



Profile: Scott Sumner

Studios trial lawyer and longtime champion of key plaintiff-law issue

BY STEPHEN ELLISON

After more than two decades in practice, Scott Sumner still has a fairly untarnished perception of what he does. In his mind, class never lets out – he is constantly absorbing information and knowl-



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edge that will put him in position to succeed on behalf of his client.

“Being a plaintiff lawyer is sort of like going to school,” said Sumner, a partner with Hinton, Alfert, Sumner & Kaufmann of Walnut

Creek and San Francisco. “You’re always talking to experts, and you work with them and learn about the science of things and how things work. I really enjoy that part. Sometimes I think more like an engineer than a lawyer.”

Indeed, that studious approach to law has served Sumner well since he began working at the Hinton Alfert firm as a clerk in 1990. Back then, as a guest student at Hastings College of the Law, Sumner received a litigation baptism unlike any other: He worked behind the scenes on the research-intensive Oakland Hills fire case. “I probably know more about that case and what happened than anybody,” he said.

“He had a lot of discussions with experts,” recalled Peter Alfert, who called Sumner bright and tenacious. “There were many factors involved – vegetation, burn patterns, wind direction – and experts for each one of them. Scott was heavily involved in coordinating all those experts.”

Editor’s Note: Sumner wrote and filed the Amicus Brief for Consumer Attorneys of California in the case *Howell v. Hamilton Meats*, perhaps the most important plaintiff’s law case to reach The California Supreme Court in a decade. The court heard oral argument on May 24.

Then, a mere two years later – and only months removed from the bar exam – Sumner became involved in Consumer Attorneys of California and found himself immersed in a key issue for plaintiffs and plaintiffs’ attorneys statewide: the collateral source rule, which states that any compensation a plaintiff receives wholly independent of the wrongdoer – such as medical insurance coverage for injuries – is not admissible in proceedings and will not diminish the damages otherwise recoverable from the wrongdoer.

It’s an issue that has occupied a good part of his career and one that he takes much pride in handling. “It’s something that’s central to my involvement in CAOC, sort of a specialty of mine,” said Sumner, who lectures, teaches classes and conducts seminars on the collateral source rule as well as medical and health insurance liens for CAOC members.

“He’s approached the collateral source issue from just about every angle possible, from what I can see,” said Larry Knapp, a sole practitioner based in Stockton who has known Sumner since 1996. “Talk about an excellent example of pro bono work. This guy has done so much work and has put so much selfless time into this issue, it’s just unbelievable. And what’s most impressive is his ability to come up with legal approaches that make it almost impossible for the other side to contest his arguments.”

As busy as the collateral source rule keeps him, Sumner is no stranger to the courtroom. He has won more than his share of jury trials, bench trials, settlements and appellate arguments. He thrives in product liability – with an inclination for heavy equipment cases involving sophisticated computer-driven hydraulic systems – and, of course, catastrophic personal injury.

Like many trial lawyers, Sumner finds it rewarding to be able to help people who have been struck with a sudden tragedy or whose lives have been negatively affected by the wrongdoing of others. On occasion he’s become close with clients and is able to share in their satisfaction or joy after a successful outcome. That, he said, is his favorite part of the job. “No question, you can’t expect to have a relationship with all clients,” he said. “Most people don’t keep in continuous contact with you after a case. So, yeah, it’s pretty unique when you can form a bond like that. When you can do that – well, that’s why most people do what we do.”

There is, however, a flip side rarely mentioned by plaintiffs’ lawyers that illustrates how humbling the profession can be. “There are some individuals that just are not satisfied – and there’s nothing you can do within the system to provide adequate enough compensation,” Sumner explained. “Money damages are imprecise. There are some people who need more than (what they’ve been awarded) – and there’s really nothing you can do about that.”

Go west, young man

Born in Dayton, Ohio, to a father who was a career Air Force man, Sumner moved around a lot as a child, and so he wasn’t really raised in any one place. But



when the family eventually landed in California, he had found a home. As a student at University of California, San Diego, Sumner majored in history and political science with a slant toward – and apparent penchant for – studying law. “I took some paralegal classes, and one of my teachers said I should go to law school,” he said.

