



Profile: Stewart Tabak

Solo practitioner wants to bring clients' lives back to normal – or as normal as possible

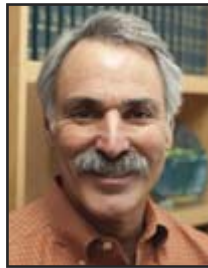
BY STEPHEN ELLISON

In describing what they do and why they do it, plaintiffs' lawyers often speak humbly about changing people's lives. Stewart Tabak has a slightly different take. "You're really trying to change them back," Tabak said. "You're representing people trying to figure out what normal is, and you're trying to help them restore a couple of things to get them that much closer to normal."

A sole practitioner based in Stockton, Tabak may sound like an idealist with that view, but the bottom line is that most of the plaintiffs he represents have found themselves in extraordinarily difficult and often tragic situations – through no fault of their own – and he sees his philosophy as simple realism. That approach, along with an unflinching dedication to his clients, has put Tabak among the elite plaintiffs' trial lawyers in Northern California, if not the entire state.

"He's the best trial lawyer I've ever seen, and I know a lot of trial lawyers," said Arch Bakerink, of Bakerink, McCusker and Belden, who gave Tabak his first job out of law school in the late 1970's. "He's obviously very bright, and the jury gets a clear picture that he's very caring, too – he cares a great deal about his client."

Defense attorneys – at least those who have been charged with the unenviable task of opposing Tabak – agree that he has a way of getting, and holding, a jury's attention. Bob Zimmerman, partner for Schuering Zimmerman & Doyle of Sacramento, remembered how enraptured jurors were when Tabak had the floor. "It was interesting for me to see how closely they paid attention to his every move – he completely connected with every member of the jury," Zimmer-



Tabak

man recalled. "I could tell there were times when they were very in tune to crucial aspects of the trial.

"He just has a wonderful presence in the courtroom," Zimmerman added. "He fills it with respect and a sense of

kindness that the jury enjoys."

Tabak attributes his courtroom savvy to an ability to focus and be intense at the right moments, and also recognize when it's time to back off. He cited as an example one defense witness who he had to "go after on the stand" – had to be aggressive. A week after the trial ended, Tabak got a call from said witness and was shocked to hear a tone of respect and gratitude. "First he told me he didn't know the result of the case, then he said he thought I handled the case well," Tabak said. "And this is a guy I didn't treat with kid gloves – and he recognized it. He was the last person from that trial I expected to get a call from. But I was very appreciative, and I told him so."

Career realist

Even before he arrived at University of the Pacific in the early 1970's, Tabak had designs on a profession – but it wasn't law. He was set on becoming, of all things, a dentist. Schooling for dentistry, however, required a very specific curriculum involving the sciences, something for which he did not have an affinity.

So the dentist dream faded quickly, and Tabak turned to prelaw. After taking a few courses and getting hooked, he read Melvin Belli's autobiography, *My Life on Trial*. His fate had been sealed.

"Trials always intrigued me – between being a psychology major and the prelaw program at UOP – I started waking up and realized (dentistry) wasn't for me," Tabak recalled. "It worked out well. Then I went to law school and started clerking for some local guys – busy litigation guys. It sort of evolved from there – I basically grew in it."

Law school, in the beginning, was UOP's McGeorge School of Law. Tabak eventually transferred to Humphreys College School of Law, where he received his juris doctorate.

The firm where he clerked – and where he eventually landed his first job – was owned by Bakerink, who remembered Tabak as quite the eager pupil. "Persistence," Bakerink said in describing the young Tabak. "He actually chased me down in a coffee shop – he really wanted the experience."

Experience: the best teacher

That's what he would get. As an associate for the Bakerink firm, Tabak actually started in criminal defense, something he excelled at but was glad to swear off about a decade later because "it aged me too much." The shift to personal injury was gradual and, of course, would be permanent.

Tabak, not surprisingly, threw himself full throttle into cases. Those who opposed him would soon find out they had their work cut out for them, no matter the circumstances of the litigation. "Number one, he'll be well prepared, so I know it's going to be a tough case," said Mike Mordaunt, a defense attorney based in Stockton. "He comes across as a strong advocate for his client, and the jury perceives that the case is important to him. He's also very good at direct and cross, and he always has good experts.



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"He's well-respected in the field," Mordaunt added. "And, of course, very successful."

