



**Oral History of
Harold A. "Hal" Haddon**



THE HISTORICAL SOCIETY OF THE
TENTH JUDICIAL CIRCUIT

**ORAL HISTORY
OF
HAROLD A. “HAL” HADDON, ESQ.**



Interviewed by Stephanie Howard
December 6 – December 7, 2020



Stephanie Howard and Hal Haddon, 2016

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Q: Today is December 6th, 2020, and my name is Stephanie Howard. I am here on behalf of the Tenth Circuit Historical Society today to conduct the oral history of one of Colorado and the Tenth Circuit's greatest trial lawyers, Hal Haddon. Good morning, Hal.

A: Good morning.

Q: I know you're not fond of praise like that, but I'm afraid you're going to have to get a little bit used to it throughout the course of this as we talk about your pretty incredible career as a trial lawyer and also in politics and all of the tremendous stories that came along with that. So, brace yourself.

A: I can handle it.

Q: It might be helpful to explain a little bit about how Hal and I know each other. So, Hal, how long have we known each other?

A: Since sometime in 2003, and I remember that vividly because I was defending Kobe Bryant in Eagle County, and my then-assistant was panicked at the thought of the stress and the likelihood that she was going to have to live in Eagle County for two years and help me defend that case, so she left. And you appeared on our doorstep.

Q: I did.

A: And you were our legal assistant and one of our paralegals for that entire 14-month trial.

Q: And for many years thereafter. So I think -- 2003, we're just shy of 20 years now, which is kind of shocking. But because of that, we've shared a lot of adventures that we can talk about, and I know of a lot of your adventures that date before me. I'm really excited and honored to talk through all of these with you.

Chapter 1

EARLY YEARS IN MICHIGAN

Q: I think probably the best place to start is the beginning -- Fenton, Michigan. Why don't you tell us a little bit about life in Fenton, Michigan for a young Hal Haddon.

A: I was born in long-ago 1940 in Flint, Michigan. Fenton and Holly, Michigan, are small towns that were sort of satellites to Flint, Michigan, and they were farm towns. My father was an educator and a farmer -- a lot prouder of being a farmer than he was of being an educator.

So I grew up on a small family farm just outside of Flint. You could call it Fenton, you could call it Holly, but they were both very small towns that were adjacent to each other.

Q: And what kind of farm was it?

A: It was a classic, totally self-sufficient family farm. And when I say totally self-sufficient, I mean, we raised everything necessary to feed and to clothe us. It was an 80-acre farm. It had a couple of small lakes on it, so there were fishing opportunities.

We had alfalfa fields. We had corn fields. My father was a master gardener, and he had a 5-acre vegetable garden on this farm. He literally grew our vegetables and everything you needed. If it wasn't fresh because it wasn't fresh season, we canned it, and lived off the land that way.

We also had ducks, pigs, chickens, cows, rabbits, and, occasionally, assorted other critters. So we raised our own meat. We milked our own cows. We pasteurized our own milk. It was a totally sufficient family farm.

Q: And my memory is that you became quite fond of one of your cows, in particular.

A: I had this great cow whose name was R-Nell. She was a milk cow. And so I would milk her. I would feed her. She was a really sweet, sweet, gentle cow. So on occasion, she would let me ride her.

But when she got tired of that scene, having a little kid on her back, she would aim herself at a low-hanging branch on a tree and run at it and brush me off. But we had, we kind of had a routine. If I milked her and I fed her, she'd let me ride her for a while.

Q: So what was your role on the farm growing up?

A: Well, your role on any farm is you're jack of all trades. I had to feed the animals. I had to shear the animals. Occasionally, I had to assist in harvesting them. I had to work the gardens. I had to hay the hay, I had to bale the hay, bring up the corn, all those things.

Basically, it's -- working on a farm is 24/7. And the critters get up early, so you've got to get up early and feed them.

Q: And while you mention baling the hay, I also recall a story of how terrifying that experience could be.

A: Well, Michigan is not thought of as rattlesnake country, but there is a swamp rattlesnake in Michigan called the Massasauga. Our farm was ground zero for the Massasauga. They were everywhere. They were in our front yard. They were in the barnyard.

My father took perverse pleasure in exposing my brother and I to rattlesnakes just to see how terrified we'd get. One of the games he would play with us is that when we were baling

hay, he'd be driving the baler. My brother and I would be back of the baler and stacking hay on a wagon.

He would spy a rattlesnake, and he'd run the baler over it. The baler would either chop the rattlesnake in half or literally bale the rattlesnake up in the bale. Then without warning us that there was a rattlesnake coming, we'd pull a bale off the baler, and there would be a half a rattlesnake hanging out or the whole thing would be rattling. He found that was great sport.

Q: Oh, gosh.

A: But we learned a lot about rattlesnakes, and it's important, I guess, sort of logo history, because the rattlesnake later in life became the logo for my law firm and my building.

Q: That's right. We'll talk about that. Did you ever get bit?

A: I got gnawed on by a small rattler in my front yard once. And I didn't have severe symptoms. I had to go get a shot, and my foot and my leg swelled up. But I spent the better part of my teenage years looking out for them and taking them out whenever I could.

Q: That's a little prophetic for talents as a lawyer to come, watching for pitfalls everywhere. So you mentioned your dad and your brother. Was it just the two of you siblings? And tell us a little bit about your family.

A: My mother was an actress when she met my father in college. They both were studying education. My father got a bachelor's and a master's degree in educational administration. He and my mother married pretty young, in college, and had me pretty young, 1940. I think my mother was 20 when I was born. My brother came along five years later.

My mother, who was an enormously talented actress and singer and had done a lot of that kind of work in college and even earlier as kind of a child prodigy, had to live on the farm, take care of two wild boys, and manage rattlesnakes and manage all the other things that are entailed with a farm. She found that very frustrating, as we can talk about.

Q: The personality of your father combined with that, must have created kind of a difficult dynamic.

A: My father was a brilliant, very strong personality. His orders were like judicial orders. They were meant to be followed.

Q: And how did your mother sort of cope with that?

