



Profile: James Nevin

Prolific asbestos trial lawyer became youngest member of ABOTA

BY STEPHEN ELLISON

While law and service to the community were a huge part of his upbringing and early aspirations, James Nevin probably never considered he would become the plaintiffs' trial law machine he is today.

The partner with Brayton Purcell LLP in Novato "dove in" with his first trial about 10 years ago and rarely has surfaced for a breath since. In that trial baptism, he got a \$1.25 million verdict for a client with mild asbestosis, the largest award at the time for such a case in California, he said. That success set him on a course to become one of the most prolific plaintiffs' trial attorneys in the state – and in 2011, at the age of 36, landed him in the American Board of Trial Advocates (ABOTA) as its youngest-ever member.

Not bad for a guy who originally was dead-set on becoming a big-time business transaction lawyer in a region rich with Fortune 500 clients and plentiful entrepreneurial promise. "When I graduated from law school ... that was when the Internet bubble burst, and nobody was hiring transaction lawyers," Nevin recalled. "So my very first job was with a plaintiffs' litigation firm in Marin, where I grew up. They were hiring. It just kind of caught me by chance because of the economy that I ended up at Brayton Purcell. ... It turned out pretty clear and pretty quickly that not only did I really love [plaintiffs' work], but I was pretty good at it."

Indeed, Nevin demonstrated staying power after that initial favorable verdict. But he's quick to attribute much of his success to his wise, no-nonsense, no-frills mentor, Gil Purcell. Nevin referred to Purcell as "hands down one of the ...best trial attorneys in the country" and considers himself lucky to have had such a role model so early in his career. For his part, Nevin quickly learned he needed to



Nevin

develop a thick skin around Purcell.

"From the beginning, I was one of a few who could handle his mentorship," Nevin said. "He doesn't sugarcoat."

It was with that first trial that Nevin got a taste of Purcell's tough-love approach. Every night during the course of the trial, the pair would meet after their respective days in court and go over what Nevin needed to do the next day, and that's how Nevin learned – trial by fire, so to speak. When the verdict came in, Nevin of course was overjoyed. But it was a short-lived euphoria.

"Gil had been peeking through the door the very last day of trial, watching me, and I didn't know he was there because he was literally looking through the crack of the door," Nevin recalled. "As I walked out of the courtroom, ecstatic from the victory, he handed me 10 pages written in his infamous purple ink detailing all the things I'd done wrong. And it's been like that ever since. He's a great, tough mentor who always makes you improve your game."

Nevin did just that – got better – as he worked tirelessly on asbestos cases and other toxic torts, as well as the occasional tobacco case. The more cases he tried, the more he learned – for example, he professed, there are times and circumstances for use of certain technological aids; there's never a time or circumstance to do things half-ass; and it really is OK to emulate another lawyer's style or methods – or both – if they work in your favor.

"In this day and age of technology, I see huge overuse of PowerPoints," he said. "They should only be used for opening statements, and they should contain few or no words, just demonstratives. Otherwise, you're just reading to the jury off your PowerPoint."

"Another thing I always believed is you can never win a case in voir dire or opening or direct or cross or closing," he said, "but you can easily lose it at any one of those points. So you always have to be on top of your game."

"I learned from Gil early on that a great trial attorney knows good material when he steals it," Nevin said. "There are a lot of great trial attorneys out there doing a lot of great things, and when you see them do it, you copy it and improve on it."

In the blood line

A Bay Area native, Nevin was born into a family steeped in public service. His grandfather was a police officer whose seven children were lawyers, police officers or teachers. Nevin's father is an estate planning attorney, his aunt is a family law attorney and his uncle is a plaintiffs' medical malpractice attorney. With such influences, the young Nevin had a pretty good idea where he was headed professionally before he even took his first undergrad class at Boston College.

But before law school, Nevin opted for a detour – he earned a master's degree from Stanford University in Asian studies, concentrating in China politics and business. From there, it was on to UCLA School of Law, where during his first year, all he focused on was business law. "I certainly had all those influences, but I wanted to pave my own way and go a different route," he said.

But Nevin hit a roadblock of sorts. Consumed with trial after trial with Brayton Purcell, he quickly developed an expertise in asbestos exposure



and a passion for helping the individuals and families affected by it – with deadly afflictions such as mesothelioma, lung cancer, colon cancer and myriad other types of cancer and disease. His rapid ascent into the prestigious ABOTA, he insisted, is mainly the product of being prolific in an area where there is no shortage of cases and trials.

