

Profile



Marc Hankin

Partner, Grayson, Givner,
Booke, Silver & Wolfe

Law School: Loyola Law School, 1980

Age: 41

To Some, He's Mr. Elder Abuse

But to Others, He's Known as
Legislature's Jiminy Cricket

By Arleen Jacobius
Daily Journal/Staff Writer

Marc Hankin has been called Mr. Elder Abuse and the father of elder abuse law.

But those who work with him in his pro bono side career authoring ground-breaking legislation for the elderly prefer to think of him as the state Legislature's Jiminy Cricket.

"He is the voice of conscience," said Paul Minacucci, administrative assistant to Sen. Henry Mello, D-Monterey. "He is a good barometer. If we could convince him about an amendment, then I knew it held to the spirit of the bill. If we could convince Marc, the rest in the field would find that credible."

Minacucci worked with Hankin on his latest legislative triumph. The recent passage of SB679, an amendment to the Elder Abuse and Dependent Adult Civil Protection Act (Welfare & Institutions Code 15600 et seq), provides pain and suffering damages for abused seniors, payable even after their deaths, along with ensuing attorney fees.

Before the bill was signed into law last October, few attorneys would take elder abuse cases because the average age of complainants is 80, and most have at least four disabling conditions, said Patricia McGinnis, director of California Advocates for Nursing Home Reform.

Often, clients would die before the case concluded, McGinnis said.

Hankin drafted the original legislation and, with the backing of the Beverly Hills Bar Association, helped get it through the Legislature on the second try.

It was Minacucci's job to reach a compromise between nursing home representatives and advocates for the elderly, the most vocal of whom was Hankin.

Working with Hankin was like riding a roller coaster, Minacucci said.

Hankin enjoys a good debate, and people find that difficult, Minacucci added. "I find that refreshing."

The bill was originally sponsored by Sen. Herschel Rosenthal, D-Los Angeles. It did not pass because legislators considered it an attorney fee matter, Minacucci said.

But when Minacucci's boss, Mello, signed on, the focus of the bill shifted to the perspective of the aging person. The argument was that the law needed to be changed to protect senior citizens from emotional, physical and fiduciary abuse.

"Marc is so committed to the concept, the process was difficult for him. The process is compromise," Minacucci said. "I think he was disappointed that it did not pass in its original form."

Still, Minacucci said, 80 percent of the original bill passed. "That's pretty good by legislative standards."

Hankin agreed the legislative process can be frustrating. For instance, the new law places a \$250,000 cap on pain and suffering. There was no such limit in Hankin's original version.

At first, Hankin was depressed. He believed he had failed. But colleagues gave him a "therapy" session and convinced him the law could form the foundation of a change in the system.

"It's no longer less costly for the abuser to have the victim die than survive," Hankin said.

And now he is philosophical about it.

Easier to Amend

"The deals limit what you can do," Hankin said. "But it's easier once you get the bill enacted — especially if the bill is a toughy — to get it amended later."

This was not Hankin's first attempt at changing the law.

When he was in his third year of law school, his father was diagnosed with Alzheimer's disease. For the next several months, Hankin spent his free time in the Los Angeles County Law library or on the telephone with lawyers trying to figure out the Medi-Cal system.

When it became clear his father would need long-term nursing home care, Hankin's mother discovered Medicare and private insurance covered less than 3 percent of long-term care, and Medicare did not pay for custodial care.

So she applied for Medi-Cal but was told she could not qualify until she had spent all but \$2,300 of her savings. The only way

she could keep more of the family savings was to get a divorce, and make half their estate separate property.

So, in 1981, after 40 years of marriage, Hankin's mother got a divorce.

Four years later, Hankin got his revenge.

He virtually stopped practicing law to devote himself to drumming up support for the first law he drafted, W&I Code Section 14006.2. That law allows spouses to avoid impoverishment from nursing home costs by dividing community property, then giving the home to the healthier spouse.

Familiar Sight in Capital

Since then, Hankin has been a familiar sight in the capital, stumping for changes in the law to benefit seniors.

He wrote Chapter 144 of the Probate Code to make it easier to divide assets in conservatorships.

He drafted an amendment to Probate Code, Section 1821, to require a person petitioning for conservatorship to give notice to distant relatives, such as cousins, aunts, uncles, nephews, nieces and step-children, if no closer relatives were available. This was to prevent interlopers from taking over too easily.

He also authored numerous proposed changes in the law, which have yet to pass the Legislature.

The word most used by people describing Hankin is "intense."

"Some people find him to be too contentious to smoothly work with," Minacucci said. "I do not. But I'm from New York."

Hankin acknowledged he can be a fervent advocate. A law professor called recently to refer a client to Hankin. When the professor opened by asking whether Hankin remembered him, he responded, "Yes. But I'm surprised you called. I was such a pain-in-the-ass in law school."

And while some may tire of his constant telephone calls and faxes, most people who have worked with Hankin admire him. He has remained true to his ideals and helped keep others that way, too.

"He's very innovative in the way he perceives the law," said Kathryn A. Ballsun, a probate attorney and former president of the Beverly Hills Bar Association. "He's very honest and determined."

When he sees a wrong, he will try to remedy it without thinking about the personal consequences, Ballsun said.

Often he will propose a theory that is far ahead of the current law, and sometimes people will react negatively, added Ballsun, who chairs a four-member team of the State Bar's estate planning, trusts and probate law section's executive committee. Hankin is also a member of that group.

"I think he is a very courageous person," said Thomas Porter, lobbyist for the Alzheimer's Disease Association. "He is dedicated to whatever cause or problem he is involved with. He is not discouraged by the magnitude of any problem that may surface, and he has the confidence that we do have the intellect, collectively, to resolve whatever the challenges might be."

