



# Old warriors

*Don't mention the "R" word to this over-70 club. Old warriors' hearts are strong and their weapons are as effective and deadly as ever.*

## J. GARY GWILLIAM

Here is the age-old dichotomy: Age versus youth. Do age, experience and wisdom overcome youth, enthusiasm and stamina? I thought I would explore that question as it relates to trying cases to a jury.

It is a well-known fact that trial lawyers don't try as many cases as we used to – mediation has become more the norm. Younger lawyers, therefore, never get as much trial experience as those of us who were trying cases in the 1960s and 1970s when most litigation was settled before a jury. Jury trials can be grueling, and most lawyers a generation ahead of me frequently quit trying cases by the time they were 65 – some even younger.

Times are changing. There is a whole group of trial lawyers in California who are still actively and effectively trying cases as they move into their 70s. I talked to some of these great, older trial lawyers and explored such questions as when, if ever, are we too old to try jury trials? What about retirement? And, more to the point, are you as effective as you used to be? What about aging issues, such as stamina, energy, memory and concentration? Are these affecting your ability to try cases? How about health issues, such as hearing and vision?

I interviewed some of California's best plaintiff trial lawyers, age 70 and over, who are still actively trying jury trials: Browne Greene, Tom Anderson,

Sandy Gage, Sal Liccardo, Stan Jacobs, Ron Rouda and Bill Shernoff. And as a member of the over-70 club, I asked myself the same questions and added a bit of commentary. Admittedly, we're all men. I would have loved to interview a female trial lawyer, but I wasn't sure that I could ask a woman if she was over 70, and, to my knowledge, there are very few women who have reached that age and are still trying cases.



Greene

## Browne Greene

My first interview was with my good friend, Browne Greene. Browne is a former president of the Consumer Attorneys of California and the Consumer Attorneys Association of Los Angeles

(back then they were called CTLA and LATLA, respectively), and has a reputation as one of the best trial lawyers in the country. He is 73 and still vigorously and actively trying cases.

"How about retirement?" I asked. "No way – it is not in the picture," he said. "I will try cases as long as I can go into the office." I inquired about his health, and he indicated that he always invested in good health and this was important in keeping up his energy. He mentioned that he has always exercised, avoided excess drinking and watched the kind of food he eats, which helped him keep his stamina. He noted that his energetic, intelligent and attractive young

wife and their three young children help keep him young.

Although Browne has had two serious knee operations in the last couple of years, he has worked hard on his recovery and is back in the courtroom as vigorous as ever.

With respect to the value of youth versus experience, Browne responded with a quote from basketball great, Julius Irving, who said, "I lost a step below (legs), but gained two up here (head)."

In short, Browne's experience has made him a better trial lawyer than ever, given his staying power and resilience. Some people have it, others don't: "I feel I am more dangerous than ever and I'm ready to go into battle anytime."



Gage

## Sandy Gage

My next interview was with Sandy Gage, another Los Angeleno and past president of the Consumer Attorneys of California.

Sandy indicated that, for most of his career,

he thought he "would have to be dragged out of the courthouse," but later decided to get into mediation, which he has done for the last ten years.

Interestingly enough, Gage recently went back into the courtroom, trying a case with his son, Brad. This was a complicated and difficult employment discrimination case, where he represented four police officers against the City of



Southgate. I asked him if he felt his skills had slipped over the years, and he indicated that he always kept current with the law. Moreover, he still felt he was alert, and his ability to “see the case from A to Z” was as good as ever. Gage described how he was working late one night to cross-examine the defense economist in the case and found a serious conflict in his testimony. He said he destroyed the defense expert on cross-examination the next day. He and Brad got a huge verdict on the case. He said he felt that his skills were as good as ever and he greatly enjoyed the trial.

I asked him whether, at age 74, he was ready to try another case. He indicated that he enjoyed his mediation practice, but was leaving the trial option open. In answer to the question of whether he had slipped, the answer was pretty obvious – he retained his skills although he was very happy to have a most capable lawyer in the seat next to him.



Liccardo

### Sal Liccardo

Sal Liccardo, 74, is in the Inner Circle of Advocates and is nationally known for his trial abilities. Sal continues to carry an active, full caseload from his offices in Saratoga. (He says he prefers to handle “only” six major cases at a time.) As for retirement, he commented that there was nothing else that he would rather do than try cases, and as far as he was concerned, he intended to continue to do so for the near future.

In exploring the question of whether younger lawyers were more effective in any way, he indicated that oftentimes these lawyers don’t know their medicine, and definitely don’t know the Evidence Code as well as they should. He relayed a case where one young lawyer had told him he was “too old to be doing this.” Later, the young lawyer apologized, but was later demoted in his firm for so badly underestimating Sal.

Sal indicated that his health had been very good. He had some vision problems, but microscopic and cataract surgery restored it to 20/20. Sal said he noticed that a number of older lawyers who retired began to lose their mental skills. He has no intention of following that course. “I am better now than ever.”



Jacobs

### Stan Jacobs

My next interview was with Stan Jacobs, 73, who has obtained large verdicts in Southern California for as long as I can remember. He still carries an active trial load and feels he is

doing as well, or better, than he ever did. Stan said that a huge factor in his ongoing success is experience, which is “irreplaceable.”

When I probed him as to why he thought he was a better trial lawyer now than he had been as a younger man, he gave me three reasons. First he “retires to a neutral corner when his opponent is down and doesn’t try to pummel him.” Second, he doesn’t have anything to prove anymore, and third, at this age he has a far better understanding of life, which translates into him being a better trial lawyer.

