

Duo Won Monster Verdict

By Pat Broderick

Daily Journal Staff Writer

Call them the surfer and the skipper, two guys with different styles and skills, who regularly collaborate on high-stakes cases while living at opposite ends of the state.

Most recently, Michael Thamer, a lawyer-rancher in Callahan, known for his expertise in elder care law, and **Christopher Healey**, a mild-mannered expert on class-action litigation in San Diego, nailed what is thought to be the largest jury award in the U.S. this year -the \$677 million jury verdict levied against the nursing home chain Skilled Healthcare for understaffing its facilities.

The challenge before them was to convince a state court jury the nursing home chain had fallen well below the state's requirements for nursing home staffing, without actually alleging blatant injuries or deaths. That meant presenting dry data related to nurse staffing hours over a long period of time, which can be less compelling to a jury.

The company recently agreed to pay \$50 million to settle the lawsuit, avoiding what could have been years of legal wrangling, and a questionable return to the class members. The settlement includes an injunction, requiring the chain to maintain minimum staffing ratios at its facilities, which Thamer and Healey say was the main focus of the lawsuit.

Thamer, 54, who went to law school with Healey at Santa Clara University, enlisted his friend's help with the complex case, melding their expertise.

"Michael has a special talent in connecting with juries," Healey, 54, a partner at Luce Forward, said. "He's tried a lot of cases and is very charismatic. He is very creative and will come up with the concepts and ideas, and is more than happy to let someone like me come in and help flesh out the procedural framework for implementing those ideas."

Thamer hooted when he heard about his "charisma," observing, "I'd say that I'm the accelerator and he's the clutch and break."

When the two met during the first year of law school, Thamer, who grew up in Newport Beach, was an avid surfer. Healey grew up in Seattle and spent summers working on a salmon tender in Alaska, becoming a skipper, to help pay his way through school.

"He had a thick beard and long hair, and he looked like he fell out of the woods in Alaska," Thamer said. "He's cleaned up over the years."

Healey asked Thamer to teach him how to surf, and quickly discovered a key element of his friend's personality one day when they were in the water, waiting for a good wave. All of a sudden a huge "Hail Mary" rose out of the surf. While Healey steered clear, Thamer "takes off on the wave."

"It epitomizes his personality," Healey said. "He's willing to take risks."

Their light-hearted banter underscores a deep respect that the two share.

"I trust him implicitly, and that's critical in a partnership like this," Thamer said. "Everybody has a lot at risk in cases like this. If you have to second guess your co-counsel it would be an awful situation."

While both maintain separate law practices, they collaborated on cases in the past. One of their most significant involved a lawsuit filed by the California Advocates for Nursing Home Reform against the California Department of Health Services, contending that the state wasn't investigating elder abuse claims in nursing facilities in a timely manner. *California Advocates for Nursing Home Reform v. California Department of Health Services*, CPF-05-505749, (San Francisco Sup. Ct., filed Sept. 21, 2006).

"We got a court order issued by the San Francisco Superior Court and the state has complied with that order," Healey said.

Pat McGinnis, executive director of California Advocates, said that the case "made an incredible

difference in California."

"These two exemplify attorneys who do good work for the right reasons," she said.

Their most recent case, against Skilled Healthcare, required the pair to rough it while they were trying the lengthy case in Humboldt County.

"I asked Thamer to pick out an office for us last fall, something close to the courthouse," Healey said.

They decided to go on the cheap, to save on trial expenses, and ended up with a converted massage parlor that Thamer said had been busted for providing more than rubdowns.

"On the corner of our block, there was an Aladdin Bail Bonds, and next door was a closed tattoo parlor," he said. "Our next door neighbor was a cage-fighting training center. The bad news on that was, when people were training, beating each other up, our walls were thin, and it made concentrating difficult."

They slept on air mattresses, surrounded by pink walls, inspiring the name "The Pink Palace."

Kippy Wroten, founder of Wroten & Associates in Irvine, who was defense counsel, was horrified when she toured the place.

"It was pathetic," she said. "We went over to visit and I couldn't believe they were in there."

While Wroten is candid in her disappointment over how the case came out, she credits Thamer and Healey for being "zealous advocates."

"I am pleased with the settlement terms, but when I look back on the case, I have very serious complaints," she said. "I'm not settled in my own mind that we did any large good here. We didn't get the issues settled that needed to be settled. If people look to litigation to send a message, this one failed."

But, Wroten added, "I appreciate the long, hard fight. It was done professionally, although acrimoniously at times. But they were zealous advocates, doing their jobs. I have shaken their hands."

Also assisting on the case with Thamer and Healey were Tim Needham and Michael Crowley, from the law firm of Janssen, Malloy, Needham, Morrison, Reinholtsen, Crowley & Griego in Eureka.

Crowley described Thamer's opening statement as "absolutely riveting," and his closing argument "compelling."

"He did a tremendous job," Crowley said. "To be in a case with lawyers this good, it lifts everybody's game up."