

September/October 2004

BARBEAT

Genesee County Bar Association



The Latitude

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Port Huron to Mackinaw Race 2000

Interests, Not Positions
A Bit of Bar History
Treacherous Waters
Planning Successful Mediation

Keep the Ideas Coming

by Ramona Sain, Executive Director

Since the announcement and schedule of social activities published in President Preketes *Bar Beat* column last month, additional suggestions have been offered. These include reviving the Talent Show, a Valentine's Day Dinner Dance, a Night at the Movies and an Evening at the Whiting. We are considering all of those suggestions so please share your ideas.

It is not too late to sign up for committees if you omitted to check off preferences on your dues statement. Standing committees include Bankruptcy Law, Bar Beat, Business Law, Criminal Law, CLE and Technology, District Court, Family Court, Federal Practice, Golf Outing, Law Day, LRIS, LRIS Review Committee, Legal Aid, Municipal Law, Probate Court and Professional Practice. Consideration is being given to combine the Circuit Court and ADR Committees. Also, an ad-hoc PR and Marketing Committee was recently appointed, and of course, the Holiday Dinner Committee now falls under the auspices of the Bar Foundation. Not on the list this year is the Nominating Committee. For the past few years the association has discussed updating the bylaws with special attention to the nominating process. President Preketes recently appointed a Bylaws Commit-

tee to undertake this task with the expectation that a document will be completed by the fall with specific recommendations. It's been ten years since the last bylaws revisions occurred, and pursuant to bylaws, all changes must be approved by members at a membership meeting.

For those of you who have noticed the new landscaping in front of the office, a dedicated group of volunteers made it happen. The committee was comprised of Ann Lossing Ruwart, Valerie Talhelm of Mike Behm's office, Nancy Dillingham, Barb Menear, Fred Meiers and Linda Pohly. After a few revisions, a final set of plans was approved. The real grunt work began on a hot Saturday in July with volunteers Tim and Ann Ruwart (bearing a truck load of gardening supplies), Dick Barron, Karen Folks, Dolores Coulter, Chris Christenson, and my husband Bill Khouri. It took about five hours and the results were worth it. A request is pending to the City of Flint for approval to improve the parkway between the street and sidewalk with flagstone or another hard landscape material. Since our office is one of the first professional buildings people pass as they enter the city from the east, it is important for us to project a profes-



Ramona Sain

sional image.

Last, it has been a difficult few months for my family with the passing of my sister Jackie Johnson in December, my mother-in-law Dolores Khouri a month later, and just recently my father Danny Sain, on July 15, 2004. My father had a great respect for lawyers and the law and was honored to receive the Genesee County Bar Association Liberty Bell Award in 1975. In fact, the award had a special place on the wall in his den and my family felt this recognition deserved mention in his obituary. I would also like to thank each and every attorney who passed along personal "Danny Sain" stories . . . you helped make an untenable situation more manageable. I have learned through necessity to rely on friends and members of the association and I count my blessings to have so many of you.

Ed. note: Our Executive Director is too modest to mention that she worked prepping the ground one whole day by herself, digging and removing hard soil and pushing the wheelbarrow many times to the rear of the GCBA site.



In progress and completed - the new landscaping at GCBA

Genesee County Bar Association

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CORRECTION NOTICE:

The July-August issue featuring attorneys married to attorneys did not list Jack and Stephanie Neal, who continue to be GCBA members even though they live in Grand Rapids.

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A Remembrance of Dale Andrews

by Honorable Allen J. Nelson, Probate Judge and Irving T. Nelson



Dale Andrews

I was out of state when Dale Andrews passed away. I was saddened to learn of his death upon my return to Flint. Although his passing was not unexpected, it was distressing to me. He was a person from whom I had learned so much.

He was one lawyer who always complied with the Michigan Rules of Professional Conduct and never failed to disclose to the Court controlling legal authority - not cited by his opponent - directly adverse to the position of his client. He would argue vigorously to distinguish contrary cases and if that was not possible, he would argue the case holding contrary was wrong. He was always persuasive. Often I ruled with him.

