



WINNING PERFORMANCE

Wylie Aitken has turned his passion for the stage into big wins for injured clients—and for education, the arts, politics, and Marquette Law School.

BY ALAN J. BORSUK

There's an old guitar case lying on the floor next to Wylie Aitken's desk. It isn't that he plays the guitar that's inside the case. He took lessons at one time. "I thought I'd join the Kingston Trio," he said. "I was never any good at it. I finally said, 'That's not a talent of mine.'" He also had a big interest in his youth in acting. He wasn't enough of a risk taker for that as a career. But he loved—and still loves—the performing arts of all kinds, and he keeps the guitar close at hand.

So what are Wylie Aitken's talents? It's a formidable list.

Look around his office and the rest of the Aitken Aitken Cohn law offices in Orange County, California, just south of Los Angeles, and you'll see lots of evidence of this. There are plaques and photos, almost too many to count, recognizing Aitken's success as a personal injury lawyer and as a leader in the legal world in California. There are mementos and awards for the impact that he and his wife, Bette, have had in boosting higher-education institutions, theater, and music in Southern California.

On the wall next to Aitken, as he sits at his desk, is a piece of artwork with images of

President John F. Kennedy, Attorney General Robert F. Kennedy, and Senator Edward M. Kennedy, inspiring figures for Aitken.

High on a wall, almost straight in front of Aitken, is a modest-sized reproduction of Leonardo da Vinci's painting *The Last Supper*. It's not a fancy print, and Aitken, a Roman Catholic, said he looks at it as more of a fond memory than a religious statement. But let us pause a moment for a story, which is something Aitken does often and well: He was a newspaper delivery boy in his childhood in Wichita, Kansas. Once, he saved up some money and bought this copy of the painting for his mother, who was a devout Catholic. She treasured it, both for the image itself and for her son's buying it for her.



Now and then:
Above, Wylie Aitken at a St. Patrick's Day party hosted by his law firm in March 2024. Below, Aitken as a Marquette law student in the 1960s.



She kept it hanging in her home the rest of her life. And now it hangs in the office of that son, who said his mother was his inspiration.

In a hallway near Aitken's office is a painting of a young girl on the witness stand in court, with Aitken standing close by her side. She is gesturing, and he is looking at her with obvious care and warmth. The image is from a trial in 1991 when the girl, who had been mauled by a mountain lion in an Orange County park, was testifying in a damage suit against the county. She and her mother won a \$2.1 million verdict. The painting is based on a photo that ran at the time on the front page of the *Los Angeles Times*.

There are sports memorabilia, family photos, law books (of course), and much more.

Oh, and then, displayed prominently on the top of Aitken's desk, is a basketball with the logo of Marquette University. The ball is signed by Michael R. Lovell and Robert A. Wild, S.J., the current and former presidents of the university, by Shaka Smart, coach of the men's basketball team, and Megan Duffy, then the coach of the women's team, and by Joseph D. Kearney, dean of the Law School.

Wait a moment. Almost all of these awards and mementos and souvenirs say California, California, California. Where did Marquette come in?

That's another story, one that explains how Wylie and Bette Aitken took a detour from California in the 1960s so he could attend Marquette Law School, an experience that shaped much of their life, leading to a warm and special relationship between the Aitkens, Marquette Law School, and Marquette as a whole, which continues six decades later.

FROM THE MIDWEST TO THE WEST COAST TO "BACK EAST"

Wylie Aitken said some kids grow up "military brats," moving often as a parent is transferred from post to post. He grew up "an engineering brat." His parents were raised in Duluth, Minnesota. They married, and at the time Aitken was born, the family was living in Detroit. They all moved to Chicago and then to Wichita because of job changes for his father, who was an engineer. Why Wichita? That's where Boeing had a large plant. In an oral history recorded as part of a project at California State University, Fullerton, in 2016, Aitken recalled his Wichita time as "my Tom Sawyer-Huck Finn years," filled with outdoor life and friends.

When he was in eighth grade, his father was assigned to work at the Huntsville space project near Birmingham, Alabama, for a year. Among Aitken's experiences: Getting on a city bus, he and one of his sisters raced to the back, where they wanted to sit. The driver of the bus stopped, came to the back, and told them that that was the "colored section," so they had to move forward. The incident was among the experiences that made a lifelong impression on Aitken about the evil of racial segregation.