A: It's awkward to talk about it. As time went on, she became more and more withdrawn. I think she was pretty clearly mentally ill and depressed when my brother and I were growing up. She would sometimes literally go to bed for two or three months at a time and leave us to ourselves.

After my brother and I went off to college, she moved to Sarasota, Florida, which has a really thriving arts community, and took up her acting career there and did great and was a modest star in Sarasota doing plays and musicals and really blossomed.

Q: So did she live there for the rest of her life?

A: She lived there for the rest of her life for 10 months of the year. Two months of the year she would come back to Michigan and live on the farm. She could suffer it for about two months, and then back she would go to Sarasota.

Q: And so how long -- that went on for the remainder of her life?

A: Until the very end when she was very ill, and my father brought her back to Michigan and put her in assisted living and hospice for about six months.

Q: I think about that, you know, that history, and in areas that we'll talk about later, it strikes for me a chord of your personality in terms of your support of women following their paths and their chosen paths, more importantly.

And I would sort of categorize that as feminism, because I think that's exactly what it is. But does that dynamic with your mother, do you think that fueled any of those sorts of views for you going forward in your life?

A: Certainly, it embedded in my approach to dealing with others. I thought that people really ought to have the opportunity to become as good and as gifted as they can be and go as far as their talents can carry them.

I had enormous sympathy for my mother. We used to talk about it occasionally. She didn't like to talk about it a lot. She had a very strong mother herself who was even more vocal about it. It was my Grandmother Inez.

So these are the kinds of things that you don't necessarily expect that high school kids are going to be talking to their mother about, but we talked about it a lot and a lot about her frustrations and what I viewed to be her captivity, in some ways, on that farm.

Q: Well, you also mentioned both your parents had education, training in education. What did that look like for you as a kid?

A: Well, they taught me how to read. But I'm pretty self-taught. I can remember my mother teaching me how to read and sort of introducing me to books and telling me that books are important.

But my father was never home. He was always working. He was either working in the fields, or he was working at school. So, as educators, they educated others, but my brother and I were pretty much self- taught.

Q: Tell me about school. In your early years, what was school like?

A: I don't have any vivid memories of grade school. I don't have any vivid memories of elementary or middle-school teachers who were important to me. But I went to a small high school called Holly High School, which is just south of Flint, about eight miles south of Flint.

Although my graduating class was only 60 students, it was a really varied class. Our valedictorian was a black woman who was very talented. And we had enormously successful athletic teams. We had a football team that was ranked in the top 10 in Michigan, even though we could barely field a team. I think there were 15 of us total on the team.

And we had a high school basketball team which was not only ranked in the top 10, but we got to the state finals -- and lost, I might say. I spent all of my waking hours, if I wasn't farming, learning football and basketball skills.

Q: You were the captain of your basketball team.

A: It's true, I was.

Q: So did that -- those athletics, did that lead to scholarships for you in college?

A: I had athletic scholarship offers. A basketball scholarship offer from Michigan, and I had a football scholarship offer from Hillsdale College, which these days is a very fundamentalist, politically right school that ranks right in there with Liberty University and others and always had a very strong football program.

So I had a football scholarship and a pretty attractive basketball scholarship offer. But I didn't take either one of them.

Q: Why not?

A: I looked around at my circumstances, which were small-town, hard-living, not particularly intellectually stimulating kind of surroundings between Flint and this small farming community. And even though I had never been out of the state of Michigan until my senior trip in 1958, I wanted to get as far away from Michigan as I could.

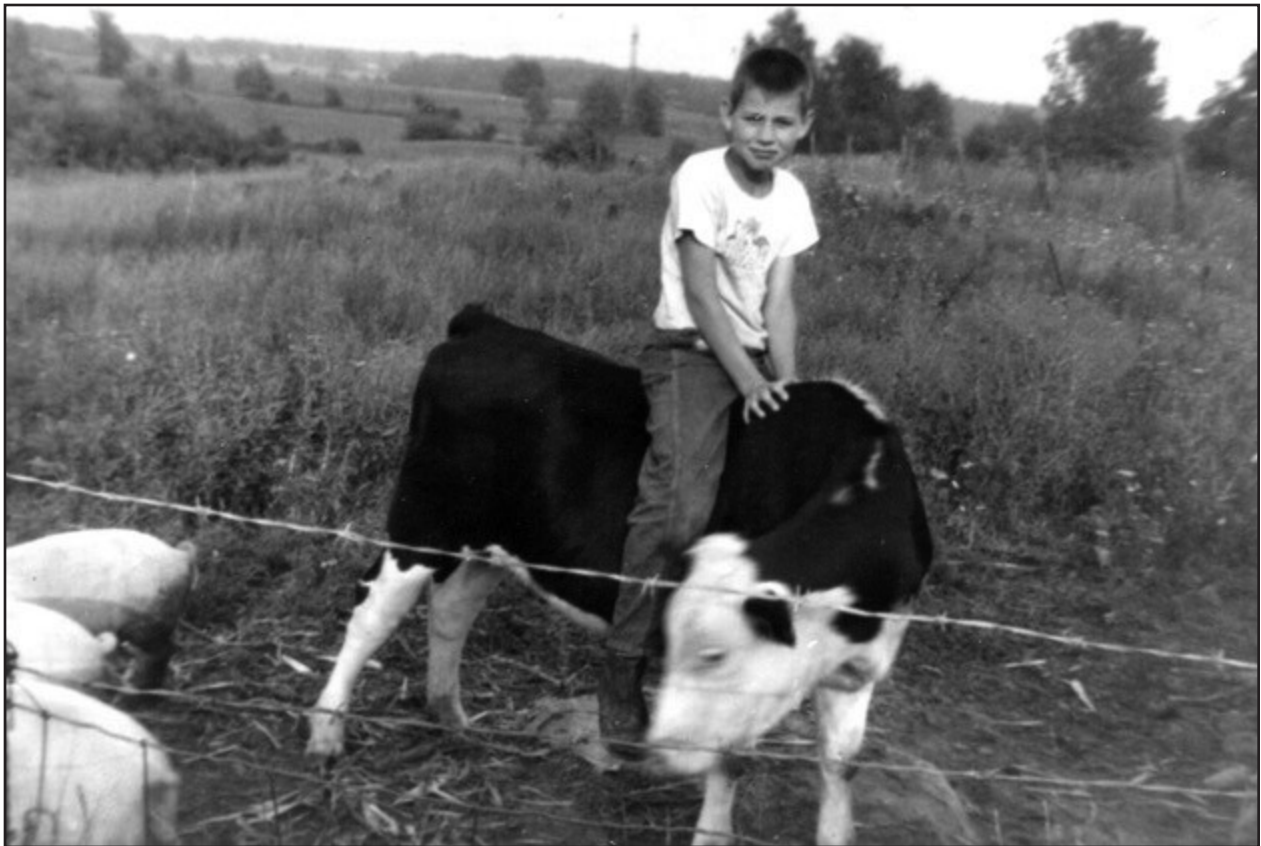
It seemed to me, given that I was a relatively skinny white kid, that my odds of going somewhere and being successful would require me to excel in academics and not athletics. I never forgot my athletic roots, but I never, other than intramural sports, played organized team sports again.