Beach Boy Case

Hankin's compassion and sense of justice was apparent in Beach Boy Brian Wilson's conservatorship case.

Hankin was brought in at the last minute as a conservatorship expert to represent Wilson. He withdrew from the case after the settlement was made public on Dec. 6, but his contribution was significant.

Wilson's brother, Carl, a fellow Beach Boy, along with other family members — including Wilson's daughters and mother — had sought to have a conservator appointed to manage Wilson's affairs. They alleged he had been "brainwashed" by his former psychologist, Eugene Landy.

According to Hankin, the parties wanted a strict conservatorship, such as the ones used for the elderly and people suffering from Alzheimer's disease.

Hankin helped structure a settlement within bounds of the conservatorship law, which gave the conservator limited powers and ensured Wilson's independence. The details of the settlement are confidential under the agreement.

"Brian is a genius and capable of handling himself as an adult, and it would be inappropriate to impose on him the all-encompassing limitations of a garden-variety conservatorship," Hankin said. "That would be harmful to Brian, who is a high-functioning adult with certain limitations."

Hankin did not start out to be a lawyer, but he was always an idealist.

He was too much of a maverick for the structure of the public school system and graduated in 1968 from Fairfax High School in Los Angeles with a D-plus average.

Instead of studying, he would skip school and read Plato's "Republic," he said. He spent a great deal of time with a study group of his school pals, arguing history, economics, psychology and philosophy into the wee hours.

"This rather humorous defiance of the truant officer and my teachers was an important step in my development," Hankin wrote in his "personal summary" that reads like a first draft for his memoirs. "I perceived it as a silent declaration of my worth to a world in which I could not function."

"It seemed that my failure to get good grades from my teachers was more an indication of my mettle, than evidence of my being as stupid as I had always felt."

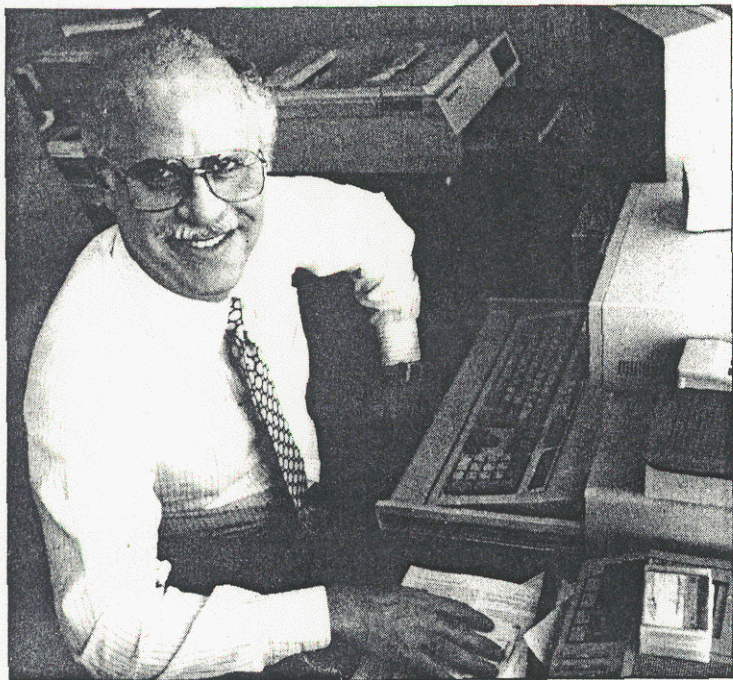
This all turned around when he spent a year in Israel at the Hebrew University of Jerusalem. There, he mastered French and Hebrew.

On his return, he took classes at Los Angeles City College and California State University, Northridge. Although he said he did not understand mathematics when he graduated from high school, he now excelled in symbolic logic and the philosophy of science.

Hankin returned to a kibbutz in Israel in 1972 with the intention of remaining there. He attended Hebrew University in Jerusalem and Haifa University, majoring in math and French literature.

During semester breaks he lived on Kibbutz Shomrat, which he described as being 15 kilometers plus or minus from

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ROBERT LEVINS / Daily Journal

MARC HANKIN — "I practice law to finance my pro bono legislative habit. I get a thrill out of it. I like to change the system."

the artillery shells during the 1973 Yom Kippur War.

While on the kibbutz, he lived a farmer's life: plowing fields, milking cows, picking fruit and pruning trees.

Returned to California

He moved to Berkeley in the summer of 1975 to study math and computers at the University of California at Berkeley. But he had amassed too many units to get into the university as an undergraduate student, so he earned his bachelor of arts degree at San Francisco State College in 1976.

Profile

He graduated from Loyola Law School four years later.

Hankin had decided to become a lawyer at the same time he decided to return to the United States.

"It was a way to go back to the states and earn a living without offending my ethical code," said Hankin.

After graduating from Loyola, Hankin went on to New York University, earning an LL.M in taxation in 1982. Returning to California, he landed a job with a Newport Beach firm, which he left after six months to start his own firm in Century City.

He borrowed seed money from his mother and used a card table for a desk. His first cases involved setting up conservatorships for his father and patients from the Veterans Administration Hospital.

Hankin and his wife have two children. On his off hours, which are few, Hankin indulges in his other passion — computers. His office is filled with computer equipment and software manuals, almost outnumbering the law books, and he enjoys playing computer games with his 3-year-old son.

About a year ago, he joined Grayson, Givner, Booke, Silver & Wolfe. He said the firm has been very supportive of his legislative work.

"I practice law to finance my pro bono legislative habit," said Hankin with a smile. "I get a thrill out of it. I like to change the system."