The family moved again in 1955, when Aitken was a sophomore in high school, to Orange County, southeast of Los Angeles. That was the year that Disneyland opened in Orange County, and the area was growing rapidly. Aitken quickly fell in love with Southern California, an affection that has never abated.

In high school, he pursued his artistic impulses, especially with an interest in acting. His mother said often that she expected him to go to college. Following graduation, he enrolled at nearby Santa Ana College for two years and at Cal State Fullerton (then known as Orange County State College) for one year. He was still interested in arts and culture, but he realized the likelihood of success was low for a career in those fields. He had a good academic record, and he was ambitious.

He didn't know much about what it took to be a lawyer, other than what he learned watching shows such as *Perry Mason* on television. But, he said, "I just was very intrigued by the law profession." He heard that you could get into some law schools with three years of college experience. Saving a year of college appealed to him, and he wanted to go to law school "back east."

Aitken sent letters and applications to a list of law schools. He got encouraging responses from some. Yet one school offered him not only admission but a full academic scholarship: Marquette. He had never been to Milwaukee, but the scholarship offer was a dealmaker. So he headed to Marquette. (He insists that Milwaukee is "back east," while acknowledging that others argue it is in the Midwest. The fact that Marquette is now in the Big East sports conference perhaps buttresses his argument.)

In 1955, another family, the Robbs, moved to Orange County, in this case from St. Louis. They had a daughter, Bette. When she was a senior in high school, Bette got a job working in a Robert Hall clothing store. During the Christmas season, she oversaw the gift-wrapping service that the store offered. Then a freshman in college, Wylie Aitken was one of the temporary employees whom Bette supervised. And that's how the two met. In 1963, the two married. Bette stayed in Southern California while Wylie went to Milwaukee for the second year of law school. They soon had a baby, and Bette and the baby moved to Milwaukee for Wylie's third year of law school.

Marquette Law School proved to be a formative experience for Wylie. He was the youngest person in his class—and, he said, he looked it. But he did well. He ended up third in the class. More important, he ended up with a passion for practicing law, especially tort law.

When he was presented with the Marquette Law Alumni Association's Lifetime Achievement Award in 2004, Aitken expressed his thanks to Marquette, "which made me a St. Thomas More Scholar and

"I wanted to go out and win. . . . I just passionately wanted to be a plaintiff's lawyer."

gave me a full-tuition scholarship, which enabled a young kid of 20 years of age to come here—all I had to do was to figure out how to pay for food and find a place to sleep." He went on to thank one of the Law School's most renowned professors, James D. Ghiardi, L'42, "who first awakened me to torts—though my plaintiff's career and battles with the Defense Research Institute may not be what he intended." He particularly recalled former Professor Robert O'Connell, "my mentor, my friend, and the person who opened law and life for both my wife and me." Aitken added, "He even gave Bette and me our first china set, imitation Indian Tree, which we have to this very day."

After the Law School's graduation ceremonies in 1965, Wylie and Bette went to a picnic for graduates and then straight to their car to head down Route 66, the legendary highway from Chicago to Southern California. Aitken was eager to start the new phase of his life.

"I WANTED TO GO OUT AND WIN"

Aitken considered becoming a criminal defense lawyer. He said he wanted to defend the defenseless. But, he said, in the criminal justice system, so much of a lawyer's work involves plea bargaining and procedural matters. He wanted to be in the courtroom. "I wanted to go out and win," he said, and he liked the idea of doing jury trials. He thought his personality was suited to the courtroom. He said that if he wasn't going to succeed as a performer on stage, he thought he could use his talents in front of audiences of 12—namely, civil juries. And he would be representing those who had real needs, sometimes taking on powerful interests and working to right wrongs done to everyday people. "I just passionately wanted to be a plaintiff's lawyer," he said.

Aitken began working for a law firm in Orange County. It was going well, he said, but he saw that if he stayed with the firm, there were lawyers ahead of him in line for bigger positions. He didn't want



All three of Wylie Aitken's children, including Darren (above), became lawyers and are part of the Aitken firm. Aitken says his career advice to them was simple: "Follow your passion."

“He holds the jury in his hand. He is a master. I am prepared to be disappointed, but instead I’m overwhelmingly impressed.”

