

## **The Bureaucrat**

By John A. Streby

As the Court Rules and Forms Coordinator for the State Court Administrative Office, or SCAO, Grant Chase was responsible for working with the State Bar Court Rules Committee on pending projects. During a conference call with Joe Moynihan, a new man on the committee, and two other members, there was a heated discussion over a proposal to require family court judges to file written case aging reports explaining all divorces without children which were unresolved after 182 days. Grant wrapped the discussion with a comment to Moynihan that “SCAO isn’t in business to make your lives easier.”

Moynihan let loose with his own invective. “Pardon my bluntness, but I’ve had my fill of bureaucrats who know nothing about running a business telling us how to practice law. If you were a real lawyer, you’d be down in the trenches helping people solve problems instead of slurping at the public trough. You don’t have enough real work, so you spend your time and our money dreaming ways to make us lawyers work more to earn less.”

Chase used his diplomatic skills to quell the argument, but despite an oblique apology from Moynihan, the scolding was a hard blow to take just a week before he retired.

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After finishing law school, Gavin Norbert had returned to his hometown to practice law. Married with three children, he had the foresight to purchase a \$300,000 life insurance policy for his family’s financial security. The will named Grant Chase, a maternal uncle, as personal representative. That advance planning proved beneficial, because Norbert was killed in an automobile accident on the same day that his uncle left SCAO.

Although Gavin’s death was tragic, at least the timing was opportune, as Grant could step right in and wind up his nephew’s affairs. Further, the SCAO phone conference still lingered in

Chase's mind, and he welcomed a caretaker stint as a "real lawyer," as Joe Moynihan might have put it.

During a funeral home chat with Norbert's secretary, Janelle Vollner, Grant agreed to start work the next day, and arrived at the office of Gavin T. Norbert & Associates at 9 a.m. sharp. The brickwork, window style, and general layout of the single-story structure told Chase, an architectural history buff, that it had been built in the late 1940s or early '50s and may have originally been a medical office. Entering the large waiting room, he greeted Vollner and got right to work, issuing his first executive order. "I'll need to see the office manager, the bookkeeper, the associates, law clerks, and ... even the custodian. How soon can you get them together for a meeting?"

"I don't need to," replied Janelle with a hint of benign sarcasm.

"Young lady, I know that we're all testy over Gavin's death, but he designated me in his will to do this job. So, I'll ask you again, when can you get everyone together for a meeting?"

"The office manager, the law clerk, the bookkeeper—you're looking at them. That's me. The custodian—well, Gavin was nice enough to vacuum the floors while I dusted."

Chase was flabbergasted. "Ah, what about the associates?"

"There aren't any," Janelle replied, her arms akimbo.

"Well, I just assumed that with the sign outside and the stationery mentioning associates, there were several young lawyers on board here. And this suite looks like it'd be big enough for three or four."

"That associates thing, well, that's puffing, for lack of a better word, but Gavin was only competing with other lawyers who've done that for years. He owned the building, but the three lawyers who rented space here moved out two months ago to start their own firm."

Chase was perplexed. "Well, I'm not privy to how Gavin was doing, but I got the impression he was doing well. Do you think he was hitting 2,000 billable hours a year?"

"Mr. Chase, I wouldn't have a clue as to that. But what difference would it make anyway?"

Chase was aghast over the blasé attitude of this young lady on such a pivotal topic. “I beg your pardon?”

“Mr. Chase, what counts in this shop is how much we take in. And that generally runs between \$175,000 and \$220,000 a year.”

“Well, then, Gavin was doing quite well. He was certainly earning more than I did at SCAO,” Chase added, with avuncular pride. “I’m sure he would’ve taken a pay cut to become a judge.”

Janelle frowned. “Are you serious? I mean, don’t circuit judges make about \$140,000 a year?”

“Of course I’m serious. Why would you think otherwise?”

“Overhead! This place costs over \$100,000 a year to run! That means \$7,000 and change every month *just to cover fixed expenses!* If we had a short month and took in \$5,000, Gavin had to dip into his savings or go to the bank for a short-term loan.”

“Well, those figures make sense; I’m not surprised that it would take \$7,000 a month to cover the rent, your salary, law books, and Gavin’s salary.”

Janelle could only shake her head in amazement—*What planet was this man from?* “Mr. Chase, that \$7,000 figure doesn’t touch any salary for Gavin—or you, for that matter,” she added while masking her amusement. “For us to actually earn \$7,000 profit for the month, we have to take in \$14,000!”

“Really,” was all Chase could muster.

“And this salary you mention—there’s no salary per se when you’re running a small law office. If the money is good, you take some home. If it’s not, well—thank God that Gavin had a working wife.”

“I guess I’m getting an education today,” Chase acknowledged.

“Mr. Chase, I’m not trying to give you a hard time. I just wanted you to understand that this is the real deal, street lawyering. Gavin was a damn good lawyer; he enjoyed the work, and he was well respected. But you’ve got the wrong idea about what it’s like to run a solo operation.”

