



Gilbert L. Purcell

A prolific asbestos litigator and a would-be race car driver shows no signs of slowing down after 25 years

BY STEPHEN ELLISON

In Gilbert Purcell's perfect world, he would try cases during the week and race Indy cars on weekends. As it happens, he's much better in the courtroom than on the racetrack, so he's not ready to trade in his brief case for a gear shift. Not yet.

Someday, maybe, Purcell will get a chance to fulfill those lofty racing dreams. As a partner at Novato-based Brayton Purcell and one of the most prolific trial attorneys in the state, he's already developed two of the necessary tools: speed and decisiveness.

"He's very good on his feet in the courtroom, very natural in his presentation," said Eliot Jubelirer, a partner at San Francisco-based Schiff Hardin, and a longtime adversary of Purcell. "He knows the points of his case and doesn't belabor them. Many trial lawyers are histrionic. Gil's not like that – he just gets his point across. I think most judges and juries appreciate that kind of thing."

Indeed, Purcell has been getting his point across for the better part of 25 years. And since 1995, the year he partnered with Alan Brayton, his firm has taken asbestos litigation in California to new heights. "We don't know any firm that tries more cases to verdict than we do," Purcell said.

"What happens is the typical (client) has a work history involving a whole host of companies that exposed him to asbestos," he continued. "Al's good about managing a case pretrial. But some defendants take an aggressive stance – they're set on going to trial – and that's where I come in."

Purcell has won numerous multimillion-dollar verdicts, the most famous of which came in 2002, when a jury awarded \$33.7 million to a former navy electrician and his wife (*Alfred Todak v. Foster Wheeler LLC* (2002) San Francisco Superior Court, Case No. 320621). At the time, it was believed to be the largest verdict ever in a California asbestos case. Because Todak died of complications from mesothelioma, his wife received an unprecedented \$11 million for loss of consortium.

Mountain of cases

Trying so many cases makes it difficult for Purcell to single out any one as more memorable than others. "These are hard-working people – honest people that had a bad, catastrophic thing happen to them," he said. "So, in that sense, every case is memorable. Some cases are more *interesting* than others."

As an example, Purcell recalled a case he tried in Orange County some years ago involving a client whose wife had been killed in an auto accident (*Michael Rasmussen v. All Furnace Corporation; Angeles Abby Crematory*, Orange County Superior Court, Case No. 817671). The woman had made it clear to her husband that, in the event of her death, she wished to be cremated. "This was an obese woman, over 300 pounds, and basically she didn't want to be buried in a piano case with a crane and all the things that are involved in burying a heavy person," Purcell said. "She was genuinely afraid of that."

The crematory, it was discovered later, was employing an illegal cremation chamber, or retort, that was much larger

than the standard and allowed it "to knock out five or six bodies at a time, thinking no one would be the wiser," Purcell said. The deceased wife of Purcell's client became one of these bodies, and her size prevented the operator from sealing the chamber. His ten-cent solution was to wedge the door closed with a brick before putting on a set of stereo headphones and stepping outside for a cigarette. When the woman's body liquefied, some of her remains seeped out of the chamber and sparked a fire. Ultimately, the crematory burned to the ground and a seven-day investigation ensued.

In the meantime, Purcell's client was scheduled to put his wife to rest. "This case opened my eyes to man's inhumanity toward another man," Purcell said, interrupting his own narration.

The crematory decided to scoop some of the excess ashes from its garden – some of which contained metal fragments from people who'd had joint-replacement surgeries – and present them as the woman's. "Just a horrible co-mingling of decedents," Purcell said. "Fortunately, we got a wonderful (six-figure) verdict. It was one of the first cases of its kind and led to specific legislation that dramatically increased penalties for co-mingling of decedents' ashes. And today, the law says a representative of the family must be present throughout the entire cremation process."

More recently, Purcell got involved in a slew of individual smoker cases against tobacco companies, but he has yet to try one. "Unfortunately the law in California is unsettled," he said, "and if tobacco gets its way (with legislation), it could ulti-



mately make individual smoker cases (not eligible for trial).”

A Bay Area kid ... by way of Oklahoma

Purcell was born in Amarillo, Texas, and raised in Sooners football country – Norman, Oklahoma. He attended University School, a K-12 school on the Oklahoma University campus. “It was a wonderful thing, when you’re that young, to be exposed to a college atmosphere and such a wide educational range,” Purcell said.

