

Finding Good Writing Mentors

By Bryan A. Garner

Early in your career, find some way of working with the best lawyers and the finest writers that you're able to. That's what I did, but more by luck and instinct than by design.

When I received my first permanent job offer many years ago from the Dallas firm of Carrington Coleman Sloman & Blumenthal, I marched directly to Marvin Sloman's office. He was a famous appellate lawyer renowned for his meticulous writing. A thin man of medium height, he had white hair, a furrowed brow, an aquiline nose that looked as if it had been broken several times, and a ready, broad smile. He wore bowties and seersucker suits. He could intimidate. Here's what I said to him: "Mr. Sloman, the firm has just made me an offer, and I'm overjoyed. I know I could learn a lot from you—especially about brief-writing. If I could possibly be assigned to be your associate, I'd accept right now."

"Of course! Done."

And so the first two years of my law practice were mapped out: I'd be working with Marvin. I would soon come to learn that he answered almost every question either "Of course!" or "Of course not!" I'd try to predict which answer I'd elicit, but I soon learned that this was virtually impossible to

do. Sometimes two or three of us associates would put our heads together to predict what Marvin's answer might be to some simple question—but we could never tell with any reliability whether it would be "Of course!" or "Of course not!"

Marvin was a painstaking writer. He believed that every word mattered and that there was a right word for every place on the page. Even with his most trusted colleagues—in a firm full of careful legal writers—he would ponder the critical sentences in a brief and change a word or two that could make a tremendous difference. He would change "weak" to "feeble," "insistent" to "adamant," "questionable" to "discredited," and "go back on" to "renege." He habitually tightened and brightened the texts he would edit. No detail escaped his eye.

One of my favorite stories about Marvin's lawyering predated my two-year apprenticeship with him. It illustrates the creativity and persistence required of a first-rate lawyer.

Here's the scenario. Marvin and his partner Jim Coleman represent RCA, a Fortune 100 company, in an East Texas lawsuit filed by Fredonia, a local start-up television station that failed. Fredonia blames RCA's equipment for its business failure and alleges fraud. The well-known trial judge is William Wayne Justice, a former plaintiffs' lawyer who seems to despise corporate defendants. The judge's law clerk, who sits through the two-week

trial and helps Judge Justice draft all his orders, exudes a similar attitude. Fredonia's lawyer is Joe Jamail, the fabled plaintiffs' lawyer. All the rulings go Jamail's way, and RCA loses—big-time.

On appeal, Marvin argues that the plaintiff didn't offer any proof at all (1) that the equipment was defective or (2) that RCA misrepresented any facts about the equipment. Marvin writes two powerful briefs to the Fifth Circuit. His reply brief opens this way: "Fredonia's brief has essentially failed to meet the issues in this case. Fredonia has responded to RCA's 'no evidence' points with harangues of argument such as were made to the jury in the trial court, but not with anything from the record. It has left unanswered many of the legal issues discussed in RCA's brief. It has answered those issues to which it purports to respond only with a confused jumble of doctrines and authorities that we will show are not relevant, not appropriate, and not applicable."

The Fifth Circuit soon agrees, reverses the judgment, and remands the case for a new trial. We're back in Judge Justice's court again.

The trial date arrives, and sitting with Joe Jamail at Fredonia's table is Judge Justice's erstwhile law clerk—the one who had worked on the case the previous year. To Marvin and Jim, along with their associate Earl Hale, the scene is surreal.

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