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Seeing Both Sides

Lawyers at Harris & Hayden say their work for plaintiffs and the defense, especially as it relates to civil rights and police abuse, gives them a perspective many lawyers don't have.

By Shane Nelson

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Litigator John W. Harris' father was one of the first African Americans to work for the Los Angeles County Sheriff's Department, where he was later assigned to the courts division.

"As a young kid, my dad used to always take me to the courtroom," the Harris & Hayden Law Firm's founding partner recalled. "He'd introduce me to all the lawyers and take me back to the judge's chambers, where I'd talk to the judge."

Although Harris' legal career has now spanned five decades, he said he wanted to be a doctor when he started college. Today, however, being "inside the ropes" of a courtroom is one of the attorney's favorite destinations.

"When I'm in the courtroom, I'm at home," Harris said. "There's nothing better."

Right after he finished his degree at UCLA School of Law, Harris went to work for the Internal Revenue Service, where he handled both civil and criminal cases, including organized crime matters.

"One good thing about working with the government is they don't have the luxury of dealing with extended learning curves," Harris explained, chuckling some. "The day I started I was given like 300 cases, and I said, 'What am I going to do with



Justin L. Stewart/LA Daily Journal

From left, John W. Harris and Herbert Hayden of Harris & Hayden Law Firm.

this?" And my boss told me, 'You're going to try them.'"

In the 1980s, Harris and another former IRS attorney opened a small firm, where he handled primarily defense work in criminal tax matters. Harris eventually hung his own shingle, continuing his focus on tax cases but branching out further into more general civil litigation.

Herbert Hayden joined forces with Harris as an associate in 2014, and today the two partners handle a range of corporate tax issues, an increasing number of civil rights cases, and a wide range of employment matters – including wage and hour claims, ADA violations as well as sexual harassment and discrimination issues.

The firm frequently defends municipalities and businesses in those employment disputes

and often conducts intensive investigations for those entities in matters involving discrimination or harassment claims. Harris & Hayden represents primarily plaintiffs, however, in its growing number of civil rights cases, including several high-profile wins in excessive force matters involving law enforcement officers.

"Representing both plaintiffs and defense, I think I can see more clearly the issues from both perspectives," Harris said. "Sometimes at firms where they only do defense work, they never think there's a legitimate claim ever filed. ... I always say if a lawyer can't sit on either side of the equation, they're not a very good lawyer."

Fullerton defense attorney James R. Touchstone, who squared off against Harris in an officer-involved-shooting suit

that ended up in front of the 9th U.S. Circuit Court of Appeals before settling, described Harris as a good lawyer and a gentleman.

"John's a dynamic litigator," Touchstone said. "We fought a lot of battles in that case. ... But I think he's a man of integrity and his word."

Hayden, who was also pre-med in college and later planned to join Arthur Andersen as an accountant before the Enron crisis, worked as a litigation support attorney at Irell & Manella LLP before joining Harris. Hayden said he jumped at the opportunity to work with a litigator he admired greatly, and his new boss gave him an immediate chance to head up several of the firm's high-profile civil rights cases.

"The socio-economic and political climate in the United States

these days is putting a lot of what we do at the forefront – not only as people of color but attorneys that represent both plaintiffs and defendants in employment law cases and civil rights cases,” Hayden said. “I think we have a lot to add to the discussion.”

Some of Harris & Hayden’s recent civil rights successes include a \$1 million settlement in an excessive force claim against a Los Angeles Police Department officer who fired into a group of teenagers and shot an African American boy in the back. *Nicholson v. City of Los Angeles*, 2:15-CV-07594 (C.D. Cal., filed Sept. 28, 2015).

The firm also secured a \$5.5 million excessive force settlement from Riverside County after several police officers in Moreno Valley pulled an African American man from his car at a Burger King drive-thru and were caught on tape kicking and punching him before he died at the scene. *Johnson v. County of Riverside*, 5:14-CV-01375 (C.D. Cal., filed Jan., 2014).

