



Michael Fitzpatrick

South Bay sole practitioner makes a career of taking cases others passed on, being the 'go-to guy' on liens.

BY STEPHEN ELLISON

Honest. Straightforward. Always quick to help. Ready and willing to advise.

Not your everyday off-the-cuff characterization of a trial lawyer, right? Yet those are the exact words and phrases chosen by colleagues to sum up San Jose plaintiffs' attorney, Michael Fitzpatrick.

"He'll always pick up the phone," says John J. George, a Santa Clara attorney. "And he's just a fountainhead of good advice."

Fitzpatrick may have learned over the course of his 25-year law career that cordiality, generosity and an overall pleasant demeanor go a long way for a sole practitioner such as himself. But to hear his colleagues say it, he probably didn't have to work too hard to perfect those qualities. "Some plaintiff attorneys are hard to deal with – they're intimidating, they feel like they have to be crafty in their dealings with the (opposition)," states John Blackman, a defense attorney based in San Mateo, who's known Fitzpatrick since their first day of law school at Santa Clara University 28 years ago. "That's not Michael. He's always up-front about everything, and I think that's one of his most unique qualities."

Part of that congenial working atmosphere, according to Fitzpatrick, comes with being on his own. And part of it has to do with where he works. "It used to be more unique years ago than it is now," Fitzpatrick says of practicing law in Silicon Valley. "But even today, most (Bay Area) personal injury lawyers on both sides know each other and treat each other with respect. It's not like Southern

California, where it can be pretty cut-throat. I like practicing here. It's small enough to get to know the judges, and you get to see the same people all the time."



Fitzpatrick

To the Coast via Motown

Fitzpatrick was born in Fort Dix, N.J., and remained there all of six weeks before the family moved to Detroit. As a teenager, he was intrigued by history, politics and law but soon became disenchanted by the legal profession because "it was part of the establishment." He was expelled from the University of Michigan before he even had a chance to start classes – a story in and of itself – and soon went to work for the Teamsters. Then, he decided to do "the hippie thing," cavorting through Europe and Amsterdam for a few weeks. Upon his return to the States, he took a job with the United Auto Workers, but it wasn't long before he began packing his bags again.

"I had an apartment with my then-girlfriend, and the landlord was evicting everyone," Fitzpatrick, 57, recalls. "As we were trying to decide where to go and what to do, she pretty much said what I was thinking: 'I don't want to spend another winter here (in Detroit). Why don't we just move out to California?' Like all young Americans growing up in the '60s, we wanted to be out here. So that's what we did."

Law re-entered Fitzpatrick's life one fateful day on the UC Berkeley campus

when he saw police officers harassing a homeless man. In his attempt to stand up for the victim, Fitzpatrick was arrested. "I wanted to file a complaint against the cops – they were manhandling the guy," he explains. "As it turned out, they were state cops. One cop, when I tried to get his badge number, offered to mace me, and then we got into a big argument and I ended up in jail."

With the help of a Boalt Hall law student who had witnessed the incident, Fitzpatrick fought the arrest. The case went to trial and ended with a hung jury. The entire episode "rekindled my interest in law," he explains.

Fitzpatrick got back on track academically with classes at Cabrillo Junior College in Aptos then on to UC Santa Cruz, where he earned a degree in political theory. "Basically, I was qualified to do nothing else but go to law school," he jokes.

Although he'd had his heart set on Boalt Hall, Fitzpatrick chose Santa Clara for its proximity to home. "And I'm delighted I did. I was kind of hung up on going to Berkeley – I applied and was accepted to go there," he says. "But I didn't want to move from Santa Cruz, and I certainly wasn't going to commute 90 minutes each way every day."

Representing the underdog

To hear Fitzpatrick explain his gravitation toward trial law, one might interpret the venture as incidental. "I've always been interested in representing the underdog," he says. "I thought about criminal defense work. As a clerk, I got to know personal injury law, and it was the same kind of work – building cases



against large entities. So, I kind of fell into it because it was the only job I got during law school.”

