



Profile: RJ Waldsmith

From To Kill a Mockingbird to finding success through technology, teamwork and a passion for helping clients

By **STEPHEN ELLISON**

It's not often fictional characters in books and/or film have such widespread appeal and real-world influence as to steer the youth of society toward a general ethos and, further, into a specific livelihood. It just so happens Robert J. Waldsmith had such an experience, and even as time and invention have altered the moral landscape of society over the years, he continues to draw on that inspiration.

"When I read *To Kill a Mockingbird* at 15 years old, the integrity and moral conscience of Atticus Finch inspired me to become a trial lawyer," said Waldsmith, partner with Abramson Smith Waldsmith of San Francisco. "The novel described the courts as the 'great levelers' and promoted equal justice for all men."

The story itself, which dealt with the serious issues of rape and racial inequality, and the backstory of Atticus Finch as a father, and ultimately a hero, was enough to set Waldsmith on a course to become a lawyer. Unfortunately, author Harper Lee's negative portrayal of Atticus in the recently published *Go Set a Watchman* shattered his admiration of Atticus, which is symbolic of the times, Waldsmith said.

"When *Mockingbird* was published in 1960, Mickey Mantle and John F. Kennedy served as heroes in our society, and now the superstar athletes tend to be flawed, and we have Trump as our president-elect," he explained. "It is difficult to find people to look up to today. It is unlikely that people have only recently developed these shortcomings, but they are more likely going to be publicly revealed and scrutinized today. The press did not publicize the private issues and failings of Mickey Mantle and JFK, as they would today."



Waldsmith

These days, Waldsmith is an integral part of one of the most forward-looking and technologically savvy law firms in Northern California. The firm was one of the earliest adopters in the legal community, having embraced the advances in electronic and visual presentation of cases since the early 2000s.

Before he landed at his current firm, Waldsmith briefly pursued an interest in criminal law. He quickly realized that his personality did not fit as a prosecutor or a defender, he said.

"I then was fortunate to clerk for Bill Smith at Abramson & Smith while in law school and immediately recognized that plaintiff's personal injury work was my calling," said Waldsmith, who earned his juris doctor from Golden Gate University School of Law. "I have worked with Bill ever since. He has been such a great mentor to me with his integrity and work ethic. He epitomizes the qualities of a great trial lawyer."

Waldsmith and Smith have co-authored numerous articles on the subject of technology in trials, and they have long contended the use of technology to effectively communicate their cases in the courtroom gives them an indisputable advantage.

In a 2004 piece for the San Francisco Trial Lawyers Association, Waldsmith and

Smith likened litigation to marketing, saying that jurors today are more apt to listen, learn and retain when they get information through visuals such as video, slides and infographics. Video, especially, "attracts attention and conveys information that is more readily absorbed in a more efficient presentation," the authors wrote.

In the article, Waldsmith and Smith outlined five reasons why all lawyers should consider using technology in trial:

- **People accept and retain visual evidence more readily.** Studies have shown jurors retain up to 80 percent of what they see, and that retention rate drops to as low as 20 percent when there is no visual input.
- **Technology helps overcome juror bias.** Jurors who may not initially support a plaintiff's case are more likely to change their mind based on visual rather than verbal information.
- **A well-planned visual presentation shortens a case.** One judge estimated that computer technology can reduce trial time by as much as 50 percent.
- **Technology will help a lawyer win a close case.** The use of digital files in trial allows a lawyer to easily and quickly recall evidence that is prejudicial to the opponent.
- **A visual presentation enables a plaintiff to get higher damages.** This type of bullet-point slideshow helps illustrate expert testimony and focuses attention on particular elements of a client's loss.

Preparation and teamwork

When it comes to his general approach to trying cases, Waldsmith had a more traditional answer: Thorough preparation is critical. When a lawyer is properly prepared, he or she can get into a rhythm during a trial, "and that makes it fun," he said. Also, his firm subscribes



to a team strategy when going to trial, he said, and he and his colleagues, Bill Smith and Jeffrey Smith (no relation), are driven by the Winston Churchill maxim, “Deserve victory!”

