

# Purposeful Passion

by JOHN HUESTON



**W**hen the largest nonprofit investment manager in the country sued a Newport Beach real estate developer, it did not foresee a counter-attack that would score a stunning \$50 million verdict for the developer. But for those of us who knew Wayne Gross, one of the developer's lead trial lawyers, the verdict came as no surprise. His effort in the trial, as in all his undertakings, reflected a purposeful passion that he now brings to the OCBA.

His story begins in a San Francisco hospital in 1963, where a nineteen-year-old unwed theatre student who believed she was too young and too poor to care for a baby chose adoption as an alternative. A high school teacher and his wife adopted Wayne and provided him with a loving home in a modest neighborhood. From an early age, Wayne demonstrated an affinity for books and words, owning multiple dictionaries that he constantly annotated and, as a teenager, often carrying a pocket vocabulary book that he retains to this day. As you might surmise, Wayne's word proclivity did not score popularity points in a tough neighborhood. A bookish boy does not fare well in such an environment unless he learns to physically defend himself. And though Wayne ended up on the wrong side of many boyhood fights, he never lost his desire to hone his fighting skills. Even during his career in the U.S. Attorney's Office, Wayne arrived at work more than once with swollen and broken knuckles, having bashed concrete blocks after-hours in order to reach black belt status in karate.

Wayne also carried with him into adulthood a love for history and the theatrical nature of politics. As a young boy, he received as a gift an album that contained every presidential inaugural address from Calvin Coolidge through Richard Nixon. He listened to the album so frequently that he memorized several speeches, amusing friends and family with his ability to recite long inaugural speeches by heart. Such self-study provided Wayne with early insight into the importance of not only using the right language to make an effective argument, but also conveying such words in the most powerful way.

After taking a business law class taught by a practicing lawyer, he knew that his true calling was the law. And, after graduating from college with honors and obtaining a near perfect score on the LSAT, he was accepted to UC Hastings College of the Law, where he graduated near the top of his class.

Upon graduation, Wayne served as a law clerk to United States District Judge Waters, a war hero in World War II, later

an esteemed member of the California Assembly and then U.S. Attorney for the Central District of California. It was under the tutelage of Judge Waters that Wayne learned the importance of public service. In the judge's courtroom, he also observed impressive federal prosecutors seeking to convict defendants who, through talented defense lawyers, put up masterful defenses. Wayne was more than intrigued. And, after completing his clerkship and with the help of Judge Waters, Wayne commenced his service as a federal prosecutor at the age of 27.

## **We learned that it was not enough to win; we had to win fairly and with style.**

It was at the Orange County Branch of the U.S. Attorney's Office that Wayne learned the art of trial advocacy. Because the branch office was far smaller than the large Los Angeles office, there was less bureaucracy and more meritocracy: the best lawyers received the best assignments. As a result, Wayne was able to prosecute larger cases sooner than his Los Angeles counterparts. And, in doing so, he quickly established himself as a go-to prosecutor on high-profile cases, such as the Katarina Witt stalker case, the UCI fertility case, and one of the first criminal trademark infringement cases to go to trial in Southern California. His primary emphasis became financial fraud and health care fraud, for which he was presented with awards by two U.S. Attorneys General and the Director of the FBI.

It was during my tenure at the U.S. Attorney's Office that I met Wayne. We developed a close bond, helping each other in trial preparation and critiquing our respective performances. It was in that laboratory that we learned what is likely to sway a judge and jury, as well as when to push hard and when to back off. We debated trial approaches and created trial narratives designed to intrigue jurors and join us in fact-finding. We learned that it was not enough to win; we had to win fairly and with style.

In 2004, I stepped down as Chief of the U.S. Attorney's Office in Orange County to commence my service for the Enron Task

Force. Wayne stayed in Orange County, becoming Chief and commencing an extremely successful tenure as head of the most productive prosecutorial office within the Central District. We remained in close contact throughout my preparation for and participation in the trial of Ken Lay and Jeff Skilling. Before trial commenced, the Enron Task Force, at my request, paid for Wayne to travel to Houston for an intense one-on-one session during which I tested and reformulated themes and phrasings with my most trusted trial partner.

In 2007, Wayne left government service to become a partner at a regional firm where he immediately put to use his formidable trial skills in complex business litigation, as well as in white-collar defense. Since entering private practice, Wayne has been called upon to try several high-stakes business cases and has repeatedly demonstrated that he is a bet-the-business litigator who can be counted on to defend a company in its darkest hour. His victories include obtaining a defense verdict for a television station and CEO against a former executive alleging fraud and breach of contract, a defense verdict for principals of a manufacturing company against a former partner alleging fraud and breach of contract, and, as mentioned, a \$50 million jury verdict for a developer on a counterclaim arising from repudiation of a joint venture to redevelop prominent commercial properties in Hollywood, California, including the world-famous Palladium. In 2009, Wayne joined the global law firm of Greenberg Traurig as a shareholder in its Irvine office. As he did in government service, Wayne has established himself as a leader, serving as co-head of the Irvine office's litigation practice group. But despite his busy work schedule, he has always given a significant amount of time and boundless energy to the Bar. He has a long history of service, which includes serving as past Chair of the work-intensive Professionalism and Ethics and Administration of Justice Committees. He believes that the Orange County Bar Association should be as great as the Orange County community it serves. I have no doubt that his leadership and passion will continue to make it so.



*John Hueston is a past president of the OCBA. A litigation partner at Irell & Manella LLP, Mr. Hueston serves on the firm's Executive Committee and is Co-Chair of Irell's Securities Litigation and White Collar Defense Group.*