

LASCHER AT LARGE
By Edward L. Lascher
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The question whether the world is going insane is no longer arguable (nor, perhaps, is the one about whether derangement has already arrived). An item in the "Law School News" section of this publication (August 2) informs that the "Harvard Black Law Students Association" and the "Third World Coalition" – the latter described as "an umbrella group representing various minority organizations" – are leading a boycott of a course on racial discrimination law because one of the two professors teaching it is white.

See anything wrong with that? Would it help any to know that the other professor, black and the president of the NAACP Legal Defense and Education fund, affirmatively recruited (hear anything familiar?) the first prof to share the teaching because of his expertise? (Hear anything unfamiliar?) That, of course, cut no ice with persons capable of boycotting a class on racial discrimination because it's being taught on a nondiscriminatory basis.

On Top of That . . .

Is all that enough? If not, and in case you missed it, the professor who is the object of objection is one Jack Greenberg. Let me remind you about him.

I do not know the man personally, a fact I deem a loss, particularly since a number of people close to me count him among their friends and bestow the warmest praise. But I sure know of him, as I should think anyone purporting to be literate in the law and history of our times would.

For twenty years he has been the chief litigator of that selfsame NAACP Defense Fund, taking over the task from a lawyer (probably forgotten now by most law students) named Thurgood Marshall. I ran a little check on Greenberg's statistics and found a total of 686 decisions in the federal courts, 158 of them on behalf of the Fund, 94 in the United States Supreme Court alone.

Think about that a minute! I deem myself a pretty active litigator, and run up a lot of numbers (because I take all kinds of cases, with the landmarks few and far between) but I don't have anything near 94 decisions in any one court. This guy has more Supreme Court decisions than the entire California appellate judiciary had in any appellate courts during

their combined legal careers – several times over. That is five U.S. Supreme Court decisions a year – for one interest, the NAACP. I doubt if the Solicitor General of the U.S. averages that many for any one governmental branch or department.

Pot-Boiler Cases

Of course, not all of those cases may have been to the liking of the boycotters. They included such trivia as Brown v. Board of Education, Dombrowski v. Pfister, and the perils of a guy named Bakke from the Davis Med School. Greenberg is not unknown to California, either, although here he has a mere 13 Supreme Court decisions, including such potboilers as DeRonde v. The Regents, Rockwell v. Superior Court, In re Anderson, Mulkey v. Reitman, etc.

Of course, the Harvard tykes are undoubtedly unaware of any of this. But at least they know about his NAACP background – because they've demanded he be ousted from that post, too. Why? You got it: because he's white. Stanley Mosk recently described this kind of thing as the "What have you done for me lately" syndrome, but these neo-Nazis carry it one step further: "We don't care what you're doing for us if your genes aren't right."

I am profoundly ashamed that fellow citizens of the same country are capable of inflicting this kind of outrageous insult upon one of the giants whom we should be lionizing. I am certainly disappointed, too – though unstartled – at the lack of outcry from our profession.

Big Firm Morality

My friend Charlie isn't the only one who's bewitched, baffled and bedeviled by the big law firm mind at work. I, my very self, had an intriguing contretemps with one recently. Seems I needed an extension of time to file a brief, for no better reason than that – sybarite that I be – I was engaged in a phase of a trial which literally involved my client's life or death. That seemed a matter of some priority, not only to my thinking but also that of many among us. Including, to no surprise, the presiding justice who promptly granted the time. Not, however, until he had heard the shrill protest of one of the briefcase carriers from the opposing factory to the effect that Lascher quit playing around on such trivialities.

We were, so to speak, not amused. One of my cohorts announced this fact to the tad and got an answer that I regard as a classic of the genre: "Oh, I just did that because my client told me to, but I tried to phrase it so that Ed would be sure to get his time." Wunnerful, wunnerful. This is a mind at work in a way that I simply cannot comprehend. Given

the choice of two evils, seize them both fervently and praise yourself for doing it.

As I have always understood it, a lawyer's obligation is to control the procedure in a case according to his own, and the profession's, mores, not to jerk when a client pulls a string. Conversely, I understand that the worst lawyer misfeasance imaginable is deliberate sabotage of his own client. Here, we find in a nutshell, one of these olive-suited ex-law review editors saying, in accurate translation: "I did something I know I shouldn't do, because my client wanted me to, but I screwed my client to make sure it wouldn't work." Two unethical acts make one fat billing, in other words. And we wonder why the hearse horse snickers?

We don't need the ABA rewriting its capital-letter Ethics Code (an apt noun, "code", come to think of it) every two years, or the State Bar re-writing and expanding the Rules of Professional Conduct so that they look like an operator's manual for a Polaris submarine. What we need is some reawakening interest in ethical behavior. No capital letters, no clauses, just a state of mind – and heart.

Couth in Advertising

Whenever I get into the hotel in a new town, the first thing I do is look in the yellow pages to see what their legal advertising looks like. There are two reasons. First, the ensuing nausea takes my mind off jet lag and airline food. Second, I keep hoping, I'll find someplace whose ads are worse than California's – but no luck yet. (I hasten to add I haven't checked Gotham City, the Mecca of wretched excesses, since Jacoby and O'Steen blessed us with the new freedom.) I like to think of myself as a constitutionalist, but I also believe that lawyer advertising is the biggest prostitution of constitutional right I am likely ever to see – and that's a fast track.

However, visiting Minneapolis recently, I saw a listing that, if you've got to have ads, is the first I ever approved of. A fella named Bruce D. Kennedy who is "conveniently located just south of the Riverside Exit off I 94" had a big headline "DIVORCE". So far, no surprise. And only a little in the next line: "Divorce at a relatively low cost is possible but only if you adopt an attitude that will keep you out of court."

Then Kennedy says:

"WE DON'T WANT YOU TO CALL US IF . . .

"You haven't carefully thought out all the implications of divorce, especially the impact on your children.

"You haven't made a reasonable attempt to make your marriage work, through counseling or simple communication.

"You want to use the legal process as a weapon to get back at your spouse for all the wrongs he or she committed.

"You want to start a divorce to scare your spouse into reconciliation.

"You want to 'take' your spouse for everything you can get.

"You expect your attorney to present a glamorous and expensive facade and do battle for you like a gladiator.

"WE DO WANT YOU FOR OUR CLIENT IF . . .

"You have lived apart for a while and are firmly convinced that your marriage is dead.

"You want to settle all matters on a basis that is fair to both of you.

"You put the needs of your children above your own.

"You want your attorney fees to be spent on services and not on image.

"You want an attorney who will be straightforward about fees and will try to save you a dollar wherever possible."

Not bad. Not even with the notation that he takes Mastercard and Visa. I was a little baffled, however, when he appended his other areas of specialization: "adoption, visitation and . . . entertainment law". There may be strange sources of entertainment – like, maybe, watching the aurora borealis up there in Nordic Country for Irish lawyers.