“(Trial) practice has become so much more difficult in many ways, from the claims adjusters and lienholders to the overcrowded courthouses that cause delays in hearings and trial dates,” Waldsmith said. “I used to go to trial solo but now my firm takes the team approach, which is much more enjoyable. It is fun to bounce ideas off each other and to share the load.”

And while preparation and teamwork may be second nature to him these days, Waldsmith has come to recognize that jurors’ attitudes are more fluid than ever, and thus his methods in court must keep up with the changing ideals.

As a rhetoric major at UC Berkeley, he studied the classical forms of argumentation and persuasion, and it is with those very areas he has observed a major shift in the jury box.

Modes of persuasion

“The successful modes of persuasion are evolving from ethos (appealing to one’s ethics through the credibility or character of the persuader) and logos (appealing to one’s logic with reason) to more pathos (appealing to one’s emotions),” he explained. “The recent presidential election exemplified this, with emotion succeeding over character and reason. In my view, jurors today are more persuaded by emotion than they used to be. We are in a post-truth era.”

In 2003, Waldsmith was honored as a Trial Lawyer of the Year finalist by both the SFTLA and Consumer Attorneys of California after securing one of the largest verdicts in the state in a case that involved a diver who was paralyzed at a public pool in Walnut Creek.

The client was a 20-year-old state diving champion who collided with a synchronized swimmer during diving practice. The diver was rendered a quadriplegic as a result of the collision.

The city of Walnut Creek owned and operated the pool and rented its dive pool to a diving team and a synchronized swimming team simultaneously to hold practices without providing any means of safely separating the two teams with very different purposes. The fateful collision occurred because the diver did not see a 15-year-old synchronized swimmer push off the wall under the diving board toward his landing area just as he began his dive.

Waldsmith and Bill Smith got a verdict of \$27.75 million in Contra Costa County Superior Court. More importantly, the city pool now requires floating lane lines to separate the two groups. The verdict was identified as the 12th largest in California and the 67th largest in the United States in 2003, according to the firm’s website.

Waldsmith remembered it as a busy time.

“It was a very hectic year with all the pretrial and trial work while still trying to be a good husband and father to three young boys,” he said.

“But the commitment certainly was worth it. The excellent results dramatically changed the lives of both clients. We keep in touch, and I see them periodically. It is so gratifying to see my clients receive the day-to-day care they need and have some comfort in life. It is very difficult for them to live with such devastating injuries and having to rely on others for all aspects of their daily activities. And while financial compensation didn’t restore their health, the resources have made life much better for them. I am so proud to have helped improve their lives.”

Awards and rewards

Waldsmith also received a national award in 2004 for “Most Innovative Use of Technology during Trial.” He has conducted numerous classes and seminars for the State Bar of California and the SFTLA, not only on the subject of technology at trial but also on public entity liability, government tort liability, witness preparation and basic trial skills.

Along with catastrophic injuries and wrongful death, Waldsmith specializes in a wide variety of plaintiffs’ cases including government tort liability, medical malpractice, elder abuse, sports injuries and product and premises liability.

When he’s not working, Waldsmith enjoys spending time with his family and friends, playing softball, biking, kayaking, hiking and traveling.

“I love spending time in Hawaii, Europe and all over California,” he said. “We live in such a great place for the open minds and outstanding access to recreational activities. There are so many fun places to see and experience in California.”

Advice for aspiring lawyers

On the subject of advice for aspiring lawyers, Waldsmith reasoned that he has had a gratifying career primarily because of the one element most plaintiffs’ attorneys point to: He’s passionate about the work.

“The legal profession can be very difficult, adversarial, tedious and mundane,” he said. “If you are not passionate about what you do, you will not enjoy it and will burn out.”

Indeed, helping people successfully navigate the civil justice system has been very rewarding, Waldsmith said. His clients come to him after something horrible has happened to them, whether it’s a devastating injury or the tragic loss of a loved one, and they are generally vulnerable emotionally and financially.

“They usually do not understand the civil justice arena,” Waldsmith explained. “I am passionate about providing them with the best legal representation I can provide to at least make this part of their lives go as well as it can. I feel very lucky to have such an opportunity to help people through difficult times and hope young lawyers can find an area of the law as rewarding as I have found.”

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