THE NAME GAME

ANNALS OF JUSTICE

By Steve LaCheen

"To be a success," my father used to say, "you have to make a name for yourself. In a profession, word of mouth is the best advertising." And every time he said it, my mother would quickly add, "not just a name, a good name. A good name is more important than gold."

So, the concept of "name" was not only one of the lessons of my upbringing, it became something I was always conscious of. Although as a youth, I never thought that my particular name was important to anyone but me, I carried with me the idea that I had a responsibility to uphold the family name, and to do nothing that would shame or besmirch it.

When I became a lawyer and embarked on a career as a solo practitioner, I found the guiding precepts of both the practical and ethical aspects of practice very much in line with the dual principles espoused by my parents. I set out to make a name for myself, but even more important, a good name for myself in my profession.

A.E. Houseman wrote about the athlete dying young being fortunate not to have outlived his reputation like those whose name died before the man. My situation was just the opposite. I developed a reputation as an experienced trial lawyer almost before I ever tried a case. How that came about was the serendipitous function of being in the right place at the right time.

I was admitted to practice in June 1958 and, quite unintentionally, started as a solo practitioner. My preceptor, who was a bankruptcy specialist, had died in January. His estranged younger brother, whose solo practice consisted of insurance company subrogation work, offered to become my successor preceptor, took over the practice and used it as a dowery to springboard himself into an equity partnership in a large firm; leaving me with the opportunity to embark on my legal career as a neophyte with no practical experience, and no clients.

But, I was lucky. Within the first six months of my admission to the bar, it seemed that every relative and every friend I ever had suffered some minor accident or encountered some minor legal problem, which enabled me to learn firsthand what it meant to practice law. I did it all, from doing my own typing, to filing my own pleadings, to negotiating with claims adjusters, chatting up court personnel, and, generally speaking, learning the ropes.

But the real lucky break occurred in connection with the other side of the practice, representing those accused of crime. Within a half-dozen years of my starting in practice, the U.S. Supreme Court changed that landscape. Under the leadership of an activist chief justice, Earl Warren, with the strong support of Justices Douglas, Black, and Brennan, the court greatly expanded the rights of criminal defendants by guaranteeing legal representation, and by putting teeth in the protections afforded by the Fourth, Fifth and Sixth Amendments.

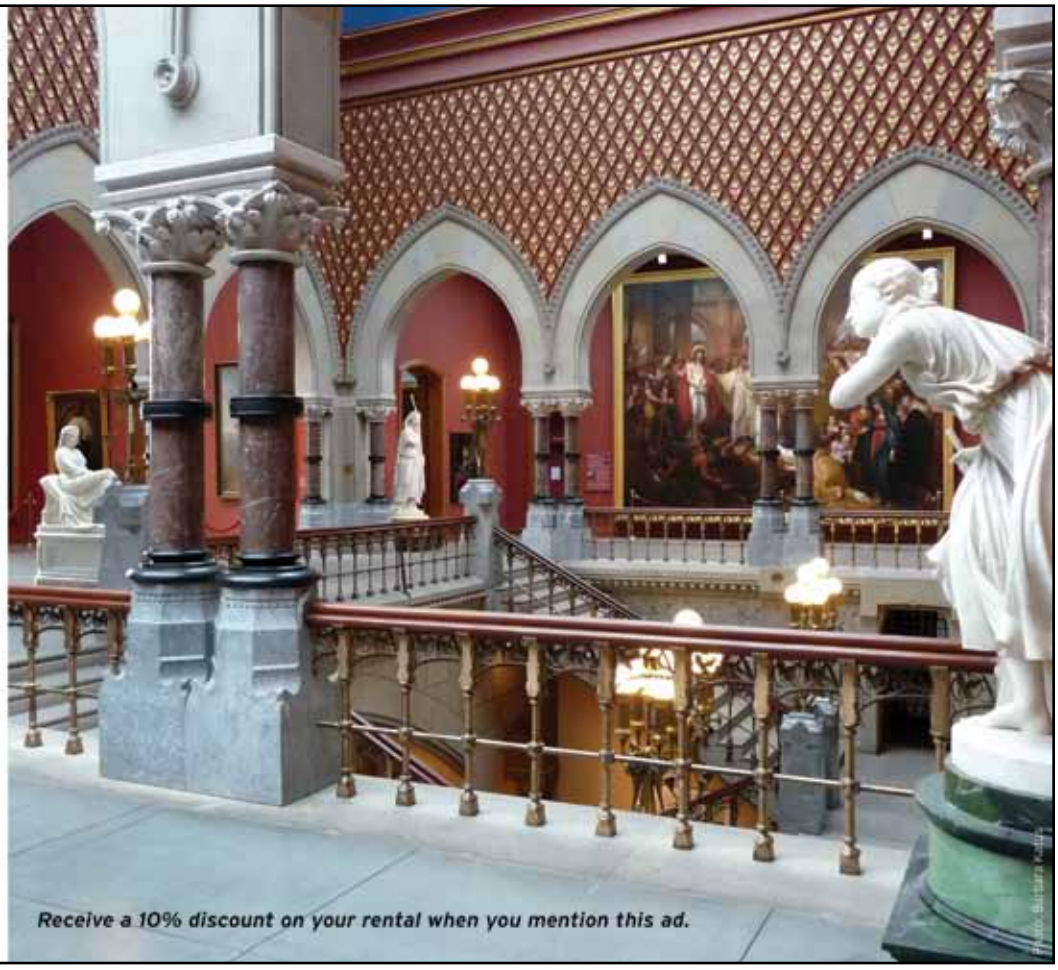
As defense lawyers, we were streets ahead of the police, who had not yet developed the standard methodology to overcome or sidestep the constitutional protections being pronounced by the Supreme Court; and so, we experienced enormous success in convincing courts to suppress evidence based upon violations of a defendant's right to be free from