– Susan Mattern, in a book recalling listening to Aitken’s opening arguments in her daughter’s case

to wait. “One thing about me: I don’t lack ambition,” he said. And Orange County was booming, which meant there was a lot of opportunity.

So Aitken opened a law firm. He wanted to take on tort cases, advocating for those who believed they had been injured by others. Things started slowly, and Aitken did his share of divorces and other relatively routine legal work for people. “We had to pay the bills,” he said. But the tort practice picked up and, after Aitken won some substantial verdicts, his reputation began to grow.

With the help of mentors, he also became involved in organizations of lawyers in Southern California and statewide. At the age of 33, he became the youngest president in the history of the California Trial Lawyers Association, as it was then known. “I just kept building a reputation,” he said, which brought him more clients with higher-stakes cases.

Aitken’s personality was certainly important to building that reputation. He is outgoing, warm, funny, a storyteller, even folksy, and still someone who loves performing. But the reputation was also built on what lay beneath those traits: an unrelenting capacity for hard work, for understanding the intricacies of anything he tackled, and a big commitment to winning.

“I never met anyone as passionate about the law as my father,” said his daughter, Ashleigh Aitken. A former federal prosecutor and the current mayor of Anaheim, California, she also practiced as part of the Aitken law firm and remains listed as “of counsel.” She said her father has an encyclopedic memory, a strong work ethic, and an untiring commitment to clients. “He has such a keen sense of right and wrong,” she said.

Aitken’s two sons, Darren and Chris, are also partners in the law firm. “My father has always led by example,” Chris Aitken said. “You grew up in

the family, you grew up in the firm,” said Chris, who eventually decided to become a lawyer. After working in other legal settings for a while, his father’s passion for fighting for “the little guy,” often against big corporations, drew Chris to join the family firm. He said it is a big testament to his father and to the whole family that they are all involved in the law practice. His father developed a place where they could practice but have their own paths, as he described it. They each do serious personal injury cases, but he said, “We have our own caseloads, clients, subspecialties.” Chris’s subspecialties include trucking cases and cases involving brain injuries.

All three Aitken children and all three of their spouses are lawyers. Aitken said he never lobbied his children to become lawyers. His advice to them was only this: “Follow your passion. . . . Otherwise, it doesn’t work.”

What motivates Wylie Aitken? Darren Aitken said his father loves to solve problems, to strategize, to be around people, and to make life better for the people around him. Darren said the firm is a family firm in several senses of the term, especially because of the warm work culture his father has established. “My dad is a true lawyer,” he said. “It’s what he loves to do.” Bette and the law—those are his father’s true loves, Darren said.

Today, the firm, Aitken Aitken Cohn, with its main office in Santa Ana close to the John Wayne Airport, includes Aitken as founding partner and six other partners, including the two sons. The firm has smaller offices in Riverside and San Clemente.

Several cases involving Aitken and his colleagues stick out as Aitken talks about his career.

THE DISNEY CASES

Disneyland is the most famous attraction in Orange County. For many years, local political and community leaders treated it with great deference, Aitken said. Disney was largely allowed to control its own affairs, and public safety officials took a hands-off approach to Disney grounds.

In 1998, a cleat tore loose from the Sailing Ship *Columbia*, one of the park’s attractions, as it was docking with park visitors on board. The cleat struck and killed a 34-year-old man, Luan Phi Dawson, of Duvall, Washington, and badly disfigured his wife, Lieu Thuy Vuong, who was struck in the face.

Aitken said the conventional wisdom among many lawyers was, “You can’t beat the Mouse.” But he took the case. The suit he brought claimed major problems in how Disney staffed the ride, trained



the staff, and maintained the ship. It also claimed that a nylon rope used in tying the ship to the dock stretched and snapped back, leading to the cleat's flying loose. A conventional hemp rope would not have stretched. Aitken said that, in addition, Disney did not allow Anaheim police to visit the scene until four and a half hours after the accident. The case was settled for an undisclosed amount, but the *Los Angeles Times* reported that the settlement was estimated to be \$25 million.

Of great importance to Aitken, the case led to changes in California law and regulation. Disney's lax oversight of safety in the park and the weak response of the Anaheim police led to stricter governmental safety oversight of theme parks and to changes in policies of Anaheim emergency services departments.

