

Market Value

San Francisco attorney finds her niche advising national food and beverage retailers and litigating their cases.

BY DEBORAH ROSENTHAL

Attorney Renée D. Wasserman has cornered the market. As chair of the employment practice group and the retail-industry trade regulation practice group at the San Francisco law firm of Rogers, Joseph, O'Donnell & Quinn, Wasserman represents local and national retailers in all aspects of their business practices.

She advises her clients about regulatory, employment and other business matters, and litigates civil actions on their behalf, primarily in Northern California. Wasserman's client list includes Albertson's Inc., which recently acquired Lucky Stores and is now the second largest grocer in the U.S. retail grocery chain; Costco Companies Inc., Safeway Inc., Walgreen Co., and several beverage retailers, including Coors Brewing Co. and Gordon Biersch.

Although Wasserman believes that "it is important to have a focus, whatever it is, because then you can become an expert at what you are doing," she had no thought of becoming a lawyer, let alone an advocate for the retail food industry, when she was growing up in Orange County.

With no attorneys in her immediate family, Wasserman pursued her interests in art and psychology without so much as a thought about practicing law, until well after she finished college.

After graduating in 1972 from San Diego State University with a bachelor's degree in psychology, Wasserman went to work in Fresno County, providing crisis intervention for children who had become wards of the court. She also continued to study art and art history and began pursuing a master's in psychology.

But when Wasserman polled her friends and co-workers for input about career moves, several suggested law. Because Wasserman had some familiarity with the profession through her social services job and because she had no luck finding work at a museum, she decided to give law school a try.

Wasserman discovered two things about herself while attending McGeorge School of Law in Sacramento. First, she discovered her love of Northern California and moved to San Francisco after earning her law degree in 1982. Second, she discovered

SNAPSHOT

Renée D. Wasserman

Law School: McGeorge School of Law, University of the Pacific, 1982

Case Types: Employment, retail industry trade regulation and business practices

Career Highlights: Partner, Rogers, Joseph, O'Donnell & Quinn, 1996-present; associate, Donahue, Gallagher, Thomas & Woods, 1985-96; associate, Law Offices of Melvin Belli, 1983-85; law clerk, U.S. attorney's office, Sacramento, 1980-82

where her interest within the law lay.

"I wanted to be the queen of torts," Wasserman recalls, "so I went to work for Mel Belli's office. I had my first trial three months after I passed the bar."

Wasserman quickly developed a taste for litigation and trial practice, but she could not decide on a specific area of focus. After two years of practicing plaintiffs' personal injury and employment law, Wasserman left the Law Offices of Melvin Belli and joined the general litigation firm of Donahue, Gallagher, Thomas & Woods in search of a broader perspective. Ultimately, she found her niche in retail-industry advocacy.

"I worked with a large retailer for a number of years, and I ended up handling a few cases where there were multiple retailers involved," Wasserman says. "They liked me, and they started hiring me for other cases."

"I just started doing more and more for retailers. I became known by the retail associations in the state of California, and then they referred me to their members, and I just started developing this area of specialization and a client base made out of retail-industry employers," she says.

Wasserman appreciates working with these clients, whom she describes as "sophisticated" in terms of

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the former firm is unwilling to provide such a waiver, the hiring firm should construct an ethical screen around the new lawyer, before she begins working at the firm, screening her from any contact with the matter.

As an additional precaution, hiring firms should also ask law school applicants to fill out a modified version of the conflict questionnaire it uses for lateral candidates, asking each applicant to list to the extent that they recall all clients they worked for during their clerkships, including matter names, other parties and opposing counsel, information concerning any judicial clerkships, and any directorships, partnerships or office in any public or private entity. This information should also be run through the firm's conflict checking system.

at heart, and she takes great pleasure in her work at Rogers Joseph, where she is able to spend 90 percent of her time in litigation.

Wasserman joined the firm in 1996 and has tried at least one case every year since then. Last year, she tried two, and this year she had five trials set. And while Wasserman enjoys trials because, she says, "it's the only time I really get to focus on one thing," her favorite part of litigation continues to be "the analysis and strategy that results in how you get the case resolved, whether through settlement or summary judgment or trial."

"Taking that case and really early on sitting down to devise a strategy is, I think, the key ingredient in winning and, frankly, the most enjoyable," she says.

Wasserman's zeal for litigation comes across in her work. Attorney Paula Hagan Bennett, of the Bennett Law Group in San Francisco and Larkspur, opposed Wasserman in a sexual harassment case that resolved before trial. Bennett found Wasserman to be "a very strong advocate for her client."

"She was very well-organized and also easy to work with in terms of the basic things that occur every day in a case, like continuances, scheduling, things like that," Bennett says.

But perhaps most notable to Bennett was Wasserman's valor in the line of duty.

"She was trustworthy," Bennett says. "So many lawyers these days want to make everything difficult. They want to make you

jump through every hoop, and it's a waste of time and money for their client."

"Renée doesn't do that. She evaluates the case and, if it's a case that should be settled, tries to get it settled. She is very professional, very experienced and very pleasant to work with," Bennett says.