Left to right: Mother: Sibyl Haddon; Hal Haddon; Brother: Lance Haddon; Father: Russell Haddon



Sibyl Haddon on stage, 1970s

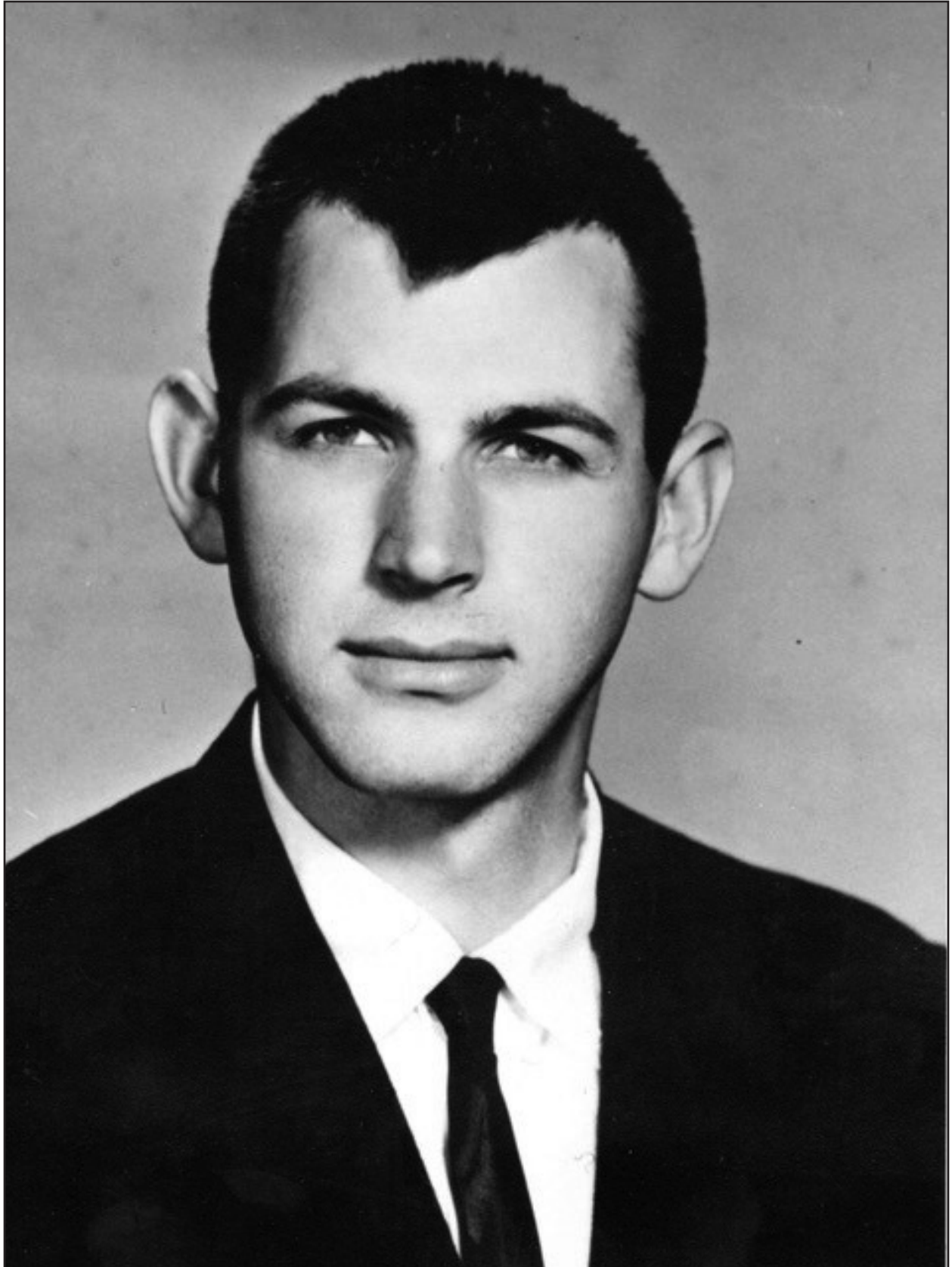


Hal Haddon riding R-Nell Cow, 1950



WORLD'S SERIES HOPEFULS, left to right, Bruce McLenna, Billy Jacobs, Harold Haddon, and Dick Fabrick, are members of the Lake Fenton Community School's baseball team. As a community service gesture, Universal sponsors the team.

Little League team, cover of Life Magazine, 1952



Hal Haddon, Holly High School, 1958

Chapter 2

UNDERGRADUATE AT ALBION COLLEGE

Q: So it sounds like from your high school years, where the focus was on, really on sports, that shifted to academics going into college.

A: Yeah, I did much better academically in college than I ever did in high school.

Q: So college was at Albion.

A: Albion College, which is a small, liberal arts school in south central Michigan. It's about 30 miles due west of a city, a bigger city called Jackson, Michigan where, coincidentally or not, the Michigan state prison was.

It was sort of glorified in an old Bob Dylan line called "Jackson the City of Action." So I went to Albion College, and when we needed action, we went to Jackson.

