

BUSINESS

CRIME AND RESPONSIBILITY

HELPING THE HELPLESS

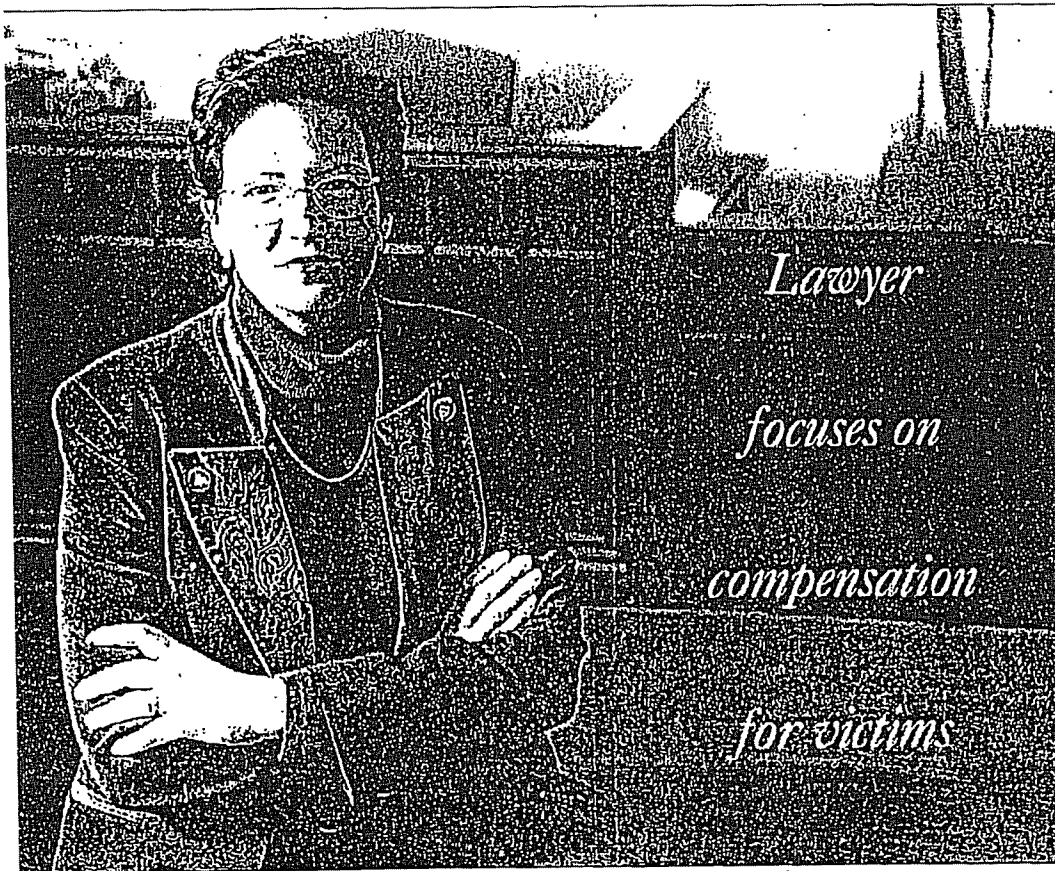


Photo by Jennifer Hulshizer

By KATHY BARRETT CARTER

They call her the research and development department of Stark & Stark, a Princeton law firm ranked the 17th largest in the state.

That's because attorney Beth Baldinger, 36, is the only New Jersey lawyer and one of a small but growing number of lawyers nationwide whose practice is exclusively devoted to representing crime victims in civil lawsuits.

Spinning novel legal theories together with old familiar ones, she has spent the last decade breaking new legal ground in order to redefine the concept of crime and responsibility.

In the process, she is teaching crime victims that they can make their victimizers pay - literally - no matter what happens in the criminal justice system.