Always arriving early for his court appearance, he would sit in the courtroom alone, reviewing advance sheets. The period before court began gave me the opportunity to have many discussions with Dale and to learn much. He would excitedly tell me about new cases involving wills, trusts, decedent's estates, and the like. It was hard for me to generate the enthusiasm he had for all things in the law.

On rare occasions, towards the end of his life, he would discuss personal matters, such as his military service as a company commander during World War II in the South Pacific. But mostly in his personal life, he was very private.

There were no concerns about his courtroom decorum. He was always a gentleman and courteous. He continued to read advance sheets when other cases were being heard.

He would appear before me on a regular basis representing estates with substantial assets and

request modest fees. On one occasion, I raised the issue of his attorney fees, reminding him that fees are subject to the Court's scrutiny and the Court must approve attorney fees in all cases. He responded by stating that he did not think his fees were excessive and I stated the fees were not excessive but, in fact, they were too little. I began to recite to him the criteria used to determine attorney fees. He interrupted me, which was rare, and informed me that he was in a better position than anyone to know what his legal services were worth. I reminded him that all attorney's fees must be reasonable by court rule and that I was contemplating increasing his requested fees. He smiled and commented that the Court of Appeals might not look with favor upon a Probate Court order increasing attorney fees when no one requested same. I never raised the issue again.

Dale was one of the most knowledgeable individuals regarding real estate of any person I've ever known. Before I became a judge, I would attempt to hire him of counsel relative to complex real estate litigation. He would always refuse, whether it was because he didn't want to be associated with someone with so little knowledge, or because he didn't think there were very many cases that required the efforts of two lawyers. He would freely discuss the issues with me and on several occasions invited me to his office to discuss the issues as he saw them. He drew many diagrams which helped me grasp the issues at hand. He refused compensation for his counsel. He believed older and experienced lawyers had an obligation to mentor younger lawyers.

Dale's reputation for intelligence, fairness, integrity, reliability, character,

and legal ability is unsurpassed. He reflected well on our profession. He will be missed.

—The Honorable Allen J. Nelson
Probate Judge

When I contemplate the life of Dale Andrews, three words always stand out among the many positive images: gentleman, scholar, and superb advocate. Dale was always up to date on relevant case law. On the few occasions when he was not so, his response to a question was always "I don't know, but I'll find out". Within a day or two, he'd have the case or cases and a clear grasp of their relevance to the matter at hand.

After Dale graduated from Albion College, he mistakenly turned east, and came to rest at the first law school on the route, the Ann Arbor Institute of Pomposity. Had he continued east, or turned west instead, he could have benefited from the many fine law schools in the east or the midwest. Nevertheless, he gamely overcame the Blue disadvantage and came to rest, fortunately for him and for us, in Flint and associated with two of Flint's legal giants. They happened to represent a number of the highly successful companies in Flint, and their founding families. Much of this was before my time, but resulted in a reputation and range of legal accomplishments which was truly awe-inspiring.

When Dale graciously accepted my plea for representation in a couple of matters, I knew that the outcome would be what I deserved, not always what I desired.

Of course, during his decades of practice he represented many giants, and must have done well because I had to beg him to bill me. I recall a specific instance when I turned to Dale for representation

in a fight with one of the Eastern Insurance Giants. We won that matter, in the sense that our onerous lease was set aside, and I was free to make a much better deal.

I was aware of the legal fee charged by our opposition, another of the legal giants of Flint, and when, at long last, I persuaded Dale to bill me, his statement was in an amount between one-third and one-fourth of that of his opponents. The only time he showed impatience to me was when I tried to persuade him that his charges were too low.

Dale had a remarkably wide range of legal skills. Of course he was a true expert on wills and trusts, and all things probate. But he was at his best in litigation, although that was far from his principal occupation. He was meticulous in his adherence to the rules, both as to pleadings and briefs. Perhaps for that reason, he never raised his voice in argument, never interrupted opposing counsel, and remained good-natured, with cour-

tesy and understanding that frequently subdued the opposition without giving offense.

Eschewing pomp and circumstance in death as he did in life, Dale exempli-

fied what we all might aspire to: a life well lived and a death without complaint. He was, finally, a great friend. I miss Dale Andrews.