On Nov. 12, Harris & Hayden completed oral arguments in another civil rights matter before the 9th Circuit, contesting the appeal of a \$2.5 million 2018 jury verdict against Riverside County for the wrongful death of a mentally-ill African American man who was fatally shot on video by sheriff’s deputies. The defendants in that case have since agreed to pay the verdict and attorneys fees, according to Harris, settling the matter. *Smith v. County of Riverside*, 5:16-CV-00227 (C.D. Cal., filed Feb. 5, 2016).

“In a case where someone is dead, where there is a decedent, it’s about more than just money,” Harris said. “It’s about doing the

right thing, and it’s about at least making the survivors feel whole in some meaningful way. That’s why I enjoy it so much because it’s just about doing the right thing.”

Harris noted criminal charges were not filed against the officers involved in the excessive force civil suits his firm has successfully handled for clients in recent years. And he said that while those multi-million-dollar verdicts and settlements go a long way toward providing the people his firm represents with some sense of justice, they do little to motivate systemic change within California police and sheriff’s departments.

“The only thing that changes behavior is discipline and punishment to the officers, which heretofore has never occurred,” Harris said. “I think if people are found to, let’s say, have committed homicide or some other culpable [charge], where they lose their job or face the possibility of going to prison, I think that changes behavior a little bit. But I think writing a check to the plaintiff is not a deterrent.”

Harris was quick to mention videos captured by bystanders have been a critical component in a number of the firm’s recent civil rights successes, and he said mobile phones are making a transformative impact.

“People automatically pull out their phones and start videotaping whenever they see something may go down with law enforcement,” Harris said. “The first thing we always try to do is get the body cams, but it’s just so amazing how often they forget to turn them on. ... Now that we have [cell phone] visual evidence, which we never had years ago obviously, the lies just don’t sell.”

Rancho Cucamonga plaintiffs’ attorney Robert M. Kitson, who has opposed Harris & Hayden on several occasions, described Harris as a “forceful opponent” in a recent discrimination suit against the Los Angeles County Metropolitan Transit Agency.

“John takes a great deposition,” Kitson said. “So many times you see attorneys who have stuff go right over their head because they’re reading the next question. That is not John Harris. He covers everything he needs to. He doesn’t miss anything. ... He gets a lot more information out of witnesses than most other attorneys I’ve seen.”

Kitson was also impressed by Hayden during arguments made before a judge in the recent Metro discrimination complaint, which ultimately settled.

“We didn’t end up before a jury, but we got really close,” Kitson said. “And I think Herbert would have enormous jury appeal. People would definitely want to hear what he had to say.”

Harris, meanwhile, described a different quality in his legal partner.

“He can be ferocious. Sometimes I have to pull him back,” Harris said of Hayden, chuckling again. “We do good cop bad cop all the time. I tend to be the good cop. ... We work well together. We don’t always agree, but who does? I’m very happy to have him as an official part of the partnership.”

Hayden said he’s learned a great deal from Harris, and he’s tremendously proud today of the firm’s role within the community.

“We’re a small, minority-owned firm – two Black men partners at a law firm in LA,” Hayden said. “I couldn’t be happier for what we’re doing to not

only bring success for our clients but showing we can be successful as professionals who make a difference – not only in the courtroom but in the court of public appeal.”

Harris said the number of African American attorneys has shrunk in recent years, making the perspective provided by Harris & Hayden critical for California’s legal industry.

“There is a paltry number of minority – particularly Black attorneys,” he said. “We’re pretty much an anomaly these days as a black firm that has been around and been successful. And we bring a different attitude and vision to our clients because we are minorities – particularly in these cases where I believe the core issue is about being black or being minority. We understand because we’ve walked that walk. We’re not standing in somebody else’s shoes. We know what it is to experience discrimination. We understand the trials and tribulations of our minority clients, so we bring that unique experience and background.”

Born and raised in south central Los Angeles, Harris said he also takes pride in being a role model for young people of color, and the celebrated litigator works regularly with teenagers from troubled backgrounds, hoping to show these kids they too can be successful.

“I’ve been there – my dad was a cop, but we still lived in Watts. ... I grew up in the hood before they called it a hood,” Harris said with a laugh. “Black role models are what these kids need to see. ... You just can’t overstate the value of a young black boy or girl seeing successful professional people of their color.”