



Profile: Dugan Barr

Prolific veteran trial lawyer wields his power of influence

By **STEPHEN ELLISON**

The art of persuasion plays a prominent role in a trial lawyer's success. After more than 45 years and trying in excess of 200 trials to verdict, it's probably safe to say Dugan Barr is as close to perfecting that art as anyone around.

The founding partner of Barr & Mudford, based in Redding, said knowing and understanding the facts of a case and being prepared are crucial for any trial lawyer – whether they're representing plaintiffs or defendants. But knowing the case frontward and backward is just a part of the process. Barr feels effective lawyers also are able to make other people see it the way they do.

"The most important part is making sure that you understand your case well enough so you can teach it – a lot of people don't do that," Barr said. "You need to understand your case not only in terms of the technical stuff, but also the human side – How do people look at this? What are they going to think? How do you go about framing the issue so they're going to see it your way? That's really important to do."

For his part in doing just that, Barr said much of his pretrial preparation time goes into talking with others about the issues and challenges he's facing in an upcoming trial. "I think it's really important to talk to people about your case," he said. "And I don't mean other lawyers – I mean teachers and mechanics and bus drivers and such – because that's who's going to be on your jury. And you need to have some idea of what they think is important. Just because you think something is important doesn't necessarily mean the guy down



Barr

the street thinks it's important."

Another aspect of the persuasion process Barr describes as essential is the notion of getting the 12 people in the jury box to

put themselves in the plaintiff's shoes. Each juror should have the mindset that he or she could have just as easily been the one harmed by the defendant's action or negligence. "You need to make them understand that what you're trying to deal with is something that could be a threat to anybody," he said. "It's also very important to make them understand that the whole notion of personal responsibility is not something that lives just on the plaintiff's end – it lives on the defendant's end, too. The defendant needs to be willing and able to accept responsibility for what he or she has done that caused injury to your client."

With all his knowledge and experience, it should come as no surprise that Barr has been enlisted by all the major professional organizations to lecture, conduct seminars and teach courses on how to handle plaintiffs' cases in trial. He is a longtime member of the American Board of Trial Advocates and has been selected to be a member of the invitation-only American College of Trial Lawyers and International Academy of Trial Lawyers. He served as chairman of Cal-ABOTA in 1992 and

was on the ABOTA national board from 1997 to 2010. In 2005, Barr was named Trial Lawyer of the Year by the Sacramento Valley chapter of ABOTA.

A lawyer's son

Born and raised in Yreka, just south of the Oregon border, Barr benefited from early exposure to the law profession through his father, who was a trial lawyer and judge. When he was in high school, he began doing investigative tasks for his dad, and that planted the seed for his interest in a law career, he said. However, when it became apparent that Barr was going to pursue law, he had to convince his dad he was doing it for the right reasons. "When I decided to go to law school, he tried to talk me out of it. He was afraid I was doing it just to make him happy, and he wanted to make sure I wasn't doing it just for that reason," Barr explained. "I went to law school because it looked like an interesting profession to me, and it's what I wanted to do. And for the last 45 years, it's worked out pretty well."

Barr trekked north to complete his undergraduate studies at Reed College in Portland, Oregon. He then applied to the top five national law schools – Chicago, Columbia, Harvard, Stanford and Yale – and was accepted by all except Harvard. He chose the University of Chicago. "I may be the only lawyer you ever talked to who was admitted to Stanford twice and didn't go either time," Barr said with a snicker. "I had actually received a pretty substantial academic scholarship to Chicago law school, so that made it an easy choice."

When he graduated from law school, Barr had a number of job offers in the Chicago area, but by that time, he was eager to get back to California,



he said. He accepted a position at a busy defense firm in Redding and started his career representing insurance companies. The work was plentiful – it was a different era, and he was in trial often. But the type of work was weighing heavily on him, and after about five years, he decided to start his own firm, eventually turning it into a full-fledged plaintiffs' practice. "Over time, I just extracted myself from the defense business and did more plaintiffs' work," he explained. "I found it a lot easier to get enthused about representing people than about representing corporations."

That waning enthusiasm for defense work coincided with both the general off-putting nature of insurance defense and the transformation of the insurance industry itself, Barr said.

"Back in the day, the issue was not very often how you did on any particular case as a defense lawyer but rather what your batting average was overall; as a plaintiffs' lawyer, if I represent you, it's very likely that's the only case you'll have in your entire life," he explained. "Then, over time, the insurance industry decided to eat its young; it had gotten awful. There were two carriers that I used to represent, and they did a good job – they actually looked at cases and would say, 'OK this one we owe, how much do we owe and how do we go about paying it?'"

"When I got started doing defense work," he continued, "a lot of people in the insurance business were intelligent, educated, reasonable people as opposed to the people today who all just know how to say no."

Influencing change

Having tried so many cases to verdict, Barr had to give some thought as to which ones stood out as most memorable for him. One case he recalled

involved a woman who was transporting propane bottles in the trunk of her car when an explosion occurred. Her three children – a seven-year-old son and twin two-year-old daughters – also were in the vehicle, and the woman was unable to save one of the girls. Barr won a favorable settlement but more important, prompted an industry-wide change.

"In that case, the bottles had small left-handed threads, with no secondary valve on it," Barr explained. "Now, when you buy a propane bottle, it'll have large right-hand threads and a secondary valve, so if nothing's plugged into it, even if you turn it on, nothing comes out."

"It turns out there was only one insurance company that insured all the propane companies," he continued. "When they figured out what I was beating them over the head about, they insisted that people change the way that they did that. It made it a whole lot safer."

Barr said he's at his best when he's "plotting and scheming" – trying to figure out how to put his case in front of the jurors so they will understand it and be swayed to support his arguments. He believes people have predetermined biases and tend to reach conclusions ahead of any evidence or testimony – and as a result, they'll cling to information that supports those biases and conclusions and ignore the other information, deeming it irrelevant. "So you need to figure out what information you can give them that will support their conclusions that are in your favor," he said. "You're going to have people on the jury that have conclusions that are in your favor and some that aren't. Obviously, you want to accentuate the ones that are and minimize the ones that aren't."

As much as Barr knows about trial law, he doesn't profess to be perfect. There are areas where he could stand to

improve. He said he has a tendency sometimes to not speak as clearly as he should and to proceed too fast and brush over things – all bad habits, he said. "If you can't explain it to (the jurors) clearly, they can't very well go along with you," he said.

'Not done yet'

When he's not working, Barr enjoys reading, playing guitar, going for walks and spending time with his family. At one point before law school, he entertained the idea of getting a Ph.D. in history and becoming a college professor. He also gave some thought to a career as a jazz musician. "I'm glad I didn't do either one of those things, to be honest with you," he said. "If I had become a college professor, I would have gotten myself tenured someplace and just coasted from there. And if I had continued playing jazz, I'd probably be dead – staying up late every night drinking whiskey and smoking cigarettes just isn't that good for you."

Even now, well into his fifth decade of practicing law, Barr isn't ready to coast. He said retirement just wouldn't work for him – he gets bored too easily; plus, he's a lousy golfer and doesn't like to fish, he said.

"I haven't done everything, but I'm not done yet," he said. "I've done a lot – I've handled a lot of cases, I've taught a lot of people how to be a trial lawyer. That's a lot of fun."

"I thought about teaching, decided I didn't want to do that; thought about going on the bench, decided I didn't want to do that. I don't want to be calling balls and strikes; I want to play."

Yet another persuasive point.

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