

## CASE IN FOCUS

### LITIGATOR PROFILE

# E.R. Work Trained Him for Legal Emergencies

**Name:** Russell S. Kussman, M.D., J.D.

**Name of firm:** Kussman & Whitehill

**Location of firm:** 10866 Wilshire Blvd., Suite 1470, Los Angeles, CA 90024

**Law school:** U.C. Berkeley (Boalt Hall) School of Law

**How long practicing:** 14 years

**Types of cases:** medical malpractice, product liability, personal injury.

**Key to success:** Remaining calm under duress and being able to think on your feet are the two most important skills a trial lawyer should possess, Kussman said. His greatest motivation has been his father, a Latvian artillery officer who was captured by the Nazis during World War II and then nearly starved to death for four years at Dachau. "When things get particularly stressful at trial, or when the other side is beating my head in, I often think that my father would have considered this a walk in the park," Kussman said. His 10-year stint at practicing medicine (which included his residency), especially his years as an emergency room physician, has also been helpful. "There's no place where it's more important to think on your feet than in the E.R.," he said, "It's great training for jury trials."

**Case in focus:** Wood v. Henry Mayo Newhall Memorial Hospital (reported below)

**Favorite trial moment:** Kussman's first major malpractice trial involved a baby born with no arms or legs, allegedly due to a progestin an obstetrician/gynecologist gave the mother in early pregnancy. The defense contended that it was reasonable the defendant doctor gave the drug and that it did not cause birth defects. During



trial, the defense called a surprise witness who testified that the defendant doctor met the standard of care and that the drug was "safe as mother's milk." Although the expert had neither been designated nor deposed, his name was familiar to Kussman. After a quick call to the plaintiff's first attorney, Kussman discovered this same expert had reviewed the case 6 years earlier and opined that the doctor never should have given the drug and that it caused the defects in question. He'd even written a report to that effect. Kussman obtained a copy of that report and cross-examined him with it the following day, much to the surprise of the witness and defense attorney. The jury returned a verdict for the plaintiff shortly thereafter.

**Personal:** When not practicing law, Kussman spends time with his wife, three sons, and teenage daughter. He particularly enjoys playing basketball and watching baseball with his children, ages 4, 8, 12, and 17. Although his children don't share his passion for golf, Kussman said he tries to take in an occasional game, but concedes his skills are "rapidly deteriorating."

**What other litigation professionals say about this attorney:** Alan Rushfeldt of Rushfeldt, Shelley & Drake said, "He (Kussman) never misses anything said by a witness. Then, he uses it to his advantage. He's one of the best plaintiff's trial lawyers in town." Both Rushfeldt and attorney Marshall Silberberg of Baker, Silberberg & Keener cited Kussman's honesty and integrity. Silberberg said, "If Russ Kussman says it's stormy, I don't need to look out the window. I get my raincoat." He added that Kussman is a "well-prepared, tenacious advocate" for his clients. "When we see his cases come in, we know we've got our work cut out for us," Silberberg said.