

Profile: Rich Schoenberger

Practice life balance; take your cases seriously but yourself not so much. Remember that no case is worth compromising your integrity

By Stephen Ellison

Fearlessness, persistence and a healthy appetite for life balance are three characteristics that have molded Richard H. Schoenberger. Add in boundless ambition, natural charm and a genuine thirst for justice, and you have the makings of one of the top trial lawyers in Northern California, if not the entire country.

"He's a 12 on a scale of five," said Mike Ney, who serves with Schoenberger on the executive committee of the American Board of Trial Advocates, San Francisco chapter. "He's a smart guy, for one, a classy guy, has incredible integrity. He's just flawless. And he's an incredible trial lawyer."

Schoenberger, a partner with San Francisco-based Walkup, Melodia, Kelly & Schoenberger, knew since his early college days that he wanted to be a trial attorney. But he didn't exactly take the fast-track to where he is today. He pushed and prodded his way into law school, and then he scratched and clawed his way into his first job as a prosecutor. As an assistant DA, he never shied away from challenging cases. Making the jump to plaintiff's law, he employed the same attitude to make a name for himself at a prestigious plaintiff's firm.

Through it all, he has managed to hold on to some of the things even more important to him than his career, not the least of which is the memory of his father. "My second year at Hastings (College of the Law), my dad was diagnosed with cancer. He was 54 at the time, and he died 37 days later," Schoenberger recalled. "During that time, he and I got to do a lot of talking. He sort of helped me through some things. From then on I was determined to be the best trial lawyer I could be.


Schoenberger

"He worked hard, raised five kids, and he was generous to a fault," Schoenberger said of his dad. "He is my litmus test. I think he worked *too* hard. I mean, he was a great dad, but he wasn't there all the time. As much as I loved him and admired him, he provided a great cautionary tale for me in how I want to live my life and raise my kids. He didn't have balance. But there's no doubt he's a defining part of who I am."

Perhaps that's what inspires Schoenberger today to make sure he maintains that precious work-life balance, practicing and preaching trial advocacy while coaching and watching his own kids; being a mentor to the next generation of trial lawyers – and of Schoenbergers.

Means to an end

After completing his undergraduate studies at Santa Clara University, Schoenberger began taking law school classes at the University of San Francisco, all the while awaiting a call from the school he really wanted to attend. "I was 121st out of 125 on the waiting list for Hastings," he recalled. "I would bug the secretary there – I was calling her every week to see whether I'd moved up the list and how far.

"There was nothing wrong with USF; it's a very good school," he continued. "But I really wanted to go to Hastings."

As it turns out, Schoenberger's assertiveness and persistence would pay off. Hastings required a minimum number of enrollees to qualify for federal funding, and as it happened, this was one of the years it had come up short. "They needed 500 students, and I think they had something like 488," Schoenberger said. "So the secretary went straight down the list and called me first."

A similar strategy seemed to work for Schoenberger in landing his first job. Determined to get his foot in at the Alameda County District Attorney's Office, Schoenberger found out who the hiring deputy was and camped outside her office, practically begging for a position, any position. Carol Corrigan, now an associate justice with the California Supreme Court, finally gave in and brought Schoenberger on as a volunteer. "After about half a year volunteering, they offered me a job," Schoenberger said. "To me, that was the greatest thing that ever happened."

Schoenberger dove in with reckless abandon, taking anything and everything thrown his way – that fearless

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factor had kicked in. He half-joked that it's likely he posted the lowest conviction rate in the history of the DA's office because if there was a case no other prosecutor would take, it would end up on his desk. "I really feel like I cut my teeth there – it was a great way to start as a trial lawyer," he said. "I was not a conservative person, but that worked for me there because the crime was real."

About two years later, Schoenberger got a job offer from a private firm of which he had little knowledge. He called around, enlisting the advice of friends and colleagues. The consensus: You don't turn down a job offer from Walkup. "I knew I didn't want to be a career DA, but I really didn't know what that (the job at Walkup) meant at the time," Schoenberger said.

"As I was making the transition," he continued, "people asked me, 'why go from the DA to a plaintiff 's firm?' With the DA you have burden of proof, you approach a case more offensively, the cases are exciting and intense and you don't bill hours. Well, that's exactly what I do at Walkup."

While the non-billing aspect plays right into Schoenberger's work-life balance plan, it does not necessarily speak to his dedication to advocacy or commitment to clients. One of the most important parts of his job, he believes, is communicating with his clients. "I take seriously that we are called counselors at law," he said. "And I'm a huge believer in picking up the phone, as opposed to letters or e-mail."

And when the trial starts, all bets are off. Chris Beeman, of Pleasanton-based Clapp Moroney, has seen firsthand Schoenberger's courtroom savvy. "Rich is in a league of his own at trial," Beeman said. "He is very personable, relates well to people from all walks of life, and has a very charming demeanor. I have never seen a lawyer conduct better cross-examination. He sets his witnesses up for the kill with the best of them."

Ney once had a judge tell him about a Schoenberger trial. The judge said he did not see how Schoenberger could possibly win the case – until he heard the closing argument. "In other words," Ney said, "Rich stitched together the case in such a way that no one – not even the judge – saw what was coming until the end."

Advocacy leader, teacher

Schoenberger currently is working on the civil matter stemming from the notorious Richmond gang-rape case, and he has had his share of successful outcomes in recent years. Two cases that he speaks of proudly are *Quackenbush v. CSAA* and *Goodloe v. Bell Sports Inc.*

The Quackenbush case involved a young college student who was beaten to death after a tow truck driver dropped him off near a dangerous San Francisco neighborhood following a Giants game in 1992. It was known as "the 911 case," pertaining to emergency dispatches, and returned a $2.5 million verdict. It was, at the time, the largest wrongful death award for an adult child (the victim was 19) in San Francisco history, Schoenberger said.

The Bell Sports case, tried with Mike Kelly, involved a 53-year-old software engineer who suffered significant brain damage and paralysis as the result of a fall from his bicycle. Schoenberger and Kelly proved that the helmet he was wearing failed to provide protection where it was needed most. The jury award of $17 million included compensation both to the client and his wife for past and future medical bills, lost wages, and a sum to compensate him for his special needs throughout the balance of his life.

It was the first time Bell had ever lost a case on the theory that its helmets were dangerous in that setting, Schoenberger said.

While Schoenberger likely could take an entire workday talking about cases and verdicts, some of his duties these days take him beyond the walls of courtroom. He is a regular on the ABOTA teaching circuit, where he conducts trial advocacy and civil law seminars across the country.

"He's creative, innovative and very entertaining," said Bill Smith, who enlisted Schoenberger for the Masters in Trial and Civility Matters programs. "He has a great sense of humor. He's my number one guy for civility programs." And Schoenberger is always at the ready, Smith said: "Rich is the kind of guy you call up for help, and he says, 'When do we do it?' He's been my stalwart."

His love for teaching may one day take him into a more formal educational setting, Schoenberger said, but for now he'll continue to watch and coach his kids, play tennis on occasion and keep "prosecuting important cases for severely wounded people."

"You know, I love this so much. I love who I work with," he said. "For right now, I'll keep doing this. We all get along really well (at the firm). We don't take ourselves very seriously – we *do* take our cases seriously. It's been a great ride."

Asked what advice he would offer a law student or young lawyer, Schoenberger first revealed what he often tells his children: "Life is too short to hang around grumpy people." For lawyers, he offered this: "Be able to look yourself in the mirror; no case is worth compromising your credibility, and no case is worth compromising your integrity."

"That's really what it's all about," he added. "Ours is an incredibly noble profession – when practiced nobly."


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