Upon starting law school at nearby University of San Diego, Sumner had a plan worked up in his mind. “I didn’t want to do litigation, I didn’t want to do criminal law and I didn’t want to work in contested divorce,” he said. “Needless to say, I’ve given up all those oppositions with the exception of contested divorce.”

Between his second and third years at USD, Sumner began looking for a change of scenery and set his sights on the Bay Area. Once there, he would apply to Hastings College of the Law. Sumner practically begged the school’s academic dean to accept him as a guest student, and in the end his persistence paid off. “I kept calling him every week, bugging him,” Sumner said. “Finally, about two weeks before school started, he told me I was in.”

Soon thereafter, Hinton & Alfert came calling, and Sumner went to work, first as a clerk and then as an associate. He cut his teeth on the Oakland Hills fire case, started handling more cases and “stuck around long enough” to become a partner. “We have a very collegial practice; we share ideas and share cases and work as a team,” Alfert said. “Scott is a big part of that.”

One case in particular Sumner remembered involved a woman who worked at the courthouse. The client, whose name Sumner did not want to reveal, was severely injured while escaping a fire inside her apartment building. “There was only one way out of the building – the front entrance – and it was blocked by the flames,” Sumner said. “Basically, she had to jump out a rear window two stories up.”

Thanks to Sumner, the woman, who suffered some permanent damage to both her legs, won a favorable decision in the premises liability suit. When he happened to run into her at a recent Demo-

cratic Party gathering, the chance encounter made his day. “She’s doing very well,” Sumner happily reported. “It was great talking with her and seeing her again.”

Another case that sparked a prideful memory from Sumner was one involving portable youth soccer goals. After a child was struck and killed by a toppled goal, Sumner represented the family in a product liability case against the manufacturer. The case was settled for an undisclosed amount. As part of the settlement agreement, the manufacturer was required to install anchors on all its goals and educate leagues on how to properly install the anchors, Sumner said.

Winning the case for his client and forcing a significant change to how a mass-consumed product is made and used was a double-victory in Sumner’s view. “Those are the types of cases that have a bigger effect on a broader number of people,” he said. “Those always stay with you.”

Sumner handles most areas of personal injury litigation as well as product and premises liability cases. He enjoys doing product liability cases involving heavy equipment because they’re usually “a bigger deal” than those involving standard passenger vehicles.

His recent honors include the San Francisco Trial Lawyers Association’s Champion of Justice Award in 2010 and the CAOC’s Robert E. Cartwright, Sr. Award in 2009. Earlier this year, he was named the 2010 Ian Herzog Appellate Lawyer of the Year by the Consumer Attorneys Association of Los Angeles.

Politics aside

In his leisure time, Sumner is an outdoor enthusiast. He’s been an avid mountain biker since his San Diego days, from around the time the sport was just starting to blossom during the 1980’s. “I do the Mt. Diablo ride most often,” said Sumner, whose 15-year-old son rides competitively for a team the firm sponsors. “The Bay Area is sort of the birthplace of the sport. I would like to change some rules of access,

though, because there are a lot of great trails around here that don’t allow bikes.”

Sumner also maintains a certain level of political enthusiasm, although that doesn’t mean he’s ready to run for office. “Being involved in politics and being a politician are two very different things,” he said.

Sumner considers himself fortunate to get to work in a field where he can make a difference. But being involved in key legislative issues as part of your regular job isn’t necessarily an automatic ticket into public service. “People make a difference by sort of making a career out of things,” he said. “If you have people coming out of certain industries and businesses getting into public service that are going back to those industries and businesses, they’re only going to serve those areas. It prevents good people from getting into it.”

Political office is not part of his immediate future, Sumner said, but he did not 100 percent rule it out as a possibility when the time comes for him to retire. For now, he’ll continue committing to his family and his partners and “basically try to stay involved,” perhaps discover a new issue to champion.

When asked to reveal his secret to success, Sumner gave it some careful thought. His advice: “Find something that’s not working right and dig into it. Be stubborn and smart about it – spend a lot of time on it. Being a plaintiffs’ attorney is a political thing – the profession is. You’re like a whipping boy to Republicans – a target of big business and big insurance companies. We’re the regulators of bad corporate behavior, and they don’t like it.”



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And, in the end, your success will send a message to those so-called perpetrators: “If you cut corners, do harm to others,” Sumner professed, “you’ll be held accountable for it.”

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