

both bar groups and area law schools as such opportunities may arise.

## **Personal History**

### **The Associate's Dilemma: Obeying Dumb Orders**

By C. Evan Stewart



In prior issues of the *Federal Bar Council Quarterly*, I examined two serious dilemmas facing associates at large law firms. Now I will look at another real-life dilemma of an associate (me), this time feeling obligated to obey a really stupid order of his boss and the improbable consequences that flowed therefrom.

#### **At the Beginning**

Ralston “Shorty” Irvine had been then-Colonel William (“Wild Bill”) Donovan’s protegee in the Antitrust Division under Calvin Coolidge, and he had later been present at the creation of Donovan Leisure Newton & Irvine in 1929. Ultimately, he came to head the firm and was principally responsible for some of

the firm’s most important clients, including Mobil Oil and Disney. With respect to Disney, Shorty Irvine’s relationship with Walt Disney was such that Walt Disney delayed the opening of Disneyland by one day to accommodate Irvine’s schedule.

Beyond handling Disney’s antitrust work and the stealth buying of land in the Orlando area in advance of DisneyWorld, the firm also branched out into the tax field for its client. Under the brilliant leadership of John Baity, the head of the firm’s tax department, Donovan Leisure had crafted a strategy whereby Disney reaped such a humongous tax benefit on its used film stock that it warranted a footnote explanation in the federal budget! This landmark achievement did not go unnoticed by the other film studios; soon Baity and Donovan Leisure had been asked by other studio clients to perform similar miracles. And those developments then led Donovan Leisure to be the first major New York City firm to open a branch in the City of Angels.

Initially, the L.A. office had a small permanent staff. To make do on various matters, a few New York City associates were shuttled in for stints; in 1979, I spent approximately five very enjoyable months in Los Angeles. As I was wrapping up my tour of duty, the head partner in L.A. asked me if I wanted to stay full-time; while I was flattered, I wanted to get back to New York and (I think) I politely declined.

#### **Fast Forward to 1983**

Four years later, I was now a sixth year associate and fairly seasoned by dint of, *inter alia*, work

on a number of very significant antitrust matters. During a lull in one complex, multi-district litigation, I was pulled onto a new tax litigation initiated by Baity in Los Angeles on behalf of a major Hollywood studio. Interestingly, Baity’s opposite number was Martin Ginsburg, Ruth Bader Ginsburg’s spouse.

While Baity was the lead partner, another partner was responsible for the day-to-day operation of the case: Richard Saylor. Dick, who had been at the very top of his class at Michigan Law School, went on to clerk for Whizzer White. His niche in the Donovan Leisure partnership was to ponder great issues and come up with brilliant solutions; he could usually be found in his office smoking a pipe and looking profound. In light of the foregoing, most (if not all) of the practical litigation work fell to me. A second year associate (a former Supreme Court clerk) was added to the team to do “brilliant” tax research.

#### **On to L.A.**

As the case moved into high gear, the team left New York for Los Angeles. The highlight of my flight was sitting across the aisle from Jessica Lange, who had just won the Best Supporting Actress Oscar for “Tootsie” (while having also lost the Best Actress Oscar for “Francis”). Halfway through the flight I summoned up enough courage to walk over and clumsily offer my kudos for her affecting performance in “Francis” (she smiled and said “thank you,” but seemed relieved that I quickly went back to my seat).

Ensnared in the Bonaventure Hotel in downtown L.A. near the office (it features prominently in the Clint Eastwood classic “In the Line of Fire”), the team was working 14 hour days in preparation for a critical court appearance. Late one afternoon, Dick came into my office and said the team had been working really hard; we should take the night off and go to a fancy restaurant: “Evan, you know all the hot spots in L.A., pick one!” And so I did, making a reservation for the three of us at the best restaurant in Venice Beach.

From downtown L.A. to Venice Beach is a bit of a hike, but we three piled into my rental car at seven p.m. and headed out. Forty five minutes later, we arrived; I checked the car with the valet, and we strolled in on time for our reservation. The pretentious maitre d’ escorted us to our table, which was against the far wall, in a line of banquettes arranged, cozy set-ups. Dick immediately ordered a martini (since I was responsible for getting us home, I did very little imbibing that night).

By the time Dick was on his second martini, it became clear that the banquette right behind me (just over my shoulder) held the most famous leading man in the movies at that time – first, because of the great success of “10” and, right on its heels, the mega success of “Arthur.” Four feet away, Dudley Moore was having dinner with his girlfriend, the actress Susan Anton. They made a highly improbable looking couple: Moore was not a dashing, handsome matinee idol type (indeed, he was only 5’3” – on a good day), while Anton was a stunning, Nordic goddess, who towered over him at six

feet tall (without heels). How did we know it was them? Because even in this very fancy, very expensive restaurant numerous patrons were constantly interrupting their dinner, shouting out “Hey, Arthur,” and verbalizing various familiar lines from the “Arthur” movie.

### A “Great” Idea

Now on his fourth (or fifth) martini, Dick slurred out words I have never forgotten: “Evan, I have a *great* idea!” He went on: “You know a lot about wine. Go order a fancy bottle and have it delivered to them with your business card. We’ll probably land him as a client!” Oh boy, I thought to myself, what a really stupid idea. But to Dick, I said: “You bet, I’ll be right back.”

