



# LIONS OF THE TEXAS BAR

## Richard Mithoff: Million-dollar Verdicts that Save Lives

By Mark Curriden

HOUSTON (March 11) – Legendary Houston trial lawyer Joe Jamail walked into the office of his young associate, Richard Mithoff, in 1977 to hand off a case.

“He gave me the case file on Friday. I interviewed the client on Saturday. We went to trial on Monday,” Mithoff says.

The client was Norma Corley, a 35-year-old woman from Cleveland, Texas, who suffered severe medical problems as the result of silicone gel breast implants she received as part of reconstructive surgery following breast cancer. Corley claimed the implants leaked.

The lawsuit accused the maker of the silicone implant, Dow Corning, with manufacturing a knowingly defective product and causing his client’s illnesses. Several other similar cases had gone to trial, but juries had ruled in favor of the defendant every time.

“Dow offered me \$5,000 to settle,” Mithoff says. “Dow’s lawyers told me they had never lost a case and that I would never beat them.

“There were no pre-trial depositions. Case files were paper thin,” he says. “All testimony was live.”

After several days of trial, the Houston jury found in favor of Corley and awarded \$170,000. It was the first verdict favoring a plaintiff in a silicone breast implant case in the U.S.

“Joe was very good about throwing us into the deep end of the pool to force us to either swim or sink,” Mithoff says. “He also taught me that great trial lawyers lose cases. You need to hate losing, but you cannot be afraid of losing.”

Mithoff handled all aspects of the appeal, including writing each brief on his personal typewriter and making the winning argument at the Texas Supreme Court, which upheld the jury’s verdict.

“Richard is a man you can trust and you know it the minute you meet him,” says famed Houston criminal defense lawyer Richard “Racehorse” Haynes. “Juries and judges respect Richard because he’s honest and he’s a damn good lawyer.”

Even opposing counsel and the judges who hear his cases say that the 70-year-old lawyer is a fearless advocate with extraordinary courtroom talents.

“He wins the old fashioned way – by out-thinking, outworking and outperforming his opposition,” former Texas Supreme Court Chief Justice Tom Phillips said when awarding Mithoff the Texas >



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Law Review's 2015 Leon Green Award.

"Juries and judges soon come to see that his passion for his client's cause comes from conviction, not performance. He will not promise what he cannot deliver and you can take his word to the bank."

A 1971 graduate of the University of Texas School of Law, Mithoff has won scores of million-dollar verdicts and settlements for his clients in various personal injury, products liability, commercial and contract disputes.

Mithoff has represented poor and middle-class folks who have been victimized by unscrupulous business owners, financial investors and medical professionals. He represented families of elderly people killed in 2005 on a bus fleeing Hurricane Rita and the families of men killed that same year at the BP Texas City explosion – securing multimillion-dollar judgments for victims in both tragedies.

But he's also represented J.P Morgan Chase, singer Willie Nelson, the Democratic Party of Texas and ConocoPhillips.

"Now, there's pressure to win every case – even the longest of long shot cases," he says.

Mithoff decided to become a lawyer in high school in El Paso when he read *To Kill a Mockingbird*. After college and law school at UT, he clerked for U.S. District Judge William Wayne Justice after law school.

From the start, Mithoff wanted to work with great lawyers to see in person how they practiced law and tried cases. He originally worked with legendary Texas lawyer Warren Burnett and then joined Jamail, the Texas lawyer who needs no introduction.

"I knew right away that Richard was going to be a great lawyer," Jamail said in an interview about two months before he died in 2015. "He's much more of a gentleman than I am, but he's every bit as good in the courtroom."



Mithoff says he remembers the first case he took to trial, which was an automobile collision case.

"I was convinced that I had a huge case," he says. "The defense lawyer, who had lots of experience, offered me \$1,500 to settle before trial. We tried the case for three days and the jury came back with a verdict of... \$1,500. I became much better at evaluating the value of cases as I became more experienced."

Mithoff tried to get into court as often as he could. He started taking medical malpractice cases in small towns across Texas against local doctors.

"I would get the jury list a day or two before trial and then take a local county attorney out for dinner and drinks to have them tell me about the jurors," he says.

In 1983, the parents of Andrea Ferris hired Mithoff to sue the Pasadena Hayshore Hospital after the couple's child suffered irreparable brain damage as the result of medical malpractice >

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during the birthing process. Little Andrea would never be able to walk or talk or even feed herself as the result of the injuries caused by the hospital's medical staff.

Rather than face trial, the hospital and its insurance carriers agreed to settle the lawsuit before trial. The Ferris family was awarded \$115 million. Mithoff was awarded \$1.9 million in legal fees. It was the largest medical malpractice judgment at that point in U.S. history.

The case, which was featured on ABC News' Nightline program, also led the Texas legislature to change the law regarding hospitals reporting misconduct or malpractice of its physicians.

In 1997, Mithoff represented the family of a Lubbock woman who died during child delivery when the anesthesiologist administering the epidural pierced a large vein that sent the power drugs directly to her heart.

During the case, Mithoff discovered the anesthesiologist had a history of drug problems. The hospital settled for \$9.5 million and agreed to reform its internal screening procedures.

In fact, while Mithoff made tens-of-millions of dollars suing doctors and hospitals for medical malpractice, he has been a major contributor to certain medical causes.

In response to a large but undisclosed donation from the Mithoffs, the Harris County Hospital District named its world-class trauma center in 2007 at the Ben Taub Hospital as the "Ginni and Richard Mithoff Trauma Center."

In 1998, Mithoff represented Harris County and other Texas counties intervening in the historic global tobacco industry settlement in which the cigarette makers agreed to pay the state of Texas \$15.3 billion over 20 years to resolve a federal RICO case that was about to start trial.

Hired by the counties, Mithoff intervened in settlement negotiations and convinced the tobacco companies to add an extra \$2.3 billion for the 254 counties in the state. As part of the deal, Mithoff also agreed to donate half of the \$20 million in lawyer fees he was awarded to the Harris Co. Hospital District to create a children's health fund.

At age 70, Mithoff shows no signs of slowing down, as the big cases keep pouring in and he keeps scoring big-dollar successes.

"I plan to keep practicing as long as it continues to be fun and as long as I can help people," he says. "And I can tell you this, I love it just as much today as that first case back in 1971 for \$1,500."

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