

Whatever Suits Him

After years of winning the kinds of cases that can afford him a private jet, White Plains litigator David Worby is now investing millions fighting for thousands of 9/11 victims.

By: A.J. Loftin with W. Dyer Halpern Published September 23, 2008 at 11:31 AM



Photo by Chris Ware

On a clear day David E. Worby could see all the way from his law office in downtown White Plains to the twin towers at the tip of Manhattan. And, as we all remember, September 11, 2001, was a piercingly clear day. Worby saw the smoke from the first tower when he looked out of his window. He saw the second tower come down on television. Then he called his ex-wife and said, "Pick up the kids and come over to my house. No one should be alone today."

Today David Worby is the lead counsel for the rescue and cleanup workers at Ground Zero in a multi-billion-dollar suit against the City of New York. His White Plains-based law firm, Worby, Groner, Edelman & Napoli, represents more than 10,000 men and women who claim they were inadequately protected from the dust and fumes of the wreckage. (Only one in five wore respirators.) Any day now, the case will be settled in Manhattan's United States District Court, and Worby's firm will walk away with one third of the settlement. Already a rich man, David Worby will become a very, very, very rich man.

But here's the thing: Worby says he's not in it for the money—and, by the way, he still hasn't been paid a dime. He doesn't even want to practice law anymore. At age 56 he's launched a second career: writing songs for Nashville country singers, along with film scripts, screenplays, and book proposals. Now that the last of his three children is off to college, he basically just wants to make music and movies and hang out with his serious girlfriend, Manhattan dermatologist Melanie Grossman ("Harvard, Princeton, all that stuff"). Do you believe this guy?

Absolutely. Because one thing you notice if you spend any time around trial lawyers is that they're not, on the whole, jaded people. They may be conceited, they may lack self-knowledge, they may get stinking rich from other people's misfortunes, but they're genuine, even sentimental characters. Seated at his kitchen table on a warm summer day, complaining about Anthony DePalma, the New York Times reporter whose recent article cast doubt on his clients' cause, Worby radiates sincerity. Dressed in a blue-and-yellow-striped Oxford shirt that matches his eyes and hair, Worby has a pleasant face, an open, trusting manner, and an artless way of bragging and name-dropping that's rather touching. It would be going too far to call him a sensitive soul, but he does come across as a mensch.

Worby's rabbi, David Greenberg of Temple Shaaray Tefila in Bedford, says he's a soft touch with congregants who can't afford expensive legal advice. Worby pal Andrew Greene, a White Plains litigator, is still talking about the time Worby bought a plane ticket for a total stranger who needed to visit a sick relative. Worby brings cold sodas out to the gardeners and lawn-mowing crew. He donates furniture, paintings, TVs, and anything else a local charity might need. He paid to add a new wing to his Temple and endowed a chair at his alma mater, Cornell University. He has donated hundreds of thousands to various causes, he says, and intends to give more in the future. A great guy, unless you're on the losing side of his largesse.

"My life's been on hold now for four years," Worby says, "and this lawsuit has cost my firm millions. But if you told me I'd be able to help all these people, I'd do it again."

Rockland County resident John Walcott, one of the lead plaintiffs in Worby's case, was an NYPD officer in Manhattan when the towers came down. Two years after working at Ground Zero, he was diagnosed with leukemia. He didn't smoke and, at 34, was in great shape for his age, yet he had the kind of symptoms you'd get from exposure to jet fuel fumes. After his NYPD partner, Mount Kisco resident Richard Volpe, 41, suddenly

developed kidney disease, “a bell went off,” Walcott says. Walcott presented his case to a multitude of lawyers, but they all wanted payment up front.

Then he found Worby, whose children attended Fox Lane High School in Bedford, where Walcott had coached hockey. Worby wrote a letter on Wolcott’s behalf to the victims’ compensation fund established by Congress. When the fund administrators rejected Walcott’s claim, saying he didn’t get sick on the day of the disaster, Worby was peeved. He went to his computer and Googled “dioxin,” “benzene,” and “jet fuel.” Terms like “cocktail syndrome,” “fireman’s cancer,” and “agent orange” bounced back at him. That’s when he realized he had a case. David Worby, the ambulance chaser who wrote in *Trial* magazine that “the key to a successful law practice is the evaluation of profitability” (“Managing Your Time and Money: You Reap What You Sow,” January 1992), had taken the biggest calculated risk of his career.

