

LASCHER AT LARGE
By Edward L. Lascher
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In response to my exercise in Emily Posting last month, one judge of the LA Superior Court (who shall remain nameless for more than one reason) wrote as follows:

"Dear Mr. Lascher:

"I read with some amazement your learned discourse on how judges and justices should be addressed in and out of court. I am somewhat startled that with your usual incisive way of getting to the heart of things, you did not realize that a simple 'Your Worship' is suitable for all occasions."

Quasi Lawyers?

One of the many advantages of writing a column like this is that you get so many near-hysterical phone calls from people who have just encountered one or more of the plentiful incitements to rage afforded by the current sociological scene. The columnist as psychological ombudsperson, as it were. "I knew you'd want to know about this, Ed."

One such came from the president of a nearby county's bar association. It seems she had been trying to drum up support among that area's illustrati for a plea to the Governor not to dismember the State Public Defender's office. (About which, perhaps, more soon.)

In the course of this, she contacted a noted lawyer for one of the region's governmental agencies and was told, with no little asperity, that not only would the guy not participate, but that it was foolish to ask. He added, "My employer is fighting its own budget battles, so how could I support any bar association activity that has a fiscal impact?" How, indeed?

We often hear government lawyers complaining that they are not given full legal citizenship, that the rest of us treat them as sort of semi-lawyers. Usually, I tend to sympathize with this complaint, but the episode in question got me wondering. We would hardly tolerate refusal by a lawyer in private practice to take a position in favor of improving the administration of justice or even (as involved this time) defense of a constitutional principle by the organized bar on the ground that one of his clients wants a whack at the public trough. It probably isn't fashionable to speak of it any

more, but I believe there is not only a tradition of the legal profession, but also a formal obligation of membership, to support such causes and principles.

There is some inexorable logic at work here. If the fact that a lawyer works full time for a public agency prevails over his larger obligations of professional conscience and service, then he is less than a fullfledged lawyer. Looking at the fine, idealistic law grads I see in virtually all walks of public practice, I find this a hard concept to accept, but if such is the approach of their leaders – or, perhaps more likely, their employers – then I think we should all face the fact.

Another fact to be faced involves much of the hairshirted, self-flagellating hysteria of "lawyers' ethics" which Watergate inspired and which has been so assiduously nurtured in some quarters for a decade. The fact we never hear mentioned is that, virtually without exception (Mr. Kalmbach is the only one I can think of), the licensees whose various kinds of feaseance won them a niche in infamy over that squalid affair were one-client employees; indeed, many of them were not even functioning as lawyers (even titularly, I mean). Whereas, the cavalry consisted mostly of just plain lawyers.

For that matter, those with long memories will recall the Army-McCarthy hearings, in which hired gun Joe Welsh (one of my all-time super-heroes) took the measure of Senate employee Cohn.

This is not to deprecate for an instant the ethics or elan of the marvelous individuals working in all of our state agencies. What it does suggest is that we need a reexamination of attitude – one that I suspect would be widely welcomed in the rank and file of government lawyers.

We should be reminded that a lawyer who sells her services full time to one client does not sell herself. It is sort of the "one hand for the ship and one hand for yourself" approach. A lawyer's obligations to his one client – just like the obligations of the rest of us to the aggregate of our various clients – must not be thought to prevail over that lawyer's freedom, and obligation to think for herself as a member of an organized and duty-centered profession.

Heights of Huckstering

A new something (the problem being that I can't figure out what) has been achieved in the brave new world of lawyer advertising: a three-column ad announcing that Bob Jones (you'd better bet I'm not going to be an accessory by using his true name) has opened his new law office, of counsel to the firm of Winken, Blinken & Nod. Complete with picture of

Bob, smirking at us.

This is bad enough intrinsically, but the chatty little piece goes on to advise that Bobby will "offer a probate catering service". What it says this means is that he can do things other people can't, with the assistance of big shots from the "major banks and others of similar high caliber". For which read: people who have juice and can fix things.

How 'bout that? Next, I'm looking forward to a bankruptcy boutique, in which some lawyer is assisted by disgruntled former referees (as they once were called) – of which I understand there are quite a few. See, Congress, inaction by. Maybe, too, we could have take-out tort stands, operated by influential former claims managers. Or The Defenseman – he delivers. In several senses.

