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# MICHIGAN LAWYERS WEEKLY

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## Practice Profile

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### Enthusiastic attorney has built career on defending his comrades

By Sheryl M. Vassallo

#### Harvey R. Heller

Age: 55

Education: Detroit College of Law, J.D. (1976); Michigan State University, B.A. (1973)

Experience: Shareholder, Weiner & Hauser (eventually became Maddin Hauser Wartell Roth & Heller, P.C.) (1978-present); clerk, Perlman, Garber & Holtz (1977)

Professional Affiliations: American Bar Association; Lawyers Professional Liability Insurance Committee, ABA; Professional Development Task Force, ABA; Commercial Law League of America.

*Harvey R. Heller knew early on that he wanted to make a career of defending lawyers. And, for attorneys everywhere, it's a good thing he did.*

*Heller, whose practice focuses predominantly on legal malpractice defense, also handles insurance coverage and employment disputes as well as other types of non-medical liability defense, involving accountants, insurance agents and brokers, financial advisors and real estate brokers, just to name a few.*

*Heller has represented somewhere between 800 and 1,000 attorneys in his nearly 30-year*

career and believes his duty is to ensure that every one of his clients is looked upon with respect.

*"It was Watergate that turned the country against lawyers, and no lawyer who does what I do will disagree with what I'm saying," Heller contended. "Washington, D.C., was filled with lawyers doing crooked things that all of the sudden kicked them off the pedestal. When that happened, I believe we were right below used car salesmen in terms of public trust."*

*Heller said representing attorneys in malpractice cases has forced him to work even harder to defend the reputation of attorneys everywhere.*

*"There's an added burden that I perceive of making sure that my client is perceived as honest and trustworthy," he explained. "I think that's something that is important for me to do as a lawyer. I want my client to be liked by the jury. I don't want my client to be looked upon as a slime ball. It's very important for the lawyer-client to act and appear credible. Every client should be that way, but the lawyer-client has that extra burden."*

*Moreover, Heller, who was recently listed in the "Best Lawyers in America" and believes much of his success has come from his enthusiasm and genuine like of people, is credited for creating the Result Focused Case Management System at his firm, Maddin Hauser Wartell Roth & Heller, P.C., which was developed as a way to streamline litigation matters.*

*"It includes keeping your client informed every step of the way. It is a step-by-step detailed approach to handling a litigation matter — whether it be defending a lawyer or representing anybody else," he noted. "We do this firm-wide now in all of our litigation matters, and we're very proud of it. It's designed to take the straightest line possible to bring a case to resolution whether it be by motion, trial or settlement."*

*Q. Why did you decide not to go the medical-malpractice defense route?*

*A. I have stayed away from direct medical-malpractice defense, though it comes up often when defending lawyers, because I view professional growth by visualizing a tree cut in half and looking at the concentric circles of the trunk of a tree with our practice in the center. We move toward the next logical outward ring.*

*Q. In your opinion, is it getting easier or more difficult for clients to sue attorneys?*

*A. I think it is much more difficult to pursue a claim against an attorney in light of the development of the judgmental immunity defense as well as the extreme difficulty in proving causation in many cases. The cases we do get are more complex and generally have higher damage claims associated with them.*

*Q. What was your goal upon graduating law school?*

*A. At that time I was just an idealistic young lawyer, and I wanted to be a lawyer and a litigator. I wasn't going to sit around in my office doing tax work and writing contracts. As a matter of fact, the first power of attorney I ever was given to do took me 26 hours and it still stands as the laughing stock record in this office. I learned very quickly as a result of that and some lease drafting that I was better on my feet.*

*Q. What are the most important issues in your area of law?*

*A. As a result of representing lawyers who have all different kinds of specialties, we need to learn a lot about that specialty. For example, we have taken on almost a subspecialty, even though none of us*

have any engineering background, in representing patent lawyers or intellectual property lawyers who have claims brought against them, so we've had to learn a lot about intellectual property law. In the accounting side of our practice where we represent accountants who are sued for failure to uncover an embezzlement during an audit, we've had to understand the audit process of an accountant which is a very, very involved painstaking process.

I don't know that our burdens are anything greater because every lawyer has to understand their client's business. In terms of what we do, whether we represent a lawyer or a stockbroker or an accountant or a real estate agent, we need to understand their profession and they are all different.

*Q. How do you overcome that challenge?*

A. I think it takes a certain type of person. We have eight lawyers in our practice group and I'm pleased to say that the people who do well here and who work with me, we're all hungry for knowledge. I jokingly say we love to stick our noses in our people's business, but it's true and we take the time to understand it and you can't gloss over that. Once you understand the context of the particular specialty you're dealing with, whether it be a patent lawyer or an auditing accountant, the rest of it unfolds rather easily in my opinion. But you have to take the time to understand it.

*Q. Is that the most challenging part of your job?*

A. I'd say that as well as being on the same page with your clients. Representing lawyers, people on the outside say, "Hey that must be a real trip. Everybody in the room is arrogant." People have said that to me, and the truth is maybe we're just very mindful of those realities that we're all lawyers. We're very sensitive to that fact. And we need to be sensitive. When a lawyer gets sued — and it's true with any profession — a lawyer's basically being told he's an idiot. Let's be honest. You're hitting him in his gut and it's beyond not stitching somebody right, it's that they didn't think about this correctly and that's a very ego-bruising experience. And so as a result of that, oftentimes when a lawyer gets sued, they've taken great umbrage with that and when they first come in they're very upset by it. My job is to make sure that everybody is taking an objective look at what happened so that we can get to the bottom line and make sure that we can defend the case properly by getting all the facts necessary to get to that bottom line.

It's the nature of the beast, as well as understanding the lawyer's particular specialty, and then packaging that all together and hoping the judge or jury will listen.

*Q. What has been your single greatest accomplishment in your career?*

A. Hopefully my single greatest accomplishment is yet to come, but I think thus far it is to be able to head up a practice group that specializes in defending lawyers and other non-medical professionals and that does complex insurance coverage work where everybody works so well together and everybody is excited everyday about the practice of law. I claim part of that, certainly not all of it. I have great people working here and who are excited about it, but to be able to put that type of group together and have longevity to it — I'm not Joe Dumars and we're not the Pistons, but I do feel that we've cobbled together something very special here.

On a personal level, my main accomplishment is I'm just as excited about the practice of law today as when I started. And that is in no small part due to the people that I'm able to work with.

*Q. What is the most rewarding aspect of what you do?*

A. In this adversarial system that we live in — the practice of law — it's very infrequent that both sides go away happy. It's just the reality of the situation — it's not built for that; there's a winner and a loser.

On a personal level, one of the things I value most highly is my ethical conduct and the conduct of those who are my adversaries. It's important when we walk outside of the courtroom to be able to shake hands and be colleagues in the same profession. In a large community such as Detroit, you end up knowing a lot of lawyers, whether they be former clients or former or current adversaries. It's always a very good feeling to be able to have the mutual respect and always to be able to be cordial and even forge friendships in a world where all of our businesses are becoming somewhat commoditized. The human side of our business is very, very important.

*Q. Would you consider yourself the "lawyer's lawyer"?*

A. Let's just say I may be one of them, but I'm not *the* one yet. Many will lay claim and I'm still working on it, and that's where I continue with my excitement. I continue to want to be the go-to guy [for attorneys] and if I'm thought of that way one day, it would be quite an honor.

*If you would like to comment on this story, please contact Todd C. Berg at (248) 596-2700 ext. 11 or [todd.berg@mi.lawyersweekly.com](mailto:todd.berg@mi.lawyersweekly.com).*