ENTERTAIN IN GREAT AMERICAN STYLE

Escape the ordinary and go beyond elegant– a perfect venue for parties up to 350 guests!

PAFA
PENNSYLVANIA ACADEMY OF THE FINE ARTS

128 North Broad Street, Philadelphia
215-972-1609 **PAFA.ORG/RENTALS**



Receive a 10% discount on your rental when you mention this ad.

searches, seizures, arrests and even confessions obtained by such violations, which we referred to in legal shorthand by the last names of the defendants whose hard-earned victories paved the way for our easy ones.

The years between, roughly, 1964 and 1974, were rife with Supreme Court decisions strengthening the rights of defendants, and as defense lawyers we enjoyed unprecedented success in advancing those rights in court. As a result, looking back on that period, when we were winning case after case on suppression motions, almost nothing went to trial. Speaking for myself, I can remember actually going to trial in only a half-dozen cases during that 10-year period when I probably achieved a successful result by way of pre-trial motion practice in a hundred cases.

So, as I said, I achieved something of an undeserved reputation as an experienced trial lawyer years before I had ever actually tried enough cases to deserve any reputation in that regard at all. In street terms, I had a name before I played the game.

As I learned through experience, however, having the name doesn't mean you have the game; and it is no less true that having the game doesn't always give you the name either; which leads me to relate several incidents involving how, from time to time, I have been reminded of the gulf between the name and the game, both in actuality and in perception.

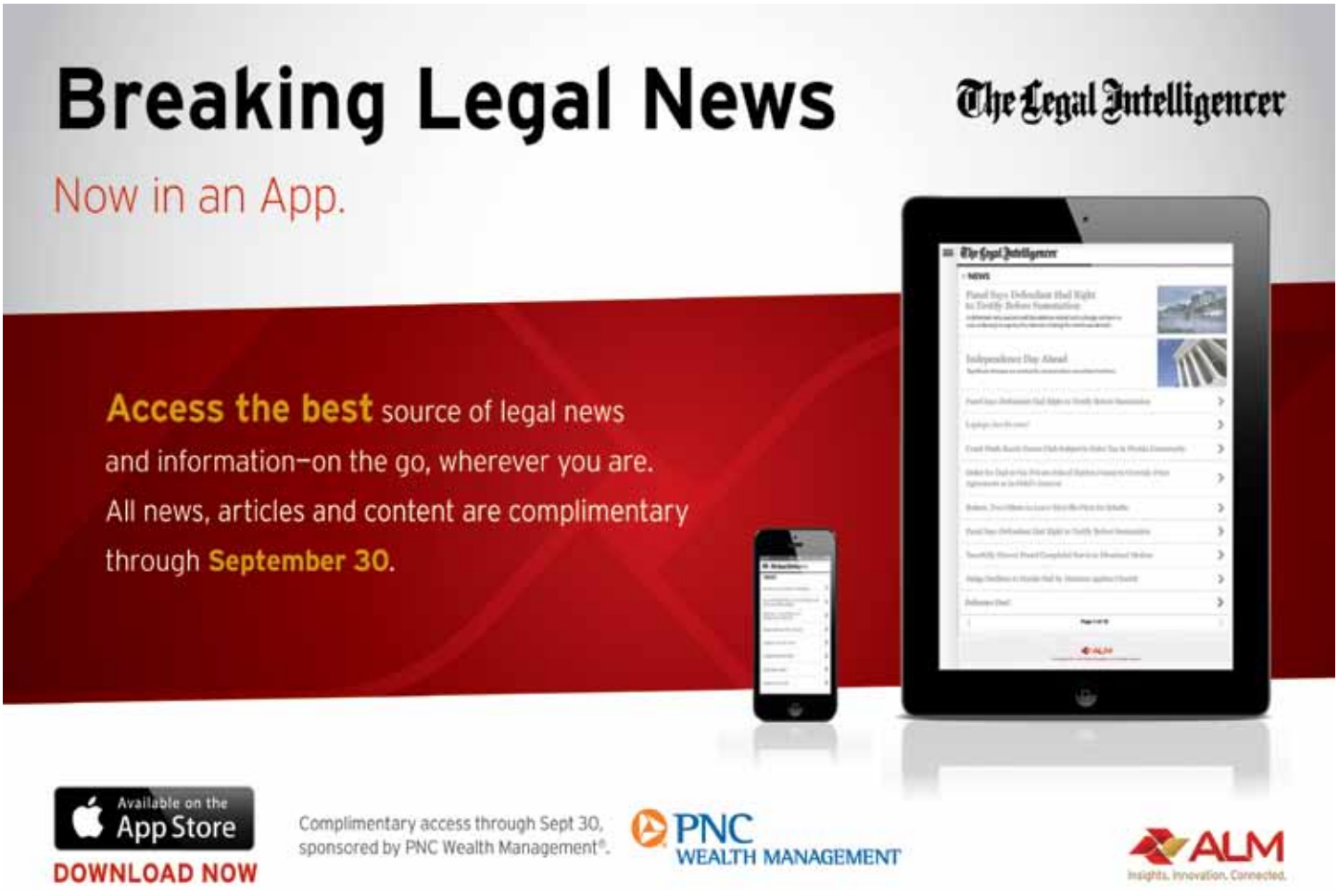
First, lest the "name game" syndrome appear totally negative, let me hasten to point out that one of the great thrills in the practice (to me, anyway) has been the rare occasion when I have been able to cite a Supreme Court or appellate court decision to the court before which I am arguing and reference the fact that it was my case, that is, a case that I had argued.

