

From the Desk of the Chairperson

By Mark R. High

Respect Your Elders



One of the best aspects of serving as Chair of our Section is meeting great people from all over the state and beyond. Among my favorites are our Schulman Award winners.

Let me back up and explain the Schulman Awards, who gets them, and why. The Steven H. Schulman

Outstanding Business Lawyer Award was instituted in 2006. It honors the former Wayne State Law School professor who was instrumental in drafting our organizational statutes for many years. The award recognizes individuals who best exemplify the goals established by the Section's Mission Statement: (a) demonstrating the highest quality of professionalism; (b) fostering the highest quality of practice; (c) facilitating service and commitment; and (d) promoting ethical conduct and collegiality within the practice. In the inaugural year, we made up for lost time and honored four of our colleagues: Cyril Moscow, Martin Oetting, Hugh Makens, and James Bruno. This fall, we will give out two more awards, to Charles McCallum and my partner, Verne Hampton.

At our recent Business Law Institute, two of our original honorees took a few minutes to share some lessons. It was one of the most popular sessions of the Institute. On the surface, Hugh Makens and Jim Bruno may not seem to have a lot in common. One is based in Grand Rapids, while the other has spent his career in Detroit. Hugh spent much of his early career in public service with the SEC and the Michigan Corporation and Securities Bureau, while Jim has been in private practice since coming out of law school. Hugh is always ready with a bad joke, while Jim is a bit more reserved in public. What they share, however, is an intelligence and an awareness that allows them to reflect on that intelligence. On that Friday afternoon in June, they sat down and discussed Top Ten Practice Mistakes (& How to Avoid Them). Let me share some thoughts from what I learned.

Jim Bruno made maybe the most surprising observation when he said, "Do not trust your gut." I might have thought that a senior lawyer would be taking a more impressionistic view of the world—I have seen it all and I know what is best. Jim's lesson, though, was, "Do your research. You need confidence built on knowledge, not on your gut."

Jim also stressed, "It is one thing to identify with your client, but don't make the client's problem your problem." Easy to say, perhaps harder to remember in the heat of battle.

Some more down to earth advice—"Paper the file, as both clients and attorneys have faulty memories." Also, "Be careful in using documents from the

last deal in drafting for the next one." We all understand the importance of not using the result of several rounds of negotiations in preparing a first draft the next time around. Jim's point is even stronger—"Do not be afraid to start with a blank sheet of paper (or computer screen)."

Finally from Jim, "You cannot always dodge a business issue." A corollary is we need to know enough about business to at least serve as a sounding board for clients. Often, small or medium size clients, or local managers of global businesses, do not have anyone within their companies to discuss issues with. As business attorneys, we need to be capable of, and confident about, discussing and even providing advice on the business aspects of legal issues.

Hugh Makens was equally enlightening. He warned against taking on bad clients. When we are young, any client is a good one. Even I have been around long enough to understand that is not true. Good clients are a joy, bad clients can make your life miserable. Hugh pointed out that there are clients who just want to use our services and our reputation to bolster themselves. It is up to you to decide whether you can grow together, or if the client is likely to harm you or your firm by the association.

He, too, had some client-related advice. Early in a representation, make sure your clients understand the process they are entering into and how it may play out. The best relationships are built on client understanding and buy-in. The alternative is unrealistic expectations regarding cost, time, impact on their lives and reputation, and potential results. This reminds us that we need to communicate with our side as much as with the other side. (Jim pointed out that this is especially true if your client is a foreign one.)

Make sure someone keeps the big picture in mind. Big projects need specialists, but someone needs to bring all the pieces back together in proper context.

Jim Bruno gets the final word, and it is an appropriate one coming from a Schulman winner: "Act ethically." Sometimes the temptation arises to cut a corner. Jim offers the example of a simple "not" being left out of a draft, changing a provision's meaning. It may look like an opportunity. Context is everything here, but you must live with every decision you make. The accumulation of these decisions will make up your professional life. Please act accordingly.

More information on this and the Institute's other sessions is available at the ICLE website. I suggest you take a minute and see what you may have missed.

Each of us has access to individuals with experience like this. Take advantage of it. And maybe, without realizing it, you have become one with wisdom to share. Do that; you will find a receptive audience. Our Section, and our profession, will be better for it.