Growing Up Not Poor

David Worby owns a Hawker 800 jet plane, a 12,000-square-foot house on 14 acres in Bedford, and a condo in Ft. Lauderdale, to name but a few of his favorite things. Growing up in Monsey and Nyack, he says he was “poor.” Then he corrects himself. “Well, not poor, but we were five people in a tiny house with one bathroom. Now, just for me, when I travel, I always get a suite with multiple bathrooms.” Worby’s father worked as a used car salesman while his mother stayed home. Both parents bloomed late: his father became a successful hardware dealer after Worby went off to college; his mother got a PhD in English at age 54 and became an English professor at Empire State College’s Rockland County branch.

They were a musical family. “Music was as ubiquitous to our family life as the air we breathed; the piano and the record player as essential as the stove,” David’s younger brother Joshua Worby recalls. “After dinner we would gather around the piano while our father would knock out the chords to tunes by Cole Porter, Richard Rodgers, or dozens of others, while David and I would ad lib melody and harmony lines on our instruments.” Older sister Rachael played piano, Josh played the clarinet, and David played the trombone. Today Joshua Worby is the executive director of the Westchester Philharmonic, and Rachael Worby is the director and conductor of the Pasadena Pops Orchestra in California.

Evidently two musical prodigies were enough. When young David composed a song and played it for his mother, she told him: “You’re no Mozart.” (Worby named his music publishing company *You’re No Mozart*.) His parents encouraged him to pursue his talent for oratory instead, and at age 10 he won his summer camp’s Clarence Darrow Award. A graduate of Cornell, Worby went to Villanova University’s law school, where he won moot-court and mock-trial competitions and was named editor of the law review. After law school he got offers from “the biggest firms in Philadelphia,” but they all told him he wouldn’t see a courtroom for years, and he didn’t want that. “I wanted to be trying cases ever since I saw Spencer Tracy in *Inherit the Wind*,” he says. “I was always a fast talker:

at five years old I could talk the janitor into letting us into the gym when school was closed.”

Worby came back to New York and joined a small firm in White Plains, litigating insurance cases. Three years later he decided to start his own firm. “I was twenty-nine and I hadn’t lost a case. I thought I would have a following. But no one followed me.”

So he took cases no other lawyers wanted to try. “I became a lawyer’s lawyer, a garbage man’s lawyer.” And he won. “I just kept winning. I got to know how to customize my case to each juror. I summed up without notes. I was very creative.” Representing a man who’d lost his vision, Worby closed his eyes for effect. “I was young. I wouldn’t do that now.”

In 1981 Worby got his crack at the Major Leagues of jurisprudence. “I had a case against a utility for a minor explosion, and my opponent was Tony Caputo.” Caputo was renowned as a tenacious lawyer, bordering on playing dirty. “He would say things to me like, ‘I was trying cases before you were born.’ I’d tell him, ‘I’ll be trying them after you die.’” Westchester lawyers came to watch the fireworks as Caputo, a Goliath in the legal world, battled his aptly named young challenger. After Worby won, Caputo offered him a job. Worby turned him down.

In a happy reversal, lawyers flocked to join Worby’s firm. “I went from having ten cases to four-hundred. I hired people to work on real estate cases and lobbying while I worked on insurance. I represented [real-estate mogul] Louis Cappelli. I won eighteen-million dollars for a guy who lost his legs in a car accident on the Hutch.” Worby founded two firms: Worby, DelBello, Donnellan, and Weingarten, which handled corporate matters, and Worby, Groner, and Edelman, an insurance and personal injury litigation firm. He was billing \$500 an hour and reaping one-fourth percentages on personal injury cases. (Asked to name his hourly rate now, Worby says flatly: “You couldn’t pay me enough.”) He made his debut in society, serving on boards and foundations (Northern Westchester Center for the Arts, the Westchester Arts Council, the UJA Cardozo Society), and fronting fundraisers and other black-tie events. He had a driver “and a fancy car.” (Now, he says, without a trace of self-mockery, “I drive Jeeps.”)

