

Experience

After her term with Judge McMahon ended, Judge Figueredo joined the Shapiro Arato Bach firm, before jumping to the New York State Attorney General's Office, working for Solicitor General Barbara Underwood. In her five-and-one-half years in the Solicitor General's office, Judge Figueredo handled a wide range of civil appeals on behalf of New York in both state and federal courts. She argued all of her own cases, and particularly enjoyed opportunities to prepare amicus briefs to the U.S. Supreme Court.

Seeking to expand her criminal experience, Judge Figueredo joined the office of the Manhattan District Attorney, where, over the course of the next five years, she handled criminal appeals in the New York courts. All told, Judge Figueredo briefed and argued nearly 100 appeals, including several in the New York Court of Appeals and two amicus briefs in the U.S. Supreme Court.

As a Magistrate Judge

Having clerked for two federal judges, Judge Figueredo knew that being a judge would be interesting, challenging, and rewarding, so when a magistrate judge position opened in the Southern District of New York, at the not-so-subtle urging of Judge McMahon, she applied. Despite her years of preparation, she nevertheless feels like being selected "was a bit like getting hit by lightning." Since she became a magistrate judge, she has been

surprised by the inability, or reluctance, of litigators to compromise over small discovery disputes and their willingness to be disrespectful to each other in front of a judge. On the other hand, Judge Figueredo has appreciated the well-prepared lawyers who understand both the helpful and unhelpful case law, as well as those who have an intimate familiarity with the facts of their case.

Judge Figueredo's own clerkship experiences also inform her law clerk selection preferences. She looks for "diverse people in the broader sense of the word," that is, not just "ethnic and racial diversity but also people who are interesting and will be fun to work with for a year." She is open to hiring clerks straight out of law school, because someone who is smart and eager has the capacity to learn what is necessary to succeed as a law clerk. She also seeks clerks with different interests and experiences who are also nice and personable and will find the work interesting and enjoyable.

Judge Figueredo has found that the research and writing she does as a magistrate judge tap into her talents as an appellate lawyer. Her fluency in Spanish has proven to be very useful in settlement conferences in employment discrimination and wage-and-hour disputes involving Spanish-speaking plaintiffs. She has used her language skills to speak directly to the plaintiffs in a way that makes them more comfortable, willing to trust the process, and able to assess the value of the settlement offers.

Judge Figueredo looks forward to her years ahead serving the

people of the Southern District of New York.

The Associate's Dilemma

How to Handle Your First Pro Bono Matter?

By C. Evan Stewart



As explained in prior issues of the *Federal Bar Council Quarterly*, there are many challenges that young associates at large firms must confront and overcome. Now, in this article, yet another will be addressed: How does a novice lawyer handle his/her first *pro bono* case, where he or she is flying solo?

Right after I passed my character and fitness interview (which consisted of an elderly gentleman taking one look at my file and, upon seeing that I was at Donovan Leisure Newton & Irvine, standing up to shake my hand saying: "Anyone good enough for Owen

McGivern [legendary New York First Department jurist and then of counsel to Donovan Leisure] is good enough for me!”) and was admitted to the bar, one of my top priorities was to take on some pro bono work. Although I was challenged and excited to be working for the firm’s blue-chip paying clients, the work for someone at my level on the food chain tended to be (for the most part) doing legal research and reviewing lots and lots of documents. But with pro bono assignments, I could actually interact with clients, and maybe even try a case on my own (just like Perry Mason)!

And so I asked some sage veteran of the firm (a third year associate) how to go about getting one of those plum assignments. I was told that the firm had a well established pro bono program, and that the program was headed by a senior associate named Doris K. Shaw.

Doris, as I would later learn, was a fearsome personage. She was so tough that many of the firm’s partners were scared of her. But when I knocked on her door and introduced myself, she seemed quite pleasant and prepared to help me take this big step on becoming a “real” lawyer. Doris explained the firm’s program, its connection to the Legal Aid Society, how the firm was assigned cases, and her oversight responsibility. All that sounded great to me, and so I asked her how I might get in the queue. Doris told me she would be back to me in short order with an appropriate assignment.

My First Case!

About a week later, Doris called and told me that the Legal Aid Society had sent on a new matter that, if I was interested, I could work on. “I’ll be right there,” I replied, and hot-footed it to her office. Doris handed me the file and wished me luck.

Back in the office I shared with another first year associate, I excitedly scanned the materials by which I would start to make my reputation as the lawyer of first and last resort. It was not what I expected. The matter was a criminal prosecution brought by the Manhattan District Attorney’s office against a middle-aged man with a Hispanic surname (for purposes of this article, he will be identified as Mr. Rodriguez). Mr. Rodriguez was accused of public indecency on a New York City subway – specifically, rubbing up against a woman who was unknown to him. This did not sound promising (did Edward Bennett Williams get his start on such cases?).

