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Mark Werbner Goes It Alone



MARCH 11, 2021 | BY MARK CURRIDEN

Dallas trial lawyer Mark Werbner, who was a pupil of the great Jim Coleman, partnered for two decades with Dick Sayles and then practiced the past two years with Winston & Strawn's Tom Melsheimer, has started his own law firm.

Werbner, who made global headlines in 2014 when he led an historic billion-dollar jury victory against a Middle Eastern bank accused of aiding terrorists, told *The Texas Lawbook* that he is opening up a solo shop called Werbner Law, where he plans to do more plaintiff's litigation and white-collar criminal defense work.

Now 66, Werbner said he loved his time at Winston and working with Melsheimer, but he said he ran into conflicts regarding multiple potential clients.

"My rate at Winston was \$1,150 an hour, and it was hard to represent individuals - my clientele has been business people and individuals," he said. "The nature of Winston is to represent corporate America."

"I'm already getting more referrals than I can take on without fear of conflicts," he said.

For two decades, Werbner practiced with Dick Sayles at Sayles & Werbner. But the litigation boutique decided to shut down in January 2019 when Sayles joined the Dallas office of Bradley Arant, a Birmingham-based law firm.

During his four-decade career, Werbner has handled more than 150 jury trials and scored more than a dozen jury verdicts of a million dollars or more.

In fact, he, Melsheimer and Winston partner Chad Walker scored a huge victory in December 2020 in a False Claims Act case against Texas Heart Hospital of the Southwest. The trio represented two medical doctors turned whistleblowers, Mitchell Magee and Todd Dewey, who sued the hospital for violating federal laws prohibiting self-referrals and financial kickbacks.

The U.S. Attorney's Office for the Eastern District of Texas joined their *qui tam* lawsuit,

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which settled with Texas Heart paying \$48 million. Winston's clients were paid \$13.9 million.

Werbner also represents Dr. Wade Barker, a founding physician at Forest Park Medical Center. Barker pleaded guilty in August 2018 for being part of a \$40 million fraud and kickback scheme at the now-defunct hospital. Barker is scheduled to be sentenced in the case this spring.

Melsheimer, in an interview Thursday, said Werbner is a great trial lawyer and he is sorry to see him depart Winston. He said Werbner was "instrumental in the success" the firm achieved in the Texas Heart Hospital litigation.

"It is difficult for any lawyer to transition to a large law firm when they've practice for so long at a smaller practice," Melsheimer said. "Covid also was a factor because year two of a partner joining a large law firm is most critical because that is when the hard work of integration into a large firm takes place. The pandemic made that so much more difficult."

Born in San Antonio, Werbner went to college at the University of Texas and law school at Southern Methodist University. Carrington Coleman hired Werbner as a rookie lawyer, which allowed him to work with some of the best trial lawyers in Texas, including Sayles, Bill Dawson and Barbara Lynn, who is now the chief judge of the U.S. District Court for the Northern District of Texas.

Werbner's first jury trial was just days after he got his law license in November 1978. He worked with Lynn on that case.

"The day of the trial, Judge Lynn developed laryngitis, and she told me that I was going to lead the defense with her at my side," Werbner told *The Texas Lawbook* in an interview in 2019. "We represented General Motors in a dispute over a spare tire. We fought mightily over \$250."

"My memory is fuzzy but I hope that means we won the case, because I tend to remember my losses much more," he said.

The son of Jewish parents who escaped Russia in the early 20th century to settle in the U.S., Werbner took on the most important case of his life in 2004 – a litigation with global importance that would span more than a decade and that resulted in a personal and professional pilgrimage that would leave his mark on world affairs.

Between 2000 and 2004, he followed media coverage of the Hamas-backed suicide bombers that killed hundreds of Israelis as part of the Palestinian uprising called Second Intifada.

"I was so frustrated because there wasn't much I could do except watch TV news coverage of the suicide bombings," Werbner told *The Texas Lawbook* in 2014. "Then, I learned there was something I could do."

A New Jersey lawyer contacted him about possibly bringing a lawsuit against financial backers of the terrorists. Werbner had trial experience in two critical categories: wrongful death cases and money laundering cases.

Werbner agreed to represent the families of 100 U.S. residents who were murdered or seriously injured by the suicide bombers. He filed an unprecedented federal lawsuit in Brooklyn in 2004 against Jordan's Arab Bank seeking 10-digit damages.

The case took a decade to get to trial. The U.S. State Department under President George W. Bush tried to have the lawsuit dismissed. It failed. Werbner and the firm invested more than \$8 million in billable hours and \$5 million in out-of-pocket expenses.

The case completely consumed his life for several years. He traveled to Israel, Jordan and other Middle Eastern countries about 70 times to meet with victims' families, interview witnesses and collect evidence. He has personally examined hundreds of thousands of pages of legal and financial documents. He visited the scenes of the 24 terrorist attacks, including restaurants and college cafeterias in Jerusalem, a hotel in Netanya and bus stops in Tel Aviv.

In September 2014, Werbner's tenaciousness and skills as a trial lawyer resulted in a Brooklyn jury ruling for the first time in history that a bank was legally accountable for the acts of deadly terror committed by its customers. A year later, Werbner and the plaintiffs reached a confidential settlement agreement that "compensated the victims handsomely."

"I knew right away that this would be the biggest case of my life," Werbner said in an interview with *The Texas Lawbook* just hours after the jury returned with its verdict. "Every case is important, but this case has global consequences."