Fortunately, Wasserman has been able to fulfill her interest in psychology through her legal practice. However, she must use her free time to indulge her interest in art. When not spending time with her son, at whose preschool she volunteers as a room mother, or her husband, who serves as general counsel for a large engineering company, Wasserman frequents art galleries, museums, antique shops and auctions, where

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their personnel, policies and procedures.

"My client contact is with in-house counsel, who obviously understand what I do. It's a much different experience than dealing with an individual plaintiff who doesn't," she says.

In addition, focusing on the retail industry has provided Wasserman with a broad base of knowledge about the industry. For example, she has a thorough understanding of the collective bargaining agreements commonly used by retail food employers and union employees. In addition, she understands the structure and business practices of retail food and beverage companies with regard to their human resources departments and employment policies.

"Because I've been handling these types of lawsuits for at least 15 out of my last 17 years of practice, I've seen all of the fact patterns and types of cases and claims that the plaintiffs make, so I can pare down their lawsuits rather quickly, if not through summary judgment, then at trial," Wasserman says.

Attorney Tom Maddox attests to the fact that Wasserman's specialty practice, as well as her personal strengths as an attorney, benefit her clients. Maddox worked with Wasserman extensively from 1990 through June 1999, when he served as in-house counsel for American Stores, the parent company for Lucky Stores, before it was acquired by Albertson's last year.

"She's just marvelous," Maddox says. "She's one of the best trial lawyers that we used when I was at Lucky Stores. She's smart, thorough and realistic. She won a lot of cases for us on summary judgment. I'd say she must have handled over 30 cases for us and either won at trial or settled all of them on favorable terms."

"She's a very tough litigator but she's also very practical. She is skilled at resolving disputes through mediation, and the thing I really liked about her is that even though she's tough, she's very realistic when it comes to advising the client about potential weaknesses in the case and the need to at least consider settlement."

"I really think she is one of the toughest and smartest litigators we used in Northern California," Maddox says.

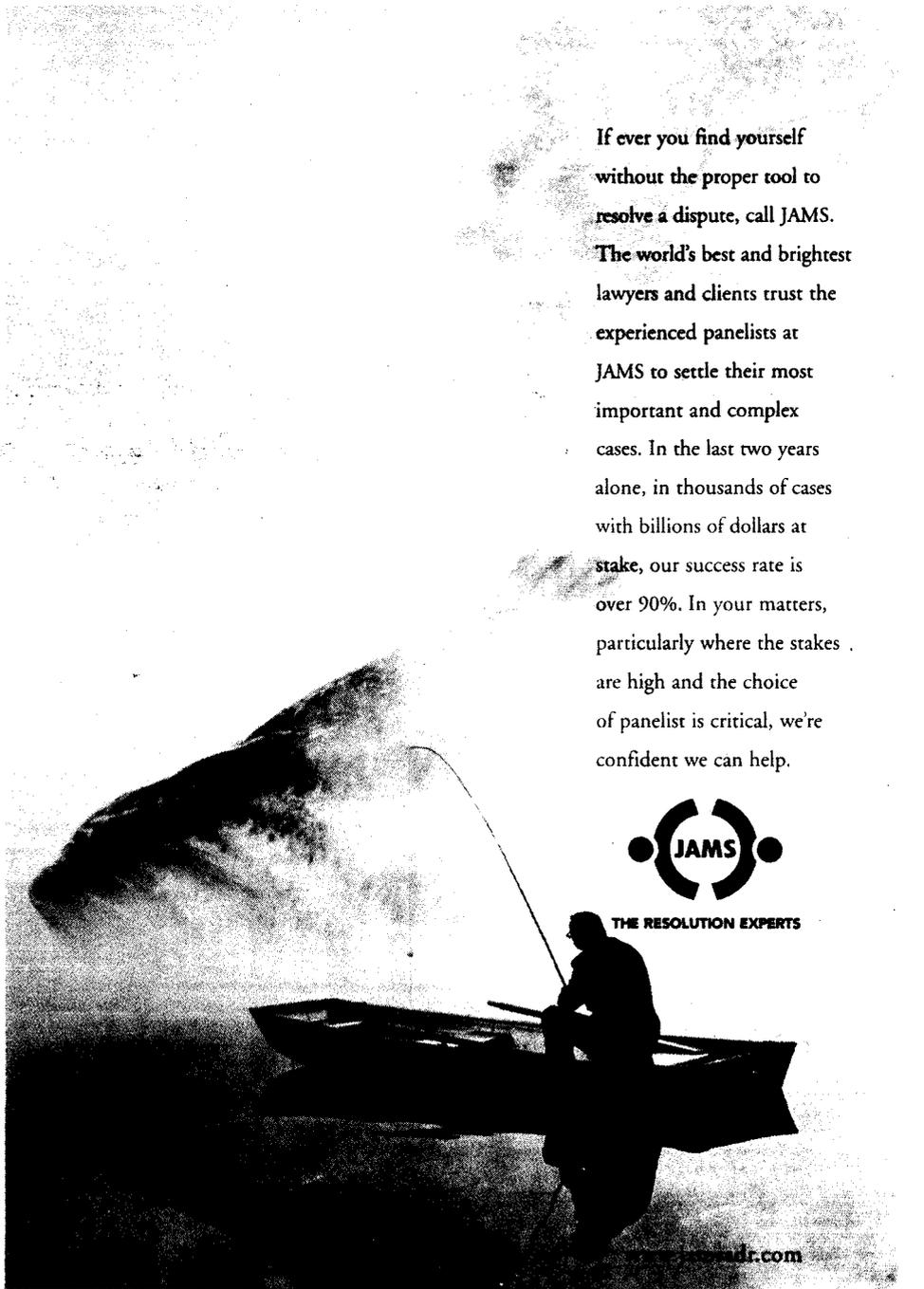
Wasserman shares her skills and experience by teaching trial advocacy, conducting training for her clients' management personnel and conducting pro bono mediations through the San Francisco Bar Association.

