

MONDAY, JUNE 24, 2019

Both Sides of the Street

Unusually, Parker Mills handles malpractice cases for both plaintiffs and defendants.

By Erin Lee
Daily Journal Staff Writer

LOS ANGELES — For many attorneys at Parker Mills LLP, coming to the firm was an opportunity to broaden their horizons.

Unlike many legal malpractice firms that specialize in either plaintiff or defense, the boutique works “both sides of the street,” according to founding partner David B. Parker.

But it’s only possible because of the “one floor” structure of the firm, in which the 11 attorneys work collaboratively and the environment is communal, Parker said.

The firm may be tight-knit now, but it traces its roots back to big law.

Parker was one of the original seven founding partners of Lewis Brisbois Bisgaard & Smith LLP in 1979, handling legal malpractice defense for insurance companies as well as business litigation.

Over the years, the firm ballooned from a boutique to a medium-sized firm, and Parker started to miss the camaraderie of the early days. So 16 years later, in 1995, he and two other lawyers from the firm left to hang their own shingle — then called Parker Mills & Patel LLP. And Lewis Brisbois meanwhile added 1,000 more lawyers.

“I think I made the right move,” Parker said.

Initially, Parker Mills continued focusing on defending lawyers in legal malpractice cases, including half a dozen cases for two large law firms. But over the course of a decade or so, the firm



Erin Lee / Daily Journal

From left, partner Elliott Benjamin, Parker Mills LLP senior counsel Joel A. Osman and founding partner David B. Parker.

took on more plaintiffs’ cases, which it couldn’t have done as an insurance company’s panel counsel.

Now, its legal malpractice work is about two-thirds clients suing lawyers and one-third defense, according to Parker.

“We didn’t want to have to be beholden to insurance companies,” he said.

The firm also has a real estate and transactional practice, headed by partner Elliot Benjamin. He joined the firm in 2009, bringing his growing practice with him.

He’s primarily focusing on real estate transactions, such as refinancing, acquisition financings and commercial mortgage-backed securities loans.

“It’s definitely economy-driven,” he said. “And this is a booming economy.”

He’ll also help advise on the legal malpractice and business litigation, such as governance issues for limited liability companies in litigation or acquisition issues after a settlement. Other attorneys will help if one of his clients ends up in litigation.

With wide-ranging practices come an eclectic docket of cases. The firm has represented law firms, lawyers, celebrity clients, including singers Paula Abdul and John Fogerty, and various companies and brands.

A recent spate of business litigation involved several Korean churches. “I kidding say that

our specialty is evil pastor cases,” Parker said.

In one verdict, two churches were competing over a sanctuary space on Sunset Boulevard. The churches began to discuss a potential merger, but talks fell through. L.A. Sarang Community Church continued to conduct services at Holy Hill Community Church’s sanctuary, Parker Mills’ client. Authorities were called to remove L.A. Sarang members from the premises, but the church produced two purported leases for the property, which Parker Mills eventually established were false. *Holy Hill Community Church v. L.A. Sa-Rang Community Church*, BC487186 (L.A. Super. Ct., filed June 26, 2012).

On the professional liability side, the majority of cases involve bringing malpractice suits against lawyers or defending lawyers. The firm also serves as ethics counsel to law firms and represents other professionals including insurance agents, real estate brokers and accountants.

Sometimes the firm defends the lawyers from State Bar prosecution. Parker estimates they've handled about 70 cases, with a 98% success rate of settling before charges are filed in State Bar Court.

Other times, they're the ones writing the letter to the bar on behalf of a client who's been the victim of unethical conduct by a lawyer. Outside the bar, they also handle both sides of legal malpractice litigation. At times, they'll even represent opposing counsel from prior cases who run into trouble.

"They call you up and they say they want to hire you, which is probably the ultimate compliment," Parker said.

Senior counsel Joel A. Osman said he'd only done defense work until he joined the firm five years ago. The variety is what makes the work interesting, he said.

"I'm not a franchise lawyer, but I've learned enough to represent franchise lawyers," Osman said. "I'm not a bankruptcy lawyer, but I've learned enough to handle cases involving them. There is a variety and maybe an intellectual challenge that you don't find in some of the more repetitive litigation practices."

"You're both a generalist and a specialist," Parker added.

Another complication with legal malpractice is that the cases are often confidential, Parker said. He has a check from a recent confidential settlement framed in his office that he has to keep hidden.

"It's on the floor facing the walls and nobody can see it, but I know it's there," he said with a laugh.

One plaintiffs' case worked its way up to the state appeals court. The client, Lewis Anten, and a

couple jointly sought legal advice on a tax matter from Weintraub Tobin Chediak Coleman Grodin LC. Anten later individually sued the firm for malpractice.

The firm claimed some communications it had with the couple, and not Anten, were protected under attorney-client privilege. The trial court agreed, but upon appeal, the position was reversed.

The appeals panel ruled in the case of joint clients communications made to their counsel aren't privileged if they later take adverse positions. *Anten v. Superior Court*, 233 Cal. App. 4th 1254 (Cal. App. 2nd Dist., Jan. 30, 2015).

Outside their usual docket, Parker and Osman serve as expert witnesses in legal ethics cases. They also serve on local ethics committees, including at the State Bar and the Los Angeles County Bar Association, and give talks on ethics issues. Right now they're focusing on the new Rules of Professional Conduct released last November.

"The principles are relatively static and unchanging," Osman said. "But there are new applications of the same old rules to new situations. We just have to figure out how those rules apply to new situations."

Ethics attorney Ellen A. Pansky of Pansky Markle Attorneys at Law said she's hired Parker and Osman as counsel and expert witnesses, as well as served on ethics committees, collaborated on ethics opinions and co-presented at continuing legal education programs with them.

As an opponent, Parker is a skilled and strong advocate, Pansky said.

"In opposing Dave I would recommend opposing counsel to be well-prepared," she said.

Looking forward, Parker is happy with the firm's size and expects it to continue to grow slowly.

"My philosophy is I don't want to be in a firm that's on more than one floor," he said.