



Profile: Arnie Levinson

*Forty years in practice at a “24/7 job”
and this lawyer still loves insurance bad-faith law*

BY STEPHEN ELLISON

In his youth, Arnie Levinson may have been a bit naïve about what lawyers were and what they did, but his drive to pursue justice could not have been more genuine. And despite his early misconceptions about practicing law – not to mention the subtle objections of his mother – Levinson took a fairly straight line into the legal profession.

“It seemed like it was going to be a very drama-driven occupation, and I kind of had the idea of being a Clarence Darrow,” said Levinson, a founding partner of Pillsbury & Levinson, based in San Francisco. “I found out many years later that Clarence Darrow had some ethical problems. But I really think that underlying everything was a strong desire to participate in seeking justice somehow. There are many ways to do that, and I just felt that this was a good way for me to do it. I felt I had the skills and the desire, and I found out when I got into it that I was right about that.”

Indeed, Levinson felt drawn to the law, and once that bond was established, he did not waver in his pursuit. He went straight from college to law school, then straight from law school into practicing law. Initially, he worked at a large defense firm in San Francisco. “I didn’t really learn what I wanted to do [as a lawyer] until I started practicing law,” Levinson explained, “and after about three years there, I decided I needed to represent people, not businesses.”

For the better part of four decades, that’s exactly what he’s been doing, earning a reputation as one of the nation’s top plaintiffs’ attorneys specializing in insurance bad-faith. In that first job, Levinson had been assisting with an appeal in a bad-faith defense case for Mutual of Omaha – little did he know at the time it would be *the* pivotal case in bad-faith law –



Levinson

and the experience proved to be a launching pad for his own practice.

“When I started [working in bad-faith law], there weren’t too many people doing it

– I was one of the few people who had any knowledge on the plaintiffs’ side about it,” Levinson said. “I loved it. I had a small firm, but what happened was employment law came along, and I started doing both employment law and bad faith. I realized after a while I couldn’t keep up with both – they were just too diverse. And I wanted to specialize in one, so I stuck with bad faith.”

A real symmetry

That first plaintiffs’ firm grew fast and became more focused on business law, and Levinson eventually left to team up with Philip Pillsbury on a plaintiffs’ law practice centered on policyholders’ disputes against insurance companies. From the start, the pair developed “a real symmetry,” Levinson said, and for nearly 20 years now, all they’ve done is bad-faith and denied- or delayed-claims litigation.

For Levinson, it’s been a more-than-adequate way to sate that craving for justice. “It’s really been an honor and a privilege to represent people in the insurance bad-faith field,” he said. “It’s a great field because every case you’re pushing the envelope, you’re trying to challenge the insurance industry to act in a different way. They’re doing things they

normally do, and you’re claiming those things are improper. And at the same time, you’re making a tremendous difference in someone’s life because in almost every situation, they’re relying on insurance because a disaster has happened.

“So we get to make a decent living,” he added, “and get to help people change their lives. It’s pretty interesting and extremely rewarding.”

The Washington route

Originally from Seattle, Levinson attended undergraduate college near home at the University of Washington. From there, he went to St. Louis, where he had been accepted to the law school at Washington University. But before starting there, he found out he had been called off the waiting list at his first choice of law schools, Georgetown. So he was off to a third Washington – the one in D.C.

Being a law student in the nation’s capital during the early 1970s was intriguing to say the least, Levinson said. In 1973, his first year at Georgetown, the Watergate scandal had staggered the city and nation, and he and his fellow law students were sitting ringside. A couple of times, he said, they even camped out overnight in front of the courthouse so they could get in to see the trial.

Lost faith

Back then, Levinson lived just a few blocks from the U.S. Supreme Court, walking past it every day on his way to the Georgetown campus. It was a place he revered for what he thought it stood for. “I used to pat the walls of the Supreme Court, thinking no matter how bad things get, no matter how bad the politics get in the country, we always have this building here to protect the disenfranchised people – people that aren’t the powerful people in this country,” he recalled. “I actually believed that for a long time



while I was practicing law. Unfortunately, I don't believe that any more."

Fighting a health insurer

Levinson does believe wholeheartedly in his clients. And one he won't soon forget is Jack Zembsch. In 2005, the parents of then four-year-old Jack were seeking medical treatment for their son's rare form of dwarfism, called metatrophic dysplasia, in which his bones were extremely soft – like "wet graham crackers," Levinson had been told. As he grew, Jack's vertebrae would not be able to hold his body upright – it would bend to the point where his lungs would be crushed, Levinson said.

The condition would require multiple surgeries, the type of operations only one doctor in the entire country – spinal specialist Dr. William MacKenzie in Delaware – had experience performing, the Zembschs contended. But their HMO, HealthNet, denied them coverage, saying there were world-class spinal specialists at UC San Francisco who would be perfectly qualified and capable of performing such surgeries.

Levinson sued HealthNet on behalf of the Zembschs, essentially saying Jack needed Dr. MacKenzie or he could die. "This isn't about physician quality. It's about physician experience," the doctor told the San Francisco Chronicle at the time. Levinson agreed, saying nobody at UCSF had seen Jack's specific condition, and other doctors who had operated on kids with the same affliction without having the experience lost the patients on the table.

When the story hit the front page of the paper, Levinson recalled, HealthNet lashed back and began its own press

campaign with accusations directed at the Zembschs. So Levinson added a defamation claim to the lawsuit, and the case "exploded," he said. After a few more dramatic turns, the parties eventually settled, and Jack underwent the required surgeries by MacKenzie.

"Today, he is the picture of success; his life has blossomed," Levinson said. "It totally changed his life – it actually saved his life... I'll never forget that case. It was a wonderful experience for me."

Changing the CCP

Levinson has made a difference in the system, too, helping all lawyers by suggesting and helping draft an amendment to section 437c of California's Code of Civil Procedure regarding summary judgments.

"When I first started, summary judgment motions were almost automatically denied," Levinson said. "Then for some reason judges started granting them, and we started getting more and more of these, and the plaintiffs' bar was saying this isn't fair. And it wasn't. They spend six months working on this motion, and they plop it on us Friday afternoon; we've got to have a response in two weeks, we're preparing for trial and if we screw up the motion, we get thrown out."

So his fellow CAOC board members suggested a bill stipulating 100 days notice if counsel intends to file a summary judgment motion. But Levinson went one better: "I said, 'Why do that? Why not just make them file a motion 100 days before trial?' Everyone agreed that it was a great idea."

Sure enough Levinson was actively involved in the bill. Now a summary judgment motion must be filed 75 days

prior to the scheduled hearing date so the opposing party has reasonable time to respond. "It's really made a huge difference," he said. "Now you can't drop a summary judgment motion on someone a month before trial. It's my little footnote in history."

After 40 years, still 24/7

Levinson has been a longtime member of the Consumer Attorneys of California and the American Board of Trial Advocates, making his share of contributions to the plaintiffs' bar. Recently, he made a conscious choice to scale back on his involvement in professional organizations to allow more time with his wife and children.

As he approaches his 40th year practicing law, Levinson says he's not quite ready to step away. "A lot of people have asked me if I would consider doing mediation, and I'm thinking about it," he said. "I haven't made any decisions in that regard, I'm just thinking about it."

At present, he's just in way too deep with cases. "This is a 24/7 job," Levinson said. "You cannot try a case without putting literally everything you have into it. It can't be done. It's just the nature of this business."

"Right now, I'm going strong; I love what I'm doing. I have great partners and we're doing great work. It's enormously rewarding to represent individual people, no matter how much lawyers are vilified today. It's just tremendously rewarding work."

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