The best part for Tabak is the post-trial connection he maintains with clients. "It's incredibly rewarding when you hear back from a client years later," he said, "to hear that I had some part in changing their life for the better."

More than just verdicts

Tabak went solo in the late 1990's and has since done some of his most notable work. In the area of medical negligence, Tabak has been especially busy with an ongoing case out of Modesto that began in 2008. In a highly publicized case, plaintiff Holly Stinnett's husband died in the hospital after suffering non-life-threatening injuries in a motorcycle accident. Stanley Stinnett developed respiratory problems that his doctor and the Memorial Medical Center staff failed to notice and treat, Tabak said. On his fifth day at the hospital, Stinnett aspirated and died.

Tabak filed suits against the hospital and doctor on behalf of Holly Stinnett. The hospital settled out of court. In the case against the doctor, a jury awarded the plaintiff \$1.4 million in medical costs and lost wages and \$6 million in non-economic damages. But the judge kicked the damages down to a mere \$250,000, citing the Medical Insurance Crisis Reform Act, Tabak said.

"We are now challenging that in the 5th District Court of appeals," he said. "We're trying to get the jury award restored – that's our first objective. Ultimately, we're trying to get the (MICRA) cap removed because it's no longer needed."

Defying the odds

MICRA was signed into law in 1975 by current Gov. Jerry Brown – that was during his first stint as California's leader.

"It was a crisis orchestrated by insurance companies," Tabak said. "I don't buy that there was a crisis then – and there's

not one now. All it does is keep people from getting what they rightly deserve.

"What it comes down to is this: Are doctors entitled to preferential treatment?" Tabak continued. "They're mere mortals. They do wrong, they cause injury – and they ought to be held responsible. Laws should apply across the board."

Another case Tabak is proud to talk about happened about 10 years ago in San Jose. His client, David Peterson, suffered a severe brain injury and was left in a vegetative state after falling from an exterior ladder while repairing a rooftop HVAC system. It was a long, drawn-out case for which about 200 to 300 jurors were screened, and it required Tabak to move down to Santa Clara County for a couple of months, he said. The end result was a \$15 million verdict for his client.

"It was one of these cases that feels so great to win – not so much because your client prevailed, but because the defense tells you you're crazy and laughs in your face," Tabak recalled. "Truly it wasn't just about money with this case. My client was just doing his job, and he was seriously hurt because of the company's failure to provide a safe place to work."

Bob Peterson (no relation to the client), a professor at Santa Clara University School of Law, assisted Tabak with critical evidentiary issues on the case. He was impressed with his colleague's thoroughness and willingness to invest the necessary resources to advance the client's cause.

"He put together a very good team," Peterson said. "A lot of attorneys would not have invested that amount of assets."

In return for Peterson's help, Tabak set up a scholarship in the client's name at SCU. Every summer, two law students from Peterson's moot court class participate in an exchange program with Gray's Inn at Cambridge University in England. "It's a very expensive trip that the scholarship funds," Peterson said. "It's a great opportunity and a completely unique experience for those students. They'll never do anything like that again in their lives."

Off hours

As hard as he works and as rewarding as that work is, Tabak certainly is no stranger to leisure and down time – although his idea of those practices seem to go beyond the standard R&R. He and his wife love to travel – and on those excursions to Italy or the East Coast, they bring along their bicycles, not for casual riding but for 100-mile treks.

Tabak also is a car lover. He teaches a vehicle dynamics seminar to lawyers and is a self-proclaimed "weekend warrior" racecar driver. "I love the intensity and focus required in racing – it's very similar to trying a case," he said. "I took a 2 to 3 day course about 20 years ago and got hooked.

"It's a great escape – almost like a Walter Mitty weekend," he continued. "I think those times are crucial in the business – I take my play almost as seriously as my business. I think it's incumbent on any trial lawyer to renew their sanity."

As for how to approach those insane, on-the-job hours, Tabak advises to keep your priorities straight and don't forget why you became a plaintiff's lawyer. "Never compromise your integrity – never lose sight of the fact that you've been asked to represent somebody who's probably having one of the worst experiences of their life," he said. "Truly they are your one and only concern, so keep their interests first.

"I didn't become a lawyer to make money," Tabak added. "If I can just focus on doing a good job, getting a good result, the money will follow. If you think about the money first, you're taking the wrong approach. Maybe I've just been fortunate that way – but it seems to work."



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