, reflects her personal belief in access to justice.

"Access to the courts and to justice makes our legal system truly special," she asserted. "But broad access exists only to the extent that members of the bar each contribute some of their time — and, in effect, some of their income — to representing those without money for an attorney."

Regardless of what comes across Dwyer's desk, she believes the most satisfying aspect of her small town solo practice is the human element.

"My involvement with people and being able to play a role in resolving problems are the most rewarding part of my job," she contended. "Even if you don't solve a problem you at least find a method of coping with it that is most advantageous to your client."

Impact Of 'Heltzel'

Dwyer agrees that the landscape of the law is ever-evolving, and perhaps more so in family law than in any other practice area.

To illustrate, Dwyer was recently involved in the Court of Appeals case, *Eldred v. Ziny*, where she represented the plaintiff, a maternal grandmother. The father had appealed the trial court's grant of custody to the maternal grandmother. In what Dwyer called "a fair and complete hearing," the Court of Appeals affirmed the trial court's grant of custody to the maternal grandmother. (See, "Father Admitted Paternity, But Grandma Gets Custody," June 4, 2001.)

She stated that the trial court judge made a "legal conclusion" that a finding of unfitness was a "condition precedent" to applying the best interests test.

"I think the most interesting question was one that was not reached and that is whether or not unfitness is a finding that must be made before the court can proceed to the best interests test," she said.

However, that landscape has now perhaps been altered again with the Court of Appeals' ruling in *Heltzel v. Heltzel*, which Dwyer said "answers questions that *Eldred* did not." (See, "Child's Best Interests Not Examined In Custody Suit," Nov. 5, 2001.)

"This more recent case [*Heltzel*] appears to suggest that a finding of unfitness is a prerequisite," she commented. "In the *Eldred* case, the judge made a finding of unfitness on the father's part and then proceeded to the best interests test, weighing the father against the grandmother. I'm not sure that is the logical process that would be used by a court acting under *Heltzel*."

Dwyer said that while this weighing process is now left "slightly open" by the *Heltzel* decision, there are some clues as to the Court of Appeals' intentions.

"The opinion clearly declared that the fundamental liberty interest of the parent must be taken into account in the weighing process," she explained. "But it is unclear to me whether this is paramount to saying that the biological parent must be found unfit, although I suspect that is the court's intentions."

Moreover, Dwyer said the *Heltzel* decision sent a clear and important message to family law practitioners.

"I think it was an important endorsement of the standing of third parties under certain circumstances in challenging parents for custody," she asserted. "I think it had an impact of clarification of the law."

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