“Maybe I do, and thank you for leveling with me. Now, as I said before, I have no interest in assuming Gavin’s law practice. As I see it, my job is to wind up the operation here and sell the practice. The usual rule of thumb is that a business is worth roughly one year of gross revenues, and that was in the low six-figure range. With the bad economy, we might have to sharpen our pencil, but I’m still thinking that Gavin’s practice ought to bring at least \$125,000, maybe a hundred and a half, plus another \$100,000 for the building.”

That was met with a cascade of laughter. Shaking her head, Janelle explained herself. “Mr. Chase, I’m not familiar with any rule of thumb, but Gavin himself bought two other lawyers’ practices. The one was a package deal where he purchased the home of a fellow who was retiring, and the law practice was thrown in for free. And in case you’re curious, that fellow was quite successful. The other deal was more complicated—they negotiated a formula based on revenues from receivables and a bunch of other variables. But when the accounts were all tallied up, I believe that the total payout was around 53, 54.”

Despite his *noblesse oblige*, Grant seemed compelled to interrupt. “Well, even \$54,000 is nothing to scoff at.”

“No, \$5,400, and that included all the furniture, law books, mailing list, really everything that the fellow had.” His bubble burst again, Grant was stoic. “I’m just amazed,” he acknowledged.

“Mr. Chase, a solo operation has very little value when the head man is gone. Candidly, the biggest asset left here is me. With all due modesty, I’m a top-notch secretary, and if we can find some young lawyer who wants to move up in the world, maybe he could be persuaded to pay \$8,000 or so to take over, *if* I’m part of the package and agree to stay on for at least a year. That’s not counting the accounts receivable, and the building would be separate. If that’s the price, I’d want

half of it, because my presence here enhances the value of everything else. But we have to move fast. Every day, this operation is worth less.”

“I’m glad you mentioned the receivables—what do you think they amount to?”

“Oh, we’ve got those up the wazoo, I’d say easily \$65,000.”

Chase nodded his head approvingly. “Well, now we’re talking real money for a change. When the first of the month rolls around, the checks ought to start coming in. I’m sure that Pam would be delighted if I could present the estate with a final payoff of \$70,000 or so.” Janelle could only shake her head in disbelief, prompting Grant to ask her to explain.

“Mr. Chase, a lot of the clientele of this office are losers or deadbeats trying their damndest to stiff us out of our fees. Once the case is over, it’s very hard to collect. Just last week, we got a bankruptcy notice from a lady who owed us more than \$6,000! Once you figure all the old clients who are flat broke or headed for the hills, we’ll be lucky to see 30 percent.”

All of that was more than Chase cared to digest, so he changed the subject. “Are there any court dates coming up in the next few days?”

“Well, there’s a sentencing and a motion to withdraw from a divorce case both on Friday, but that’s it. The wife’s lawyer isn’t opposing the motion; in fact, he’s not even gonna appear. The criminal client was retained and he’s not eligible for assigned counsel, so if we hire someone else for the sentencing, we’d have to pay at least \$500.”

“That won’t be necessary, Janelle. I’ll handle the sentencing. I’m trying to preserve as much money as possible for Pam and the kids, and if we start farming out work willy nilly, well ...”

“I get the point, Mr. Chase, but ... with all due respect, when was the last time you handled a criminal case? This *is* an armed robbery.”

“Janelle, I’m an honors graduate from the University of Michigan Law School, and I’ve been on the faculty of Cooley Law School for 14 years. I think I can figure out what I’m doing.”

“Suit yourself, Mr. Chase. The sentencing guidelines are there on the bookshelf, and the pre-sentence report will be available for pickup at 4 p.m. tomorrow from Judge Hooley’s office.”

The next afternoon, Chase appeared to introduce himself to Judge Hooley and his staff, all of whom offered condolences and spoke eloquently on the character and reputation of Gavin Norbert. With eager anticipation, he returned to the succor of Norbert’s well-appointed office with the Virgil Potter pre-sentence report and the Michigan Sentencing Guideline Manual.

Chase leafed through the manual, a daunting 233-page, soft-cover book filled with fine print, grids, charts, tables, and statutes. He was soon immersed in a mysterious world of arcane terminology that included such phrases as intermediate sanction, truth in sentencing, crime group, straddle cell, and victim vulnerability. “How are you coming?” queried Janelle after about an hour of labored study and page fluttering.

Chase shook his head and sighed. “I swear, this must have been written by Rube Goldberg.”

“Goldberg—did he work at SCAO with you?”

That blissfully ignorant question brought a chuckle from Chase. “No, he was an entertainer who specialized in creating very complex mechanisms for doing simple tasks.”

Janelle was struck by the irony. “I tried to warn you, but ... well ... Mr. Chase ...”