— Irving T. Nelson

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Interests, Not Positions:

An Alternative to Traditional Collective Bargaining

by Sean M. Siebigteroth



Sean M. Siebigteroth

“Traditional” labor contract bargaining derives its ethos from the adversarial regime familiar to attorneys. In the typical “traditional” setting, labor and management representatives exchange proposals representing their positions, with the expectation that the give-and-take of the adversarial process will render ultimate agreement reflecting an appropriate compromise between competing interests. At best, negotiation yields a good-faith accommodation of the parties’ divergent goals. Often (though not always), the parties view “traditional” bargaining as a zero-sum game, where one party’s interests prevail only to the extent the other’s is frustrated.

In many settings, traditional bargaining is the only workable collective bargaining approach. However, in suitable environments, interest-based labor contract bargaining (IBB) can be an effective alternative to adversarial traditional bargaining. Interest-based bargaining requires a different notion of the relationship between labor and management and of the tension between their interests. This article will briefly describe IBB and its particular benefits, and note the conditions necessary for effective use of this approach. What is interest-based bargaining (IBB)?

Traditional labor contract bargaining can be described as positional, meaning that, prior to negotiation, each party assesses its concerns and desires (its interests) regarding a collective bargaining issue, decides on a suitable option to resolve those concerns, and presents the result of that decision-making process as its position on the issue. The parties do not learn the other’s interest assessment except to the extent that those interests are implicit in the parties’ positions.

Example: The parties are to ex-

change proposals on employee lunch hours. The employer’s chief concern is adequate staffing during early afternoons, so they propose that the employer will determine when each employee will be released for lunch. The employee representative desires maximum scheduling flexibility for employees. The employees thus propose that individual employees be allowed to determine when to leave for lunch.

IBB endeavors to place all interests before the parties explicitly, openly, and mutually before those interests congeal into dueling party positions. After all interests are articulated, the parties work together to find an option that most completely satisfies all interests.

A typical interest-based negotiation approach might contain the following steps:

1. Each party openly and completely articulates its interests regarding an issue. This is best done through each party “telling its story,” framing the issue and discussing the various interests in concrete, real-world terms. Each party seeks an objective, nonjudgmental understanding of the other’s interests.

2. With a full understanding of the interests at stake, the parties collaboratively and creatively brainstorm options which address the issue with regard to those interests, understanding that while there may be tension between separate interests, the parties’ interests are not necessarily opposed to one another (as dueling positions are by definition).

3. The parties together evaluate the brainstormed options, analyzing how well all interests regarding the issue are addressed in each option.

4. The parties reach consensus regarding the best option, adopting that as the resolution to the issue.

Returning to the previous example,

an interest-based approach would begin with disclosure of management’s staffing concerns and labor’s flexibility interests. With these revealed and understood, the parties would discuss options that best preserve all articulated interests (option 1: employees may leave for lunch when they want, but no more than three at a time; option 2: employees may choose a lunch hour from a schedule devised by employer to ensure adequate staff coverage). With options before the parties, the parties would evaluate the options, and choose the one which best reconciles both parties’ interests.

A primary advantage of IBB is its focus on reaching good solutions on issues rather than merely reaching agreement. The end state of the positional bargaining process is compromise between competing positions; with IBB, that end state is a less partisan and more multifocal articulation and reconciliation of all interests at stake.

When is IBB appropriate?

As mentioned at the outset, situations exist where traditional positional bargaining is the only workable collective bargaining alternative. For an IBB approach to be feasible, all parties must have:

1. An ability to trust. Where the parties’ relationship is damaged and contentious, the parties may not be disposed to work collaboratively as is required in interest-based bargaining. Complete disclosure of interests and candid discussion of options may feel too much like “showing the other side your cards” in a labor environment where there is distrust between labor

continued on page 11

A Bit of Bar History

by Jean Neithercut

The early days of the Genesee County Bar Association recount several colorful attorneys. George H. Durand already led a full and interesting life before the time he is credited with founding the Genesee County Bar Association. He served as Alderman and Mayor of Flint, as a Michigan Supreme Court Justice, as a Congressman, and as the president of the Michigan Bar. In spite of humble beginnings, he was a wealthy and well-known man, with a handsome mansion near the site of today's Vogt's Flower Shop on Garland Street. He was appointed by President Cleveland as special prosecutor trying several well-known opium smuggling cases on the west coast. The City of Durand is named for him.

