

Creating Opportunities for Young Lawyers to Improve Litigation Skills

A Call for a Pilot Civil Standing Order

By DANIEL J. HORGAN

Many litigators who have been around the block remember the days of the old short calendar Mondays. Either with fondness or distress, we remember how it helped sharpen our oral advocacy skills and ability to think on our feet under pressure—very important litigation skills. This is how I recall those days as a young lawyer in a personal injury litigation firm. My weekends would end mid Sunday afternoon when I dragged myself to the office to prepare for several motions on Monday's short calendar call. The motions would range from the routine discovery objections to the weightier summary judgments and motions to strike. The partners would pile the files on my desk with a memo containing a summary of the argument to be made. I was the low person on the totem pole. This meant I would cover their motions and have approximately three to six arguments to prepare. Dozens of lawyers from around the state would appear for the voluminous calendar call when court opened at 9:30 a.m. The clerk would call the calendar for the purpose of determining how long each motion would take. The shorter motions would be heard first. When the judge called my case, I walked to the counsel table, weak-kneed as all eyes were on me—or so it felt that way. After identifying counsel on the record, the moving party began to argue. Some jousting would follow as the presiding judge would usually ask a few questions before turning to opposing counsel to present their argument. Most calendars would last well past the lunch hour for me. Every now and then you would appear before a judge that may have had a bad weekend resulting in an unpleas-

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ant verbal undressing before scores of colleagues. Another opportunity to gain experience for future courtroom battles. The more calendars I covered, the more comfortable and confident I became. I learned to argue persuasively and zealously while being respectful of opposing counsel and the court. I learned that preparation and complete understanding of the factual and legal arguments typically led to prevailing. Those short calendar days also helped forge relationships with lawyers from across the state, which helped with resolving matters in a civil manner and perhaps led to a job opening in what was once your adversaries' firm. Short calendar arguments increased awareness among judges as to who you were—another valuable building block to forming your reputation. Those days are gone. It was inefficient in the sense that many matters were uncomplicated and could be ruled on the papers, saving the court, lawyers, and pro-se parties time and money. It made no sense, for example, if a lawyer from Norwich had to ap-

pear at the New Haven short calendar call to argue a three-minute request to revise. That system was replaced years ago with a modified short calendar, which only allows oral argument on matters of right and scheduled by the court at a date certain in the future. **More efficient for sure, but unfortunately, young lawyers have less opportunities to learn and improve these vital skills.**

Seminars and workshops presented by experienced litigators are available and helpful, but they can't effectively take the place of courtroom experience or baptism by fire that the short calendar days of yesteryear provided.

What can the bar association and the judiciary do to assist the younger and less experienced lawyers who are pursuing careers in litigation? The response I often hear is to seek employment in government or insurance defense areas where trial opportunities are more plentiful or seek out pro bono clients where the fo-

“The only unique contribution that we will ever make in this world will be born of our creativity.”

rum for cutting one’s teeth is manageable for the inexperienced practitioner. These ideas can help, but how can the CBA together with the judiciary create opportunities immediately. In speaking with judicial administrators, they too see the need to help new lawyers get more courtroom experience.

The sentiment and the need for immediate action is shared by other jurisdictions, including our neighbors in Massachusetts. Federal judges sitting in the District of Massachusetts recently adopted a standing order called “Courtroom Opportunities for relatively Inexperienced Attorneys.”¹ The order strongly encourages the participation of relatively inexperienced attorneys in all court proceedings, including scheduling conferences, hearings on

discovery motions, and examination of witnesses in complex matters should be accompanied and supervised by a more experienced attorney. Likewise, Judge Allison D. Burroughs, concerned about the paucity of younger lawyers speaking in court, will offer associates the opportunity to argue a motion even after lead counsel have finished. She said “See it as an opportunity to make their points one more time, rather than as a potential pitfall for the young and unwary.”²

Judges in other jurisdictions have standing orders in which they offer oral argument on a disputed motion only if a junior attorney will be making all or most of the presentation. Magistrate Judge Christopher J. Burke in the District of Delaware issued a Standing Order offering parties

to allow less experienced attorneys to argue a motion in which the court would grant argument and allow for more time and permit a mentoring counsel of record to provide assistance if necessary.

Similarly, Judge Moskowitz of the Central District of California will hold oral argument on civil motions if the motions will be argued by attorneys with five years or less of admission on both sides. The court also encourages the lead attorney to allow the junior attorney writing the motion to argue the matter.³

Connecticut should join these other jurisdictions in creating opportunities to give younger and less experienced attorneys opportunities to learn and improve courtroom skills. I propose a Pilot Civil Standing Order in a Judicial District, with details to be ironed out. I will reach out to our Litigation Section to propose a civil standing order that can achieve these goals without the extra costs and inefficiency that accompanied