Way to go, Bob! I have filed your name away in the Pantheon of those who have really shaped the contemporary legal profession – Like Flee Bailey, Julius Hoffman, Marvin Mitchelson, John Mitchell . . .

Speaking of all of which, my mind continues to be boggled (or should it be burgled?) by the entire world of lawyer advertising. A recent visit to San Diego – a community which has the honor (if that's quite the word) of pioneering in flackery at the bar – produced a couple of dandies. Such as the guy who announces an attention-arresting specialty: "shop lifting soliciting". With a subspecialty in "resisting arrest". We are advised that all matters are kept confidential, that the firm takes Visa and Mastercharge and, in huge type, "no court appearance required". An excellent way to curb congestion.

On the same page, there's an outfit which handles three kinds of personal injury cases: "serious injuries, auto accidents, and product liability". If I have a trivial defective auto case, I'll now know where to go.

My favorite, however, was the "experienced and reliable" lawyer who handles custody and support but who, according to his banner headline, specializes in "DIVORSE". A new motto for lawyer advertising: "If you can't spell 'em, tell 'em."

However, let's not focus exclusively on our brethren. In the Chicago phone book, I found a used book store which sells "quality books" and explains that these include "first editions and literature". Whom can a body trust these days?

Hearingless Hearings

Looking Southward, again, Angel, I've always thought San Diego to be a little ahead of the rest of us. This was confirmed by a recent announcement in this publication which may have eluded some readers. It read, in part: "Effective immediately, the North County Branch of the San Diego Superior Court will tentatively decide civil motions on the date set for hearing, but there will be no hearing in open court."

Musing over where the hearing will be conducted on the hearing date, I read on and learned that one who wishes oral argument must notify his opponent and a specified clerk and then upon show up in Department G at 1:30 on the following Friday. When that happens, one may argue for five minutes "unless other arrangements are made with the clerk". I wonder what the clerk's rates for overtime are?

This idea has great potential, but I'm afraid our brethren to the south have failed to realize all of it. Why not have the hearing following the hearing date take place at 3 a.m. on the first Monday after the first-Tuesday of the next month with an R? They also left something out: When, if ever, does the motion get untentatively decided? Maybe you have to arrange that with the clerk.

By the way, this ukase is signed by the "Branch Court Coordinator". I never doubted it for a moment.

Actually, it's worse than you think. The coordinator goes on to cite a case. That, in itself, suggests to me that somebody had a queasy feeling about hearingless hearings: if so, the unease was well merited. The citation disregards the fact that, while the case had not been overruled expressly, the appellate court for the district in which San Diego is located subsequently explained the earlier decision as meaning only that limiting argument to ten minutes is no abuse of discretion, and that another court just a year or so ago said that: "A judicial decision made without giving a party an opportunity to present an argument or evidence in support of his contention is lacking in all the attributes of a judicial determination." But who's going to listen to a bunch of silly old justices when there's a coordinator to do the thinking?

Numbers Racket

All of us know the story of the army that was held up because the trucks hauling its vital supplies were a half-inch too tall to go through the only safe bridge. A whole meteor shower of stars was standing around, trying to figure out what to do, without avail. A rear rank private suggested

deflating the tires but, of course, nobody would listen to him, so the war was lost. Retired Private (first class, mind you!) Lascher has a mild suggestion for Those in Great Power, which they will ignore.

It is occasionally useful, sometimes even necessary, for attorneys to obtain information regarding the status, history, etc., of cases on appeal. This is done – or, more accurately, was done, until recently – by going to or telephoning the clerk's office of the Court of Appeal in which the matter reposed, giving some worthy the number and name of the case, and receiving the information that he or she was consequently in a position to disgorge.

No longer, at least in the First Appellate District, which, in regal spender, adjudicates from Baghdad by the Bay to the Oregon border. There, one must have a "computer number". No problem with that; I understand we live in the computer age. But why does each case need two different numbers: one for the computer, and another for human beings, with the twain never meeting? This turns a routine phone call or inquiry into an ill-tempered confrontation that can be measured in person-hours.

Uh, gang, I don't want to let any air out of your tires, but why not use the same number? Those computers are, one presumes, information-retrieval devices, and I think you're giving the retrievees a little too much of a handicap.