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Industry Watch

Protecting and Defending Police Is Full-Time Job for 15-Lawyer Firm

By William-Arthur Haynes

Daily Journal Staff Writer

See the name “Barry Bonds” mentioned anywhere close to “grand jury” in a news article these days, and it’s very likely Michael L. Rains is also given reference shortly thereafter.

Rains has represented the beleaguered baseballer since the feds started sniffing around the Bay Area Laboratory Co-Operative, the South Bay supplements distributor at the center of a high-profile grand-jury investigation into world-class athletes suspected of juicing.

Bonds was referred to Rains by a mutual friend, a former police officer, months before the BALCO story broke. Bonds inquired whether Rains’ had any family-law acumen.

“I told him, ‘For the sake of representing you, I’m sorry I don’t, Barry,’” recalled Rains, a Santa-Monica-police-officer-turned-litigator and name partner of Rains, Lucia & Wilkinson. “I told him I don’t do any domestic stuff, but I said, ‘Barry, if you ever get a criminal beef call me. I’m your man.’”

Barry laughed and told him, “So far, so good.”

Six months later, BALCO got served with federal search warrants, and Bonds wanted an audience.

Rains has counseled Bonds during the grand-jury and Major League Baseball’s examination of steroids in the game, in which Bonds remains an object of focus.

High stakes? High profile? Sure, but that’s not Rains’ or the firm’s bread and butter.

Several law firms have practice groups that represent public safety officials and organizations in myriad matters. Rains, Lucia & Wilkinson, a 15-attorney firm based in Pleasant Hill, represents them exclusively on everything from estate planning and personal injury to collective bargaining and criminal defense.

“We’re here to make sure that [peace officers] get afforded the best representation



S. TODD ROGERS/ Daily Journal

Partners, from left, Rockne A. Lucia Jr., Michael L. Rains, Alison Berry Wilkinson and Harry S. Stern represent public safety officials and organizations exclusively on everything from estate planning and personal injury to collective bargaining and criminal defense.

they can and that their rights are protected,” said firm managing partner Rockne Lucia. “We’re their ultimate backup.”

Partner Harry Stern spent seven years in the Berkeley Police Department before becoming an attorney. Besides Rains and him, eight of the firm’s 15 lawyers, plus two labor relations representatives and an investigator, are former police officers or sheriff’s deputies, something that clients, as well as those on the other side of a matter, say is of tremendous value.

“That’s huge,” said Ronald Davis, chief of the East Palo Alto Police Department.

Davis’ relationship with the firm dates back to his days as a captain in the Oakland Police Department.

“They have an understanding of, one, what officers go through,” Davis said. “Two, I think they have a very good understanding of the challenges that management face. ... Understanding and being in those shoes probably make them a better spokesperson and representative than just understanding the legalities of personnel issues.”

Though Lucia and name partner Alison Berry Wilkinson were never police officers, they say their work is about representing working people, those “who roll their sleeves up and get their hands dirty to make a living,” Lucia said.

He is the son of union truck driver, and Wilkinson is the daughter of a schoolteacher.

The firm aims to ensure that those who put their lives on the line to protect the public’s safety never get a raw deal for performing an often-dangerous and sometimes-thankless job.

“In our line of work, we often deal with people who’ve made a mistake on the job, but they have a right to be treated with dignity, respect and fairness,” Wilkinson said. “And some of the laws that have been put in place command that. Enforcing those is very important to me.”

“They’re different personalities, but they all have that same commitment to the client,” said James V. Fitzgerald, a partner at McNamara, Dodge, Ney, Beatty, Slattery, Pfalzer, Borges & Brothers who has rep-

resented cities and counties in civil suits against police officers. "They all work very, very hard. They're aggressive litigators, but they play by the rules."

The firm is a spinoff of Carroll Burdick & McDonough's labor practice.

Just before Rains Lucia's May 1999 opening, Carroll Burdick's partnership had changed its business plan and approach to marketing the firm. Rates and billable hours were going to increase. So too were the revenues.

Meanwhile, Carroll Burdick was one of about three California law firms known for representing police officers after employees of public safety entities began to organize.

Rains and company didn't believe Carroll Burdick's new structure would accommodate their particular emphasis on legal defense of peace officers.

"They had a nice, profitable corporate litigation practice," said Lucia, who was of-counsel at the time the group left. "As a result, those rates are three and sometimes four times higher than ours."

