



Alan Brayton

This “true believer” was a pioneer of asbestos litigation in the 80s, earning the respect of defense lawyers. Today, he’s busy managing the firm and making wine.

BY STEPHEN ELLISON

There was a time when piloting jets ranked at the top of Alan Brayton’s list of career pursuits. When that dream job fell through – he was deemed medically unable to fly after being accepted into the U.S. Air Force Academy – Brayton turned to other avocations: business and law.

Today, 28 years after he graduated from the Academy as a commissioned second lieutenant, Brayton has plenty to show for his courtroom savvy and business acumen. He is the founding partner of Novato-based Brayton Purcell, where a good portion of his efforts are directed at managing the firm. He is considered one of the area’s premier litigators in asbestos-related cases. He is a known specialist in handling bankruptcy trust cases for asbestos victims, which he says “takes up a fair amount of my time.” He is, according to both colleagues and adversaries, a shrewd negotiator, skilled in the courtroom and a passionate advocate for his clients.

“He’s a very worthy adversary, very knowledgeable in his field,” said one San Francisco-based defense attorney who wished to remain anonymous. “We’ve had head-to-head negotiations involving 30 to 40 different clients in front of judges in closed-door settings, and I ended up settling thousands of cases that way, watching several million dollars pass hands. He



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makes extremely effective arguments and is very skilled in negotiation.”

While Brayton still advises clients and negotiates with insurance companies in bankruptcy cases, it has been a while since he

has taken to a courtroom.

“I did a lot of courtroom work early on, from about 1983 until five years ago,” Brayton said. “I love the courtroom; I’d love to get back into it. But as (Brayton Purcell) has become larger, I’ve had to worry about managing the firm. I think my partners would prefer I continue to focus on that aspect of the business, for the time being anyway.”

Under his leadership, Brayton Purcell has recorded dozens of favorable verdicts, including the largest asbestos case award granted by a California jury: \$33.7 million to a former Navy electrician who contracted mesothelioma, a fatal form of cancer caused by asbestos exposure. The 2002 case, *Alfred Todak v. Foster Wheeler LLC* (Superior Court of California, San Francisco, case number 320621), was tried by senior partner Gilbert Purcell and resulted in a \$22.7 million award for the victim and \$11 million for his wife for “loss of consortium,” according to a published report on the firm’s Web site. Bray-

ton Purcell also handles product liability and the occasional medical malpractice case.

Settling for more

Brayton himself, has mastered the art of winning without going to trial. Another one of his adversaries, Michael Marron, settled more than a thousand asbestos-related cases with Brayton on behalf of numerous clients. Marron could not say enough about Brayton’s business sense and practical approach to finding satisfactory results for both sides of a case.

“When I pointed things out to him,” the now-retired Marron recalled, “when I told him his case had no merit, he would say, ‘Yes, but ...’ And then he would come up with this whole system of verdict formulas.”

“And you couldn’t argue with him – he would say, ‘If you lose, you will have spent all this money getting there, plus have a six-figure expense at your burden.’ He was very convincing.”

Marron said when the bulk of the asbestos cases surfaced in the 1980s, he and Brayton agreed to be candid and forthcoming about what their clients were looking for. “We made the proverbial back-of-the-paper-napkin deal, where we drew up a whole matrix of settlement numbers,” Marron said. “My clients never went to trial. I thought getting my clients



out of these (cases) was the best thing, and Al basically came up with the solution.

"I have great respect for him," Marron continued. "He is an honorable adversary because he doesn't hide the ball."

When you're right, you're right

Brayton's no-nonsense approach carries over into leadership roles with professional organizations and as a nationally renowned expert in asbestos litigation. He is a past president and still sits on the executive board of the Public Justice Foundation, has served on the Board of Governors for Consumer Attorneys of California and reviews and comments on proposed legislation that affects consumer rights and access to justice. He has also testified before Congress on behalf of asbestos victims against attempts at relaxing stringent asbestos industry controls.

