

Against The Grain

Burrowing into television's Byzantine finances and taking on one of L.A.'s 'big gun' accounting firms require persistence, time, thoroughness and a bold expert witness.

By Anne La Jeunesse | Daily Journal Staff Writer

Television producer and writer Deborah Pratt had "had it" with attorneys, whom she considered to be at the same level in the evolutionary chain as car mechanics when they deal with women clients - not highly evolved.

Then, while trying to understand how she came out on the short end of the financial stick in her divorce from fellow producer Donald P. Bellisario, creator of such hit shows as "Magnum P.I.," "Airwolf" and the current series "JAG," she was referred to Beverly Hills attorney Philip Kaufler.

Kaufler doggedly pursued her former husband's complex contracts with studios and studied the intricacies of the long-term pay structures peculiar to Hollywood's entertainment industry. His in-depth research paid off, to the tune of a \$2.5 million arbitration award late last year.

"Philip Kaufler renewed my faith in lawyers and the judicial system," Pratt says. "I had given up on attorneys before I met him. He's honest, he's the hardest-working attorney I've ever met, he has integrity."

Pratt says Kaufler diligently kept her apprised of the details and progress of her accounting malpractice lawsuit against the forensic accounting firm that examined Bellisario's worth and earnings under his television contracts. She says Kaufler made her sit down, listen and comprehend what was at stake.

"He helped me understand what the case was about. Usually, [lawyers] don't want to bother at all," Pratt says. "He's the only attorney I want to work with ... He gives 200 percent. He's gracious and has integrity."

Kaufler has been a sole practitioner since he graduated from Loyola Law School in 1978, confident that the law clerking he had done while in school prepared him to hang out his own shingle.

An orthodox Jew, Kaufler is intrigued with the historical derivation of Judeo-Christian laws that great Jewish legal scholars wrote 2,000 years ago. People throughout Western civilization still abide by many of these laws.

When he speaks of the Pratt case and the intricate details of Bellisario's many studio contracts, Byzantine pay structures and complex payout schedules, he feels as if he is peeling an onion that grows new layers as the previous levels are revealed.

"I really spent a lot of time learning all of this, a huge amount of time," Kaufler says.

In order to prevail in an accounting malpractice matter, he says, an expert witness, in this case a forensic accountant, must testify about the standard of care for accountants. The expert must describe for the fact-finder how the defendant firm breached that accepted standard.

"You can't just argue that they were negligent," Kaufler says.

A significant obstacle to establishing that kind of testimony in the Pratt case, he says, was that he and his client were going against the accounting firm of Gurse, Schneider & Co., considered "big guns" in Los Angeles, he says. The firm was countering his client's \$2.8 million settlement demand with an offer of \$150,000, he says.

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"The first major problem I had in this case was that I contacted 10 of the top forensic accountants in the city and not one of them would testify against Don Gurse," Kaufler says.

To address this problem, Kaufler says, he went to Northern California to find an accounting firm less fearful of going against the industries' heavy hitter. Although that accounting firm did background work, the accountant did not have the qualifications to testify at trial, leaving Kaufler searching again for an expert witness.

"At the last minute, I found Stephen Reiss. He knew Don Gurse, and he was the only guy willing to testify against him," Kaufler says.

The calculations presented to retired Judge Jerry K. Fields, a neutral with Alternative Resolution Centers in West Los Angeles for 10 years, sitting as the sole arbitrator in the matter, were so well-researched and -prepared, Fields says, that they convinced him to find in Pratt's favor.

Kaufler "did a very good job" on the case, Fields says. "He was right on all the issues."

Attorney Hillel Chodos, a sole practitioner in Los Angeles, who referred the attorney-shy Pratt to Kaufler, says he was the perfect lawyer for the job.

"I think Phil is a very capable lawyer. He's thoughtful. He has, I think, a sophisticated approach to the matters he handles. He's extremely determined, and he worked hard on that case for those results," Chodos says. "Phil's the kind of lawyer I admire because he takes it as far as it needs to go."

Attorney Hugh John Gibson, a Beverly Hills sole practitioner, is a colleague and long-time friend of Kaufler who echoes Chodos' sentiments.

"He's very aggressive on cross-examination. He's quick-thinking on his feet, very capable," Gibson says. "He is a very quick study on any subject matter that comes to his attention."

Kaufler says he is enthusiastic about the interesting cases that cross his professional path and sees himself as a competitive advocate working hard to win cases.

He mentions a case he lost, but in which he represented the client because he believed in the client's case. The client was a homeless man. One of his retinas became detached when a Larchmont Village landlord wielding a glass ashtray allegedly attacked him.

