

Richard A. Sayles
BRADLEY (DALLAS, TEXAS)



RICHARD A. SAYLES

BY KATRINA DEWEY

IT SEEMED LIKE EVERYONE WHO LIVED IN

Gatlinburg, Tenn., in the mid-20th century was in tourism, one way or another.

And Dick Sayles' father, Hall, was no exception.

The Great Smoky Mountains National Park was created in 1934, straddling the gorgeous swath of Tennessee's border with North Carolina – and causing explosive growth for the hamlet of 1,300 full-time residents who began to cater to travelers with restaurants, hotels and gift shops.

Hall Sayles was a pioneer of the development, and operated a motel and a gift shop.

He wanted something different, however, for his son, who would attend the same high school from which country music legend Dolly Parton graduated.

"When I was probably 6- or 7-years old," Dick Sayles says, "my dad, who was a brilliant man, said, 'Son, I think you ought to be a lawyer. If I had to do it all over again, I'd be a lawyer.'"

Sayles was still too young to know what being a lawyer actually meant, but when "my dad said that," he recalls, "my mind was made up."

After earning his undergraduate degree at Vanderbilt, Sayles went on to complete his law degree at the University of Houston and found the firm of Sayles Werbner, which was acquired by Bradley Arant Boult Cummings in 2019.

Along the way, he handled more than 150 jury trials and won 12 verdicts of \$1M or more, including a \$1.67B patent infringement award for Johnson & Johnson involving Abbot Laboratories' drug Humira, a treatment for conditions from arthritis to Crohn's disease. One of the most well-versed and respected trial lawyers anywhere, every conversation with him offers a master class in persuasion.

Lawdragon: It's amazing that you knew at such a young age what you wanted to do. Do you have any idea what your dad was thinking about when he suggested you become a lawyer?

Dick Sayles: I'm sure my dad was, on the IQ scale, way above genius. He was probably one of the smartest people I've ever encountered in my life and retained everything that he ever read or saw or heard. He was just remarkable.

He was one of the pioneers of Gatlinburg, one of the very first folks to come in there and to really turn it into a resort town. He was there when the park was dedicated and he was a part of the group that went on a tour throughout the Southeast advertising Gatlinburg before anybody knew about it, that actually helped put it on the map. When he told me that he wished he had become a lawyer, I just stuck with that.

LD: Since you played football in college, did you ever think about a pro football career?

DS: No. In high school, I might've thought about that, but when I went to Vanderbilt on a full scholarship and played for four years, it was clear-cut that that was the pinnacle of my football career. I was not going any farther. I knew it, and I was content with that.

I loved football all the way up until college, but in college it was more like a business. I stuck with it and did it, but it was no longer fun. I was very happy to set my sights on going to law school and moving on.

LD: What took you to Texas?

DS: When I went to Vanderbilt, I had actually never been west of the Mississippi River. That same wanderlust – and my personal life at the time – caused me to apply to law schools in Texas. Once I arrived in the Lone Star State, I knew that I would never leave. So I applied to law schools in Texas, and I got into the University of Houston. I was an OK student at Vanderbilt, but I was more interested in other things, social life, football and that sort of thing.

When I got into law school, I had all of that life out of my system. I bore down in law school and made exceptional grades, graduated high in my class. I enjoyed being a student. A lot of folks got to law school and thought it was time to play pinball and party and have a keg on Friday. I was more serious about it.

LD: It helps to sow your wild oats before law school. And being able to focus during those three years must have helped set you up when you got your degree. How did you choose your path after law school?

DS: I interviewed with Houston and Dallas firms, and I got a clerkship with a federal district judge in Dallas, Robert Hill, now deceased. He was a very highly regarded, wonderful man, great judge. Later went on to the 5th Circuit Court of Appeals after I clerked for him. I clerked for him for a year.

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When you clerk for a federal judge, the firms in town are all pretty nice to you. I interviewed around town and had some really very flattering and attractive offers. One of the most prestigious firms in town was Carrington, Coleman, Sloman & Blumenthal. They offered me a job following the clerkship and I took it.

That's how I ended up staying in Dallas: I thought that the benefit of the clerkship would be best there, where a lot of folks had been in Judge Hill's court and knew I was his clerk. I'd become known around town a little. I figured if I went to another city, such as Houston, which I really liked, it just wouldn't carry as much weight and wouldn't be as beneficial.

LD: Did you have any mentors at Carrington Coleman?

DS: The keystone of whatever success I have achieved since joining the firm is that I was assigned to Jim Coleman. Jim was the paragon of a great lawyer. When I was a beginning lawyer, being assigned to him was the luckiest thing that ever happened to me.

I was at Carrington Coleman for 19 years. During the time I was an associate and part of the time when I was a partner, my relationship and assignment to Jim never changed. That was unusual.