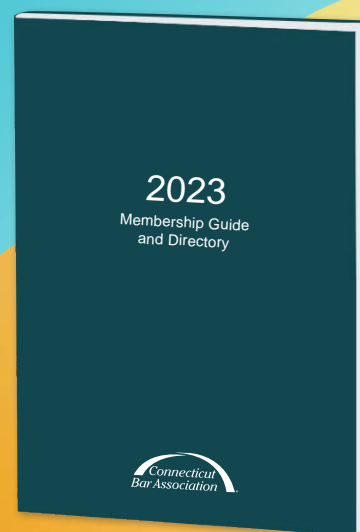
Continued on page 40 →

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Wellness

Continued from page 37

lowed for our feeling, then what? When you face an unpleasant situation, what do you do? Do you focus on the unpleasant situation or finding a solution? If there isn't a solution, do you focus on the situation, the lack of solution, or do you shift to something else? When you hit a dead end, are you frustrated and hopeless? Or do you see your journey down this path as a learning opportunity and look to try another path? We are not in control of events, but we are in control of what we pay attention to, how we respond, and whether we continue forward or stop. We can create a world of excitement, curiosity, learning, opportunities, and hope or we can create one of fear, hardships, barriers, and despair. This is our choice, our power.

Victor Frankl famously noted: "When we are no longer able to change a situation, we are challenged to change ourselves." I hope that you join me and rise to the challenge, cultivate an IRAC mindset through continual practice, and create that better world for yourself! ■

NOTES

1. Satterfield, J. M., Monahan, J., & Seligman, M. E. P. (1997). Law school performance predicted by explanatory style. *Behavioral Sciences and the Law*, 15, 95-105.

DE&I

Continued from page 33

Diversity, Equity, and Inclusion Committee co-chair Salihah R. Denman provided closing remarks for the Summit, thanking those who attended, stating, "With your help, our diversity, equity, and inclusion efforts will move forward." She pointed to the CBA Future of the Legal Profession Scholars Program as one of many important projects being undertaken to increase diversity in the legal profession.

Thank you to the presenters and Diversity, Equity, & Inclusion Summit Committee members for organizing an interactive and engaging event and to all our sponsors for making the event possible. ■

Top Lessons Learned

Continued from page 21

addressed above, including: whether vaccines can and should be mandated; whether COVID-19, "long COVID," and complications of pre-existing conditions which were caused by COVID-19 qualify as a disability under Americans with Disabilities Act and corresponding state law; whether work-from-home accommodations will be more often considered a "reasonable accommodation" by the courts; whether certain expenses incurred by employees who work from home, such as cost of equipment and household utilities, must be reimbursed by employers; what other work-related activities constitute on-the-clock work versus off-the-clock work, such as requiring testing or checking emails from home; and whether COVID-19-related injuries are compensable claims under the Worker's Compensation Act. What remains clear, however, is that employers and employees must continue to have open conversations about these matters. An employer's focus on employees' needs, desires, well-being, and engagement have substantial impacts on employees. Despite the pandemic, it is important that we, as humans in a workforce, are professional, appreciate others' efforts, and recognize the hard work of the members on our team. ■

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Housing Matters

Continued from page 29

Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-12D.pdf.

10. In April 2022, the Washington Post reported that rents in Hartford County increased 10.1% since 2019. By comparison, of the counties that make up New York City, the largest increase was in Brooklyn at a 2.8% increase. Abha Bhattarai, Chris Alcantara and Andrew Van Dam, *Rents are rising everywhere. See how much prices are up in your area*, WASH. POST, April 21, 2022, www.washingtonpost.com/business/interactive/2022/rising-rent-prices.

In 1960, 11.9 percent of Connecticut renters paid over half of their income on housing costs. That number steadily increased over time. 58 years later, in 2018, 21% of renters paid over half of their income on housing costs. Over the next two years, that number exploded to 26.9% of renters paying over half of their income towards housing costs in 2020. Connecticut saw a nine increase over 58 years, versus a six percentage increase in 2 years. One might imagine what the 2022 data will show. PARTNERSHIP FOR STRONG COMMUNITIES, HOUSING IN CT 2022, (Jan. 2022), <https://www.pschoosing.org/sites/default/files/Housing%20in%20CT%20finale%202022.pdf>.

11. Camila Vallejo, *In Connecticut, rental vacancy rates are the lowest in the U.S., leaving renters with few options*, CONN. PUBLIC, August 26, 2022, www.ctpublic.org/news/2022-08-26/in-connecticut-rental-vacancy-rates-are-the-lowest-in-the-u-s-leaving-renters-with-few-options

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Young Lawyers

Continued from page 39

erly understand the intricacies of a case or close a complex transaction. We do not shy away from the tough conversations in those situations. It's time we start putting in the hard work and make that same effort for each other. Our profession will be better for it. ■

President's Message

Continued from page 5

the old short calendar system. Mentors of old taught us how to be lawyers and the long-gone short calendar motion practice was our playground to earn our litigation stripes. We cannot fail our younger lawyers. Together we can create an efficient calendar that helps to lay the foundation for successful litigation careers. ■

NOTES

1. www.americanbar.org/groups/litigation/committees/commercial-business/practice/2018/how-judiciary-is-helping-younger-lawyers-close-the-experience-gap
2. *Id.*
3. *Id.*