Kaufler tried to get the man some recompense, but the frustrations he says he experienced - trying to keep his client off the street and in a hotel that Kaufler rented, wearing decent clothes, bathing and making his appearances in court - contributed to losing the case.

He was more successful in another case, *Adams v. Murakami*, 54 Cal.3d 105 (1991), which resulted in a state Supreme Court decision requiring evidence of a physician's net worth in cases seeking punitive damages.

That case, Kaufler says, unfolded like a tragic screenplay.

The doctor in the case, who was treating a traumatized, schizophrenic young woman in a locked mental facility, overlooked signs of her pregnancy and continued prescribing psychotropic drugs.

When he realized she was pregnant, Kaufler says, the doctor arranged to have the woman undergo an abortion without her knowledge or consent. A nurse who had befriended the pregnant woman foiled that plan by informing her of the plan. The patient later gave birth to the baby, who is retarded, Kaufler says.

"I'm usually representing people who are on the disadvantaged side," he says. "Without a lawyer helping them, they would just get eaten up in the system."

Count On It

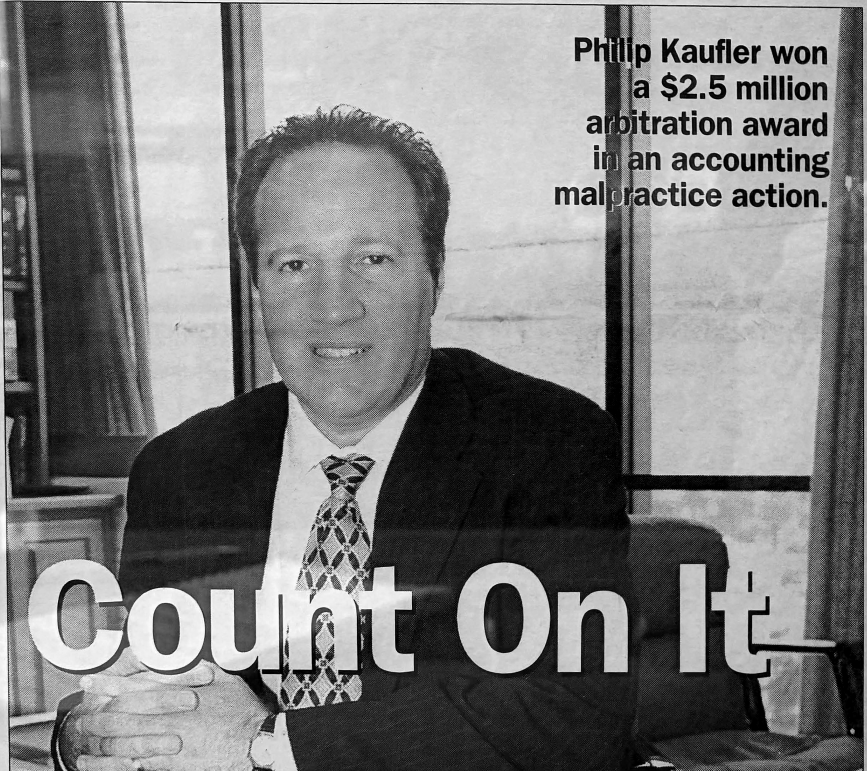
ORIGINAL COVER

SPECIAL ISSUE: ADR
Mediating legal malpractice actions. By Gene Moscovitch. **PAGE 8.**

MAY 19, 2000

Verdicts

& Settlements



Philip Kaufler won a \$2.5 million arbitration award in an accounting malpractice action.

Count On It

PREMISES LIABILITY Defense verdict for supermarket chain; shopper tripped backwards over boxes in aisle, injuring his neck, back and hip. PAGE 20.	DENTAL MALPRACTICE Settlement is \$93,000 for patient who injured her jaw falling down stairs; dental treatment resulted in loss of three teeth, despite therapy. PAGE 21.	MEDICAL MALPRACTICE Defense verdict for medical center; end-stage diabetic patient lost lower leg and part of other foot, despite podiatric treatment. PAGE 21.	MANAGED CARE Binding arbitration award is \$1.6 million for infant born with palsy; plaintiff alleged inaccurate records and hospital negligence. PAGE 24.	AUTO V. PEDESTRIAN Settlement is \$5.6 million for 81-year-old struck in crosswalk by church vehicle; she is now on a feeding tube. PAGE 26.
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SNAPSHOT

Philip Kaufler

Law School

Loyola Law School, 1978

Career Highlights

Law Offices of Philip Kaufler, 1978-present

Case Types

Business, real estate, malpractice, personal injury

Biographical details as published in May 2000.

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