I experienced an accolade, not of my own making, on one occasion, at a dinner party at our home. A young woman, the date of an invited guest, for reasons I never figured out – she was at the other end of the table, and I did not hear the lead-in to her story – launched into an emotional recitation of the legalistic prowess of her father's lawyer; and when asked who that was, mentioned my name, totally unaware that she was in the home of that very person, dining at his very table.

I received a similar endorsement when, in the midst of a multi-defendant drug trial some years ago, the government played an undercover tape in which two of my then client's co-defendants were discussing the relative merits of local defense counsel and one recommended that the other call "that (bleeping) lawyer LaShane (sic) 'cause that (bleeper) can talk the (bleeping bleeps) off a brass monkey." Even so ringing a recommendation, however, did not save my client from the bleeping evidence of his own tape-recorded braggadocio.

But, not all "name/game" experiences are either so positive or so amusing.

Case in point: At a holiday party at the home of a next-door neighbor several years ago, he introduced me to his uncle, who shook my hand and said he was pleased to meet me. He was as shocked as I had been surprised (or vice versa) when I reminded him that I was the attorney who had been, and still



I achieved something of an undeserved reputation as an experienced trial lawyer years before I had ever actually tried enough cases to deserve any reputation in that regard at all. In street terms, I had a name before I played the game.

was, representing him in a tax matter for more than a year.

A similar situation occurred during jury selection in a case when, after the judge had introduced all counsel to the venire and asked whether any prospective juror knew any of the attorneys, I realized that one of the jurors had failed to recognize me as his very own attorney in a business transaction less than two years before.

A variation of the "name game" has occurred from time to time when I have appeared in court in one of the suburban counties adjacent to Philadelphia, when the dialogue has unfolded in the following fashion:

COURT CRIER: "All rise"

(Judge enters, takes bench)

THE COURT: "Please be seated. Good morning Jane" (to the stenographer); "Good morning John" (to the sheriff); "Good morning Samantha" (to the prosecutor); "Counsel" (to me); "Please identify yourself for the record." Such an introduction rarely bodes well for the stranger in a strange land.

But, for the unkindest cut of all – the most potent example of how the perception of our importance is totally reliant upon the reality of the perceiver – is exemplified by the following portion of a guilty plea colloquy, some years ago:

THE COURT (to the defendant): "Have you discussed this with your attorney?"

DEFENDANT: "Yes, Your Honor."

THE COURT:"And are you satisfied with Mr. LaCheen's representation?"

DEFENDANT: "Who?"

Now, that's a reality check, for real. ■

Steve LaCheen (slacheen@slacheen.cnc.net), a partner with Lacheen Wittels & Greenberg, is a member of the Editorial Board of The Philadelphia Lawyer.

Temple Law School

Temple's unique learning community is housed in the heart of a thriving, urban university located in the middle of Philadelphia, a major financial, commercial and cultural center.

Under the leadership of Dean JoAnne A. Epps, Temple's highly qualified and diverse students and alumni continue to make their mark in the ever-changing world of 21st century legal practice in Philadelphia, the United States and around the globe.

- Nationally ranked programs in Trial Advocacy, International Law, and Legal Research and Writing
- Talented and diverse student body from all over the world
- Distinguished faculty of teacher-scholars who embody the law school's philosophical diversity
- Focus on experiential learning
- DC Law & Public Policy Program




Innovation. Impact. Inspiration.

TEMPLE UNIVERSITY®
Beasley School of Law
JoAnne A. Epps, Dean

1719 North Broad Street
Philadelphia, PA 19122
800-560-1428
law.temple.edu