In a second major Disney case, in 2003, Marcelo Torres, 22, of Gardena, California, was killed while riding on the Big Thunder Mountain Railroad attraction at the park when the car he was riding in derailed. Aitken's suit alleged that there were problems with maintenance and safety issues around the ride. One improvement in procedure since the

1998 fatality on the Sailing Ship *Columbia* was that when the incident occurred, authorities were given prompt access to the scene—and so was Aitken, who immediately went to the park.

The case was settled in 2005 for an undisclosed amount. Unlike with the *Columbia* case, Disney took responsibility for unsafe practices on the ride. But at the time of the settlement, Aitken was quoted in the *Los Angeles Times* saying, "This was not just one mechanic making a mistake. This was really systemic to how they were running the park."

THE MOUNTAIN LION CASE

On March 23, 1986, a mother, father, and two young children went for an outing in an 8,000-acre wilderness area in Orange County known as Caspers Park. Laura Small, then five years old, was walking along a stream, with her mother a few feet from her, when a mountain lion attacked the girl and carried her away. Pursued by another park visitor, the lion dropped the girl. But the girl suffered major injuries, especially to her head. She lost sight in one eye and much of the use of the right side of her body.

Laura Small, who was attacked in a park by a mountain lion in 1986, testifies with Aitken at her side in the 1991 trial of her suit against Orange County, California. This painting hangs in Wylie Aitken's law office.

Aitken's son Chris, who is part of the law firm, said, "My father has always led by example."



Chris Aitken

In a 2016 book, *Out of the Lion's Den*, the mother, Susan Mattern, recounted the story of what the daughter and the family went through. The parents were urged by friends to sue Orange County for not warning people about the danger. They were connected with an attorney who investigated the case but who was not experienced in lawsuits such as this. He referred the family to Wylie Aitken.

The case was challenging from a legal standpoint. A big issue: Was the county responsible for the actions of a wild animal that was native to the area? Aitken argued in the suit and at trial in 1991 that county employees knew there was a danger from mountain lions. Not only did they not warn people, but they even gave visitors, including the girl's parents, assurances that the park was safe and that mountain lions were not a threat to attack people.

In the book, Mattern writes that she was not impressed with Aitken at first. She thought he was too casual about the case, and she feared he was not paying attention to the details. She was nervous as the trial date arrived in 1991, thinking they were going to lose.

Then she listened to Aitken's opening statement. She described it in the book: "He is persuasive; he is sincere; he makes you want to listen to his every word. He smiles; he knows when to add a touch of humor, and when to get serious again. He holds the jury in his hand. He is a master. I'm prepared to be disappointed, but instead I'm overwhelmingly impressed. He's better than any lawyer I've ever seen in any movie. He is eloquent. He's able to do what I can't do—speak to a roomful of people and leave them hungry for more. My worries about Wylie not knowing the case disappear after a few minutes. He knows the case better than I do, and I was there. The jury is sitting at the edge of their seats as he sits down. I'm waiting for thunderous applause. I'm thrilled. And relieved."

The trial attracted major news attention in Southern California. When the verdict came in, the daughter and mother were awarded more than \$2 million.



OTHER BIG CASES

The history of Aitken Aitken Cohn includes a list of major verdicts. For example, in 2013, the firm's website says, the firm was chosen as "national liaison counsel for a team of more than 30 law firms and 80 lawyers nationwide that represented millions of Toyota vehicle owners in the largest automobile class action lawsuit settlement in U.S. history." The focus of the cases was whether certain Toyota vehicles were prone to sudden and unintended acceleration. The cases were settled for a total of \$1.63 billion.

A few other cases:

In 2021, an oil pipeline off the Pacific shore of Orange County ruptured and spilled 126,000 gallons of crude oil into the ocean. In 2023, the Aitken firm settled a case in which multiple people harmed by the spill sued an energy company and multiple shipping companies for \$95 million.

In 2007, a car driven by a federal government employee ran a red light and rammed a car whose passengers included a four-year-old-girl who was securely in a car seat. The car the girl was in struck a utility pole, which fell and crushed the car. The girl was left a ventilator-dependent quadriplegic. Aitken brought suit against the federal government and won a \$55 million verdict, the largest-ever Federal Tort Claims Act personal injury verdict.

