An interview with Mr Patrick M. Kelly

BEACH BOYS FAME

Mr Patrick M. Kelly, attorney at law with the highly eminent international law firm; Wilson Elser, and current presiding President of the Californian State Bar (which, with over 240,000 members, is by far the largest state bar in America). He was previously president of the Los Angeles County Bar Association, and former president of the Professional Liability Underwriting Society (PLUS). He has twice been elected as one of the top 100 influential lawyers in California and was selected by the governor as one of eleven who judges all of the judges in California. It is formidable resume. It immediately conjures up a man at the very top of his game, even a somewhat indomitable figure, a ‘power broker’ in the powerful world of Californian law and professional liability business. But Pat Kelly, despite being all of the above is a natural, urbane, sociable and down to earth ‘man of the people’. He is also connected to that most iconic and memorable rock bands, the Beach Boys. So what is his story? How did Pat end up as such an influential lawyer in California and not end up as a short haired hippie? We are delighted to feature in this edition of London Calling; Pat Kelly, all round thoroughly decent bloke, an all American hero, and someone we are very proud to call a friend!

Q. PAT TELL US ABOUT WHAT YOU ARE UP TO RIGHT NOW?

First and foremost I am a partner in the Wilson Elser Law firm and serve as the Western Region Manager of the firm. We are in a very exciting and challenging time in the Professional Liability, Employment and D&O markets not only because of market factors but also staying ahead of the ever evolving plaintiff’s theories of liability and the changes in our court system brought by chronic under-funding. It is up to us to make a positive difference in this dynamic area and my partners and I are doing our best to accomplish just that. Thus I have continued to be very active in my trial and mediation practice. To enhance that service, I have continued to be active in industry organizations such as PLUS, the PLUS Foundation, CLM, DRI, FDCC and the International Academy of Trial Lawyers.

Second, as president of the California State Bar, I head a Constitutionally established State of California regulatory agency that with a staff of over 600 is responsible for all licensing, admissions discipline, regulation and continuing education for the over 240,000 lawyers in California - that’s about one third of the attorneys in the United States. The State Bar is also charged with the responsibility of enhancing access to justice and our courts for those who use the California court system. That access has been severely damaged by chronic under funding of the courts by the state legislature - a decline of about 30% or $1 billion since 2008. As a leader of a coalition of attorneys and business leaders I have spent much of my time this year meeting with legislators and the governor’s office to secure more court funding. We have had some success in that for the first time since 2008, the state has increased rather than decreased the level of court funding. I have also pursued a very active legislative program that will result in more protection for California residents from unlicensed lawyers and unscrupulous lawyers, among other things. At the same, time we have increased the focus on our discipline system and State Bar Court by adding resources to those departments of the State Bar. We also administer and grade the State Bar examination. Another aspect has been to change our bar admission requirements to
emphasize practical skills training and a commitment to serve the poor. Finally, I think lawyers need to understand the importance of enhancing case resolution and reducing cost by being civil in their relationships with one another. Thus, working with others, I have initiated an addition to the oath that all attorneys take to include a promise that at all times they will conduct themselves with “dignity, courtesy and integrity”. I oversee many other programs but this gives you a sense of the scope of my responsibilities in the role of State Bar president.

I am very fortunate to have an understanding family and all of this has left little time to perform with the Beach Boys and other bands - I’ve only done a few gigs this year. But I hope to make up for that when my term as president ends this fall.

California State Bar is a whole different and much broader thing. In that role I head a California government agency that has the power to, among other things determine who will be allowed to practice law and who should have that privilege taken away. That is a great responsibility and as such, the commitment required is much greater and the exposure to lawmakers and the leaders of the court system is significantly more than what was required to head PLUS. Each organization is tremendous in carrying out its mission but the State Bar has much more expansive charge. For example the State Bar has a staff of over 600 and has its own court system whereas the PLUS staff is under 30. Thus the responsibility of State Bar President is very different and much greater than the responsibility of a PLUS president.

Q. HOW DID YOU END UP BECOMING PRESIDENT OF THE CALIFORNIAN STATE BAR, AND WHAT DOES THE POSITION ENTAIL?

Becoming President is a very long road of professional and public service. To “make the cut” you have to have a reputation as an excellent lawyer but also one who has emphasized public service - in my case, service as President of the Los Angeles County Bar Association, President of PLUS and many other professional organizations. To start, I had to be elected to a 23 member State Bar Board of Trustees. At the time I was elected to that Board, the majority of Board members were elected by the 240,000 California lawyers which were divided into districts among the counties of California. The President is elected by an electoral college composed of the members of the Board of Trustees of the State Bar. In my case I was elected to the Board from Los Angeles County which has by far the largest concentration of lawyers in the state. In my third year on the Board at the urging of colleagues my name was placed in nomination for President and in an election among three candidates I was elected President.

With regard to the duties of a President, as I mentioned earlier, I chair the Board of Trustees of the State Bar and oversee the activities of its over 600 person staff in dealing with all issues relating to the licensing, admission, regulation, discipline and continuing education of the over 240,000 California lawyers. In addition I interact with the Supreme Court and legislature and oversee the bar’s role in securing access to justice for all Californians. It is indeed a big job but brings great rewards in what I have been able to accomplish with a devoted Board of Trustees and staff and the help of the governor, the legislature, the Supreme Court and the lawyers of California.