Mark Abelson, partner with Campagnoli Abelson Campagnoli of San Francisco, has known Brayton for nearly a quarter of a century and can attest to his colleague's penchant for advocacy. "Al is probably the best example of what I would consider to be a true believer," said Abelson, who once represented Brayton Purcell in a legal malpractice case and won. "He believes that when you're right, you're right, and you should fight for your rights."

In Brayton's mind, the main fight for trial lawyers continues to be in spreading the truth. Business interest groups wanting to close the doors to justice have taken to all manner of propaganda in order to place trial lawyers in a negative light, he contends.

"One of the most difficult things we're continuing to face is an assault from the U.S. Chamber of Commerce. They have tried to demonize trial lawyers," Brayton says. "It's a continuing battle in letting people know what we do – creating a positive perception. Many of the things being said (by detractors) are pure fiction, or if there's any truth to what they're saying, there's usually a ra-

tional explanation. We always have to be aware of that – we need to always keep in mind all the good work trial lawyers are doing.

"There's a continuing attempt to close the doors to the courthouse," he continues. "We need to remain vigilant because the attacks come from every direction, and they never stop."

Grounded but not defeated

Born in Sacramento and raised in Redding, Brayton graduated from Shasta High School and soon thereafter headed for the Air Force Academy in Colorado Springs, Colorado, with dreams of flying. Despite his inability to become a pilot, he stayed in the Air Force, earning a bachelor's degree in economics from the Academy and eventually serving a total of 13 years. While he was still active, Brayton earned a master's in finance from UCLA and a juris doctorate from UC Berkeley's Boalt Hall School of Law.

More than half of Brayton's time in the military was spent as a Judge Advocate, which essentially served as his apprenticeship in trial law. When he left the Air Force, Brayton joined two fellow reservists in their private practice in Novato, where he concentrated on aviation cases and got his first taste of asbestos litigation. Years later, when he split from those partners to start his own firm, he took with him dozens of asbestos clients and a knack for business management.

"I was impressed with the fact that he was a superior businessman," Marron said. "He knew there would be significant costs in copying, so what do you think he did? He bought a copy company – a separate business. I think he's an absolute genius when it comes to business matters."

Brayton, who will turn 60 this year, has continued in that mold to this day, even outside of his Brayton Purcell office. He owns Paradise Vineyard in southern Sonoma County and is planning to add a full-scale winery and tasting room to the property in the near future. "We sell most of our grapes and bottle about

1,500 cases a year," he said. "We're unveiling a new label, '37,' with its first bottling this year." The 100-plus-acre vineyard, located on Highway 37 near Highway 121 in the vicinity of Infineon Raceway, currently produces Chardonnay, Rose, Syrah and Pinot Noir under the "Paradise View" label.

Still clocking in

Whatever future triumphs are in store from his winemaking, Brayton isn't yet ready to toast to an early retirement from law. The interest of the firm and its clients, as always, remain top priorities. Beyond those, he may feel a sense of obligation toward keeping his fellow trial lawyers on track, especially those on the proverbial front line.

His advice: "Be prepared. Do your homework because there is no substitute for knowing your case inside out. If you go in unprepared, you can end up getting thrown for a loop, and if that happens, you're in trouble."

Brayton also believes in providing opportunities to newly minted lawyers. His firm is one of the few that hires new attorneys and gives them the opportunity to participate in all aspects of the litigation process. Thanks to Al Brayton, over the years, the plaintiffs' bar has had a number of excellent graduates of his "litigation bootcamp."

Marron says it is easy to see what sets Brayton apart from his trial law peers. "Plaintiffs' lawyers only have to be confident that they can get a case to jury," Marron said. "I think smart lawyers can do the math and figure out what's best for their clients. That's what Al



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Brayton has done. Because it's not about us (lawyers), it's about the client."

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

