



# Profile: Mark Zanobini

## Curiosity leads to confidence and big wins

By **STEPHEN ELLISON**

Curiosity may get some people – or certain animals – into trouble, but for a plaintiff’s attorney it’s practically a rule of thumb to prod and pry and just continue to ask until they get all the facts. Mark Zanobini, for one, subscribes to such a process, and that persistence has served him and his clients well.

That curious mind perhaps has been at work throughout his career, pushing Zanobini to delve into a number of different legal arenas before landing where he is today. Initially, he had designs on becoming a criminal defense lawyer, then he actually started in criminal prosecution. The next move was on to insurance defense on the civil side. Not particularly enjoying the billable hours grind, he finally found what he was looking for at a plaintiffs’ firm.

Even then, as he became a partner at a top-level firm, another career pivot was inevitable. Zanobini peeled off from that near two-decade stint to launch his own firm.

“Well, you know, plaintiffs’ law firms are typically small; there’s only a few that are big,” he said. “We were small, and we wanted to remain small, and when you’re small, you can only get so much of the pie. At some point in time, if you don’t get enough pie, you gotta go make your own.”

### Going out on your own

“It was scary as hell,” Zanobini said about going out on his own. “Especially after the comfort of being in a well-established, successful law firm with lots of support staff to help. ... And then all of a sudden, you’re gonna basically go out and do everything yourself. But you know what? Like all these things, it was the best decision I ever made.”



Zanobini

Over the past 14 years, the *Law Office of Mark J. Zanobini* in Mill Valley has secured more than \$25 million for hundreds of clients in medical malpractice, defective products, wrongful death and a wide

variety of personal-injury cases.

Zanobini has remained small to this day, with one other attorney and two associates, one of whom is part-time. But small on his own still has been a far cry from small with three other partners and dozens of associates.

“I mean, you certainly get to control your own fate in terms of the cases you take and the kind of work you do. But I think the biggest difference is just basically having to do everything from soup to nuts,” Zanobini said when comparing his current role to his past. “I interview the potential clients. We get them signed up. I’m doing the discovery – I have a paralegal, but I still do a lot of discovery. I didn’t do any of that stuff before.”

“Legal research. At a big firm, they’ll have a secretary do it. I do that now as well, but just for certain cases, not all the cases,” he continued. “You just work, you just do it. I think that’s the biggest difference, having to do everything. Even trying cases, I’ve only had a second chair with me two times, and all the rest of the trials I’ve done myself.”

Small as he is, Zanobini has managed to win a number of fairly large cases – six-

and seven-figure awards, including a \$1.5 million medical malpractice/wrongful death case and a \$1.1 million cancer misdiagnosis case.

### Staying home

Born in San Francisco and raised in Daly City, Zanobini said he always thought he was going to be the next Perry Mason, getting innocent people out of jail who were being put away. But things changed, and it soon became a quest to just help people.

He graduated from UC Berkeley with a degree in political science, then went to University of San Francisco School of Law, where he still had his sights set on criminal defense. Instead, he ended up landing a job as a prosecutor with the Alameda County District Attorney’s Office. But plaintiffs’ law had floated in and out of his thoughts.

“I thought about it a little bit because during law school, I was dating my wife at the time, and her family came from a bunch of plaintiffs’ attorneys,” he recalled. “So, it was in the back of my mind because I knew about the practice. And I knew about plaintiffs’ personal-injury law. But that’s not where the jobs were.”

“Initially, I thought I was going to go to work for public defender or something, and I had a clinical in the Public Defender’s Office in San Francisco my last semester of law school,” Zanobini said. “After I did that, I just thought I can do more good on the other side by not prosecuting people who don’t deserve it. I ended up interviewing for and getting a job with the Alameda County DA.”

After four years as a prosecutor, he left to go to a defense firm that was doing insurance defense and business law, and he hated it. But it was a good job that



paid well, and at the time, Zanobini had started a family. He lasted 18 months.

The turning point came when Zanobini had a case against a plaintiffs' attorney who is now one of his former partners.

"At one point during the case, he said to me, 'Hey, if you're ever thinking about leaving the defense side and you want to go work for plaintiffs, let me know.' And I said, 'Hey, how about now?' That was Tim Tietjen."

### Perfect fit

Zanobini joined *Rouda, Feder Tietjen* and established himself as a top-notch plaintiffs' personal-injury lawyer. He had found his calling, helping people and not insurance companies. That firm is where Zanobini learned as much as he could about the plaintiffs' practice and developed his own methods and style, which he continues to apply to this day.