Songs of Myself

It was only a matter of time before his marriage to a yoga and meditation instructor would break up—and in 1994, it did. But Worby didn’t alienate Cynthia, his wife of 13 years. He promised her, “I will take care of you and the kids forever.” He bought his wife a modern house in Bedford, while remaining in the marital house he’d bought in 1984. (Built circa 1890, for a member of the Phelps Dodge family, which made its fortune in gold, copper, and other metals.) The couple has remained friendly: “If I needed a lawyer, I’d go to him,” Cynthia Worby says.

The couple agreed to share custody of their three children, sons Sam and Jesse, and daughter Becca. In doing so, David Worby discovered the most interesting challenge of

all: parenthood. “I’d never cooked a meal—I do have help, I’m not saying I don’t,” he quickly adds, “but I’d never had the emotional responsibility, so it was quite a change.” Worby left the corporate firm he founded, under something of a cloud, and shrank his personal injury firm in favor of becoming Mr. Mom.

According to a friend of more than 20 years, Bob Stockel, a private lender who lives nearby in Bedford, Worby’s life became all about his kids. “I could not get him out of the house during the week. I could go over and visit, but he was going to be there to help with the homework and be present.”

At home with his children, Worby rediscovered his childhood love for music and started writing songs. “They just came pouring out of me,” he says. “Even today, instead of saying, ‘I want to kill [New York Times reporter] Anthony DePalma,’ I wrote a song.”

Worby has wormed his way into the Nashville songwriting world—a feat in itself, especially for someone his age. He now cowrites songs with some of Nashville’s most successful singers. His manager, Paula Kaye, has been in the music business for 22 years; her A-list clients include Lea Kruger, Wayland Patton, and Emma Mae Jacob. She says this is the first time she’s managed a songwriter whose success is based solely on the strength of his songs (as opposed to a singer/songwriter).

“You know what makes him good and on the verge of becoming great?” Kaye asks. “David’s a chameleon, in a way. He can work with all these different singers and writers, and relate well to each of them. He has great emotional sensitivity, and a deep understanding of the human condition. Being a trial attorney for so many years, he knows how to tell a story. He knows how to open, give the body, and then close. He knows how to find the hook, and then not show it too soon. And that’s what great songwriting is all about—taking very simple elements and making them a memorable emotional experience.”

Worby has just returned from a trip to Nashville, where country star Josh Dunne is recording one of his songs.

Never content to do just one thing well, Worby has branched out into other kinds of writing. He wrote a play, *Very Truly Yours*, that had a brief run at a theater in West Hollywood. He coproduced, with Lily Tomlin and her partner, Jane Wagner, *Rebel Without a Pause*, a one-woman play about 9/11, written by the comedian Reno. He’s working on the screenplay for a romantic comedy, *The Perfect Date*. (He says the first question his son, Sam, asks when they play “20 Questions” is, “Did you go out with her?” because “that eliminates half the known universe.”) Another screenplay, *Maestra*, is based on his sister’s experience as one of very few female conductors. And most recently, he wrote the screenplay for a movie he expects to start filming soon, *Rym and the LDs*, about two dyslexic kids who become friends through their shared interest in rap music. Mutual friends gave the screenplay to Ice-T’s agent, Elis Pacheco (Ice-T’s wife is dyslexic). After meeting with Worby, Pacheco told Ice-T to sign on, predicting, “This is going to be massive.” Aaron Carter, Snoop Dogg, Li’l Romeo, and Whoopi Goldberg are

also starring; Jaid Barrymore, mother of Drew, edited the script. For a month-to-month account of Worby's artistic pursuits, see davidworby productions.com.

All 9/11, All the Time

As for David Worby's legal career, all 30 years of it have telescoped into one catastrophe: all 9/11, all the time. Worby knows the air above Ground Zero was toxic, and he wants John Walcott and Richard Volpe and all the other rescue and clean-up workers to be compensated for the risk they unwittingly took. "If there were a toxic leak at your office," Worby says, "they would cordon off the area for days. Nine-eleven had Mayor Giuliani saying that the city was safe and Christie Todd Whitman, administrator of the Environmental Protection Agency, telling everyone to come back. The Pentagon was declared a hazard zone, but in New York, Rudy took his mask off and said everything was fine. It showed a preposterous amount of bravado."