The firm usually had a fruit basket turnover. Associates were assigned to somebody else after a year or two, but I was always assigned to Jim and he was just a terrific mentor. I learned so much from him. He was a great trial lawyer, tried a lot of cases. He was the type of lawyer whom judges and other lawyers called if they needed an attorney.

LD: Did you do your first trial with him?

DS: Actually, my first trial I did by myself. He handed me a file one day and said, "Here's the file, Dick. I want you to take this on down to the courthouse and get your water wings."

I studied the file. It was a pretty straightforward case, some kind of breach of warranty. And so, I went down to the courthouse, and picked the jury, and tried the case. I ended up trying probably a dozen cases

with Jim over the years, which was terrific. The way he worked was that he expected you to be able to do everything. Now he would carry a load, but he would expect you to be able to carry the whole load if you needed to.

Sometimes the witness would be testifying, and we would have decided that he was going to take that witness, and when it was almost time to pass the witness, he'd lean over and say, "You take him." And so I would.

LD: Wow.

DS: Right? I didn't know it at the time, but I think he was gauging whether I could or should do it.

LD: Or whether you'd freeze.

DS: That's why he wanted me or whomever worked with him, and I worked with him the most, to be ready to do everything in the case. And that's how I grew up as a lawyer.

LD: Those sound like the techniques that Steve Susman used with some of his attorneys, the "You want to be a trial lawyer, get up there," approach.

DS: That's exactly right. Jim believed firmly that we could try any sort of case. In the day and time of specialization, there are people that try drug cases, there are people that try only injury cases, and there are people that do only defense work. Jim's philosophy, which he taught me and everybody else who was fortunate enough to be around him, was that the skills of a trial lawyer are the skills of persuasion. It's not the subject matter that matters, it's the skills of persuasion that matter, and a good trial lawyer with a decent short term-memory could learn the science or the subject matter. So if they had the skills of persuasion, they could try any type of case.

That's why I've tried everything from airplane crashes, to Qui Tam cases, to securities fraud, to car wrecks, to product liability cases. And I've tried nine patent cases to a jury verdict.

LD: You don't see that much breadth in commercial trial work these days.

DS: It's not that I didn't need folks on the team who knew the science who could teach it to me in the short term. I definitely did, but I was never intimidated, never unwilling to take on cases, and now consequently, people say, "Well, has anybody ever tried a case like ABC?" And usually I have. I don't think that I'm a jack-of-all-trades and a master of none; I look at it as mastery of trial skills, and the skills of persuasion.

While Jim Coleman was the foundation of my career, after 19 years at Carrington Coleman in 1994, I along with a couple of other guys decided that we needed to form our own firm. We were with, if not the most prestigious firm, one of the most prestigious firms in Dallas, and the state, and even in the country. But we decided that we really needed to chart our own courses, do our own thing.

LD: As close as you become with a mentor, there still comes a time, right?

DS: When I went over to Jim's house to tell him, I wasn't sure how he would take it, but had I thought about it, I would've known exactly. It was on a Saturday, and I rang the doorbell, and he came to the door and I told him, "Jim, I appreciate everything you've done, but it's time for me to start my own firm. I'm here to tell you that I'm leaving, and I hope you're not disappointed."

And he said, without hesitation, "Dick, the only way I'll ever be disappointed is if you don't shoot for the stars to make it." So I left in 1994, started Sayles Werbner and we joined Bradley on our 25th anniversary. We had a 25-year run that was, again, incredibly lucky. Every year was a success by all measures, including financially. And our paradigm at the firm was to keep the firm small, but to play in the big leagues. That was a real challenge.

When we started Sayles Werbner in '94, boutique firms were in vogue, and they were getting their share of big cases, and we got our share. Over the next 25 years, it kept getting increasingly harder, and the pendulum was swinging back toward big firms.

Dallas had had mostly local and regional firms, but that started to change. It was a big deal when Baker Botts moved an office from Houston to Dallas. Now, almost all of the Am Law 50 firms have Dallas offices. So that was a progression over a number of years that was taking place, and even though that pendulum was swinging back toward big firms, especially the past four or five years, the year that we joined Bradley, our last full year, 2018, was the second-best in our 25-year history.

LD: Was it the progression toward big law firms that made you decide to go with Bradley then? Or was there more to it?

DS: About three years ago, Mark Werbner and I were talking to the rest of the members of the firm about their future, and where they saw the firm going. I was approaching 70, and Mark was in his late 60s, and we were still in good health and still enjoying the practice of law. But we said, "What do y'all think about the future? Because we want y'all to help chart the course here. We've made most of the decisions for many, many years."

The group studied it for about a year, got a consultant and decided that really the only viable way for them forward, was if Mark and I just continued to do what we were doing. And we said, "Well, we will as long as we can." And at this stage in life, you just never know what it's going to bring you.