Undeterred, I next went to the firm’s law library to dig into the charge against my client and see what (if anything) I could find that would help me defend the case. Once I felt fairly comfortable with the legal side of things, I steeled myself and called Mr. Rodriguez at the telephone number in the Legal Aid file. On the third ring, a male voice answered. I identified myself and told Mr. Rodriguez that I had been assigned to represent him. He seemed very grateful to have a young, hard-charging advocate on his side. We then arranged for

him to come to the firm’s offices at 30 Rockefeller Place to discuss his defense.

When Mr. Rodriguez arrived the following week, he was dressed in a suit and seemed a highly unlikely defendant of the crime for which he stood accused. Middle-aged and fairly non-descript (with a neatly trimmed mustache), my client greeted me with a firm handshake; I then escorted him to one of the firm’s lavishly decorated conference rooms for our initial interview.

During this meeting (and at each succeeding session in preparation for his defense), Mr. Rodriguez strongly protested his innocence. He had a responsible job at a bank in Harlem, he was happily married, and he had wonderful children. This charge was a blot on his impeccable reputation and he wanted to go to trial (if necessary) to clear his good name. I assured my client (then and thereafter) that I would vigorously defend his honor with every weapon at my disposal and would (of course) advocate his innocence at every opportunity. Together, we then started to map out a strategy for vindicating his good name, including him getting me a list of strong witnesses to attest to his upstanding character.

A Court Date

After several such sessions with my client, I felt prepared for the notification to appear at Centre Street for a settlement conference. This would be my first time (as a real lawyer) in court!

Together with Mr. Rodriguez (who was required by the notification to attend), we made our way to the vast forum for such events (later, I would learn that these were usually referred to as “cattle calls”). With hundreds of other lawyers (and their clients), we sat in the huge courtroom awaiting the clerk to call our case. Finally, we heard “People versus Rodriguez” – “counsel for the People?” (a female voice from far away answered “present”); “counsel for Rodriguez?” (I heard myself peep out “present.”) “Will counsel please approach?”

Leaving Mr. Rodriguez, I made my way up to the clerk’s station. There I met the assistant district attorney, a woman who was clearly a more senior member of the bar than I. The clerk instructed us to talk and report back when we were ready to speak with the judge. My adversary started by asking if I was ready to discuss the terms of a settlement. “Oh no,” I replied, “My client is innocent, and we are prepared to go to trial to vindicate his good name!”

She looked at me like I was the dumbest person she had yet to come across. “Go to trial?” she responded: “Are you kidding me? Do you know what kind of evidence we have?”

That did not sound good, so I asked her to share it with me. “Well, for starters, he has prior convictions for the same conduct. Plus, I have two police officers who were eyewitnesses and are ready to testify.” At that point, I do not know whether my adversary saw my Adam’s apple move and heard

my big gulp, but suddenly it was clear that my best laid plans were not looking so good.

Notwithstanding, she went on to explain that if my client would agree to a number of mandatory items, including psychological counseling, the D.A.’s office would agree to a suspended sentence with no jail time. I responded that I would have to check with my client and I would get back to her promptly.

I made my way across the packed courtroom to meet with Mr. Rodriguez, who anxiously asked me: “How did it go?” “Well, the D.A.’s office will agree to no jail time if. . . .” Mr. Rodriguez interjected: “Agreed!” “But don’t you want to hear the rest?” I asked. And while I dutifully recited the other items that were part of the deal, my client had clearly checked out once he was assured he would not be prison bound.

Later that day, I was back at the firm and I ran into Doris, who knew I was going to be in court. “How did it go?” She asked with genuine interest. “Sorta mixed,” I replied: “I got a really good settlement for my client with no jail time, but it is clear to me that he had been lying to me all this time about his innocence!” Doris looked at me with a look I still remember forty-five years later, paused, and said (with words I have also not forgotten): “I guess you just don’t have what it takes to be a lawyer.”

Postscripts

Notwithstanding Doris’ disdainful look and comment, I did go on

to do a few other pro bono turns while I was with the firm:

- In *McGuinness v. Jakubiak*, 106 Misc.2d 317, 431 N.Y.S.2d 755 (Sup. Ct. Kings Co. 1980), I represented the family of a young secretary at the firm who sued their landlord for extensive water damage in their apartment caused by roof leakage. That case made new law when our motion for summary judgment was granted based on a breach of the implied warranty of habitability (Real Property Law §235-b). See Bender’s Forms: Real Property Law Section 235-b (Form 3).
- As part of a program initiated by the Manhattan district attorney, several large firms agree to “volunteer” associates to serve (in their “free time”) as special assistant district attorneys. In that role, I briefed, argued, and won several appeals in the First Department. Somewhere, in the bowels of the D.A.’s files, is a picture of me and a few other eager beavers being sworn in by Robert Morgenthau.
- I subsequently represented a Sing Sing inmate who prosecuted a Section 1983 civil rights claim against the prison warden. After a four day trial before Judge Leonard B. Sand, the jury awarded my client damages and punitive damages. Thereafter, Judge Sand awarded my attorney’s fee application in full (\$49,047). See *New York Law Journal* (July 14, 1986); *Attorney Fee Awards Reporter* (Vol. 9, No. 4) (August 1986).