It was a time when the firm was experiencing significant growth, said Christopher D. Burdick, son of firm co-founding partner Jack D. "Pat" Burdick and a partner at the time. While all of Carroll Burdick's other practices were changing, the labor practice wasn't morphing as fast as the rest, said Burdick, who retired at the end of 1999.

"We didn't make much money because we worked for cops and the rates were crummy," Rains said. "The practice of law is a hoot. It's fun, particularly representing cops. But it's tough to get the rates up there like we wanted them to be."

"I think they just saw that there was a stronger bottom line representing BMW than the Concord Police Association," Lucia said. "We all understood it. But from our perspective, [starting a new firm] was a better way to deliver services to our core clients."

By all accounts the departure was amicable. Gary M. Messing, a labor partner who remained at Carroll Burdick, worked closely with many of the people that now make up the Rains Lucia boutique.

"We all regretted them leaving," said Messing, chair of the public sector labor group. "But we never begrudged them because they thought they could function more economically with the emphasis of their practice on their own."

Though Carroll Burdick was left with a

substantial labor practice, a group of eight attorneys and a labor relations negotiator departed. That group took the practice's core client, the Police Officers Research Association of California — a professional federation of local, state and federal law enforcement associations that now totals 650 member organizations — as well as 30 other police associations.

The Oakland Police Officers Association is one of those organizations.

Bob Valladon has headed the 700-member Oakland group since 1991, which dates his relationship with the firm's principal attorneys to the Carroll Burdick days.

"When judges and lawyers and everyone else in the city of Oakland see Rains, Lucia & Wilkinson coming in, they know that they're not going to back off," Valladon said. "That's the biggest thing: having that name out there."

Oakland and the association have reached a stalemate in negotiating the police officers' contract that expired in June. Lucia is representing the Oakland association in those talks.

"It's a fight," Valladon acknowledged. "When things come up, we use Rains, Lucia & Wilkinson. They go out, meet with city people, meet with us, and we always find an agreement that helps both sides."

No contract dispute between the union and the city has ever gone to arbitration, Valladon said, and at press time, he was optimistic about the result of the negotiations.

"The biggest thing that I see is the relationships that they're able to keep with [city officials]," Valladon said. "We're always able to sit down and talk business."

Regardless of whether the talks become heated and contentious, he said, "at the end of the day we shake hands."

When the firm started, Rains was knee-deep in the Corcoran 8 case. The state of California retained Rains to defend Chris Bethea, one of eight Corcoran State Prison guards accused in a federal indictment of setting up gladiator-type blood sports in the prison yard.

Rains' client and the rest of the defendants were eventually acquitted. The criminal practice snowballed after the result.

The case was extensively covered by Law Enforcement News, a monthly magazine circulated to a majority of the Police Officers Research Association's 60,000

members. The publication also covered the trials involving four Oakland police officers, dubbed "The Riders," accused of excessive force, kidnapping and evidence planting.

Alameda County Deputy District Attorney Terry Wiley, who opposed Rains in the Riders litigation, characterized the firm's attorneys as "experts" at representing police officers.

"In my 16-plus years as a prosecutor, I thought that, in spite of the intensity of the battle, in spite of fighting as hard as you could to achieve your understanding of what justice was in that case, [Rains] was the most skilled lawyer I'd ever gone up against, bar none," Wiley said.

Police associations around the state took notice.

Rains, Lucia & Wilkinson is the largest law firm in California to serve as panel attorneys to the PORAC Legal Defense Fund. The firm now represents 110 associations.

Business is booming, and the firm is involved in some important cases in addition to Lucia's Oakland Police Officers' Association negotiations. Wilkinson is lead counsel on a series of filings regarding whether the time it takes to "don and doff" safety gear is compensable under the Fair Labor Standards Act. She and Stern represent the Berkeley Police Officers Association in an effort to bar civilian review boards based on a recent California Supreme Court ruling.

Despite a healthy practice, the firm isn't interested in growing, numberwise. Increasing profits, however, is a different story.

"I really believe in making this a great place to work, and that means paying your employees well, doling out dough to them," Rains said. "That's the sort of growth I would prefer to have, frankly, than numeric growth."

The police practice doesn't lend itself to becoming a megafirm, Rains said, nor does he want the firm to go in that direction.

"That kind of thing is kind of a turnoff to me," he said.

Protecting those who protect public safety isn't the most lucrative practice in law, but for this group it's the most rewarding.

"I think we do important work, we really do," Stern said. "Sometimes, most of what we do literally is being a relatively broad shoulder to cry on. The people that seem like the toughest don't mind when my office door is closed to getting down to that level. That's OK."