George H. Durand settled into the practice of law in his hometown and saw a need for the lawyers of the county to assemble from time to time to discuss issues and ideas common to the courts and to attorneys. Accordingly, the lawyers of the time began regular meetings, a set of bylaws was drawn, and the Genesee County Bar Association was founded in 1897 with Durand as its first President.

Records of the early days of the Bar are not known, and only a few news clippings gleaned from the general news of the day give us a picture of the Bar at the turn of the century. Durand's son, Charles, was also a charter member of the GCBA. He practiced law in the area for over 50 years, beginning a tradition of "family practice" in the GCBA that continues to this day.

Among other early Genesee County practitioners of note were John Carton, William Fenton, and Sumner Howard.

John Carton studied law while serving as county clerk and clerk of the Circuit Court. He was a partner of George Durand from 1884-1892 until



George H. Durand Law Office

Durand went to the Supreme Court. Carton was City Attorney, a State Representative and President of the State's Constitutional Convention in 1907-1908. Carton is noted primarily, however, as friend and advisor to Billy Durant. He played an important role in the founding of General Motors as the attorney for Durant, Buick, and C.S. Mott's Weston-Mott Company of which Carton was Vice-President.

Upon the death of his mentor, George Durand, Carton wrote an eloquent and moving tribute to his late law partner, a tribute which he read to the Supreme Court and which serves as a brief biography of Durand.

William M. Fenton was born in 1808 and studied law while engaged in the mercantile business. He was admitted to the Bar in 1842. Fenton served in the Michigan State Senate and as Lt. Governor. He is credited with bringing Michigan School for the Deaf (now Deaf and Blind) to Flint, and with founding the town of Fenton. Of greater importance for the GCBA, he was the law teacher of both George Durand and Sumner Howard.

Fenton served in the Civil War, raising a company known as the Fenton Light Guards, and was commissioned a colonel. After the war he returned to the practice of law in Flint, and built "the Fenton Block" of buildings - including the city's first theater - on the site of what is now the parking lot north of the Mott Foundation Building. He died in 1871 from injuries sustained in an accident related to his service as a volunteer fireman.

Sumner Howard was one of the first European settlers in Flint, county

prosecutor, member of the House of Representatives and Speaker of the House. He became Chief Justice of Arizona for four years, then returned to Flint to practice law until his death in 1890. (For details on Sumner Howard, refer to the excellent article by Hon. Philip C. Elliott in the March-April 2004 Bar Beat.)

In 1897, the year of the founding of the GCBA, the population of Genesee County was about 40,000, and there were approximately 40 attorneys. Charles Wisner was the Circuit Judge and F.W. Brennan was the County Prosecutor. The Courthouse was "old, cramped, and in need of renovation". In November of that year a small group of lawyers met to form the Association, with the objectives of "promoting social intercourse of the profession and improving the administration of justice".

At the time of the founding of the Association Judge Charles H. Wisner was well known for civic activities and varied interests including photography and art. But he is most remembered for "inventing" his own automobile, working on it in his barn near today's intersection of East Court Street and Lapeer Road. He was never successful in marketing the car, but the barn remains a tribute to him at Genesee County's Historic Crossroads Village, not far from the little 1890's law office named for George Durand (and supported by the GCBA).

Ed. note: Jean Neithercut is married to member Hon. Geoffrey Neithercut. She compiled information on the GCBA for its 100th anniversary in 1997. Read more on the GCBA website at <http://www.gcbalaw.org>

A Yen for Japan

by Francine Cullari

Being a member of the Centennial Inn leads to some wonderful discoveries. It was at a Centennial meeting that I met Jim Bauer, now the Administrator and Estate Analyst at Genesee County Probate Court. First I learned that he is quite a gentleman, second that he fulfills his commitments, and third and most interesting, that he lived and worked in Japan. After his 1989 graduation from the University of Michigan, Ann Arbor, with a Bachelors in English Literature/Education, he married Jill in June of 1990. Both Bauers wanted to live and work abroad. They had mutual friends in Japan with the Japan Exchange and Teaching Programme (JET), a very selective Japanese government program that hires individuals to teach in local schools for one or two year commitments. Their friends recommended that the Bauers join the program.