Q: So how did you do in Albion?

A: I really, really worked hard. I had day jobs working in kitchens. I studied hard. Despite what I learned in later years, I didn't develop a party ethic. Academically, I did great. I had a full-ride scholarship. I kept it for four years, and I graduated first in my class.

Q: And that was the degree in --

A: Two degrees -- actually, three degrees.

Q: Of course.

A: I had majors in political science, history and economics.

Q: What a combination.

A: Well, it kind of led to the next chapter.

Q: Let's talk about the next chapter. After college, before making your next move, tell us about that.

A: Before I decided what I wanted to do, I had a couple of professors in college who were very supportive of me, and they thought, because I was pretty good at math and statistics as well as political science and economics, they thought that I should go to the University of Michigan, get a Master's. They were aware of a start-up program at Michigan which really developed the concept of political polling.

There was a very, very dynamic and successful professor at Michigan grad school named Warren Miller. So they approached Warren Miller and said, "You ought to give this guy a scholarship and enroll him in your master's program and teach him how to do polling."

So I accepted that in the spring of 1962. I enrolled at Michigan in the fall of 1962. But in the meantime, I went AWOL for three months.

Chapter 3

TRAVELS WITH CHARLIE

Q: That was the 1962 road trip.

A: Correct. That was the 1962 road trip. I had never been out of the state of Michigan except for one trip to Washington D.C., our senior trip, when we went to look at the Washington Mall, and I climbed up the Washington Monument -- on foot, I might say. But other than that, I'd never been out of the state of Michigan.

I had this terrific roommate all through my college years at Albion named Charlie Campbell. Charlie had a car, a pup tent, and two sleeping bags, which was more earthly possessions than I had. He said, "Let's do the United States."

And we literally, two days after we graduated from Albion in the spring of 1962, we got in Charlie's car and headed due north into the Upper Peninsula of Michigan and then all the way across the top of the United States to the state of Washington, to Seattle, all the way down Highway 101, the Pacific Ocean to San Diego, and then all the way across Texas, New Mexico, and the southern states, up to New England and then back around through New York and Pennsylvania to Michigan.

We did it in about three months. Except when we found the kindness of others, we stayed in pup tents. If we needed to shower, we would try to camp on a lake where it wasn't too cold, and we could wash off. So we spent three months doing that. We kept a diary. There were two other friends of ours who were relatives of Charlie, and we kept a handwritten, actually a typewritten diary.

I had a manual typewriter. We called it “The Diary of the Four Bums.” I still have it. It is the posterity of three months living in a pup tent and navigating the United States.

Q: And did you come through Colorado during that trip?

A: We did take a side trip to Colorado. We did that because one of Charlie’s cousins said, “You’ve got to go see Colorado. It’s just spectacular.” I had never seen a mountain before. I have a vivid memory to this day of coming across the eastern plains.

I think we were headed towards Fort Collins. We didn’t go to Denver. We went in the mountains up through the Poudre River. But I remember these mountains that were little dots in the distance, and then they became spectacular pyramids. I was in love. I never lost the love. I was mesmerized.

Chapter 4

MASTER'S DEGREE IN POLLING

Q: After that trip, you go on to grad school at Michigan.

A: After that trip, I went on to graduate school at Michigan and got a master's degree in math and statistics, political science with an emphasis on polling. My friend, Charlie, went on to law school at Duke Law School.

Q: Now, at that point, you're studying polling. And, at that point, do you think that's your career path?

A: I kind of did. I liked it. There was a lot of political theory, as well as a lot of practical politics involved in learning not just polling, but what are you going to do with polling. How can you rely on it?

So in addition to learning the statistical and questionnaire kinds of nuances of polling, we learned a lot about how polling could and should be used for better and for worse by political candidates, by business organizations.

I really thought it would be an interesting career, and my professors at Michigan were pushing me in that direction. They were pushing me to go on and get a Ph.D., and then join their ranks. Polling was very much in its infancy, so it was a pretty exciting time.

Q: When you're studying that, I mean, you're actually conducting polls through those years, right?

A: Oh, yeah. You and people wiser than you in statistics and public opinion surveys draft

questionnaires. In those days -- unlike the online way it works now, in those days, we would literally get random samples of people throughout the state or whatever other political subdivision we were going to poll in.

We would arrange to have in-house interviews with people where we graduate students would arrange to go sit down and interview somebody and ask them the questions that we had on our poll questionnaire.

We always paid them \$20 for the pleasure of sitting there listening and answering. And we got paid \$20 for every questionnaire that we got completed. In those times, that was a lot of money.

So it was one of those few occasions where I got a terrific learning experience, I got a degree, and I made 20 bucks every time I went out and took a poll. So I took as many as I could.

Chapter 5

DUKE LAW SCHOOL

Q: I bet. All right. Well, Charlie, I imagine, stayed in your life through these years as well.

A: Charlie was always in my life. He went off to law school at Duke, which is in Durham, North Carolina. He started telling me how hard it was, but how interesting it was.

Because, as you know -- you're a lawyer, too, or so you claim -- that the law school experience is different than the normal academic experience, because professors routinely challenge your views, make you articulate reasons why you answer questions a certain way, and make you do it extemporaneously. It's not just book learning. And it's not at all rote kinds of learning.

So Charlie and I would talk by phone, and he would tell me how much he liked it. At Michigan, Michigan was a serious party town in those times. I had a lot of distractions. He was working harder than I was. I think he resented it.

Q: So how did -- I mean, spoiler alert, you ended up going to Duke Law School. So how did that happen?

A: That happened because I literally got recruited when I was at Michigan by the dean of the Duke Law School, a guy named Elvin Latty. He had come from a big New York law firm.

He was bound and determined to upgrade Duke Law School from what was then thought of as a regional, a good, but regional southern law school that simply reflected southern values and where lawyers would stay in the regions that they came from.

He decided he wanted to recruit widely all over the United States. He developed his own list of people who he thought could really excel at law. He got my name from Charlie. He checked me out with some of my professors.

He came to Ann Arbor, and he recruited me and gave me a full scholarship to go to Duke Law School. I had never, ever contemplated being a lawyer. I don't even think I had met one until he recruited me. I've searched my mind about that. I don't think I'd ever met a lawyer until then.

