



Profile: e. robert wallach

*State Bar Hall of Fame litigator boasts
222 trials in 51 years – and he’s not done yet*

STEPHEN ELLISON

Calling e. robert wallach a seasoned law veteran is such a profound understatement, it could be grounds for a defamation suit. Even so, the humble and level-headed Wallach likely would accept – and possibly even embrace – the label without batting an eye.

Wallach has been practicing law for more than half a century, and through the years, he’s forgotten more than most lawyers will ever learn. By his count, he’s tried 222 cases to verdict and lost 12, a record any working trial attorney today would be hard-pressed to match. In 2006, he was inducted into the Trial Lawyer Hall of Fame by the Litigation Section of the State Bar of California, an honor bestowed upon only 20 others (including two inductees added this month) since its inception in 1994.

Wallach, however, has been far more than a workhorse plaintiff’s attorney. Twice he was a presidential appointee under Ronald Reagan, serving alongside former Boalt Hall classmate and close friend, Edwin Meese, who would become the U.S. Attorney General under Reagan. He represented the Fang family during its well-documented and controversial purchase of the San Francisco Examiner from the Hearst Corporation. For 14 years, he represented and advised The Sharper Image Corporation, a popular retail chain whose CEO and founder was a former student of his. And – perhaps his proudest achievement – he co-founded the Hastings College of Law Center for Trial and Appellate Advocacy,



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for which he also served as chairman and dean.

Every down has an up

Along with the countless accomplishments and accolades, Wallach has experienced more than his

share of adversity. “One thing about getting older – you realize that every down has an up,” said Wallach, 76.

In the early 1970s, after 12-plus years with Walkup Downing, Wallach suddenly left the San Francisco personal injury firm “because of severe domestic difficulties – my wife was not well, physically or mentally,” he said. With the support of his partner and mentor, Bruce Walkup, Wallach started his own successful solo practice out of his Piedmont home.

In the early 1980s, Wallach accepted his first Reagan appointment to the U.S. Advisory Commission on Public Diplomacy. He had the dubious distinction of being a Democrat in a Republican administration, which affected him not only professionally but also personally. “It was tough. I wasn’t trusted,” Wallach said. “Democrats didn’t trust me either. I lost a lot of friends; it was pretty brutal.

“What made it a little easier was the fact that the position I was in had to be a Democrat,” he continued. “To be honest, I was pretty unhappy with the prospect of Reagan as president, but Ed Meese really wanted me to come. I thought it was the right thing to do.”

The “Icarus Fallen” syndrome

In the late 1980s, Wallach was indicted for allegedly helping the Wedtech Corporation, of New York City, win contracts from the U.S. Department of Defense while he was working as a White House official. He was convicted in federal court on fraud and racketeering charges in 1989, but the U.S. Court of Appeals for the Second Circuit subsequently reversed the conviction. At a retrial, the jury hung, and all charges were dismissed.

“It took me out of my practice a total of four years,” recalled Wallach, who preferred not to discuss the Wedtech incident in detail. “I was away from San Francisco for seven years. By the time I came back here to restart my personal injury practice, I was economically devastated. I was essentially starting over from scratch.”

That said, Wallach had a way of putting the whole episode in perspective.

“The ‘Icarus Fallen’ syndrome is a common one in American life,” he mused. “High flyers falling are fascinating, matched only by the public approval and encouragement of the rebuilding. Attaining the Hall of Fame status is a pinnacle for me in that process. I used to say, with pride, in response to those who wondered how I could stand it when the assault barrage was most intense – and most media visible – that I had been a plaintiff lawyer, representing many catastrophically injured and devastated families. What I was going through was no equal of their adversity.”



Path to plaintiff law

Wallach believes his initial attraction to law stemmed from his deftness at debate. He was a high school debater and attended the University of Southern California, a national power in intercollegiate debate.

While attending law school in Berkeley, Wallach set his sights on becoming a labor lawyer; the result, he said, of being raised in a household with strong union ties. But demand for labor lawyers at the time was low, and as it turned out, the job wasn't at all what Wallach had imagined. "I kind of regretted the whole labor law thing until I represented the family of the man who got the job I wanted," he said. "Let's just say he wasn't exactly living the good life. I guess I had sort of a romanticized view of labor unions."