Then there was a \$17 million verdict for a welding contractor severely injured in an explosion

at an industrial plant. And a \$15 million wrongful-death verdict benefiting two young daughters of a 48-year-old man who was killed when his car was rear-ended by a California state employee. And a \$10 million settlement on behalf of five schoolchildren who were injured when the driver of their school bus lost consciousness and crashed.

The list goes on. But Aitken would make three important points:

- **He and the firm as a whole do lose cases sometimes.** He is not reluctant to say the firm's lawyers do good work, but he noted that, like anyone, he and they sometimes lose. "If you haven't lost a case," he said, "you've never tried cases."

- **It's not all about multimillion-dollar cases.** Sure, those attract attention. But Aitken describes a recent case, involving an accident, which settled for \$900,000. It wasn't as large an amount as Aitken had hoped the plaintiff would get. But when he told her the outcome, she burst into tears, saying that now she could go forward with some confidence about the future.

- **Aitken is proud of the indirect effects of some of the cases he has won.** The Disney cases led to action in the California state legislature to tighten up safety oversight of amusement parks. The mountain lion case led to legislative action requiring warnings about safety in more places. Vehicle crash cases, including those involving the Aitken firm, have led to major improvements in safety.

Aitken is not shy about publicity. "Why should I be?" he said. He has cooperated with and sometimes encouraged news media attention to his cases. But, he said, "I disdain lawyer advertising." His bent for publicity is not just pride, he said, "although I have a healthy ego." He believes that many of the stories of individuals whom he has represented need to be told. "You want to be heard," he said. He is proud of the impact some of his victories have had.

GIVING BACK TO THE COMMUNITY

During his Wichita childhood, Aitken once won \$40 playing games at a church event. He took the money home and showed his mother. She responded, "You can't keep that money." Aitken said, "My mom's passion was for giving to others. When you had good fortune, you shared it with others." She made him go back and play until he lost the money.

That was one of the influential moments that led to Wylie and Bette Aitken's becoming big givers in several important ways.

"My mom's passion was for giving to others. When you had good fortune, you shared it with others."

– Wylie Aitken



They have been deeply involved in supporting education in Orange County and throughout California. That includes major service to Chapman University in Orange County, where Wylie Aitken served on the board of trustees, including a four-year term as chair of the board. He and Bette have supported the creation and growth of the Fowler School of Law at Chapman, including the Bette and Wylie Aitken Family Protection Clinic and a distinguished visiting professorship named for them. They were also instrumental in creating Chapman's center for the arts.

They have been deeply involved in the arts scene in Orange County. The Chance Theater's arts center in Anaheim is named for Bette Aitken, and they have been key supporters of other performing arts programs.

Aitken said, "I've always been fascinated by film." He and Bette have been involved in many ways with promoting film education at colleges and in similar efforts aimed at increasing the quality of film work and

Wylie Aitken with his daughter, Ashleigh, at the Aitken law firm's 2024 St. Patrick's Day party. She is mayor of Anaheim, California, and of counsel to the firm.



Wylie Aitken speaks at the 2004 Law Alumni Awards ceremony in Marquette University's Alumni Memorial Union, where he received the Lifetime Achievement Award.

expanding the number of people involved in the field. Aitken was recently named a trustee of the American Film Institute. Other trustees include Steven Spielberg, Shonda Rhimes, Eva Longoria, and Halle Berry.

Aitken also has advocated for maintaining and strengthening arts programs in California public schools as chair of the California Arts Council.

But any list of Wylie Aitken's interests has to include politics. He has been a leader in Democratic and liberal politics in Southern California and beyond, a close associate of senators and governors. Again, this started with his mother. "My mom was a New Deal Democrat. Don't even think twice about not being a Democrat in our house," he said.

As the piece of art that hangs over his desk suggests, Aitken, as a young man, especially admired President John F. Kennedy. And Wylie and Bette were in the hotel ballroom in Los Angeles in June 1968 when Robert F. Kennedy spoke after winning the California Democratic presidential primary, remarks immediately followed by Kennedy's being assassinated as he left the ballroom.

In 1996, Aitken was a key figure in the underdog campaign for the U.S. House of Representatives by Democrat Loretta Sanchez against nine-term incumbent Robert Dornan, a nationally prominent Republican. Sanchez narrowly won and served in Congress for the next two decades.