Q. YOU WERE ALSO A PRESIDENT OF PLUS, HOW DID THAT ROLE COMPARE?

PLUS is a fabulous organization that truly serves the insurance industry. It has about 8000 members composed of insurance company professionals, brokers and attorneys. It is a trade organization that provides great service to our industry and as President my focus was upon industry oriented issues. Being President of the Beach Boys. In my 20’s I was still performing and when time allowed, going to college. One of my fraternity advisors suggested that, if I was willing to try, he would help me get in to law school. I was having great success in the music industry and with the groups I played was definitely part of that “scene”. However, I also felt that if I kept going at that rate and with that lifestyle I wouldn’t make it past 40. Bowing to pressure from my parents and then girlfriend I decided a break from the wild rock and roll scene (and then it was really wild), might be a better long term strategy. So I determined to leave my guitars in their cases and give it a try. Although I barely made it through my first year of law school, I learned to study all over again and by my third year I was on the honour role. It was definitely a lifestyle change but in the
end has served me well. Basically I replaced my love of performing with a fervent desire to serve my clients and a commitment to the greater good by my involvement in public service.

I underplayed my guitar playing history in my early career and in fact didn’t mention my musical background or performing and recording credentials in any of my resumes. Fifteen years later, about the time I became Managing Partner of Wilson Elser’s Los Angeles office, a client found my picture in a rock & roll history book and mentioned it to the then head of our firm, Tom Wilson. Coincidentally at about that time I ran into Bruce Johnston and Mike Love of the Beach Boys who I had known from earlier days. Bruce and Mike Love asked me if I would like to go back on stage. Since the cat was out of the bag so to speak, I did just that and since the early 80’s have performed again with such groups as the Beach Boys, Jan and Dean, the California Surf City All Stars and Papa Doo Run Run.

Q. WHAT DO YOU LIKE MOST ABOUT THE BUSINESS?
I assume you mean the law business. My greatest joy in our profession comes from doing an excellent job for clients. I am enthused every day by bringing my skills to bear to help clients accomplish their goals often in ways that exceed their expectations. I view the confidence they give us as a trust we need to fulfill in the best way possible. Closely tied to that is the commitment to building the Wilson Elser law firm and the satisfaction of mentoring younger attorneys and helping them to have the same desire to serve clients and the ability to carry it through. Finally, as I said earlier the satisfaction of “giving back” is very important. Thus making a real difference in the community through public service is a very important and satisfying commitment.

Q. WHAT DO YOU LEAST LIKE....??
I think my answer would mirror that of most attorneys - the administrative details of a law practice such as time sheets and collecting accounts receivable.

Q. YOU ARE WELL KNOWN FOR YOUR MUSIC AND YOUR CONNECTION WITH THE BEACH BOYS, TELL US ABOUT THIS?
As I just mentioned I had the good fortune of meeting and performing with the Beach Boys and many other great bands throughout my career. Those relationships have continued through the years and Brian Wilson, Mike Love and Bruce Johnson of the Beach Boys and Dean Torrance of Jen and Dean among others continue as my friends today. In fact Brian, Mike, Bruce and Dean in addition to being friends are truly heroes of mine. They have each been able to carry forward their significant creative energy to generations of fans for over 50 years - and they are still going strong. That is a great legacy to all of us and a contribution that is very hard to beat.  

Q. THE 1960’s AND YOUR PART IN IT – TELL US SOME MEMORIES OF THE TIME
There are many so many it is hard to pick among the years be it the 60’s, 70’s 80’s 90’s or 2000 and beyond. Certainly the very best stories would not be suitable for publication. Being a part of that history was a great privilege. Knowing and performing with so many talented musicians ranks large and it is hard to select a few examples out of so many performances and experiences. Being at the early sessions of “Kokomo” was certainly a highlight. Playing at the centennial in West Virginia or the Coliseum performances was a highlight as were the shows at Wembley and Banana Beach.

Q. THE BEACH BOYS MUSIC STILL SOUNDS GREAT TODAY, WHAT MADE THEM SO SPECIAL?
That’s easy. The music is timeless and thus can transcend generations. The Beach Boys songs don’t really go to social or moral issues. They go to common experiences that are valid today as they were when most of the songs were written over 40 years ago. They conjure up an image of sun, fun, surfing, cars and the joy and tragedy of loving relationships. Perhaps this is best exemplified by the words of the Beach Boy song “Do It Again” which speaks to each of these issues. I guess that’s one of the reasons this is my favourite Beach Boy song to perform - and listen to.

Q. MUSICALLY WHAT HAS BEEN TO DATE YOUR HIGHLIGHT?
Although I have performed with many bands and written a number of songs, I think my greatest “high” has been playing with the Beach Boys and performing among other songs “Wipeout”. To put it in perspective there are few things in life that beat the “rush” of performing a great song for 100,000 enthusiastic fans.