Q: I can't imagine that. In these times, you can't throw a rock without hitting a lawyer.

A: Yeah. Well, you could throw a lot of rocks around my father's farm and not hit anything but rattlesnakes.

Q: So you didn't envision, at that point, law school at all in your future?

A: No, law school was never part of my plan, my dream.

Q: And so how did Dean Latty convince you?

A: His pitch had to do with how he was going to make Duke Law School a great law school nationwide and internationally known, which it is now. He needed a core of students who could help him do that.

I was more interested in his discussion of what was going on in the South at that time. Because now we're in 1962, '63. The civil rights movement was in full swing. In Ann Arbor, we were having marches. And in North Carolina, they were having bus sit-ins and sit-ins at lunch counters.

There was a lot of violence. The Ku Klux Klan was very involved. And if you cared about -- if you cared about the human race and progress for humanity, that was the place to be in those times. You wanted to be a part of it.

That was what was really appealing to me. That wasn't his major pitch, but he sniffed that I was interested, and he said, "We encourage our students to be involved politically." Little did he know. But it was good to hear.

He practiced what he preached, because when I went to Duke Law School, I started in the fall of 1963, Duke, through the Dean, had recruited the very first black law student they had ever had at Duke Law School. His name was Eric Michaux and the very first two women law students they had ever had at Duke Law School.

They were all part of that class of '63 and part of the Dean's plan to really make the law school relevant. So when I got there, I had a scholarship, but I still had to work kitchens and find food, but I also got very involved in the local Durham civil rights scene.

I did marches. I did sit-ins at lunch counters, waved placards at buses that wouldn't let black people sit until everybody else had been seated. And we had really vigorous, vigorous debates amongst the law students. Many of them came from that culture, and who, although they were decent, enlightened people, thought that civil rights was moving too fast.

The constant tension, constant tension in the community and in the law school, and I think just about everywhere in the South in those times was, "Why do we have to move so fast?" And it's awful hard to explain to somebody who is black, "Wait a while." Their constant response was, "If not now, when?" I still remember the refrain. "If not now, when?"

Q: I mean, that had to be some pretty incredible things to see at that young age. I imagine that was, that made quite an impression on your goals and the things that you wanted to accomplish.

A: I think probably that was the seed of my desire to make an imprint on public service in my career.

Q: In those days, you also, you went to a Klan rally to see what that was all about.

A: I did. My friend Charlie Campbell and I went to a Ku Klux Klan rally that was held out in the middle of the forest between Durham, North Carolina and Chapel Hill. It was spooky beyond description. But we were well-shaven white boys, and we just sort of wandered around and watched and listened to all of these goons with guns and hoods spewing hate. It was amazing.

And, occasionally, when we would be doing marches on the streets of Durham, they'd be down there with their hoods screaming and hollering, throwing rocks.

Q: God. You know, this is, you said, 1963 which is also the year Kennedy, President Kennedy was assassinated. You recall that, I assume?

A: I have a starkly vivid recollection of it. It was in November of 1963, sometime in the fall. I was playing basketball. We had some intramural league going on. We were right in the middle of a ball game and somebody walked into the gym and said, "President Kennedy has just been shot, and he's dead."

Everybody stopped, put the ball down, said nothing, got up and left. Everybody.

Emptied the gym. It was that profound.

Q: You know, those are those horrifying memories that are just burned into our brains. I think each generation has something like that.

A: Well, we lost Martin Luther King and Robert Kennedy in '68. As you know, I was part of the Robert Kennedy campaign.

Q: Right. We're going to talk about that. As far as your education at Duke, did you find it as challenging as Charlie described?

A: I thought it was very challenging, but I loved it. Because as opposed to what I was used to in undergraduate school, less so in graduate school, but there was still a lot of reading and rote memory even in grad school and in law school, I learned about things like torts, I never knew.

I learned all about criminal procedure and civil procedure and contracts and tax. I had no mental foundation for any of those things. I was taught those things by professors who taught pretty strictly by the case-book method.

But they would call us up every day. You never knew when you were going to get called, and you had to explain what you thought that a case meant or a series of cases meant. Then you had to undergo withering, withering questioning and challenging as to your reasoning. I thought it just turned my mind into a blossom. It was amazing. Best education I can conceive of.

Q: And you had some pretty incredible professors.

A: I did. And I think my favorite was a guy named Brainerd Currie, who wrote the

definitive treatise then and now about conflict of laws. I had him for conflicts and torts. And a sad postscript of that, he committed suicide our last year of law school. There were a lot of reasons ascribed to it, but we lost him in 1965.

Q: So looking forward, as you're finishing up at Duke, there was talk of a Rhodes Scholarship for you.

A: My law professors and the dean thought that I should apply for a Rhodes Scholarship. They knew the process and the people who they thought could make it happen. I looked into it, but, frankly, I still saw myself as a pretty parochial country bumpkin. I'd never been abroad, and I had no clue what that meant, frankly.

And so I foolishly said, "I think I just want to go to Colorado and learn how to be a lawyer." So I turned it down.

Q: Is that something you look upon with regret?

A: Definitely, yes.

Q: So in addition to wanting to, you know, to go to Colorado, you also had to get your military service done.

A: I had to get my military service done. Those were the days when there was no draft lottery. Everybody who was able-bodied, every man who was able-bodied was subject to the draft up until the time you turned age 26, and you got deferments for education.

I suppose I could have gotten a deferment for a Rhodes, but that was not so clear. And because I went to school, to college early -- I went to college when I was 17 -- I was still in that

25-year range when I graduated from law school.

So I had to deal with military service obligations, and although I was very critical of the war, I didn't demonstrate against the war, strangely. I was very involved in civil rights. A lot of my contemporaries demonstrated against both the war and segregation.

But my father was a World War II veteran and had sort of drilled into me respect for the military and the importance of the military. So I thought I needed to do my time.

Q: That was part of the chapter coming up next, right?

A: Is that the chapter coming up next?

Q: Well, not exactly but I mean in life.

A: In life, another chapter in life.