Jim and Jill sent resumes to about a dozen english conversation schools and received one reply. Bob Purcell, the owner of America Eigo Gakuin (American English School) sent contracts and the Bauers were hired by mail, after they spoke with Purcell on the telephone. They met with Purcell in Hawaii for two weeks training, then went to Japan.

The school provided a house and two cars because they each traveled to different teaching sites. Jim told me he taught ninth graders at a Junior High, mid-level managers at a soap company, and three classes of 45 college freshman girls at a nursing college. He also taught three classes at a large department store - one class of kindergarteners, one class of bored housewives, and one class of drunk managers from a chemical company. Those managers provided his most interesting evening classes. Jim was beginning to sound like Adrian Krouner in Good Morning, Vietnam.

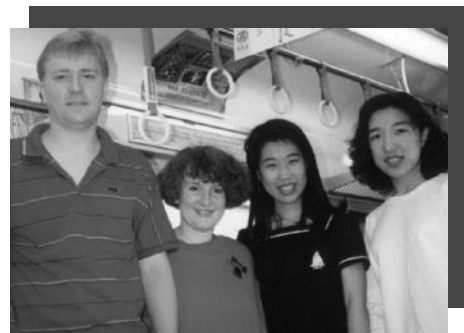
After six months, Jim became an

area manager and he and Jill trained new teachers who lived with the Bauers for their first week in Japan. They enjoyed sharing their experiences to ease the transition for the new trainees.

Jim loved his work and loved Japan. He wanted to stay longer, but Jill only taught children's classes and found the experience less rewarding. She found that small children were generally not given any limitations. Yet in 7th grade they were brought into line and faced enormous pressures to succeed and do well in school. Some of them seemed in a daze, studying all the time. Jill found it very sad and difficult to deal with the unstructured little ones, then the stressed middle schoolers.

After a year and a half, when Jim and Jill could finally carry on a conversation in Japanese, they came back to Michigan. That was twelve years ago. When they returned, Jim taught at Flint Southwestern Academy from 1992-1999 and attended law school. During that time, the Bauers had three children of their own, Zachary (now 10), Haleigh (now 8) and Jackson (now 5). After graduation from the Thomas M. Cooley Law School cum laude, he clerked for Chief Probate Judge Allen J. Nelson in 1999-2000. Elder Law had always been Jim's interest, even before law school, so he sent his resume to Judge Newman who passed it to Judge Nelson. During his interview with Judge Nelson, it arose that both the Judge and Jim were from the Upper Peninsula. Jim's only test for the position was the following question: Did you ever put gravy on a pastie? Jim had honestly never heard of using gravy. Fortunately, Judge Nelson thought gravy was an abomination. Jim was hired.

After clerking, Jim set up a solo practice for over a year, until he accepted the Probate Court Administrator po-



L-R: Jim Bauer, Jill Bauer,
Mieko Sugimoto, and Mami

sition in 2001. As Administrator/Estate Analyst, Jim handles administrivia such as overseeing payroll, approving time off, handling grievances, preparing an annual budget and hiring. He handles intergovernmental relations, particularly with the County Board, and makes presentations at nursing homes, adult foster care homes, hospice, and union retirement groups on elder law and end-of-life issues. He assists delinquent fiduciaries by scheduling and conducting informal conferences with suspended fiduciaries to bring files current and by answering questions from the public and lawyers. He troubleshoots with Probate Registrar Kay Rushton on a multitude of unusual probate issues that arise.

Jim also finds time to be active in the Centennial American Inn of Court, the Genesee County Elder Abuse Task Force, and on the Board of Directors of Salem Housing Community Development Corporation.

As much as he enjoys his work and family, Jim longs to return to Japan. He found the Asian experience awe-inspiring and looks forward to renewing the joy. In the meantime, he will have to settle for having dinner and conversation with Japanese friends of my husband's and mine. The Bauers will enter our regular conversation with Kumiko and Takao about traveling with them to their homeland one of these years.

