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Profile: Anne Kepner

Early career includes both insurance-defense work and mass-tort litigation for breast-implant plaintiffs

By **STEPHEN ELLISON**

Serving the community has guided Anne Kepner along a diverse career path, one that has seen her take down large corporations and entities on behalf of clients injured or wronged while holding an elective community office.

And yet, as if that success wasn't enough, Kepner continues to strive toward a position that could truly make a difference in the lives of all people across the state.

Kepner, a partner with Needham Kepner & Fish LLP in San Jose, was on the March ballot for state Assembly, a seat she had been planning to make a run at for a number of years, though she wasn't expecting it would open up so soon. (The results of the election were not known at this article's publication date.)

"Years ago, I met a woman named Mary Hughes, a political consultant who started a nonprofit called Close the Gap," said Kepner, who is running for the seat left open by Kansen Chu. "The sole focus is to get women elected to the state Legislature because the Legislature is 30% female, but only 16% of its females are from the Bay Area. Hughes and the others from Close the Gap are really determined to assist and recruit more women to run for these positions. She and I had been talking for years about (my running) when the seat ultimately came open, which I thought wouldn't be until 2026. It took me awhile to decide, but we're going for it."

Kepner currently is on the board of the West Valley-Mission Community College District, her first venture into politics. She initially had designs on running for a local K-12 school board seat, but she felt the incumbent was about as good as it would get. So, the next



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logical step was the college board and now the state Assembly, she said.

Meanwhile, Kepner has continued helping to grow the San Jose firm she formed along with Craig Needham and Kristen

Fish. The firm started out as a split practice, representing both plaintiffs and defense clients, but eventually the partners recognized that it made more sense to split into two firms, with the aforementioned trio retaining the plaintiffs' side of the practice.

"Essentially, we've been focused on doing large personal-injury cases," Kepner said. "Craig does a lot of mediation, and I've actually begun doing more of it in the past year and a half, two years, and I love it. It's been a nice evolution."

A natural

Kepner was born and raised in San Jose, where she attended schools in the very district she represents on the college board. Her foray into law stemmed from her interest in public health, which she studied for her undergraduate degree at De Anza College and San Jose State University. She had been working in her field of study during her college years and quickly realized it probably wasn't a career to pursue, especially considering how difficult it was to get funding, she said.

A family friend whom Kepner likened to a grandfather was a professor at Santa Clara University law school, and he suggested she might make a good lawyer.

"I'd never thought about it," she said. "I decided to apply. I promised myself I would take the test (the LSAT) once, and if I got in, I would go. And I got into Hastings."

At UC Hastings College of the Law in San Francisco, Kepner found a particular interest in trial advocacy – it was something she loved, and she seemed to have a natural ability, she said. During law school, she returned to San Jose in the summers and clerked in the courts as well as for Sal Liccardo's well-known plaintiff firm, which was in the midst of a mass-tort breast implant litigation.

Liccardo was representing more than 200 women, and Kepner was one of the people in charge of reading and sorting through a room full of medical records. The case ended with the Dow Corning Corp., the Bristol-Myers Squibb Co. and the Baxter Healthcare Corp. agreeing to pay out a combined total of \$3.7 billion over 30 years to women who said they were injured by their breast implants.

Making a connection

When her clerkship was up, Kepner moved on, passing the bar and then working for a short time in Sacramento. Little did she know then that she would land right back where she cut her legal teeth.

"I was at a program for new lawyers put on by the Santa Clara County Bar, and Craig Needham was presenting," she recalled. "I knew him from Sal Liccardo's firm. I went up to talk with him, and he said, 'I think we're in need of help.'



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Because after I had finished working for Liccardo and helped them through the breast implant litigation, Dow Corning had gone into bankruptcy, the cases had gone quiet, the restructuring happened, and the global settlement was put together, so they were looking for help. I stayed with them through the duration of those cases, helping them through that process.”

When those cases wound down, it was time to move on for good, Kepner said, because there just wasn't enough work to keep all those lawyers busy. She ended up getting a job at an insurance defense firm, not exactly the logical next step but one she said was invaluable for the experience of being in court and trying cases.

Under the tutelage of Phil Young, Kepner was given a lot of autonomy. Young offered plenty of direction, she said, but also gave his mentees a lot of space.