And then, of course, everyone knew that for the last 10 years as these larger firms established Dallas offices, many of them had called us. The reason is pretty simple: We were small, so we were bite-sized for an acquisition and not too hard for an outside firm to take on. And we were known for quality. Everyone had a great pedigree, and a great resume and good experience. Until then, I had always said when I got those calls, usually in the very first call, "Thank you, but no thank you." Bradley, in fact, was one of those calls - seven years ago.

So when our young folks decided that they really didn't have a way forward without Mark and me doing what we'd been doing, they said, "Well, when we get these calls from these outside firms that want to come into Dallas, why don't we listen?" I said, "OK, that's fair. We will certainly do that." Wouldn't you know that Bradley called back right at that very time? I said, "Well, what do you know? We would certainly be interested in continuing the discussion and seeing where it leads."

LD: They must have been thrilled.

DS: In the meantime, two or three other firms came courting, very good firms. We talked to them, as well, and Bradley, in my view, clearly emerged as our very best opportunity in terms of the fit and opportunity. They have an excellent, excellent reputation in Alabama and in Tennessee. By a year or two ago, they had also opened the Houston office. So I thought we could help them get some traction, help put them on the map in Texas. And, most importantly, for the other folks in our firm who have great careers ahead

of them, this seemed like a wonderful opportunity. That's what brought us to Bradley.

LD: This way, you're not necessarily going to have to be practicing until you're 90, unless you want to.

DS: That's right. I still love it, but I've tried cases all over Texas. I've tried cases in seven other states. I'm to the point now where I will still go on the road but I prefer not to. If I can sleep in my own bed, I prefer to sleep in my own bed. As I jokingly say sometimes, I've taken the last deposition in Big Spring, Texas, that I'm ever going to take. Somebody else is going to go out there and do that. It's not going to be me. So here we are.

Everything about Bradley has been even better than I assessed it when we made the decision to join.

LD: When you reflect on your career, are there any cases that you find particularly meaningful? Because of the battle, the size of the verdict or for any other reason?

DS: I can tell you two that come to mind. I represented a man who was a retired jockey. He was about 4 feet 11 inches, weighed about 85 pounds; he had a heart condition, and he was in the hospital. He was on a ventilator for an operation, and the ventilator failed, but the alarm didn't sound and he was left seriously brain-injured. He survived, but his wife had to care for him for the rest of his life. She could actually almost pick him up because he was so small, but he was a 70-year-old man who's miniature.

I tried that case in federal court in Dallas. I asked the jury for a verdict of \$6M, and they awarded \$7M, which was a pretty gratifying day.

LD: That's amazing. Congratulations.

DS: Another one I cannot forget was in 2009. I was part of a team, but I did do the closing argument and put on key witnesses in the case, and we got a verdict of \$1.75B and change.

When the verdict came back, the judge didn't let us see the verdict form before he read it. He just read it in open court. So everybody heard it at the same time. It was a patent case, and when he read the verdict amount, I had an out-of-body experience. I remember walking down the street from the courthouse to our little war room where we'd rented some space locally, and it just felt like I was walking about five feet off the ground.

When you're a young lawyer, you always hope you'll get a million-dollar verdict. And then you get a little

farther along and you think, "Well, if I get a \$10M verdict," and then lo and behold, now I can say I've gotten a billion-dollar verdict because I have.

LD: Amazing. When you go back to that 6-year old in Gatlinburg, that's why you dream. Right?

DS: Exactly. That case was complex science. But just like Jim taught, all that really mattered was the skills of persuasion. I knew the science at the time. I don't know it anymore. But my view was if I can't understand it, the jury is not going to understand it.

LD: Exactly right. While you consider learning the value of persuasion as one of your most important lessons, are there others that you think have been integral to your success?

DS: One thing that I learned is that people really ultimately connect heart to heart, not head to head. And so many lawyers, especially really smart lawyers who are steeped in science and may have engineering backgrounds, come from the head. It's true that in the trial, you do have to cover the bases. You do have to present the scientific evidence. But to connect with the jury, you've got to find a way to connect heart to heart. That's how you're going to win. And you can do it even in a dry case, even in a case that involves a deep science, you can find a moral high ground or a connection that you can bring to people on a very heart-to-heart level.

LD: The difference is really night and day between trial lawyers who are simply technical experts and lawyers who know they're talking to real people about real people, even if those real people wrote software code or came up with some kind of engineering innovation.

DS: It is. I guess another advantage that I do have is that I have pretty broad life experience, growing up in a town that had a resident population of 1,300, and then going to Vanderbilt, which is a pretty highly acclaimed academic school coming out of Appalachia.

Growing up, working in the motel and the gift shop and raising tobacco, and baling hay, and those kinds of things. Riding horses and feeding horses. I could go interview a witness out on a farm and sit on a bale of hay and talk to them about cattle, or I could go meet a professor and talk to them about some academic subject. It just all kind of flows out of my lucky life experience.