“Our clients are the workers who literally built America, and the companies knew, going back to the 1920’s, that asbestos was going to kill many of them – but they knew it would take several decades,” Nevin said. “If you figure the average exposure to asbestos peaked in about 1980 and the average latency from exposure to diagnosis is about 50 years. That means the incidences of the disease are not going to peak until about 2030, which obviously means litigation won’t peak until 2030 – which means, just as I have been very busy with trials since 2005, that’s not going to stop anytime soon.”

First trial

That first case in January 2005 is one Nevin will always remember. It involved a Fresno man, Geronia Quarles, who worked as a pipefitter in the 1970’s, installing underground pipelines in new housing developments. The defendant, Advocate Mines, Ltd., supplied the asbestos-filled fiber used to manufacture the pipes Quarles worked with. In 2003, Quarles was diagnosed with asbestosis and pleural disease, caused by his occupational exposure to asbestos. (*Quarles v. Advocate Mines Limited*, Case No: 409170 (San Francisco Superior Court).) The \$1.25 million verdict was the largest mild asbestosis verdict in California.

During the three-week trial, Nevin established that Advocate Mines did not provide any warning to consumers or workers about its asbestos fiber used in Johns-Manville Transite pipe and continued to sell asbestos fiber even after

its own miners went on strike due to asbestos-related health problems. The jury deliberated for one day, finding Advocate Mines liable for Quarles’ illness – and made an additional finding of malice against the defendant.

Another case Nevin remembered well involved a retired paper mill worker in Washington state who was diagnosed with mesothelioma in 2006. In federal court in Seattle, Nevin proved that his client, Henry Barabin, had been exposed to asbestos-filled dryer fabrics used on paper machines during his employ at Crown Zellerbach. The 2009 product liability case targeted the manufacturers of the contaminated materials in question, Scapa Dryer Fabrics Inc. and AstenJohnson Inc. and centered on design defects, failure to warn and negligence. The jury came back after three days of deliberations with a \$10.2 million verdict, including \$8 million in non-economic damages. (*Henry Barabin & Geraldine Barabin v. AstenJohnson, Inc.* Case Number: C07-145RSL (Western District WA).) This was the largest mesothelioma verdict in Washington state.

“A manufacturer or supplier or contractor or site owner should never needlessly endanger a worker or consumer. It really comes down to that,” Nevin said. “And it’s not just asbestos. We have examples of workers and consumers being exposed to toxins and carcinogens constantly. Companies never seem to learn. You know, the company’s mandate is to make a profit, so we need lawyers and advocates always fighting to protect our workers and our children.

“My wife is retired from the EPA, and we’re constantly trying to be aware of and advocate against anything in our environment that’s going to unnecessarily expose our children to toxins and carcinogens,” Nevin continued. “Development is great, but it needs to be done with adequate safeguards. If we’ve learned anything from what they did with asbestos, you need to warn people, you need to use safeguards, you need to educate people and provide protection.

Without that, people are unnecessarily exposed, whether it be in the workplace or a school or any place else.”

Enjoying work and play

During his brief stints of leisure, Nevin said he spends time with his wife Brigit and four young children – two boys and two girls – ranging in age from 10 to 4. Recently, he has begun teaching the kids to golf “so then we can go golf together, and it would allow me the time to golf.” He also enjoys taking the family to the Lake Tahoe area at least two times a year. “I’ve been all around the world, and I still think Lake Tahoe is the most beautiful place I’ve ever been to,” he said.

As for his humble musings about the law profession, Nevin quipped that if he were advising someone merely considering law school, he would tell them to go to medical school. But for people who are committed to pursuing the profession, his advice would be to search wide and far to find an area they’re interested in.

“The job takes up so much of our time. If you don’t enjoy it, you’re either going to be miserable or you’re going to quit,” Nevin said. “Sometimes people tell me the area of law they’re going into and I’m just floored – how in the world can they do certain areas of law as a career? I never imagined in a million years that plaintiffs’ litigation would be something I would love, but it turns out I did. So it’s probably worth trying out different things. What you expect to be doing may not be what you end up loving.

“I love being in a courtroom, I love standing up in front of a jury,” he continued. “I love telling the jury a story, in an honest and entertaining way, for a long time – our cases take weeks to months. To do that, you not only have to be good at it, but you have to love doing it.”

Stephen Ellison is a freelance writer based in San Jose. Contact him at ssjellison@aol.com.