Stan’s health is good, and he works out regularly. Although he had a hearing problem, his state-of-the-art hearing aid now allows him to hear better than he ever did. He also told me, as did the other trial lawyers, that he always has a second chair or paralegal working with him on his cases.

The future? “I am going out with my boots on.” So again, the answer to the question of age versus experience as far as Stan Jacobs was concerned was clear and unequivocal: Trial experience trumps all.

### Ron Rouda

Another great trial lawyer and old friend from San Francisco is Ron Rouda, age 74. Ron is a past president of the



Rouda

Consumer Attorneys of California and ABOTA. Retirement? “As long as I can remember all the jokes that are told to me, I will try cases,” replied Ron.

One factor that may contribute to Ron’s continued success as a trial lawyer are his many interests outside the law, such as music, acting and a great knack for storytelling. Ron says his memory is fine, that he’s never had a sense of forgetting words, and he’s as good with legal issues and points and authorities as ever.

To what does he credit his good physical and mental health? The answer is simple: His longtime practice of open water swimming. He goes for a daily swim in the Belvedere Lagoon in San Francisco Bay and also swims in Lake Tahoe whenever he has a chance. He has been a runner for many years and noted with pride that he passed a recent treadmill test with flying colors.

Although Ron wears a hearing aid to court, this does not bother him a bit. In his most recent case, he obtained a great verdict that he tried with his very capable partner, John Feder. Ron is ready and willing to try the next one that comes along. Ron explained that because of his extensive experience, his confidence in the courtroom is as strong as ever. Ron clearly hasn’t slowed down a bit.



Anderson

### Tom Anderson

Tom Anderson, who recently turned 81, is the most senior member of my interview group and is also a past president of Consumer Attorneys of California (is there a pattern here?). I have known Tom for a very long time, and my interview with him made it clear that he still retains the clarity of thinking, confidence and wisdom that we have all known from him for so many years. He told me that he felt that it was



really important that we not try cases the old way; that we need to keep up with new developments in the law and especially in the way we approach juries.

“You don’t get a sympathy verdict like we did many years ago,” Tom told me, “and we have to pay more attention to the liability aspect of our cases.” Tom started practicing law in 1957 and indicated that he has tried well over 200 jury trials. When I asked whether he was ready to consider slowing down or retiring, he responded, “As long as I have that spark for getting involved in a new case, I will continue. I am still excited by my practice everyday and looking forward to trying more cases.” His advice to others who might be thinking about getting too old to try a case is as follows: First, every case has to excite you and, secondly, you have to keep up with all the new trends and ideas both in the law and in our culture. Tom also made it clear that experience, not age, was the most critical factor to good courtroom skills.



Shernoff

### Bill Shernoff

My last interview was with Bill Shernoff, probably the most respected bad-faith trial lawyer in the country and yes, a past president of Consumer Attorneys of California.

Bill will turn 72 this year. (He and I were born in 1937, the same year as Jack Nicholson, Dustin Hoffman, Robert Redford, Bill Cosby, Morgan Freeman, Warren Beatty, Ned Beatty, Jane Fonda, Colin Powell and my favorite fellow Welshman, Anthony Hopkins.)

Bill is very active in his practice and is looking forward to trying some cases next year with his oldest son who recently completed his legal education. Over the past few years, Bill has been quoted extensively in the press on the subject of health insurance policy rescissions, an area in which he has won several important cases. On June 14, 2009, The Los Angeles Times featured a profile on Bill in their Sunday edition. When The Times asked about his plans to retire, his answer was, “I have none.”

Bill told me that he thought retirement was a “pathway to nowhere.” He intends to continue on with his law firm but might play more of a role as mentor and strategist. His only health concern was that his hearing isn’t quite what it used to be, and that listening is a very important part of a trial lawyer’s skill set. Still, he feels the hearing is not seriously affecting him and that he is as good as ever, with all his skills intact. He, too, is still ready to go into battle.

### J. Gary Gwilliam

How about my self-interview? I recently turned 72 and am trying as many or more cases than I ever did. (I completed four major jury trials in the last 16 months.)

When I turned 70, two years ago, we had a fun birthday since it was also my tenth wedding anniversary. The theme of the party was “70 is the new 50.” I believe it. I live by it. People tell me that I look young, act young, think young. Age really is a state of mind and the old saying, “You are as young as you feel,” is more true now than ever. And this is the case with all the great trial lawyers I interviewed. Perhaps it is our work and en-

thusiasm that keeps us young. But as with all of them, I really feel that I have that same fire in my belly and enthusiasm for this great profession as I always did. I think my skills are as good or better than ever, and the “R” word is not in my vocabulary.

One note – every one of us has an assistant or associate when we try cases. This has always been the case for most of us, and having a second chair in our corner is especially important as we continue to do battle in our older years.

The conclusions to my anecdotal study are obvious. If you think a trial lawyer is too old and is losing it, be very careful not to underestimate him. Our old warriors’ hearts are strong and our weapons are as effective and deadly as ever. We are old warriors, with emphasis on the word warriors!

My sincere thanks to all the lawyers I interviewed. I am a fortunate man to call these old warriors my good old friends.



Gwilliam

J. Gary Gwilliam is a former president of the Consumer Attorneys of California and has tried

150 jury cases in every area of consumer law, including personal injury, products liability, medical malpractice, bad-faith insurance and employment discrimination. A 1962 graduate of Boalt Hall School of Law, he has received many honors including the California Lawyer Attorney of the Year Award for employment law in 2001. His latest published work is *Getting a Winning Verdict in my Personal Life: A Trial Lawyer Finds his Soul*. The book is available at [www.amazon.com](http://www.amazon.com) or on his Web site at [www.awinningverdict.com](http://www.awinningverdict.com).