When Fitzpatrick talks about clients, however, the satisfaction and joy in his voice are dead giveaways that his commitment to plaintiffs’ law is no accident. “He takes on tough cases that other lawyers wouldn’t take,” Blackman explains. “And the best interest of the client is always foremost in his mind.”

One such case served as a breakthrough of sorts for Fitzpatrick. A woman severely burned herself when her hair caught fire as she lit a cigarette. She was convinced the hair product she was using was to blame for how quickly her head became engulfed in flames. She’d neglected to tell Fitzpatrick that four lawyers prior to him had turned her away. Despite her deception, he stayed with her. “It turned out, she was right,” he declares. “(The other lawyers) tested the product straight out of the bottle, and it wouldn’t ignite because there was too much (water) in it. But she had let it dry without washing it out – because that’s what the instructions said to do – and it formed this waxy buildup. Sure enough, when the waxy residue was tested, it was flammable.”

Fitzpatrick won a settlement, the details of which were confidential. He also acquired an invaluable tool in the process. “That was the first time I’d learned the power of networking,” he recalls. “I found out through an ATLA contact that the same outfit had been sued before for the same defective product.”

Another memorable case served as an affirmation for Fitzpatrick. Early in his career, while he was working for Charlie Hawkins and Steve Blick, he represented an unmarried couple in a case where the boyfriend, a construction

worker, had been ordered to enter an unsafe excavation and ended up paralyzed from the neck down when it collapsed. Estranged from his family, the quadriplegic victim lay in the hospital, his only relative being the woman he lived with and loved. “But she had no legal rights; she was just the girlfriend,” Fitzpatrick explains. “She married him while he was still in the hospital. That was the most amazing, selfless thing I’d ever seen.”

Lien on me

Not only did Fitzpatrick find his calling, but he also found a niche within that calling. Both George and Blackman used the phrase, “go-to guy”, when describing Fitzpatrick’s extensive knowledge of liens.

“He’s one of the most prolific contributors to the state trial lawyers association in lien law,” George says.

“Michael has really made a study of the ins and outs of liens,” Blackman adds. “He’s helped me a great deal in that area. It’s something the defense has to be aware of because it can change the settlement dynamic of a case.”

Fitzpatrick simply evolved into that go-to guy after having worked a couple of cases involving liens. “Partners and colleagues started coming to me with questions, and I thought that if I’m going to be an expert in this area, I better stay on top of it,” he points out. “I do it so other folks don’t have to do it so much – I figure it’ll save them some time and grief if I know something off the top of my head or can get them an answer quickly.”

In addition to over-the-phone advice, Fitzpatrick conducts formal seminars on liens for the local trial bar as well as for the Consumer Attorneys of California. “I’m just one of many out there

doing it,” he says, “along with Scott Sumner up in the East Bay and John Rice down south.”

On an island

Fitzpatrick went solo about 10 years ago, and he said it has its pluses and minuses. One of the advantages is being able to pick his cases rather than having them assigned by a senior partner. Of course, then he has no one to fall back on. “I like the independence, but at the same time, you’re out there all alone on an island.”

Making his own schedule is another plus. Fitzpatrick enjoys traveling with his wife to Mexico and Central America to seek out ancient ruins of the Mayan civilization. He’s an accomplished photographer with a portfolio containing dozens of pictures of his travels. “He has an amazing eye, a very careful eye,” Blackman avers. “That’s something that serves him well as a lawyer, too. He figures out a way to size up a situation very quickly. That’s a good attribute for lawyers, to be able to size up a situation – to have a good sense of what’s important and what’s not. I think that’s something else that separates him from other lawyers.”

When the subject turns to separating himself from the profession, Fitzpatrick doesn’t anticipate retirement anytime soon. “I’m going to keep plugging away for a while,” he declares. “I’m much more into the old Zen philosophy: Appreciate what you have because life can get turned upside down in a flash.”



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