Initially, few people saw the situation as Worby did. Both the New York Post and the Daily News wrote editorials claiming Worby was inventing ground zero syndrome; the Post called Worby's effort to get money from the city a "charlatan move." Worby blames Mayor Bloomberg. "He doesn't want to be hung out to dry for Giuliani's mistakes and have to pay all these dollars in damages, but his administration will pay because Rudy didn't enforce the regulations." The \$1 billion insurance fund created by Congress to handle 9/11 claims is administered by the City of New York.

Worby fared better with a New York magazine cover story titled "Fallout" (September 2004). John Walcott says the article convinced other police officers to join the suit against the city. Still more clients signed on after Worby's 2006 appearance on the CBS Evening News. It was Katie Couric's first day on the job. "Some people would say that the people on the pile were told they should be wearing respirators," a skeptical Couric began. In response, Worby asked, rhetorically, "If they're partially responsible, does that mean they should not get medical treatment?" and then he kept rolling; Couric barely got in another word. John Walcott says his lawyer will rattle off statistics that "can scare the hell out of you." Luckily, Walcott adds with a laugh, often he can't understand what Worby is saying, "because he talks too fast."

The findings of Dr. Robin Herbert, co-director of the World Trade Center Medical Monitoring Program at Mount Sinai Hospital, support Worby's sickest clients. "We know we have a handful of cases of multiple myeloma in very young individuals, and multiple myeloma is a condition that almost always presents later in life, so that's the kind of odd, unusual, and a troubling finding," she says. But the city's lawyers have ridiculed the plaintiffs' lesser complaints, like Bell's Palsy, sinusitis, acid reflux, and psoriasis; no one knows what causes these conditions. As Worby says, a weakened immune system undoubtedly plays a role, but tracing it back seven years won't be easy.

All Together Now

Last September, you might say that all of David Worby's interests came together. After receiving the American Cancer Society's 2007 Leadership and Humanitarian Award, Worby sat at a piano at Le Château restaurant in South Salem and sang his songs to a packed house. His 18-year-old son, Sam, who spent the summer of 2006 helping research his father's 9/11 case, was in the audience. So were Worby's parents, along with clients Richard Volpe and John Walcott. "He always wears those blue monogrammed shirts with ugly ties, so I bought him a new tie," said Walcott.

After stem cell transplants, Walcott's leukemia is now in remission, but other health issues have surfaced. Volpe is likely to need a new kidney transplant, Worby says, adding that Gina Barrese, Worby's assistant of 23 years, has offered Volpe her kidney. Thousands of other clients in the mass tort may or may not develop serious health issues. Either way, Worby says, using one of his favorite adjectives,

"it's preposterous for the city not to settle. The defense firms in the main action have spent over \$110 million in legal fees." Worby estimates having spent \$10 million. "The judge is going to force a settlement," Worby insists. "He's had enough." Federal judge Alvin K. Hellerstein, a Clinton appointee, has presided over all the cases related to 9/11.

Worby says the process going forward won't be brain surgery. "We've been asked to establish severity categories. Then we attach each person to a category and bring in a special master to evaluate the cost. Then the judge looks at all the available funds—insurance, Port Authority, etc.—creates a chart, and distributes the money." Worby says he expects "to retire a lot of people when this comes in."

So in what sense is David Worby's life, as he says, "on hold"? Well, for one thing, he just can't wrap his mind around getting remarried—yet. "I'm so caught up in this litigation that the concept of doing something else major in my life is very difficult," he says. And, again without self-mockery, he says he can't even remember the last time he played 18 holes of golf. He does, however, remember the last time he played a few holes at Glen Arbor, his club in Bedford. He ran into fellow member Mayor Michael Bloomberg on the green. Bloomberg didn't recognize his adversary in golf shorts. "He's looking at me, couldn't figure out how he knew me, so I say to him, 'David Worby? Suing the city for billions of dollars?' and he says, 'Oh, yes. I'd really like to see that get resolved.'" Mr. Mayor, so would David Worby. How does \$1 billion sound?

Freelancer writer A.J. Loftin lives in Lakeville, Connecticut, and has written for the New York Times, New York Observer, and the Hartford Advocate. She says nobody would say a bad word about Worby. "But reality check: he's a litigator!"