Q. MUSIC OR BUSINESS, WHAT DO YOU PREFER (IS THIS A SILLY QUESTION)?
I am very lucky. I get to do both at a very high level. To pick one is like choosing among your children. Fortunately for me I generally don’t have to give up one for the other. This year has been a bit of an exception since the firm, my clients and public service have definitely been a priority.

Q. OUTSIDE OF THE BEACH BOYS WHAT MUSIC DO YOU LIKE?
Rhythm and blues and country. BB King and Eric Clapton are definitely two of my heroes. In fact I started as a country and western and blues player and ended up with surf music a by accident - that’s where the demand was. I had the pleasure of performing with many of the well-known players in each arena. In fact, Chris Christopherson is my fraternity brother and Glen Campbell (who at one time played with the Beach Boys) may be the best guitarist I ever worked with. Hot current country guitarists who I admire are Keith Urban and Brad Paisley.

Q. BACK TO BUSINESS, HOW DO YOU VIEW THE CURRENT SCENE?
Assuming you are talking about the professional liability, employment and D&O market segments, we are in an unusual period that has aspects of both a hard and a soft market dependent upon what lines are involved. As to litigation, with the decline in court funding in the US and the consequent decline in judicial resources, the time to move a case to conclusion has been lengthened. As a result, civil case filings are down largely
because plaintiffs and their counsel are re-thinking whether it is worth it to take the long litigation road in marginal cases. At the same time and for the same reason, I perceive that some plaintiffs are more anxious than ever to reach a quick resolution through mediation or direct communication among counsel. Concurrently, some insurers are concerned that trends reflect an increased cost of litigation of individual cases brought by delay and a desire of plaintiff’s counsel to hold tight on settling big cases. As you know, there is usually a post-recession increase in professional liability and employment claims. We are in that period now. For example, in the lawyer’s professional liability market, the real estate segment has taken an even more commanding lead as the number one claims originating market segment. Similarly, and for the same reason employment and conflict of interest cases are up and those who have lost money in the recession look for other deep pockets to share in their misfortune. I think this trend will continue for the short term.

Q. WHAT ARE THE MAJOR CHALLENGES AHEAD?

For our industry, as I mentioned, in the short term, we are in a period of increased post-recession claims. As the economy returns to a more normal profile that claims pattern will likely readjust to a more normal claims pattern with a consequent effect on underwriting.

As to the legal profession, we are in a very dynamic time. The demand for legal services has increased while the ability or desire of clients to pay for those services has not kept pace. As a result there is a surplus of lawyers with the foreseeable outcome of that dynamic - reduced opportunities for lawyers. For example the American Bar Association claims there is about one job for every two graduating lawyers. One reason for this is institutional clients have been more aggressive in controlling the activities of their outside counsel and have increased their in house attorney staffs. In short, private industry is moving toward the tight litigation control that has characterized the insurance industry for many, many years. The net result is our industry will have more effective partners in controlling expense.

Another factor to consider is that in response to market factors, law schools are reducing the size of the classes they admit. Thus for the first time in 50 years there will be a reduced number of attorneys entering the practice. This could have an unforeseen consequence in that as “baby boomers” retire, there may in fact be an inadequate supply of lawyers to fill society’s needs within the next 10 years.

The challenge to our industry is accommodating these changing factors

Q. WHAT DOES THE FUTURE HOLD FOR PAT KELLY?

After my term ends as State Bar president, I will return to devoting the majority of my time to my clients and my duties as a partner and Western Region Manager of Wilson Elser. In that regard, my wife Gail has been very understanding as I have attended to these duties and deserves some additional quality time. My children Pat Jr. and Laura have also been very understanding. However as Patrick is a child psychiatrist and Laura is an attorney (with Wilson Elser), they understand the importance of devoting the time necessary to be a consummate professional and to give back through public service.

Finally, I plan to return to performing with the Beach Boys and other groups for music has played a very large and satisfying part of my life. My children and as a member of the PLUS Foundation Board and as a member of the National Committee of the CLM. At the same time, the Chief Justice of the California Supreme Court has asked me to serve on a Task Force on Civic Learning and I will continue as a leader of the Open Courts Coalition which is the organization which takes the lead in meeting with the legislature and the governor’s office in seeking restoration of adequate court funding.

Perhaps more importantly, I plan to make up for the lost time to my family for the “triple duty” I have been doing as an active trial lawyer, as president of the bar and as Western Region Manager of Wilson Elser. In that regard, my wife Gail has been very understanding as I have attended to these duties and deserves some additional quality time. My children Pat Jr. and Laura have also been very understanding. However as Patrick is a child psychiatrist and Laura is an attorney (with Wilson Elser), they understand the importance of devoting the time necessary to be a consummate professional and to give back through public service.

Q. TELL US SOMETHING NOT MANY PEOPLE KNOW ABOUT YOU.

Actually, after this interview there isn’t much else I could say. However a couple of things most people don’t know is that I still have the 15 guitars I used throughout my career as a musician. I am an Eagle Scout, I was my class president in high school, was captain of the football team and continue today as at best a marginal golfer - although one of my greatest joys is sharing the game with my friends.