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Planning Successful Mediation

by Lawrence J. Day

"I was ruined but twice - once when I lost a lawsuit and once when I won one." - Voltaire

A key element to the success of mediation hearings is that all interested parties with ultimate decision-making capacity should be in attendance. MCR 2.410(D)(2) provides that the court may direct that persons with authority to settle a case be present in person or by telephone. However, the court rule fails to define "persons with authority." This ambiguity can undermine the mediation process.

Trial courts may want to further define the phrase "persons with authority" in orders referring cases to mediation. Courts may want to consider specifying that mediation attendees should include representatives of all parties having full authority to settle up to the amount of plaintiff's last demand or policy limits, whichever is less, without further consultation. Such language is set forth in Florida Mediation Procedure, Rule 1.720(b)(3).

The proposed language eliminates the so called "home office problem," where settlement momentum can be lost because a party has to seek authority from a superior who cannot be reached. Clarifying the definition of "persons with authority" and requiring their attendance at mediation can go a long way in setting the stage for a successful mediation hearing.

Mediation can often benefit if the court orders the attendance of other persons, such as lienholders and essential non-parties who have an interest in the outcome of a dispute. A prime example lately has been the Michigan Catastrophic Claims Association (MCCA) in first party personal protection benefit attendant-care cases. Frequently the defendant, no-fault carrier, feels its hands are tied and is unable or reluctant to enter into a settlement because statutory reimbursement from the MCCA may be rejected if

the settlement is unilaterally deemed unreasonable by the MCCA. This gridlock impairs settlement and wastes court resources. It would be better for all concerned if essential non-parties, such as the MCCA, were ordered to participate in mediation. Interested non-parties should be encouraged to attend mediation and "speak now or forever hold your peace."

Ed. note: Lawrence J. Day has been a private practitioner in Flint for over 25 years and a mediator since 1995. He received mediation training at Harvard Law School, Nova Southeastern University, and through the State Bar of Michigan ADR Section. About 75 percent of the cases he has mediated have settled. He wrote in the July/August, 1995 Bar Beat about the mediation process.

- Quiz Answers:**
1. False. MCR 2.410 (C)(1).
 2. False. MCR 2.410 (C)(1).
 3. True. MCR 3.216 (C)(3)&(4).
 4. True. MCR 2.410 (E).
 5. False. MCR 2.411 (A)(2).
 6. False. MCR 2.411 (B)(1).
 7. False. MCR 2.411 (C)(1).
 8. True. MCR 2.411 (C)(3).
 9. False. MCR 2.411 (C)(2).
 10. False. MCR 2.411 (F)(2).

Mediation True/False Quiz

by Richard Barron

1. Mediation of a lawsuit is always voluntary.
2. Insurance carriers that do not want to pay more than they have already offered may properly refuse to participate in mediation.
3. Mediation of domestic relations cases is subject to different rules than other cases.
4. A party may not object to being ordered to participate in mediation at the mediation itself.
5. A mediator may determine that a party is acting "unreasonably".
6. The parties must select a mediator who is on the Court's list of qualified mediators.
7. If the court orders the parties to participate to mediate, mediation may occur at a time convenient to the parties.
8. If an attorney becomes angry with a court appointed mediator during a mediation, the attorney and his client can leave.
9. Mediation is helpful because it allows a party to impeach the testimony of another party if it is contrary to that party's formal position at the mediation.
10. Persons who mediate civil actions must be members of the State Bar of Michigan.

When Value is a Question



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Treacherous Waters

by David L. Lattie

As all of you are no doubt aware, attorneys frequently engage in recreational activities in an often futile effort to relieve the stress of their practices. Ideally, the chosen activity allows the attorney to relax and decompress from the rigors of work. My father, Lyndon Lattie, chose the sport of sailing, which has been compared to standing in a cold shower while tearing up \$100 bills. Either his practice is a lot harder than I thought, or he has an odd sense of fun.