I immediately hightailed it over to the sommelier and asked for the wine list. He happily supplied it and I said this would not take long. Not knowing whether Moore and Anton were having fish or meat, I mentally crossed off red and white wines. Accordingly, I went to the champagne section of the list and quickly hit upon a vintage Dom Perignon. I told the sommelier that I was ordering the Dom Perignon and that it should be delivered promptly to the nice people seated right next to us who had been constantly interrupted and bothered by other patrons all during their dinner; and I also asked the sommelier to have my card accompany the champagne.

Returning to the table, a semi-conscious Dick anxiously awaited. I assured my boss/partner that all

was taken care of: ordered was something that would surely impress the Hollywood big-shots! After five minutes, however, nothing had arrived; and after 10, still nothing. Dick was onto his umpteenth martini and seemingly not too focused on the issue, but I was starting to get concerned.

Have you ever had that feeling in the back of your head that someone is staring at you? Well, I started to get that feeling, and my eyes slowly turned to my left and out toward the middle of the restaurant. There was a table about 10-15 feet away, and I saw an ice chest. Going higher, I saw the top of a vintage Dom Perignon bottle in the chest. Going higher still, I saw two couples who had just been seated. In their hands were four champagne glasses, and they were toasting me for the wonderful gift a stranger had bestowed upon them!

Leaping to my feet I sped toward the sommelier. I told him of his obvious mistake and the need to *immediately* rectify it. Huffily, he informed me that that would not be possible. Not wanting to see my career derailed by such a screw-up, I turned on my “I’m a New York lawyer” persona and detailed the various legal weapons at my disposal to render him and his restaurant naked, homeless and without wheels. After a bit more back and forth along those lines, the sommelier ultimately relented and said he would bring another bottle of vintage champagne to Moore and Anton. With my blood pressure dropping back somewhat to normal, I returned to our banquette.

I had hardly caught my breath when the sommelier appeared. He had offered the champagne to our neighbors (the right ones), but they were just finishing their dinner and were not interested in champagne at that point. “Well,” I replied, “could you see if they would like an after dinner drink? Whatever they’d like!” It turned out that that was just fine by them, especially since this Venice Beach restaurant had one of the most extensive cellars of old, exotic liquors in California. And so Moore and Anton selected two after dinner liquors that predated California’s admission to the Union (and which cost a multiple of the Dom Perignon).

As they were enjoying these priceless drinks, Susan Anton knelt on her seat and leaned over my shoulder to thank me for the tasty treats. Looking into her stunning face I said: “You wouldn’t believe what I’ve had to go through to get those to you!” “Really?” she said: “Why don’t you come over and tell us?” So I stood up and slipped into the neighboring banquette next to Moore and Anton. As I gave them a blow-by-blow recap of the “great” idea run amok, they broke into sustained laughter – they thought it was all hilarious! After I concluded, and we seemed to be on friendly terms, I asked Moore for a small favor. “Sure,” he replied. “Well, you can do whatever you want with it, but I have to be able to tell my boss I gave you my business card. Would you be offended?” “Not at all,” he graciously said, “who knows, maybe I’ll need you some day.”

With that, I thanked them both, wished them a pleasant rest of the evening, and took my leave back

to our banquette. “Dick,” I told my sleepy boss, “mission accomplished.” Dick smiled wanly, and then – as Moore and Anton left – we finished our dinner. Once we were done, I told my younger colleague that his job was to get Dick up and out of the restaurant and into my rental car; I would join them as soon as I had settled our debt(s) to the restaurant.

### **Are You European?**

After I was sure that our tab did not include any Dom Perignon, I calculated a generous tip and prepared to steel myself for the lengthy drive back to the hotel. But as I made my way across the restaurant an extremely attractive young lady walked up to me and asked: “Excuse me, are you European?” Mr. Smooth, instead of replying “mais oui,” awkwardly stuttered: “Um, er, ah, no, I’m from New York.” Unfazed, the woman pointed to the bar area and said: “My two friends [also quite attractive] and I were wondering if you and your friends would like to join us for a drink?” Never at a loss for witty repartee, Mr. Smooth responded: “I don’t know. Let me check with my friends.”

With that, I quickly exited the restaurant where I found the rental car all set to leave, with Dick slumped in the shotgun seat and my younger colleague in the back. “Dick,” I said in a fairly loud voice with my hand resting on his right shoulder, “there are three very attractive women in the bar who would like to have a drink with us. What should I tell them?” It was like a light switch had been

tripped: Dick sat up straight and, with clear eyes and a steady voice, gave me our marching orders: “Let’s go!”

So back inside we went, where we chatted up these lovely L.A. ladies for about two hours. It was never made clear to me, but I am pretty sure they had witnessed my interchange with Moore and Anton and assumed we were movie industry people who might be able to help them with their careers. In any event, after we had exhausted whatever topics we shared in common, we bade our new friends adieu and once more Dick was helped out to the rental car. My memory is that we got back to the Bonaventure circa 2:45 a.m. Truly, a night to remember!

### **Postscripts**

- Two Donovan Leisure alumni have served as Disney’s general counsel: Joe Shapiro and Sandy Litvack (and numerous other alumni have served Disney in a variety of other capacities).
- Outside of Irvine’s office were a number of original “cels” from famous Disney animation movies. One day his secretary saw me admiring them. “Would you like one?” she asked. “Would I? Yes, ma’am!” Giving me my pick, I selected a cel from “Dumbo,” with Walt Disney’s autograph on the matting. Out of all the things I have acquired or collected over my lifetime, the “Dumbo” cel is the only thing my daughter wants.