Long before O.J. Simpson was accused of beating and murdering his wife, Baldinger was representing people in cases similar to the \$50 million civil lawsuit the family of Nicole Brown Simpson filed against the onetime football legend after he was acquitted in his criminal trial.

She'll go after landlords, police departments and security compa-

nies that fail to do their jobs. Incest victims often seek her out to sue parents. Patients come to her to sue psychologists and doctors who sexually abused them.

In February, Baldinger will argue before the state's highest court that battered women who sue their husbands for money damages are entitled to jury trials - controversial, cutting-edge stuff that has gained her a national reputation. Even some women's rights advocates question the wisdom of putting domestic-violence cases in the hands of jurors who may not understand the dynamics of spousal abuse. But Baldinger maintains jurors can grasp these complicated and emotional issues.

Born and raised in Cold Spring Harbor, an old whaling village in Suffolk County, N.Y., the kid whose father called her his "lady lawyer" because she thought everything was negotiable even when she was just a tyke, now lives in Somerset County with her husband, Bruce, who is also a lawyer.

She has had a rapid rise at Stark & Stark, making partner after just five years with the firm. Normally, it takes at least seven

Please turn to next page

Lawyer focuses on compensation for victims

From preceding page

years to become a partner.

"She's a superstar," said senior partner Albert Stark, who hired Baldinger after a rather unusual job interview. He asked her to appear on his weekly radio program and answer legal questions — and she got the job.

"She has a passion that is just inescapable," Stark said. "She is one of the most interesting things that have ever happened to Stark & Stark."

People come to Baldinger in search of civil remedies for searing emotional hurts, especially if they feel ill served by the criminal justice system.

The myth that all criminals are poor or drug addicts has mistakenly led many crime victims to believe that it is pointless to sue perpetrators for cash, said Baldinger. But juries have awarded her clients money damages as high as \$10 million.

Often perpetrators have money. Insurance or other assets that can be tapped if a judgment is won. In other cases, third parties can be held liable, she noted.

When the parents of Adam Katz, the college student killed at a Grateful Dead concert at the Meadowlands in 1989, needed a lawyer, they came to Baldinger.

Although Baldinger is barred from discussing the out-of-court settlement, earlier stories in The Star-Ledger reported Burns International Security Services of Parsippany, which provided security at the Meadowlands in 1989, paid \$1.5 million to the parents to settle the lawsuit. The suit alleged Katz was beaten during the concert by Burns security guards, who fractured his skull, placed him in a security van and dumped his unconscious body on a highway outside the complex.

More important than cash victories, Baldinger said, winning gives victims a new sense of power and can force indifferent police departments, security companies, landlords, hotel chains and psychiatrists to act more responsibly.

"As victims, a lot of them had no control over what happened to them. As a civil litigant, you can do a great deal to restore a sense of control. It can be a very positive experience," Baldinger said.

D. Thomas Nelson, director of the Victims' Litigation Project at the non-profit National Victim Center in Arlington, Va., said there is no doubt some people, particularly those in business, point to this kind of litigation as the sort that has led to calls for so-called "tort reform," changes in the rules for bringing civil lawsuits to limit unreasonably jury awards.

Civil suits offer a way to help establish responsibility for crimes

But he disagreed with those critics.

"Victims of crime are left with incredible problems," said Nelson. "They have medical expenses and expenses for rehabilitation, both physical and psychological. Many also have a diminished capacity to earn a living. They call us daily looking for attorneys who can represent them in civil actions."

Nelson, an attorney himself, said he works with a network of about 250 lawyers nationwide who have practices that almost exclusively involve representing crime victims in civil cases. He credited these lawsuits with making public facilities safer for everyone.

Patrols in shopping malls, hotels with double and triple locks on doors, windows in commercial buildings that only open slightly if at all, improved lighting in parking lots and guards to

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escort shopping center patrons to their cars late at night are byproducts of civil lawsuits brought by crime victims, Nelson said.

