

Profile: Kelly Balamuth

A trial lawyer and a "genuine human being"

By Stephen Ellison

A trial lawyer often treads a narrow path that blends skilled storyteller who captivates an audience with a down-to-earth confidante, while recounting events without drama. That's how Kelly Balamuth sees her role in the courtroom.

Balamuth, a sole practitioner based in Moraga, with satellite offices in Emeryville and Walnut Creek, doesn't get to play that role as often as she'd like – she's had fewer than 10 trials in nearly 20 years – but when she does, it's her contention that being genuine and presenting the "story" in a way that captures and keeps the jury's attention is the best possible approach.

"It's really important to me to try to connect with the jury in an honest and genuine way. I think that kind of forms everything that flows from it," Balamuth explains. "Cooperative, I guess, is my approach. I prefer to try cases in a way where it's not just a big fight about minutia – it's really just about getting the truth in front of the jury and letting them decide it."

Once she establishes the initial connection and has the jury's trust, Balamuth can begin that practice of building and presenting her client's story, a process that she rarely finds easy. "You're so confined in the courtroom … you have to tell (the story) in pieces, with different witnesses and figure out what order to put those witnesses and what they'll say," Balamuth said. "There are countless parts – and you can't put it all in front of somebody – you have to pick and choose. It's really important not to bore a jury to death. You don't want it to be like a circus either, but those people are sitting there listening to you, and if you can make them care about something, all the better."



Balamuth

Caring is a big part of Balamuth's job, and not just about her clients. She is a sincere believer in our judicial system but has genuine concerns for how it is perceived by the general public. Most people who interact with the system, she said, end up having a negative experience and therefore a lesser opinion of the process. She feels it's part of her job to improve the jurors' outlook. "I want to win, but even if I lose, I want them to feel like what they did was a valuable service to the community," she said.

Many of the professional values important to Balamuth stem from her time and training at Gerry Spence's Trial Lawyers College, where she learned that being true to oneself is the absolute first step for any successful trial lawyer. The college framed her philosophy that if you can't be honest about yourself and your case, you won't make many believers out of the 12 people to whom you're presenting that case. "Every case has good facts and bad facts, and trying to (cover up) the bad facts is not going to help anybody," Balamuth said. "I think it really helps me with fear, being scared to go into a courtroom. When you're working from that place of honesty, it's very easy not to worry that you're doing something wrong – as long as you're doing your best and being genuine."

Family ties

Born in San Francisco and raised across the bay in Orinda, Balamuth was exposed to the plaintiff lawyer's life early on, hearing about and watching her father advocate for people's rights. Her interest in his work peaked when she began law school at UC Davis. It was then that she started attending trial lawyers' conferences and spending summers working in his office. She joked that she had been "brainwashed into doing this kind of work."

In fact, she considers her father the main mentor in her career and a major influence not only on her choice to pursue law as a career but also on her decision to practice plaintiffs' personal injury work. "The part that has always intrigued me about working as a plaintiff's attorney," Balamuth said, "is the personal contact, the view into someone's life and the ability to try to help people out of a bad situation."

Balamuth did, however, test the waters of "the other side." While in law school, she worked for a large firm in Oakland that represented big corporations and insurance companies. It was just one short-lived stint, but it was more than enough. "That one experience working for a larger firm confirmed more for me what I thought I should be," she said. "So, since I started doing this kind of law, I never considered doing anything else. It's where I want to be – fighting for the little guy is the way I see it."

Balamuth worked side-by-side with her father for a number of years. Then, upon his retirement, she took on another partner, who has since passed away. Now, she is a sole practitioner. The business aspect of her job has been a learning process – something she wishes law

Copyright © 2013 by the author.
For reprint permission, contact the publisher: **www.plaintiffmagazine.com**



school would have covered – and has taken its toll.

"I think that it happens with lawyers and doctors; you go to med school and you go to law school, and you don't learn how to run a business – you just learn how to do your craft," she said. "It's hard; it's an education. I've been doing this now for 20 years, and I'm learning how to hire and fire people, how to structure a business. All of that is something I'm still learning.

"It has its benefits for sure," she continued, "but also, you have to bear the weight of all of it. I've found the benefits of working for myself outweigh the stresses and tribulations of bearing that weight."

Pupil and advocate

Even in the courtroom, after two decades of practicing, Balamuth believes she is still learning. Her practice covers a broad range of specialties, from catastrophic injury and medical malpractice to products liability and vehicle accidents. "One of the things I like about practicing the way I practice is every client is different and every case is different," she said. "Some people are likable and some people aren't. Each case is kind of a new education with a new set of circumstances."

The one thing that all of Balamuth's clients have in common is they have been wronged by another party – sometimes tragically. One such client was a woman whose doctor unnecessarily removed her ovaries, which resulted in the need for an emergency hysterectomy. During the latter procedure, the doctor sliced into the woman's bladder multiple times, requiring yet another surgery to repair it. The doctor, it was learned later, had a criminal record that prompted the state medical board to impose probation on his license to practice medicine. Despite that mark against him, the medical group he was affiliated with continued to list him as a "preferred provider." Balamuth sued the doctor and the medical group and recovered a seven-figure award for her client.

Though her time trying cases has been relatively minimal – "not for a lack of trying to get into the courtroom," she said – Balamuth feels her real strength in trial is being in front of people and being natural. There are several areas in which she can improve, she said, and some where she already has become better, such as self-confidence. It comes from a Gerry Spence concept, she said. "It's a rule," Balamuth said, "the inclination to stop yourself before you go as far as you possibly can. And getting to the place where you are more comfortable asking for forgiveness than permission in the courtroom. I think over the years I've gotten much better at that."

At home and away

While she has a strong aversion to trial preparation – "It's a lot of work and a lot of stress and anxiety," she said – Balamuth feels right at home in the courtroom. "During the trial, that's the best part," she said. "It's a do-or-die proposition that I don't think we meet very often in our daily lives. You get your one jury – you get what you get, and you do what you do, and what happens, happens. There's something liberating about that – scary but liberating."

When she's not in the office or the courtroom, Balamuth enjoys spending time with her children, ages 14, 11 and 9. She likes traveling, having taken trips to Mexico, and she is an avid sailor, the owner of a boat docked in Emeryville she often takes out on San Francisco Bay.

Balamuth also devotes a good chunk of her time to professional organizations. She has been a longtime member of Consumer Attorneys of California and American Association of Justice and was just the second woman president of the Alameda Contra Costa Trial Lawyers Association. And, of course, there's the Trial Lawyers College, for which she hosts meetings of the local "chapter" at her Emeryville office.

While she insists that she is still learning new things about the law, Balamuth has acquired plenty of wisdom over the past 20 years on the bar. Her advice for aspiring attorneys is simple and blunt. "Law school seems to take out your heart, squeeze all the juice out of it and replace it in your chest cavity," she said, "and if you can become a lawyer without losing your heart, that's a good trick. Because to be an attorney and stop being a genuine human being is a waste."

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

Copyright © 2013 by the author.
For reprint permission, contact the publisher: **www.plaintiffmagazine.com**