“Go ahead, get it off your chest. And unless there’s a client in the room, you can call me Grant. I may be old, but I’d rather be treated as a contemporary, even if I’m not.”

Janelle gathered her thoughts before responding. “Fair enough. You’re a nice man, but with all due deference, well ... you’ve spent too much time working for the government. It’s a whole different world here in the private sector, and a lot of the grief that we have to deal with is because of bureaucrats who seem to go out of their way to make our lives more difficult. Those sentence guidelines are a good example.”

A month ago, Chase would have responded with a spirited discourse on the importance of consistency in the operation of courts across the state, the need for accurate record-keeping, and then some. But he'd learned a great deal in the past two days, and Janelle had a valid point. Still, he was a competitive man who prided himself on finishing every job that he started. After completing his review of the guidelines, Chase met with the client at the county jail, and promised to make an impassioned plea for probation.

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Chase pulled into the parking lot that served the majestic Shiawassee County Courthouse. An impressive domed structure built in 1904, the building had been restored to its original splendor in the 1990s. He felt a sense of awe when he stepped into the circuit courtroom with its massive walnut woodwork and portraits of long-deceased occupants of the imposing bench. His imagination wandered as he reflected on all the murderers, rapists, robbers, burglars, and others who had faced the bar of justice in this edifice. But today, Judge Hooley was dealing with more mundane matters. The motion to withdraw was based on the failure by Victor Jenkins, a divorce client, to cooperate or even communicate with Norbert. Judge Hooley called the case, Chase presented his motion, and the court ruled.

“We’re all sorry about the death of your nephew, Mr. Chase. Normally, it would be automatic that Mr. Jenkins would be forced to hire another lawyer, but since Mr. Norbert had the foresight to bring you on board, that changes things. I’m sympathetic that Mr. Jenkins hasn’t paid or cooperated with his lawyer, but I didn’t order Mr. Norbert to take him as a client. I didn’t negotiate the fee agreement, either. The trial on this case is just three weeks away. The law gives me discretion on a motion like this and I’m denying your motion, so looks like you’ve got yourself a divorce trial. Counsel, approach the bench.”

Feeling humbled, Chase dutifully complied, and Judge Hooley whispered to him, “I’ve got nothing against you, so don’t take this personally. It’s just that I didn’t bust my tail to get this job so

I could train people like your client on how to play lawyer. Now, the wife's attorney happens to be a reasonable guy and I'm sure that you can come to a settlement. Besides that, this case is getting close to the one-year mark. And you know what that means, don't you?"

"I'm afraid so," Grant answered, feeling chagrined. Indeed, during his tenure at SCAO, he had been the dominant force behind the notion that all divorce cases with no children should be finished in well under a year, and woe betide any attorney or litigant with the effrontery to prolong a case beyond that temporal benchmark. "Step back and I'll call your criminal case," the judge directed.

Judge Hooley called *People v Virgil Potter*, and after verifying that there was no issue with the guidelines scoring, invited the venerable barrister to allocute. Grant proceeded with a methodical but spirited discourse on why Virgil Potter was deserving of a probationary sentence rather than a prison term, asserting that the defendant had learned his lesson and would never darken the courtroom door again. Chase thanked the court, then sat down to await the payoff.

"Counsel, you're preaching to the wrong choir. Your argument is quite persuasive and you've convinced me that your client doesn't belong behind bars. Unfortunately, Mr. Potter decided against a plea bargain and opted for a trial, and the jury found him guilty of armed robbery, which the Michigan legislature, in their collective wisdom, determined some years back is not a probationary offense."

The color drained from Grant's face. "Your Honor, I'm going to ask the court's indulgence and request an adjournment so I can bring in co-counsel, ah ... assuming that's acceptable to you, Mr. Potter."

Potter glared at Chase, but wisely agreed. Then Judge Hooley spoke, "Would two weeks be enough, Mr. Chase?"

"That'd be fine, thank you." Relieved that Judge Hooley had thrown him a life preserver but thoroughly demoralized, Chase proceeded from the courtroom to the circular atrium of the stately

building and took a seat, hoping to regain his bearings. Momentarily, a man approached him and spoke. “Look, pop, I just happened to step in at the end of your sentencing, but maybe I can help. Joe Moynihan’s my name.”

“Well, this is sure a small world. I’m Grant Chase, the guy who doesn’t want SCAO to make lawyers’ lives easy, but as you must have noticed, I could use some help. Joe, I’d like to buy you a drink,” he offered, extending his hand, which Moynihan eagerly clasped.

“It’s almost 5 p.m., Grant, so I’d settle for a beer. There’s a little bar just across the street, and I think you and I should get to know each other. I won’t disparage your motives if you don’t disparage mine.”

“You’ve got a deal,” Chase confirmed, as the two men headed for the broad terrazzo stairs of the courthouse. *This could be the start of a wonderful friendship*, mused the sadder-but-wiser bureaucrat.