



Don Ernst

Small-town lawyer has built a state-wide reputation for protecting consumer rights.

BY STEPHEN ELLISON

For a so-called “small-town lawyer,” Don Ernst is doing quite well to make himself known all across America’s most populous state. The former president of the Consumer Attorneys of California attributes his success to hard work, putting his clients first and striving to make a difference.

Based in San Luis Obispo, Ernst, along with his partner Ray Mattison, has built a successful practice founded on preserving and protecting the rights of California consumers and citizens. “We made the decision to do plaintiff law for a number of reasons. We both like the courtroom; we both like trying cases,” said Ernst, who was named the Central Coast Trial Lawyers Association Trial Lawyer of the Year in both 1998 and 2002. “And, more important, we both wanted to help people that couldn’t help themselves. When we represent a client, we have the ability to make a huge difference in the parameters of their lives. That not only makes it worthwhile, but it also makes it very enjoyable.”

Ernst may not sit in a big-city, high-rise on Market Street, but that doesn’t mean he’s not working with a caseload and pace similar to his metropolitan cohorts. Because of his location and the fact that he takes cases from all points in California, Ernst is constantly on the go.

“He’s like the Energizer bunny; he just keeps going,” said Brian Kabateck of Los Angeles-based Kabateck Brown Kellner, who has worked closely with Ernst on the CAOC board. “The Central California jurisdiction is very tough for plaintiff lawyers. He works very hard for his



Ernst

clients, and he’s managed to build a good practice and a good family life there.”

Full circle

Ernst, 60, made a conscious decision early in his career to return to his native Central Coast. He

could have easily stayed put in San Diego, where he graduated from law school, passed the bar and was already practicing law as an associate with Block, Goldberg & Link, a criminal law firm. But, at the time, he seemed to be in search of something more familiar and permanent. “Don’t get me wrong, San Diego is incredible – a great place to live and work,” Ernst said. “But I decided to come back. I knew if I came back up here, this would be my lifetime home.”

That home, during his childhood, had been a ranch in Paso Robles, about 25 miles north of San Luis Obispo, where he was taught to revere religion, honesty and hard work. “Your word was your hand, and respect was the most important thing,” he recalled. “Those were the values that were placed in me.

“I was fortunate to have the opportunity to go to (college),” Ernst continued. “So, I vowed then that if I was going to go to (college), I wanted to do something that makes a difference.”

Ernst went north to Stanford University, where he earned a bachelor’s degree in economics. Soon after graduation, he took time to travel abroad before deciding on law school. “My law school choices came down to fly fishing in Oregon or surfing in San Diego,” Ernst said. “I chose San Diego and never looked back.”

After living on his savings for one semester, Ernst hit the pavement, determined to find work to survive. By his second year in San Diego, he was clerking for multiple firms, writing motions and “just working all the time.”

Upon his arrival back in San Luis Obispo, Ernst served as a deputy public defender for about three years. In 1980, he hooked-up with Mattison, and the two formed a partnership that would endure the next three decades – and counting.

“We’ll be celebrating 30 years together in March of 2010,” Ernst said. “Ray is a great friend, a great partner and a great lawyer.”

Legal entrepreneur

Thus began Ernst’s venture into plaintiff law and business ownership in a college town near his childhood home. But it soon became much more than settling down and building a nice life. Ernst would discover a propensity for leadership and eventually spread his wings far beyond the borders of San Luis Obispo County – from small-town personal injury lawyer to the president of one of the nation’s largest trial lawyer organizations.

“That journey began in the mid-1980s when the first initiatives attacking the tort system arose. I was very concerned,” Ernst said, describing the start of his ascension to the CAOC board in the late 1980s and eventually to president in 2008. “My partner and I founded the Central Coast Trial Lawyers Association so area trial lawyers could help each other. There were groups out there that wanted to limit awards, limit fees, limit punitive damages, limit class actions. Just a whole host of things that tried to hurt people’s right to go to court. And we felt we needed to do something to respond.”



Ernst served on the CAOC board from 1989 to 1999. During that time, he quickly established himself as a leader, a person other lawyers went to for help.