It's not completely his fault. Some of the blame lies with attorney Dick Hamilton who sold him his first boat back in the 70s when they were partners on Church Street. Dick and his wife, Rose, had a significant amount of sailing experience, and, apparently, a sizeable amount of insurance, as they sold their boat to Lyn, whose only previous experience with water was the aforementioned shower. The boat was a 26-foot Reinelle. Some of you may recognize that brand for motorboats, which was basically what a Reinelle 26 was - a motor boat with a mast.

Nevertheless, Lyn would take my brother, sister, and me up to Caseville on the summer weekends and would venture out into Saginaw Bay to experience every imaginable problem from thunderstorms and shallow water to a small engine fire. My parents were already divorced at the time, so our dad was not really risking anything by driving my mom crazy with worry. However, as an attorney looking back on those memories, I can see where temporary guardians might not have been out of line.

Apparently, once you have extinguished an exhaust manifold fire and been on your boat when it is struck by lightning, you gain an odd kind of serenity. A fire must make sailing and its inevitable problems routine from that point because Lyn began to become a better and better sailor, minimizing danger and discomfort through experience.



On the cover: The Latitude and sailors with an attitude: skipper Lyndon J. Lattie at the helm, and l-r, John Tosto, David Dyal, Jim Pappas, John Pappas, David Lattie.

True to form, just when things began to get manageable cruising, he decided to raise the bar by trying sailboat racing. Racing sailboats is a whole new level of futility, fueled by misguided competitiveness. It can be rewarding, but the reward is tied directly to winning, which takes years to even begin to happen.

He did manage to persevere and began to win races around the State of Michigan, including the Port Huron to Mackinac and Chicago to Mackinac races. To his credit, he became one of the better helmsmen on the Great Lakes and was invited to sail on boats owned by others, taking him to the east and west coasts, and to Florida and Japan. His sailboat racing allowed him to sail Port Huron to Mackinac races with local bar members, including Judge Ransom, Dick Cooley and John Tosto.

Through his dedication to the sport, Lyn has become one of the best sailors in the Great Lakes. He races occasionally, but is increasingly dedicating his time to cruising his 41-foot sailboat. His goal is to take periodic cruises with his new wife, Carmen. She, of course, has no idea what she is in for. As for me, I not only have had the privilege of practicing law with my dad, but have had him teach me how to sail and race nearly to the same level of involvement as my dad. As for Mr. Hamilton, of whom I am very fond, I will continue to suppress the urge to spray him with the nearest available garden hose and take his wallet.

Ed. note: David Lattie is a MSU College of Law graduate and sailor who is a sole proprietor in Grand Blanc.

A Touch of Class

The Centennial Inn had scheduled Hon. Donald Rockwell and several other district judges to speak to attorneys at its November 2002 meeting about courtroom do's and don'ts. In the interim, David Goggins won the election for Judge Rockwell's seat. Notwithstanding, former Judge Rockwell appeared at the Inn meeting and told stories of how attorneys performed well in his Court. At the end, the Inn members and judges gave Don a standing ovation. He was stunned and expressed absolute amazement, asking Dick Barron and Judge McCabe, "Why did they do that?" They asked, "Do you really not know?", to which Don sincerely replied, "No, I don't". They responded, "That's mainly the reason."

Ed. note: If you have a story about an attorney who has exhibited exemplary behavior, please contact the editor at the address on the Table of Contents page or at cullarilaw@sbcglobal.net.

Interests...

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and management. Proposing a new bargaining approach may appear to a distrustful party as an attempt to capture a strategic advantage.

2. An ability to see interests as other than in opposition. Where management and labor view negotiations as a win-lose proposition, IBB's capacity for creative problem solving (i.e., finding win-win solutions) may not seem like a reasonable possibility.

3. A willingness to work together civilly and collaboratively. Tensions between individuals necessarily involved in the bargaining process may make open, respectful and cooperative dialogue impossible.

IBB is not merely disguising "business as usual" in collective bargaining with feel-good declarations regarding cooperation and information sharing. It may not be an appropriate approach in all settings. Candid discussion, brainstorming and consideration of options, and consensus building require patience, interpersonal sensitivity, and trust. It is, however, a real, effective alternative bargaining approach, which can yield innovative and mutually satisfactory resolutions.

What to do now that your future
is your present.



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