Two of the key elements he perfected as a trial lawyer were preparation and organization, he said. Those include reading everything, knowing what your evidence is and being able to locate that evidence, and having all of it at your fingertips.

"So, if you've got a case with lots of photographs and lots of video tape and lots of deposition testimony, you need to know where everything is," he said. "I think that's the hardest part. And that's where a lot of people go get some help, where you get somebody to organize your evidence for you – if you've got a case that financially warrants it. If you have a case that maybe doesn't have a huge value but still needs to be tried, you gotta do that organization yourself."

In terms of approach or style when he's at trial, Zanobini likes to think he's a low-key kind of person, and so that's how he plays it in the courtroom. He says when he's interacting with a witness or with jurors, he's trying not to prod information out of them, but rather, he's really trying to just talk to them.

Zanobini believes the most difficult thing attorneys have to do is jury selection

### REDIRECT:

**Getaway Spot:** Getaway spot: Pinecrest Lake/Lair of the Bear

**Go-to music or artist:** The Eagles

**Recommended reading:** Steve Murphy or Walter Walker

**Dream job:** What I do now, really

**Words to live by:** "The price of greatness is responsibility."

because the smallest miscalculation in reading potential jurors can throw a case into disarray.

"It's hard because you can have the greatest case in the world, and if you make a mistake and pick a really strong personal-ity that's against you, and then they take two or three people with them, you have a good shot at losing or at least getting hung," he said. "I always discounted that in the past, and now I probably spend more time thinking about and making sure I have my voir dire questions set up, and I'm really thinking about what kind of jurors I want and how I'm going to get them to talk and tell me what they really think.

"Because people don't just tell you that they have any strong feelings about something one way or the other," he continued. "People sit there on their hands and don't want to say anything."

### Memorable cases

When speaking about his more memorable cases, Zanobini recalled a teaching-moment trial in which his client got caught in a lie, and Zanobini wasn't prepared for it. He was representing a woman who was in a serious head-on collision that resulted in her suffering a fractured ankle. At one point while the defense attorney was questioning Zanobini's client, the attorney got down into a squat much like a baseball catcher. He then asked the woman if she could do what he was doing. Zanobini said she looked at him and said, "No, I can't do that."

After the defense attorney asked a few more questions, still crouched down,

she got off the witness stand, and he asked the judge if he could play a surveillance video.

"They had surveillance video of my client in the park with her two kids, talking on the cellphone in a crouch, just like he (the defense attorney) was in the courtroom," Zanobini said. "And she was there for a good 10 minutes after having told the jury she couldn't do it.

"Two things I learned from that," he continued. "Number one, always ask for the surveillance video, even after discovery is closed. In other words, they did it in the two or three weeks between the trial having been continued. They went out and videotaped during that interim period. Secondly, something I always told my clients but now I make it a bigger point, is never say the words 'I can't' unless you're a quadriplegic. It's (better to say) you can but it hurts. Or you can, but you can't do it as long. That forces people into (giving) a better description. But never say 'can't' because it's probably not true."

Zanobini ended up winning the case, but he believes the damages were affected by his and his client's mistakes.

### Family and fun

When he's not at the office or in court, Zanobini tries to stay active, getting out on the mountain bike trails, traveling, keeping up his vegetable garden and cooking. He used to do a lot of scuba diving when he was younger, but in the last five or six years, he and his wife "pretty much stopped doing that, mostly because the friends we used to go with got a little older, and we got a little older, and we've kind of gotten away from it."

He has two grown daughters he's very proud of and just recently welcomed his first grandchild.

"My oldest, she's got a 5-month-old, my first grandson," he said. "She's an assistant U.S. attorney in Virginia. I gotta get on a plane to go see my grandson. So that's kind of a drag. ... My younger one is in real estate, which



is cool. They're both good kids. I'm lucky."

When asked what wisdom he could impart on the next generation of plaintiffs' lawyers, Zanolini came back to the subject of curiosity, saying it's OK to ask questions and admit you need something explained.

"Ask as many questions as you need to make sure you understand something," he said. "It's never embarrassing to say, 'I don't know what that means' or 'I don't understand that.' Because you need to know. And how many times have you run across something and somebody says, 'Oh, you know

this, right?' You gotta be humble a little bit and say, 'No, I don't know what that is. Can you tell me?' ... Ask questions. Be curious. Don't be afraid to tell somebody you don't know."

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