But before Purcell could realize his aspirations of being a Sooner for life, his father’s office at Chevron closed, and the family was forced to move west. With the choices being San Francisco or Los Angeles, the senior Purcell chose the former. “So, I ended up going to high school in the Bay Area – Mt. Diablo High School (in Concord),” Purcell said. “As it turns out, I was valedictorian of my class, so right away there was pressure on me to make something of myself.”

Purcell attended UCLA – “I had to get away from my friends who were not going to college” – initially as a math major, then switching to economics. Upon graduation, law became the logical path. “I had the good fortune to know people in law,” he said. “When I began working with attorneys, I realized law was wonderful – the breadth of topics and areas it encompassed. I was a little surprised that law could have such versatility.”

So, it was on to law school at Pepperdine University and clerking for Girardi | Keese of Los Angeles. Purcell considered himself lucky to get involved with such a high-profile firm early on and was proud to say he has since devoted his entire career to plaintiff’s law. “The quality of cases and work that the Girardi firm was doing; you could see that was the side you wanted to be on,” he said. “I learned quickly what a wonderful opportunity it was to help people.”

Less than a year after being admitted to the bar, Purcell became a founding

partner in a midsize firm with Ray Boucher and Fred Sayre, former partner of Melvin Belli. Sayre and Boucher eventually moved on and the firm became Moreno, Purcell, Schindler of Santa Monica. They took up an office on the Third Street Promenade in an old brick building owned by Ed Wenner, father of Rolling Stone Magazine founder, Jann Wenner.

By 1995, the firm’s lease was up, the landlord was asking for another five-year commitment and Purcell had multiple forces pulling him back to the Bay Area. Not only did he want to be closer to his aging parents, but firms in the area were clamoring for experienced asbestos trial lawyers. “Superior Courts were pushing to get asbestos cases through and off the dockets,” Purcell recalled. “So, that’s what I’ve been doing ever since.”

Humane Society to CAOC

When he’s not in the courtroom, Purcell devotes much of his spare time to other causes such as helping the Humane Society, advocating for animals, and rescuing feral cats. He also gives back to the law community as a member of the Board of Governors for Consumer Attorneys of California, a longtime member of Public Justice and an Advocate Member of the American Board of Trial Advocates.

As an asbestos expert, Purcell gets several speaking invitations each year from national and regional organizations devoted to the subject. And when he talks, people are inclined to listen. “If he tells me something, I believe it,” said Jubelirer, who regards Purcell as both an opponent and a colleague. “He’s got a lot of credibility in my book.”

Most of Purcell’s leisure time these days goes toward restoring an 1888 Queen Anne Victorian house in Sausalito, once owned by the founder of Sausalito. Purcell and his significant other, Roxanne Sheridan, have been working on it since 2003. “It had fallen into disrepair and needed a lot of work – we are hoping to

be done with it early (in 2010) – and it consumes almost all of our time,” he said. “I do not recommend such a project for the faint of heart.”

When it comes to the auto racing dream, Purcell, a graduate of the Jim Russell Racing School, is modest about his talent and says time is not exactly on his side. “It might help if I was any good at it,” he said. “I just don’t get to do it often enough.”

He’s put in plenty of trial time, though, to know how to take the checkered flag in court. “You’ve got to be able to think on your feet, be imaginative, creative,” Purcell said of being an effective trial lawyer. “You’ve got to be a better lawyer than the defendants’ lawyers. I know that sounds obvious, but those who are good, they’re heads and tails more persuasive advocates than their opponents.”

On the subject of advice for aspiring trial attorneys, Purcell repeated a shockingly candid mantra he offers to law students at his alma mater. “First, don’t get married unless you know what the hell you’re doing,” he said. “And you better be sure your spouse is prepared for the jealous mistress of trial work. Otherwise, you’re just headed for disaster.”

“Second, watch very carefully those who have done it successfully and pay attention to them,” he continued. “Be around them, watch and learn.”

Finally, Purcell quickly dismisses the idea of stepping away from law anytime soon. “My lot in life is trying cases – helping people,” he says. “Whether you win or lose, if your client believes they got the

best possible representation, you’ve done what you can – you’ve done your job.

“Someday, I’d like to be a good plaintiffs’ lawyer,” he added. “I’m working on it.”



Ellison

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