



# Profile: Bill McDevitt

## A blue-collar upbringing provides personal-injury attorney with motivation to level the playing field

By STEPHEN ELLISON

Toiling away at various blue-collar jobs as a youth turned out to be a blessing of sorts for Bill McDevitt on his way to finding success in law. And it didn't hurt that he had a few working-class role models in his corner.

McDevitt, who has been practicing law for more than four decades, grew up in the 1960's and watched as his hard-working father and grandfathers stood up against big companies trying to break down the Teamsters and other labor unions. "Times of strife," he called them, mainly because no one in the courts was concerned about their cause.

"It was then and is now one dollar, one vote," McDevitt said. "If you have the money now, because of the politicians who appoint the judges, you're going to have a big say in who's sitting on the bench."

A young McDevitt followed that blue-collar-lined path paved by his forebears, working in gas stations, parking lots and construction but with a different end result in mind. The money he was earning would allow him to become the first in his extended family to go to college. He attended the University of San Francisco, and then more events of the '60s steered him toward an interest in law.

"There was a lot going on then," McDevitt said. "I was seeing the power of the federal courts, with all the stuff going on in the South. The federal court was stepping in and making a difference. I was totally impressed by the power the courts had. Despite the views of the politicians, the views of the state court, the federal court had some teeth.

"Unfortunately, in this society, like a lot of other societies, if you don't have



McDevitt

money, you don't have a voice," he continued. "But (in legal matters) I started to see sometimes a lawyer can have a level playing field against the big boys, and as soon as that happened, the big boys lost control. When

you had one person against another entity, more often than not, it seemed to me justice prevailed. I thought it would really be something if I could use the blessings I had to be able to go to college, and if I got into law school, it would be nice to put that to good work."

So, with a keen interest in law but without a mentor or guide, McDevitt took the LSAT, did better than he expected and started applying to law schools. He was accepted at UC Hastings College of the Law and at USF law school. The smaller and more familiar atmosphere of USF appealed to him, though that familiarity did little to stem the intimidation he felt on the first day when he found out classmates were coming from Harvard and Stanford.

"I thought to myself, well, this is going to be a short trip," McDevitt recalled. "To my surprise, I did well."

McDevitt continued working throughout law school, doing more blue-collar jobs such as rebar steel, construction and other mechanical jobs. At the time, it was merely a way to earn the money that would pay his way through law school. But it turned out to be much more. When he began interviewing for jobs at law firms, most of them told him his hard-labor experience

was precisely what they were looking for.

"To my surprise it was a benefit to finding a job, but it was also a benefit to staying grounded and keeping myself in perspective," he said. "Because there's nothing special about me, except that I had the opportunities. And I'm grateful for that. I had the opportunities to do what I wanted to do, and I have done it, and I'm really proud that most of the cases I've been involved with in my career have been for individuals and not for corporations or insurance companies."

### Starting with defense

That wasn't always the case. McDevitt started his law career with a big firm in San Francisco. It was a defense firm then, he said, and he got loads of experience, especially in trial. In those days, property damage claims, like an auto versus auto, were tried by juries, he said, so the firm would send its attorneys like "little ants" back and forth to the courthouses. Those smaller cases held little significance in terms of value to the firm, but they turned out to be invaluable tools for a young, up and coming lawyer.

Soon, McDevitt started handling more difficult cases and began seeing some horrible injuries to people for whom he was trying to deny compensation, he recalled.

"It just rubbed me the wrong way," he said. "I said, 'I can't see doing this for the rest of my life.' I stayed there about four years then moved to a partnership in 1978, doing plaintiffs' work, representing mostly police officers, firefighters, CHP officers and other public safety workers."

Most of the attorneys at that firm did worker's comp cases while McDevitt and two others did third-party civil litigation cases and referrals from other law firms.



There, McDevitt was able to develop a niche because he understood the interplay of worker's comp and civil cases, he said. He would take calls from other lawyers, and even judges, in San Francisco about issues such as employer negligence. After about 10 years, McDevitt grew tired of the commute and found an opportunity to do virtually the same work closer to his home in Marin County as a sole practitioner.

About six years later, McDevitt took on some extra work at a large firm that specialized in asbestos cases, which he discovered were nothing like typical plaintiffs' personal injury cases.

"They'd just hand you a plate, and you go to trial. All I would do was trials," he said. "That was an interesting experience because I was constantly in trial. It was a weird system, where part of what you would call the settlement proceeding was the actual selection of a jury, an opening statement and calling witnesses, and then people would just fall off, which I'd never had before. You'd start with six defendants and end up with one or two and then finally the case wouldn't go to verdict, which was totally foreign to me."

