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■ ELLIS J. HORVITZ ■

'Mozart' of the California appellate bar

Reversing \$101 million verdict against General Dynamics is recent win.

By Alan Fisk

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THERE IS A JOKE frequently told to new visitors to the Los Angeles law firm of Horvitz & Levy. It goes: "We don't do discovery, trials or windows."

Founder Ellis J. Horvitz chuckles as he tells that story in his window-lined 18th-floor office overlooking the San Fernando Valley.

What they do do at Horvitz & Levy is appeal big-money verdicts. The 30-lawyer appellate boutique is widely regarded as the largest and most successful civil appellate law practice in California.

Ellis Horvitz "is the Mozart of the appellate bar," said Dennis Fischer, an appellate specialist in Santa Monica, Calif., who has watched him argue. "He's the dean and the guru of California appellate specialists."

Mike Bidart of Claremont, Calif.'s Shernoff, Bidart & Darras, who has opposed Horvitz in court several times, called him a "formidable adversary" who has "turned appeals into an art form."

Horvitz, 73, represents corporate America—including the insurance, entertainment and health care industries, and business and professional trade groups.

The key to success for Horvitz, who helped found the California Academy of Appellate Lawyers in 1972, is producing well-written briefs and backing them up with well-prepared oral arguments tailored to the judges hearing a case. "The briefs really determine the results in the California courts in the overwhelming majority of cases," he said. "They really decide the case before oral arguments."

Horvitz & Levy has many big wins to show for its work. Last May, Horvitz successfully appealed a \$101 million verdict against the General Dynamics Corp., four years after a San Diego Superior Court jury awarded the money to 97 former employees who had accused the company

of employment fraud. *Argo v. General Dynamics*, No. 687646.

In 1999–2000, according to the *Los Angeles Daily Journal*, Horvitz handled half of the 10 largest appeals cases filed in California. The firm won a reversal of a \$175 million jury award in San Diego against Monsanto Co.—*Mycogen Corp. v. Monsanto*, No. 699882—and overturned an \$80 million verdict in a Los Angeles suit brought by Francis Ford Coppola against Warner Bros.

Since September 1998, the firm reports that it has been involved in 215 appeals, with 123 wins and 60 losses. The rest were either partial victories or amicus cases. Horvitz said his firm now often works on cases involving judgments in excess of \$100 million, and he estimated that it has reversed more than \$2 billion in judgments against clients since 1990. Horvitz grew up in Cleveland, attended the University of Chicago and then went to law school at Stanford University. He clerked for California Chief Justice Phil Gibson from 1951 to 1953.

Horvitz stresses preparation. He said he lost his first few appeals until he hit on the right formula. Briefs are written, then rewritten, then reviewed by him and other lawyers and often rewritten again to get them to tell a compelling story. "A good brief must have momentum," he said. "It must be interesting, tell a story, have a theme. The worst crime in a brief is to be boring."

Horvitz & Levy almost never hires lawyers right out of law school and instead hires associates after federal judge clerkships or after extensive experience in large firms where they would have done a substantial amount of writing. Then there's ample training in the form of appellate refresher courses taught at working lunches by senior lawyers at the firm and sometimes by visiting judges. "We tell our lawyers what we like and don't like," Horvitz said. "We work in small teams, or we lose focus."

One key to recent success is that Horvitz &



ANN FISHER

ELLIS HORVITZ: Says well-written briefs backed by solid oral argument are key.

Levy has been getting more involved in cases early on, before judgments and appeals. One example is a case involving Ashland Specialty Chemical Co. and other chemical companies accused of creating health hazards at a Lockheed factory. Horvitz prepared memorandums and participated in strategy meetings that helped get \$760 million in punitive damages reduced to \$380 million by a Los Angeles judge before appeal, then to zero on appeal. (*Lockheed Litigation Cases, Judicial Council Coordination Proceeding No. 2967.*)

Like most people, Horvitz has been closely following the repercussions from the Sept. 11 attacks. "I don't think the attack will have much impact on Horvitz & Levy," he said, "except if complex insurance legislation results."

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