Chapter 6

COLORADO AND BEVERLY

Q: The next chapter was coming to Colorado learning to be a lawyer.

A: Coming to Colorado, learning to be a lawyer. I had extra incentive to want to come to Colorado, as you know.

Q: I do. Well, let's talk about how that incentive came to be.

A: Between my second and third years of law school, I applied for and got a summer clerkship with a Denver law firm called Davis Graham & Stubbs, which is now one of the biggest law firms in the western region, but at that time was 16 lawyers, which was also thought at that time to be a big law firm.

So they offered me a summer clerkship between my second and third year of law school, which would be summer of '65. I had a good friend named Jud Detrick, who I was on The Law Review with at Duke. Jud had a clerkship with another, what passed for large, law firm in Denver, Holme Roberts & Owens. They probably had 20 lawyers. They were really big.

There was another, a third law student named Dan Bernard, who was coming to Denver that summer because his parents lived here. So we all drove to Denver over a two-day period. One of the things that college students throughout the United States really worshiped then was Coors beer. At the time, Coors was manufactured in Golden, Colorado, but it could not be exported outside the state of Colorado.

So Bernard and Detrick and I are driving from North Carolina to Colorado. We get to the

Colorado border -- I think we rolled into Sterling. Bernard said, "Let's get a case of Coors, and I know some girls in Denver and let's get a case of Coors and take it and go see these girls in Denver."

Coors really was thought of as liquid gold in those times by college students. We bought a case of Coors and we rolled into Denver. And we go up to an apartment in downtown Denver. I think it was around Speer and Corona, as a matter of fact.

Bernard walks in and there are these four college students there -- they're all young women professionals now working in Denver -- who he had gone to college with at Iowa State University. And he introduced us. One of the women he introduced us to turned out to be my wife, Beverly.

Q: That's a lucky draw, huh?

A: Yeah, she liked Coors.

Q: So you and Beverly meet in the summer of '65, and what happened?

A: I'm not sure I'm going to answer that question, but --

Q: Let me ask a more --

A: I'll give you generality. We dated. We talked about getting engaged. We didn't right away, but I invited her down to Durham for Christmas. It would have been Christmas of '65, my third year of law school, and she came down. We got engaged and sort of the rest is history.

Q: You were married the next year?

A: We were married July 2nd, 1966 -- a day no man should forget --

Q: No.

A: -- in Cedar Rapids, Iowa which is where she was from.

Q: So the date of your marriage coincided also very closely with the bar exam.

A: I had to take, start the bar exam, I think, three days later, three or four days later, July 5 or 6, I think. I had to take that in Denver. So I'm in Cedar Rapids, Iowa. I'm just married. I've got a car, which my grandmother had given me. It was my first car. It was about a 1958 Ford Falcon. It didn't like hot weather. You could only drive it at night.

So after we got married, we jumped in the car and waited until sunset, and we drove to South Dakota. Just as the sun went up, we rented a motel at the base of the Mt. Rushmore Black Hills complex and stayed there overnight and let the car cool off.

Actually, we didn't stay there overnight. We stayed there all day, because we could only drive at night. So we went up and looked at Mt. Rushmore. Then when the sun went down, after that we drove the rest of the way back to Denver and stayed in her apartment. Then I took the bar exam the day after that.

Q: Did you get a lot of studying in before the bar?

A: I did not take any bar refresher courses, and I did not study for the bar.

Q: But it turned out all right?

A: It turned out all right. They gave me a certificate. I've still got it on the wall.



Hal and Beverly Haddon, wedding in Cedar Rapids, Iowa, 1966

Chapter 7

DAVIS, GRAHAM & STUBBS, 1966-70

Q: Well, so Hal, the freshly minted lawyer, then does what?

A: I'm a freshly minted lawyer, and I had accepted a permanent associate position at Davis Graham & Stubbs. I think I told you Davis Graham & Stubbs, at the time, was a very well-thought-of, but pretty small law firm, 16 or 17 lawyers.

They hired five new associates that year, which was interesting because they obviously wanted to grow. Several of them became lifelong friends of mine including David Ebel, who is now on the Tenth Circuit Court of Appeals. I still see David from time to time.

So it was a very impressive, vibrant group of young lawyers including another lawyer from Duke who had been on The Law Review with me at Duke named Brian Snow. He came along. He was part of that class.

Q: So you're an associate at Davis Graham, making the big bucks.

A: Making the big bucks. The starting salary in the year 1966 for a first-year associate who was editor of The Law Review and first in his class was \$5,900 a year.

Q: But you're not doing criminal defense work there?

A: Well, it was strictly a business practice, and I did business litigation there. But criminal defense would come in the side door, because in those times there was no federal public defender.

If a federal judge wanted to appoint a lawyer to represent an indigent criminal defendant,

a federal judge typically would call up his friends in the bigger law firms and say, “Give me a lawyer to represent this guy, because he can’t go through this criminal proceeding unrepresented.”

What happened at Davis Graham was that Judge Arraj, in particular, and I think Judge Doyle as well, if they got draft-resister cases where the judges really didn’t want to see the defendants with permanent felony records and prison time, they would call up the big law firms and say, “Send me a lawyer over here to represent this guy.”

I was always the designated draft-resister lawyer at Davis Graham. So in that sense, I did do some criminal defense. I did three or four of those for, mostly, Judge Arraj.

Q: Okay. As far as the business work that you were doing for Davis Graham, what kind of work were you doing in that capacity?

A: I did bankruptcy work. But it turned out to be a terrific experience, because in Colorado for some baroque reason, a savings and loan company, a savings and loan association if it was state chartered could be uninsured.

There was an uninsured state-chartered savings and loan association called Republic Savings and Loan in Colorado. It had about maybe \$10 million worth of deposits in it. Three or four con men seized control of it and looted it. There was, you know, there was no insurance to back up the deposits.

So the case ended up in federal bankruptcy court in Colorado. Judge Matsch was the bankruptcy judge at the time. Actually, they called them “bankruptcy referees.” They got an elevated “judge” title later, but this was in the 1960s.