“It was an opportunity that presented itself, and I stayed there four years,” she said. “As a young lawyer, it was about getting a job. In retrospect, it turned out to be an absolute great move for me because it gave me experience. What I've found in a small plaintiffs' firm as a young lawyer, when you don't have experience, it's very difficult to get that level of experience because other people are risking their money and their resources. And when something of great significance happened in a case, they'd send someone who had more experience, or they would do it themselves.

“In the insurance defense practice, based on the type of practice we had, there was room for me to go out and do all the depositions and try the cases without a second chair. And I went out and did it.”

That firm eventually broke apart, with five of its lawyers, including Kepner and Needham, founding the firm they run today.

Walking in their shoes

Over the years, Kepner developed a trial process that allows her to best understand who her client is and what he

or she has endured – what it's like to walk in their shoes. Oftentimes that may mean Kepner goes into her client's home or stands with them in their workshop and literally walks with them through their day. She feels such a method is the best possible way to advocate for her client and share their story.

She's also learned to spend as much time as necessary with experts to fully understand the issues through their eyes. And that applies to the experts chosen by the defense, who may reveal weaknesses and contradictions to her client's story.

“Ultimately, I think that's what we're trying to communicate to the jury – we're asking them to make a decision that if liability is an issue, who's responsible? And once we get past that hurdle, how has it impacted this individual's life?” Kepner said. “Some of the greatest moments in trial have come because I did my homework and because I spent those long nights, long days having those long conversations.

“I try to come into it not pretending that I know everything, and I hire experts because they are experts in a particular area,” she continued. “I need to spend that time (with them) to understand and come to it kind of with a sense of humility and openness.”

Kepner brought that approach to a case out of Southern California that she won't soon forget. She was part of a team that represented eight children who had been exposed to toxins while in the womb. Their mothers were social workers in a building that had been previously used to manufacture oil rigging parts, she said, a process that involved harmful solvents. The county had taken over the building and placed a number of workers inside what was no more than a large interior closet converted into office space, she said.

In what Kepner referred to as a vapor-intrusion case, the office did not have proper ventilation, and over time, the toxic chemicals used in the space years prior degraded into vapor and came up through the floor.

“So, these women sat in this room while pregnant, and their fetuses were exposed to these harmful chemicals in utero,” Kepner said. “The children were born with varying degrees of cognitive impairments and defects. It was an incredibly difficult case, incredibly expensive case, and I was part of that team. We settled on the eve of trial after defeating the motions for summary judgment.

“I remember feeling it was incredibly stressful when you take on these large cases that risk hundreds of thousands of dollars,” she continued. “But in the end, these families ended up with resolutions that were going to make a difference in how and to what degree they could care for their children and provide them with services. That was an example of a case where there's just a sense of tremendous satisfaction – that we had stayed the course and ultimately came to a resolution that was going to help improve the lives of those families. I felt good about what we did in that case and how we helped those families.”

Nonprofit guru

Kepner's so-called leisure time is spent in good part serving as a community volunteer, a role she's held for more than 20 years. Being an active member of the community has long been a big part of her life, and it started when she was a young lawyer and was encouraged to go out and do more in the community. First, she joined the Rotary Club, then she was asked to join the local YMCA Board of Managers.

“Being a lawyer opened doors more quickly,” she said. “I feel very fortunate that I've been engaged in nonprofits.”

Kepner recalled a point in her life where she actually had to beg off of one of her volunteer positions. She was in line to be president of the Rotary Club and soon after in line for president of the YMCA board. At about that time, she and her husband were in the process of adopting their daughter from Colombia



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when Kepner found out she was pregnant with twins.

“We had three kids coming in six weeks,” she recalled. “So, I made a decision to leave Rotary. I knew I wouldn’t have enough to give to it. I stayed with the YMCA because it’s staff supported, and the administrators are evaluated in part on how good their board does. ... They invested in us as volunteers. Out of that I think I learned how to be a good volunteer and board member.”

Over the years, Kepner has helped start a nonprofit for her kids’ preschool, served as president of the parent-faculty group at the elementary school and continues to serve as PTA president for the middle school.

When asked what advice she would offer young lawyers today, Kepner recalled what helped her the most through the early years.

“Find a good mentor,” she said. “That’s not always easy to do. I’ve truly

been blessed to have two really great mentors in my career: Craig Needham and Phil Young. And part of that I think is being open to receiving suggestions and being willing to ask for help. That makes us better at everything we do.”

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