Nevertheless, Wasserman is an advocate

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pline might look unduly harsh if the jury did not know that, under the terms of the collective bargaining agreement, and the way it is interpreted by both union and retail industry employees and employers, Fonseca's failure to log in the checks was misconduct warranting immediate termination.

"If (the subject matter) is beyond the jury's common experience, you are entitled to an expert, and if you can think creatively about what type of expert you might be able to use to explain that point to the jury, then you are likely to be able to use that expert," Wasserman says.

As a result, Wasserman retained an expert in retail industry practices to testify on her client's behalf.

Wasserman retained Robert Vallon as an expert in retail food industry practices. Vallon had never testified before as an expert. A former attorney, Vallon has worked for the Food Employers' Council since 1972. The council consists of most of the major players in the retail food industry, many of whom are also parties to the same collective bargaining agreement to which Lucky Stores, which hires union employees, is a party. Vallon's job at the council includes handling labor negotiations.

Wasserman sought to have Vallon testify about the grievance process that employees must go through to deal with disciplinary issues, how many times he has dealt with those types of terminations and what other retail employers would likely have done in the same circumstances.

Wasserman had two hurdles to overcome. First, plaintiff's counsel moved to exclude Vallon's testimony on the grounds that it went to the actual legal issue in the case. Although the trial court limited the scope of Vallon's testimony, the judge permitted him to testify about the terms and conditions of the collective bargaining agreement. According to Wasserman, Vallon testified that Lucky has terminated 50-60 employees per year in the past 27 years pursuant to the terms of that contract, without warning or intermediary discipline imposed, for the same misconduct for which Lucky allegedly terminated Fonseca.

The second hurdle came shortly before trial, when Vallon informed Wasserman that he was going to be out of the country for several days of the scheduled trial. The trial had

been continued twice already. Wasserman had to decide whether to move for another continuance, read from Vallon's deposition transcript or come up with a different, novel solution.

Wasserman brainstormed with senior trial counsel Martin Quinn and determined that, instead of any of the traditional choices, defense counsel would move the court to allow Vallon's testimony to be videotaped and then played for the jury at trial. Plaintiff's counsel objected, but the court found persuasive Wasserman's argument that such testimony was not prejudicial, whereas continuing the trial for a third time, when Vallon had been available to testify in person the first two times, was prejudicial.

As a result, after counsel had finished arguing other motions, everyone left the courtroom but the bailiff, and Wasserman brought in her witness and a videographer.

"We did the whole testimony, direct and cross-examination, on video, and then gave it to the judge to tell us where she would sustain objections," Wasserman says.

Wasserman edited the videotape to eliminate that portion of the testimony that the judge had deemed objectionable. When the point in the trial came for Vallon's testimony, Wasserman played the tape.

"I think the jury liked it," Wasserman says. "We brought the television up close to the jury. They were all watching it. It wasn't long. It was certainly better than reading portions out of a deposition," which Wasserman describes as "deadly" boring for a jury, and "not usually set up right since the other side is taking the deposition."

Ultimately, Wasserman's strategy proved effective. After deliberating for fewer than 90 minutes, the jury returned a 9-3 verdict in favor of the defendant. The plaintiff's only post-trial motion, to strike defense counsel's costs bill of \$55,000, was denied, and the judge awarded defendant \$52,684.42 in costs. The plaintiff also filed a notice of appeal in pro per, later withdrawn.

Wasserman noted that this was the first trial in her experience in which both plaintiff's counsel, both defense counsel and the judge were all women. Coming from a majority-woman-owned firm, Wasserman was delighted.

"I think it was less highly charged and more pleasant," she says, "but that there was any less advocacy, but it was more congenial."

"I think that it shows that women are really now at the forefront of the practice," she says.

an antique that is terrific at a reasonable price," she says.

Indeed, Wasserman's passion for antiques extends to living relics: She grows garden roses that date as far back as the 15th century, when they were first found wild, and the 19th century, when they were first propagated and cultivated domestically. Wasserman belongs to the Rose Society and cultivates these ancient flowers in her summer hideaway in Sonoma.

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she collects art by Bay area artists and antique furniture. She has a particular penchant for 18th century Italian pieces.

"The chase is what's interesting to me, to really snoop around and find



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