So Judge Matsch was supervising the bankruptcy case for Republic Savings and Loan. He called up his friend Dick Davis at Davis Graham & Stubbs and said, "I can't pay you unless you recover a whole lot of money, but I want you to represent the trustee in bankruptcy and see if you can get some money back for these depositors."

So that case was assigned to a partner at Davis Graham, who was a bankruptcy expert named Bob Shanstrom. Bob enlisted me, and I essentially got to spend probably half of my time as a lawyer for the first three years at Davis Graham & Stubbs litigating in front of Judge Matsch in bankruptcy and suing the officers, directors, and investors of Republic Savings for fraud, trying to claw back some money.

So it was fascinating. It was rewarding. Judge Matsch at those times, he was right out of the private practice of law. He had been at Holme Roberts. He developed a reputation later in life as being very austere and would never talk to lawyers.

In those times, he would invite me into his chambers and chat me up and want to talk about career goals and paths. He was utterly charming. And, of course, always a brilliant jurist.

Q: So you're building relationships with not just Judge Matsch, but also Judge Arraj you mentioned and Judge Doyle.

A: Judge Doyle, yes.

Q: So in looking back at some of those cases with the draft resisters, what was it like practicing on those cases in front of Judge Arraj and Judge Doyle?

A: Judge Doyle's a little more formal, but Judge Arraj in those times, if he was concerned

about what might happen to a human being who he thought was decent and well-motivated, even if misguided, he didn't want to put draft resisters, kids who were genuinely, genuinely well-motivated, in prison.

He used to bring me into chambers and want to talk about the defendant, want to know their life story, want to know what their motivations are, would want my frank assessment as to whether or not they were dangerous, sociopathic and wanted to talk about what could be done by way of convincing that defendant to do alternate service.

“If you, Lawyer, can convince your defendant to do alternate service, you know, work in a hospital or work on a bread line for two years,” which is what the draft commitment was, “I’ll defer your criminal prosecution.” That was not anything that the prosecutor was a part of. But that was Judge Arraj. He was a wonderful, marvelous, tough-as-nails, big-hearted judge.

Q: You also worked at Davis Graham & Stubbs on some other kinds of litigation. In particular, there were some desegregation of schools lawsuits.

A: In the '60s, the mid to late '60s, there was a huge uproar in Denver about school desegregation and the school board had essentially red-lined the city of Denver and refused to build new schools in areas of Denver, especially across Colorado Boulevard, that were predominantly black and Latino-populated.

After they adopted that resolution, there was a huge uproar. And we're in civil rights times. Martin Luther King was a very vibrant voice before he was assassinated in 1968. Martin Luther King denounced what the school board had done.

A group of lawyers, white lawyers, because there were very few black lawyers other than

Irving Andrews in those times, got together in 1969 and formed a legal team to sue the Denver School District and force integration of all Denver schools, forced busing. This was the *Keyes* case.

It was very controversial. The case was assigned to Judge Doyle. The trial was sensational, a lot of violence, protesting outside of the federal courthouse. The lead lawyers were a lawyer from Holland & Hart named Gordon Greiner and Monte Pascoe. Me and some of our other associates at Davis Graham were helping them with motion practice and legal research.

The trial went on for several weeks and Judge Doyle, who had enormous integrity, ruled in favor of the plaintiffs. A black woman named Rachel Noel, who became president of the school Board, was a key witness. Her son Buddy Noel went on to be a really terrific practicing lawyer in Denver at Holme Roberts and now is in a private civil practice.

In any event, Judge Doyle ruled that the Denver School Board had intentionally discriminated against persons of color and ordered forced busing throughout the city. That went on for almost 20 years. Judge Matsch, ultimately, after three or four years of hearings, wound it down after the Denver School District enacted a number of remedial measures to integrate their schools that didn't necessitate busing.

Kids still, by the way, like to get on buses now because they can go to schools of choice that give them the kind of education that they think they want and need. Anyway, that happened, that litigation happened in the '60s, late '60s, and we were a part of it.

Chapter 8

COLORADO POLITICS

Q: So as you're working as an associate at Davis Graham, you also begin working in a political sense or, I guess, volunteering in a political sense.

A: I started -- because of my interest in politics, I wanted to get involved on the ground in politics in Colorado and Denver. So when we first came to town, my wife and I volunteered to do door-to-door canvassing and literature drops for what, in 1966, was one of the first referendums statewide to abolish the death penalty.

That was on the ballot that year. And so we worked pretty hard on that. Lost terribly. I think we lost about 80-20. But through that, I started to get to know the political activists in Denver and Colorado. But that was my first Colorado political campaign.

Q: And after that, you began working on Robert Kennedy's campaign.

A: I worked on Robert Kennedy's campaign as an advance man, which is a glorified butler title. Basically as an advance man, when the candidate, presidential candidate says he or she wants to come down to campaign, you go out and you find a few alternate venues. You check them out for security. You check them out for logistics. And you try to conform the venue to the comfort level of the candidate.

Then when the campaign decides where you're going to hold the event, you've got to make arrangements with the event site. You've got to get hotel arrangements. You've got to get Secret Service in place and do all those things. You're basically acting as a butler for a Presidential candidate. That candidate was Robert Kennedy in 1968.

Q: So in the course of that work, you met some people who would become pretty important in your life.

A: In the course of that campaign, I met Gary Hart. He was a regional political organizer for Kennedy. He had -- because he's a brilliant policy analyst, he was doing some work in the policy development arm of the Kennedy campaign, and he also really understood grass roots politics, GOTV stuff, get out the vote stuff.

So he was full-time on the Kennedy campaign living in Colorado. He had a license to practice law, but in the course of that campaign, I got to know him pretty well.

Chapter 9

MILITARY SERVICE

Q: And we'll talk more about that. That's some heavy lifting that we want to pay proper homage to later. But in addition to working as an associate, having, you know, your political involvement, during the years that you were at Davis Graham, you did finally begin your military service.

A: Yes, I did.

Q: Tell us about that.

A: Back in those times, once you were out of school, you were immediately subject to the draft. I did not want to get drafted in the Army for a lot of reasons that probably have to do with deficient moral courage.