“Don’s one of those guys who’s incredibly dedicated, 100 percent reliable and consistent,” said John Feder, a partner with San Francisco-based Rouda, Feder, Tietjen & McGuinn. “When he says he’ll do something, you can bet it’s going to get done. He’s a wealth of knowledge, a very generous guy who is one of the shining lights in our profession.”

Making California a better, safer place

Being a difference-maker for colleagues is one thing. Doing the same for the entire California population is quite another. Ernst points to three of his cases that he believes brought to light significant improprieties and resulted in vital changes throughout the state and beyond.

Chastain v. Union Security Life Insurance Co. began with one man, who approached Ernst & Mattison when his insurance company stopped paying against his credit card balance but continued charging him premiums while he was disabled. The original lawsuit was for about \$4,000 – the amount of the plaintiff’s credit card balance – and was too small for the judge to order discovery. So, Ernst pressed on, filing a class-action suit on behalf of thousands of Californians with similar complaints. “Those people didn’t know who we were,” he said. “They just received checks in the mail and their credit cards were paid. Those were people who couldn’t help themselves.”

“It was a three-year battle with those bastards,” Ernst continued, referring to the defendant. “It was a big deal; we spent a lot of time in the courtroom. These guys don’t pay unless you force them to. The only reason they paid was because there was a trial date on the horizon.”

Raicliff v. The California Department of Corrections, a gender discrimination case

that went to trial, “changed my life,” Ernst said. The trial lasted nearly seven months, there were more than 100 witnesses and the defense’s best offer on the table had been \$50,000, he recalled. In the end, Ernst proved that male correctional officers at the California Men’s Colony in San Luis Obispo were not properly responding to emergencies involving their female colleagues and were therefore putting the lives of the female officers at risk. The verdict returned an award of \$3.34 million. “It was the largest verdict to date against the state correctional system,” Ernst said. “We believe it changed the way the prison system treats its women correctional officers.”

Twenty years ago, Ernst helped make a national impact in a products liability case. The plaintiff was a young boy who suffered a severe concussion and brain damage after falling from the horizontal bars on a fast-food chain’s playground. Although the fall was from a height of only about 16 inches, Ernst had the black matting tested and found that, when compressed by that type of impact, the padding was essentially ineffective. “It didn’t have enough resilience; it was like falling on concrete,” he said. “We uncovered a host of injuries at these playgrounds. Long story short, this national hamburger chain changed all of its matting because of one case, one kid. It made a whole lot of kids safer and prevented a ton of injuries.”

Spreading his wings – literally

Ernst may not be where he is today – professionally – if not for two crucial assets: an airplane and a pilot’s license. Being able to fly himself to Sacramento and back one day and then to Los Angeles and back the next has been a priceless convenience. At times, he’s even flown out of state for depositions and discovery. “It’s an extremely valuable business tool,” said Ernst, who has been a pilot since 1977 and flies a Cessna 210 and a Cessna 421.

Some of his colleagues have become enamored with Ernst the pilot almost as much as they are with Ernst the lawyer. “He must have an interest in a winery because he keeps showing up with cases of extraordinary red wine that he brings to meetings,” Kabateck said. “We’re always happy to know Don is coming and flying his own plane, as opposed to flying commercial, because we know he’ll be bringing some of that great wine.”

While piloting is saved strictly for business hours, Ernst likes to fly-fish, golf and surf in his leisure time. But stepping away from his work to enjoy those hobbies more frequently is not yet in his future plans. “Retirement? Yes, I’ve thought about it,” he said. “The way I’ve thought of it is that I can’t possibly imagine myself retiring. I’ve been lucky in my life. I’ve been married 27 years, we have two great kids, and San Luis Obispo is such a great place to live and work.”

Ernst puts the plaintiff’s lawyer’s creed in perspective when offering up his best advice. “Learn all you can, work hard and put your client first,” he said. “If you put your client first, everything else will turn out OK.”

“Let me say this, too,” Ernst continued. “Think about the passion you have for an individual client. The CAOC and its board and the people who support the organization have that same approach, only they apply it to legislation and initiatives. So, rather than having one client, they’re representing the 30 million consumers of California. Anyone reading this article is someone who likely is involved in plaintiffs’ law and should become a



Ellison

member of the CAOC. It protects and affords access to justice – that’s an incredibly important right and freedom we have.”

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