But the constant trials, or prepping for trials, started interfering with his home life and with his own solo practice. He was getting to an age where he preferred not to have the perpetual court dates and having to travel around the country. In 2012, McDevitt returned to being solely a sole practitioner.

### Working for a cause

Since then, he has specialized in two areas that became crusades of sorts for him: elder abuse in the probate courts and a borderline corrupt Kaiser arbitration system.

In Marin County, probate and elder abuse litigation is steady work because it's an affluent community, McDevitt said.

"The elder abuse, it's sickening, it's unbelievable," he said. "And some of the games people play with families when people pass away, it's reprehensible. You can't believe it's being done. So, I feel like I'm doing the right thing representing the elderly being taken advantage of – it kind of

feels good and is sort of in line with my philosophy."

### Kaiser arbitration calamity

The Kaiser arbitration calamity is a relatively recent development for McDevitt. He had a medical malpractice case involving a man who lost his leg because the initial surgeon implanted a medical device that was not to be used on a patient in his client's condition. It was protocol endorsed by the Food and Drug Administration, the device manufacturer, the hospital's own protocol and the worker's comp carrier. About a year and a half after the implantation, the man had to have his leg amputated, which spawned further problems such as infections and trouble with the prosthetic working.

McDevitt's client eventually decided to go to a VA doctor, who then told him the surgeons had botched the amputation. The VA doctor took off another half-inch from the leg, and the patient had no further problems.

The medical malpractice case McDevitt filed went to arbitration, and in the middle of the proceedings, he began to see that something was amiss.

"I said to the arbitrator, 'This has got to end. I can see which way it's going, and it's not going the way of the evidence at all. It's either you've got a personality problem with me, my client, my witnesses, I don't know what.' Then he spent a great amount of time talking me down," McDevitt recalled. "The bottom line was all the witnesses say the same thing – Kaiser buried a critical fact during the second surgery."

To make matters worse, the arbitrator accepted two more Kaiser cases while McDevitt's case was still pending, one just three days before the decision in McDevitt's case. McDevitt said it was a blatant violation of the ethical standards for neutral arbitrators. In the end, the arbitrator's decision in his case was erroneous factually and legally, and McDevitt believed it was flawed.

"The problem with this arbitration system is the courts won't touch it," he said. "You have to show actual bias.

How are you going to show actual bias? So, I threw everything under the sun into my motion to set aside the arbitration award, and even though the judge acknowledged, 'Yeah, you've got something from the FDA, you've got something from the manufacturer, you've got one doctor versus the other doctor, you've got suppression of evidence, but I'm sorry, I can't touch this award.'"

McDevitt filed a business and profession motion basically saying the arbitration company has an unfair business practice with the current system. The case is pending in Marin County court, and he's hoping that at least his client will have a voice to say what happened to him.

McDevitt said the part of his job he loves most is being able to work with individuals, to have a real person sit across from him and in many instances to be able to do something that helps improve their life. It doesn't happen with every case, but he said he can feel good about what he's doing because if it's the right person, he's making a difference in that person's life.

"I like the fact I can make a difference in someone's life, and I can see it," he said. "I don't like the fact that families are splitting up because of what happened with an arbitration. Like with this medical malpractice patient – his wife had all this hope that everyone would see what happened to her husband. She was there for all the proceedings, and she just assumed I would be calling them and saying, 'They believe you guys, they understand what happened, they've issued an award.' They can't even afford to live in Marin County any more. That is very disheartening, and it's caused me to second-guess myself, like should I have brought in someone else."

### Choosing his destiny

When he's not at work, McDevitt likes to ride his motorcycle and spend time with his wife of 44 years. In his younger days, he was an avid long-distance runner, doing about 40 to 50 miles a week, and enjoyed mountaineering in places such as Alaska, Washington, Oregon, California and New Mexico.



“That’s something that takes total focus,” he said. “But the beauty you can’t even imagine. The stars at night that are so bright, they look fake. The beauty and the physical challenge are right up there with anything.”

When his children were younger, he coached them in basketball, soccer and softball. He feels blessed to have been able

to spend a lot of time with his kids while they were growing up because that’s always a hard balance for attorneys.

For young attorneys, McDevitt said it would be wise for them to choose law for the right reasons. “You could be unhappy if you go into law for a reason other than what you intended,” he said. “I’ve seen a lot of lawyers make a fortune, but they give

their lives over to the firm they’re working for. It’s a lot of work. I’ve done a lot of work in a lot of different fields, and I don’t know anyone who works harder than lawyers.”

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