

Industry Watch

Appellate-Law Pioneer Marks 50th Year of Practice

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LOS ANGELES — Arter & Hadden was saved from a legal-malpractice claim in September in a significant appellate decision that said law firms cannot be held liable for the actions of attorneys who left the firm.

In August, Nestle USA won a right-of-publicity case after a previous judgment of \$15.6 million awarded to a Tasters Choice model was reversed on appeal.

The wins are just the latest in a long history of successes for Horvitz & Levy, an Encino-based firm that has carved out a name for itself by excelling at one thing: winning cases on appeal.

The force behind the firm is the founder, Ellis J. Horvitz, 79, who opened his own practice as a sole practitioner in 1957. The firm marked the 50th year of Horvitz's practice with a private dinner on Friday.

"Appellate lawyers tend to be a quiet, bookish group," Horvitz said of the planned celebration last week. "We tend to be quite low-key."

Horvitz was at the forefront of forming the appellate specialty firm, which did not exist in the 1950s, according to industry insiders.

"Ellis was one of the pioneers of trying to have an appellate firm of more than one or two people just doing appellate law. Nobody did that," said Peter Davis, a Reed Smith appellate law partner.

Under Horvitz's leadership, the firm has grown to 30 attorneys and has participated in 90 cases before the Supreme Court in the last 17 years. In the past decade, the firm obtained the reversal or reduction of \$1.4 billion in punitive-damages awards it has challenged on appeal.



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In the course of five decades, Horvitz said, he has seen the appellate practice grow and become recognized as a legitimate legal specialty. Although he did not begin his practice with the idea of creating an appellate firm, he said, he soon realized he had hit on a fertile field for legal work.

"It really evolved on its own," Horvitz said. "I was getting more work than I could handle and didn't want to do it alone."

After graduating from Stanford Law School in 1951, Horvitz clerked for state Chief Justice Phil S. Gibson. Horvitz worked for the U.S. Atomic Energy Commission from 1953 to 1955 and, after a couple years completing a research grant that took him all over Europe, opened his own office in Beverly Hills.

"At first, I took whatever came along," Horvitz said. "But the thing I liked the most was doing appellate law."

Soon, he began building a reputation at the appeals courts, and by the 1960s, he had established himself as an appellate lawyer through a spate of steady wins for plaintiffs.

In one of his early cases, Horvitz represented a physician who was denied a license as a dispensing optician by the Board of Medical Examiners based on a statute that, on appeal, was ruled unconstitutional. *Blumenthal v. Board of Medical Examiners* 57 Cal.2d 228 (Cal. 1962).

In a right of due process case, *Endler v. Schutzbank*, 68 Cal.2d 162 (Cal. 1968), Horvitz successfully represented a man who had been fired on the basis of criminal allegations but had never received a hearing.

"They were memorable because I was representing a single individual who had no power and no influence against the state of California, and that was exciting," Horvitz said. "I still get excited over those cases even though they were over 40 years ago."

After the 1975 Medical Injury Compensation Reform Act put limits on medical-malpractice recovery, a flood of insurance companies began looking for representation, and Horvitz's work shifted gradually

into the representation of defendants. The firm was instrumental in upholding the constitutionality of the act in the 1980s, Horvitz said.

The firm now deals almost exclusively with defendants' work.

Irving Greines, name partner of appellate firm Greines, Martin, Stein & Richland, joined Horvitz as partner in 1976 before forming his own firm in 1983. Greines said that, at the time, most firms believed appellate law was something handled by trial lawyers.

He attributed the flourishing of the appellate practice as a specialty in recent decades to the era of enormous judgments in California that began in the 1970s.

"When I first started practicing in 1966, it was earthshaking to hear of any judgment

that was more than \$1 million," Greines said. "During the 1970s, when judgments started coming down in seven-figure numbers, it was pretty staggering. I guess the party who lost would probably be displeased with the performance of the trial lawyer."

Horvitz said the growth of his firm was gradual until he formed Horvitz & Levy with Barry Levy in 1983. Together, the partners have fostered young talent, such as Lisa Perrochet, who joined the firm in 1987 and became a partner in 1994. Perrochet last year obtained a reversal of a \$91.7 million inverse-condemnation verdict against the city of San Diego. *Border Business Park Inc. v. City of San Diego*, 142 Cal.App.4th 1538 (2006).

"I tease my older partners that, by today's standards, none of us would even rate an interview," Horvitz said.

The key to the firm's endurance and success has been the fostering of team collegiality, Levy said.

"When we have a great win, everybody is proud and takes a great deal of pride in that product, whether or not you're the partner or associate who did the particular case," Levy said.

Horvitz said he spends much of his time these days working with younger colleagues on their briefs, where most of the appellate-law cases lie. He said he feels fortunate to work in a field he enjoys.

"The 50 years have certainly gone by quickly," Horvitz said. "I've enjoyed the appellate practice. It's been the right place for me."