Rutgers Newark Law School Professor Jonathan Hyman said he has heard the arguments on both sides, but he thinks the jury process effectively separates the legitimate civil damage cases brought by victims from the ones that are overkill.

"By and large, juries are sensible," said Hyman.

"This is an endless balancing act which society does," he added, explaining that jurors must decide where to draw the line in these cases.

New Jersey victims' rights advocate James O'Brien said, "Years ago, a victim never thought about suing. With the emergence of the victims' rights movement, they have become more acutely aware of the possibility of lawsuits."

And because medical insurance and agencies like the Violent Crimes Compensation Board often are unable

to adequately compensate victims, O'Brien said. "I feel you are going to see more and more of this."

But he is ambivalent about the merits of such lawsuits.

"If somebody is going to commit a crime, they are going to commit a crime. I don't care what precautions you take. If you can't protect the President of the U.S., you are never going to make a hotel, motel or a post office totally safe," said O'Brien.

Where there is evidence of "negligent negligence," O'Brien said a lawsuit may be appropriate, but he says victims should think long and hard about whether they want to go through a civil lawsuit on top of a criminal trial.

When his daughter was murdered after being abducted from a Morris County shopping mall parking lot, O'Brien said it was suggested his family sue the state because the state Depart-

ment of Transportation had not connected overhead lights in the area where the crime occurred.

"We didn't want to drag ourselves through reiving the murder all over," Roberta Daniels, 42, of Raritan Borough, turned to Baldinger after her husband, Robert Stein, died in police custody. She has no regrets about her decision to sue.

"Going to Beth was the best thing that ever happened to me," she said. Daniels called the police to take her husband, then 38, who was suffering from depression, to the hospital. Because he did not want to go, he had to be restrained. Shortly after he was taken away Daniels was summoned to the hospital and told that a trip that should have been routine turned deadly.

She later found out her husband had been asphyxiated because the police allegedly improperly restrained him, she said. Rescue-squad members told police her husband did not have a pulse but the officers would not allow

them to administer cardiac-pulmonary resuscitation, Daniels said.

After five years of pre-trial maneuvering, the case was settled out-of-court for \$800,000. While she wanted the case to go to trial in hopes that all the facts would be revealed in a public forum, Daniels said settling the case gave her a sense of satisfaction and ended an ordeal that placed her and her in-laws on an emotional roller coaster. She said Baldinger helped find closure.

"I have never met anyone so committed to clients," said Daniels, who is now a nurse.

More than anything, the litigation helped her get information that the police and others had refused to release, Daniels said.

"I wanted answers, and I knew I wasn't going to get them any other way," said Daniels.

Baldinger said she is well aware of the benefits and the drawbacks of civil lawsuits. She said she talks frankly with her clients about what a civil trial will entail.

"I will not take a case that will harm the victim," said Baldinger.

She hopes she will be able to do for crime victims what past lawsuits have done to change entire industries. She gives the example of the multimillion-dollar lawsuit won by the parents of a little girl who was severely burned while wearing flammable pajamas. Since then it is almost impossible to find pajamas in the U.S. that are not flame resistant, she said.

Baldinger admits money will not solve all problems. It will not bring dead relatives back from the grave. It will not restore the lost sense of self-confidence felt by a rape victim or the betrayal experienced by a child who was the victim of incest, but it does give them some "sense of power" at a time when many feel powerless, she said.

She dates her passion for victims' rights cases to nearly a decade ago when, as a New York City lawyer, she won a \$10 million civil verdict for a woman whose 2-year-old son was badly burned when a stalker threw a Molotov cocktail into their apartment.

The woman was being harassed by a fired co-worker. Twice there had been attempts to firebomb her apartment. The woman was told by police they had the building under surveillance and she could return to her apartment. In fact, they had failed to provide the surveillance, said Baldinger.

While the judge reduced the judgment to \$2.5 million, that case convinced Baldinger to make victims' rights her cause.