Aitken agrees that Orange County was for many years strongly conservative in its overall political makeup. But, he said, the county has changed and

is now more "purple." The county, with a population of more than three million, includes a large Hispanic population and the largest concentration of people of Vietnamese ethnicity in the United States.

AND THEN THERE'S MARQUETTE

Wylie Aitken said he wasn't involved very much with Marquette Law School as an alumnus in the first 30 or so years after he completed law school. Then one day, in the 1990s, he received a phone call from Howard B. Eisenberg, the Law School's dean from 1995 until his death in 2002. Eisenberg said he was in Southern California and wanted to meet Aitken. "I just bonded with him," Aitken said. "I loved Howard Eisenberg." He said they were "soulmates" when it came to a lot of issues, including social and political matters.

Aitken said when he thinks of Marquette Law School, he thinks first of two people: his mentor, Professor Robert O'Connell, and Eisenberg. With Eisenberg's encouragement, Aitken became more involved in Law School matters and became a major donor. And the relationship with the Law School continued after Eisenberg's death and the appointment of Joseph D. Kearney as dean. Aitken said he knew that Eisenberg thought highly of Kearney, which carried a lot of weight with Aitken.

The generosity and impact the Aitkens have had on Marquette can be seen in the fact that the elegant two-story reading room on the third floor of Eckstein Hall is named the Wylie and Bette Aitken

Reading Room. The Aitkens have also been generous donors in support of scholarships for Law School students. And Wylie, a big basketball fan, has been a generous supporter of Marquette athletics. Hence the basketball that sits atop his desk—and, this past season, Aitken's attendance in December 2023 at the men's basketball game between Marquette and Notre Dame, another team Aitken follows, at the Fiserv Forum in Milwaukee. (Marquette raced to a 17–0 lead and won, 78–59.)

Why has Aitken been so loyal to Marquette? He was there only for three years and that was six decades ago. Daughter Ashleigh found the question easy to answer: “Marquette changed his life.” His family didn't have the resources to send kids to college, she said. His education at Marquette Law School “was life-changing for him.” And the scholarship he received meant he left without debt, which, Ashleigh said, “gave him the room to breathe, and it gave him the room to excel.”

But most important, she said, “He's a very loyal man. He's never going to forget where he came from.” And Marquette University Law School is a crucial part of where he came from.

A JOB, A PASSION, EVEN A HOBBY

“I've been fortunate,” Aitken said. “I've been the kid in the candy store.” He said he has never felt for a day during his career that he was just going to work. He always has felt that he was answering the call to fight for people who were harmed or hurt by others.

His son Chris said, “My father has always led by example. . . . My dad has always been an extremely hard worker.”

Son Darren, who is the firm's managing partner now, said that after finishing law school he worked at a national firm but after several years decided he liked working in the family firm. “I like being in an environment like this,” he said. Darren said it appeals to him that he has clients who are the CEOs of large corporations and clients who empty the trash for those CEOs at night.

Daughter Ashleigh was the last of the family to join the firm. She taught high school and worked on Capitol Hill in Washington for U.S. Sen. Dianne Feinstein, a California Democrat, and for Rep. Dick Gephardt, a Missouri Democrat who was then a leader in the House of Representatives. She decided to go to law school, was an assistant U.S. attorney, and, after marrying and having children, joined the Aitken firm. She said that,

Why has Aitken been so loyal to Marquette? “Marquette changed his life,” said his daughter, Ashleigh. “He's a very loyal man.”



Bette and Wylie Aitken (center) with family members at the 2004 Law Alumni Awards event at Marquette.

after the first week, “I thought, ‘Why the heck did I wait so long?’ . . . I loved the firm, and I loved being in a family business.” But she also felt the call of public service, and her primary job now is as the mayor of Anaheim, the first woman elected to the position.

Wylie Aitken still has the personality of a performer. Has he slowed down? A bit, but, at 82, he still works close to full time. And he still likes to perform, not with that guitar next to his desk, but with the skills of a consummate client advocate. “I just can't seem to stop,” he said. “I like to keep engaged.”

Darren Aitken said people often ask him when his father is going to retire. “My dad retired at age 65,” he tells them. “Then he took up a hobby. It just turned out that his hobby is the practice of law.” ■