With Walkup, a renowned trial lawyer and owner of one of the most successful personal injury firms in the Bay Area at the time, Wallach made an immediate impression. One of the first cases he tried involved a railroad-crossing death and pitted him against two of the most prominent trial lawyers in the state. He won. "It was an electrifying win," Wallach recalled. "But the best part was both of those opposing attorneys made a point of telling Bruce what a fine young trial lawyer I was."

Almost instantly, Wallach had a reputation as a highly-skilled litigator in the personal injury realm, and it wasn't long before he became a name partner in the firm. Virtually all of the personal injury cases taken by Walkup in those days were referrals, something Wallach said isn't as common today as it once was. "Bruce Walkup was very respectable in the profession – big firms would call us up and say here's a PI case for an employee or friend," Wallach explained. "It was almost as if PI work was beneath them. That was the mentality of the time."

Today, it's very different – nobody wants to give up a PI case because they know they don't have to go to trial. They're usually positive they can settle the case in mediation."

Following the referral model

Wallach nonetheless continues to follow the referral model to this day. There are a number of reasons why other firms or lawyers still approach him on occasion with prospective clients. Some of the more common scenarios are: old-time lawyers who feel a major case should be handled by someone experienced; firms that simply do not handle personal injury cases; and firms that have some sort of internal conflict with a case.

The most prevalent, however, and least talked about, according to Wallach, are the veteran trial lawyers who have never actually tried a case. They are usually from commercial firms, and their careers consist of nothing but settlements. They'll keep their names on cases, Wallach said, and they don't shy away from taking the credit on favorable verdicts. What does Wallach think of such situations? "I'm not looking for credit – I don't have anything more to prove," he said. "I just want them to know I'm active."

"All my work comes from other lawyers – it's a full practice but limited," he added. "I'm about as busy as I want to be and still have time for my grandchildren."

"Consummate" pro

Whether in court or at professional functions, Wallach takes pride in being part of the law community. His list of professional associations fills nearly a page and a half (single-spaced) of his CV. "He's a stalwart defender of progressive issues," said Cristina Arguedas of Berkeley-based Arguedas, Cassman & Headley, one of the aforementioned 2010 Hall of Fame inductees. "He has promoted diversity in the Bar longer, earlier and more consistently than any other lawyer around."

In court, Wallach represents trial lawyers from what some would say is a bygone era. He's prepared, takes pride in how he carries himself, and best of all, is a good judge of his fellow human being. "He's the consummate trial lawyer," said George Walker, a former Hastings College colleague and yet another Hall of

Famer. "He has a great rapport with jurors. He analyzes every aspect of a case, so he knows how to attack it. He also has a very elegant style in manner and dress – you know, legend has it that he's never had a meal without a tablecloth."

Says Arguedas: "He's grace under pressure – very articulate and a very astute judge of people."

Wallach has been practicing law for 51 years, so he's certainly not short on solid advice for law students and professionals. His default message is twofold:

"First thing, don't romanticize trial lawyers – there are very few successful trial lawyers, or litigators is a more appropriate title," Wallach said. "If you want to be a trial lawyer, recognize that it is impossible today to have the career that I've had, because so much has changed. Today, you really do have to go work for the DA or U.S. Attorney's office or other government agency that will get [you] into court."

"Second, you may want to get out of major urban areas," he added. "The tendency of course is to want to be in San Francisco or New York or Chicago. But if you really want to build a full-blown practice, there's nothing better than a medium-sized community."

On the subject of retirement, Wallach said he hasn't made any moves in that direction and added that he would like to get back into teaching at some point. But hearing him speak about his work and his livelihood, it seems as if he would have a hard time walking away.

"I am proud of being a lawyer, which for most of us includes utilizing the skills of our profession in endeavors that contribute to our society," he said. "Whether a formal Bar activity or non-income activities, with the broadest definition of pro bono, it is integral to our obligation to be more than practitioners, to be true professionals."

Spoken like a seasoned law veteran.

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