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The joy of prosecuting civil cases

From the vernacular of Gary Dordick to the polish of Bruce Broillet and the confidence of Deborah Chang, our finest trial lawyers continue to inspire me to go forth and try cases, even after 47 years of practice

BY WALTER “SKIP” WALKER

I went to the CAOC conference in San Francisco November 19-21 and found the experience exhilarating. I have been attending these conferences since the early 1980s, when I became a plaintiff’s lawyer. Some have been better than others. Some have been more on point to my practice than others. This one was of particular note and, in thinking about why that was, my mind kept going to the enthusiasm expressed by so many of the speakers.

Gary Dordick, in particular, stood out. The Happy Warrior. Gary, who comes from a decidedly non-academic background, and who quite easily slips into the vernacular, delivers his message with a combination of humor and conviction that makes trial lawyers want to bang on their desks, roar with approval, charge onto the field like football players who have just heard their coach deliver a rousing pep talk. If he can do that to trial lawyers, what can he do to jurors? Better yet, now that we have seen it and heard it, what can we do to jurors?

Bruce Broillet was just as effective using a totally different approach. With a voice that was calm and modulated, yet conveyed emotion in every syllable, he made his listeners proud to be doing what we are doing, showed us the possibilities of what we can accomplish, convinced us that no matter what is said about us by people who don’t know any better, we are on the side of right and uniquely able to make the world a better place.

Somewhere in the middle was Craig Peters, incoming President of CAOC. He held the floor, projecting total command of his subject. He may not have been as aggressive as Gary, but no one would doubt his conviction. Similarly, outgoing President Deborah Chang spoke with such confidence that listeners knew that to vote against Deborah’s client would cause them to be wracked with doubt for the rest of their lives.

Ricardo Echeverria projected honesty and solidity. Would Ricardo tell you something that wasn’t true? Would Ricardo mislead you, trick you, misrepresent something to you? No...you can rely on Ricardo.

Rich Schoenberger may be twice as smart as everyone else in the room, but he’s not going to act that way. He confronts a problem with a rhetorical question that has but one logical answer – and when the jurors give that answer, silently of course, they think they are the ones being smart.

Dale Galipo and Carl Douglas led a panel discussing police-abuse-of-power cases. Dale, who has scored more victories against the police than anyone else in the country, proved to be a disarmingly nice, open, almost gentle person. Carl, who speaks often, maybe annually, at this conference, provided a “wild man” approach. The two of them duelled over the best way to litigate these cases – depose the culprit officer first or last? – and the contrast benefitted everyone interested in something other than a rote approach to these cases.

I did not get to hear all who spoke, but I am told that others, Chris Dolan in particular, created genuine excitement.

What I did hear, and I was one of the few lucky enough to be present on Sunday morning for the last session of the conference, was an outstanding panel on liens. Dan Wilcoxon approached the subject in a folksy, anecdotal way; John Rice charged into the fray, slaying dragons and handing out weapons of evisceration to all who were present; and Boris Efron delivered a comprehensive review that, if it did not make practitioners punch the table Dordick-style, nonetheless left us nodding our heads vigorously and scribbling notes furiously.

Anybody sense a lesson coming? If so, it’s not the cliché you might be expecting – you know, about cats and all. Allow me, instead, to demonstrate with an anecdote from my own experience.

My first job as a lawyer was in the appellate department of a government agency in Washington, D.C., We defended the agency in Circuit Courts throughout the country, including, of course, the D.C. Circuit. Before every oral argument, we had a moot court conducted by three other members of the department. I happened to be one of the panelists when a soft-spoken Southerner made his intelligent, articulate, decidedly low-key moot court argument. When he finished, a well-meaning but bombastic senior attorney ripped him apart for not being passionate enough.

The soft-spoken Southerner took the bombastic Bostonian’s words to heart. (I can say “bombastic Bostonian” because I, too, am from Boston). I also happened to be in the courtroom when the Southerner made his argument to the D.C. Circuit. It went like this:



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Attorney: Your Honors, this is the most outrageous thing I have ever seen ...

Judge: What did you just say?

Attorney: Well, I, uh, was saying this was...the most...

Judge: Counsel, at best we have a difference of opinion here. Why don't you start over and approach this discussion with that thought in mind?

Which our practitioner did, in his own way, as befit his personality, and to great effect.

Simply put, it is a wonderful, eye-opening experience to see so many powerful presentations delivered by so

many successful lawyers. But what is good for Gary Dordick, Bruce Broillet, Mike Kelly, Brian Panish, Deborah Chang, isn't necessarily going to be as good for you, for your voice, your personality.

But what is universally to be gained from all of them, all the speakers I have mentioned and many of those I have not, is the sheer sense of joy and excitement that comes from trying cases. We get to select those who will listen to us, have their attention focused on us, make them laugh, make them feel, deliver our message and fend off those who would message against us. Revel in this unique opportunity. Go forth and prosper.

Skip Walker holds the rank of Advocate in ABOTA and is a Fellow of the International Academy of Trial Lawyers, the American College of Trial Lawyers, and the International Society of Barristers. He was the 2018 SFTLA Trial Lawyer of the Year, is a Trustee of Hastings College of the Law, and the author of six novels, including the award-winning Crime of Privilege (Ballantine, 2013).



Walker