So when I got to Colorado, after I took the bar and passed it, I enlisted in the Colorado Air National Guard and went off to basic training in Amarillo, Texas. I was an enlisted man, an Airman 3rd Class. I also had applied to be a Navy Judge Advocate lawyer, so that I could be a Navy lawyer with a law degree, rather than what I ended up with in the Air Force. I was driving fuel trucks with a law degree.

But I went to basic training in Amarillo, Texas, and they assigned me to be a fuel truck driver. I still have a memory of my first day in fuel class. There were about 30 of us in this class. My instructor got up to a chalk board and said, "Welcome to fuel school." And then he spelled fuel, "f-u-l-e." That, unfortunately, was a harbinger of future difficulties in the fuel industry. But I learned a lot about driving a fuel truck and --

Q: A bit different from Duke Law School.

A: A bit different, but not so different from the farm.

Q: So you start as a fuel truck driver.

A: I'm a fuel truck driver and I also have an application with the Navy to be a judge advocate lawyer, which is an officer commission, and that was pending. That was pending for about a year while I was in the Air Force.

Q: And did that come to fruition?

A: That came to fruition, and I got my commission -- this is a literally true story. I got my commission as a Navy lawyer two days before my Air Force unit was called up and sent to Vietnam. So it was my karmic fortune to be a Navy lawyer during Vietnam rather than being a fuel truck driver in Vietnam.

Q: Did you keep in touch with any of the other people in that unit?

A: Yeah. And one of them was one of the Gart boys. Remember Gart Sporting Goods?

Q: Yeah.

A: A pretty prominent family. He was a friend of mine, and he frequently would complain that I wasn't there with him. But, fortunately, they all survived. There were no casualties. They all came back. They were there about a year. And, meantime, the Navy sent me off to strange places like Great Lakes, which is in Chicago, to try courts martial and defend courts martial, typically dope dealers who were selling drugs to military personnel.

Q: Interesting. Did you ever win any of those?

A: I never won a single court martial. I was in the Navy JAG. I stayed in the reserves for about 10 years, and I was sort of the designated criminal defense goon for Navy JAG, at least in the region. I probably tried 10 or 12 courts martial and never won a single one as an acquittal.

I mean, you always tried those cases because the courts, which were then all officers, no enlisted men, the courts would not only adjudge guilt and innocence, but also set the sentence. So if your client was obviously guilty, you tried the case for a sentence that was tolerable.

In those days and even now, any sentence that a court sets can be appealed to the commanding officer. So some of those appeals were successful, too.

Q: And what was the ligation like as a JAG officer?

A: I thought, compared to the federal and state criminal practice, it was pretty enlightened. Open discovery. Unless information was classified, you got everything that the prosecutor had, all the witness statements, all the documents. No nonsense about what could be withheld.

There were military judges, although in some courts the officer in charge was the judge depending on how major the offense was. But I thought the military judges were enormously capable and fair.

One of my law school classmates, a guy named Willie Norton, who was in my wedding, stood up at my wedding, became a military judge and served in that capacity for about 25 years. My sense of military justice at that time was that it was extraordinarily fair and a lot more open than civilian justice.

Q: And then the discovery rules, the open discovery, that meant you got discovery before trial.

A: That meant you got discovery as soon as you were appointed.

Q: Which was not the case elsewhere.

A: It was not the case in state or federal courts in Colorado.

Q: We've got stories about that.

That experience, you know, both in the Air National Guard and the Navy JAG, tell me about what that experience, how that impacted you or shaped how you practiced law going forward.

A: I thought basic training was fascinating, because the ability of military officers running basic training to take a bunch of ragtag, disparate people from all socio, racial, economic sides of life and develop them into a competent, decent supportive unit of 200 or 300 people, it is extraordinary.

They did it through constant repetition and drills. And you had to live with 200 or 300 people and bunk with 200 or 300 people in the same room every night. You became extraordinarily supportive of each other. It was an experience I'd never contemplated, but it's why, I think, our military worked so well then and now. To me, it was a really profound experience, and I've always been glad I was in the military.

Q: I think there probably are lots of aspects of that in terms of the teamwork and the discipline that gave you some unique experience in managing large litigation going forward.

A: I think one of the lessons learned is that you involve everybody in your unit. Whether it's a litigation unit or a military unit, you involve everyone in the important decisions and make sure they understand them, make sure everyone knows their role and make sure that everybody's got everybody else's back. Because if one person fails at that, the whole house of cards can come down. And that's as true in a big litigation context as it is in a military operation.

Chapter 10

COLORADO STATE PUBLIC DEFENDER WORK, 1970-74

Q: Well, I think this brings us to 1970. Tell us about what 1970 brought to Hal's life.

A: Well, it requires a little bit of background. Davis Graham & Stubbs in the 1960s and then into the '70s officed on the 12th floor of a building called the American National Bank Building, which was on the corner of 17th and Stout Streets. It's about two blocks from the federal courthouse.

So Davis Graham occupied the 12th floor. And on the 7th floor, there was this single practitioner named Rollie Rogers who officed in a one-room office with a big stuffed buffalo head over his desk on his wall. Unbeknownst to me, until we got to know each other quite well, he was the preeminent capital punishment criminal defense lawyer in Colorado and probably the region.

He was a marvelous, marvelous country character. He grew up in Las Animas, Colorado, which is in eastern Colorado on the plains. He talked in that patois, and he called everybody "partner." Whether you were a partner or a mortal enemy, he would refer to you as "partner."

I recall sometime around 1968 or so, I got on the elevator at the American National Bank Building to go up to the 12th floor, and I was with one of the other Davis Graham associates. Rollie Rogers is a big guy who wore a cowboy hat and often a scalping jacket and a string tie, bolo tie. He walks in and looks at us, and we're both well-scrubbed in our corporate lawyer suits, and he said, "Who are you guys?"

One of us brightly said, "Well, we're attorneys, and we practice law up on the 12th

floor.” He said, “Why don’t you get off on the 7th floor and I’ll show you my office. And I want to tell you the difference between an attorney and a lawyer.” I will never forget, that’s exactly what he said.

So we were interested, and we followed him into his office and looked at this buffalo head. He was a tobacco chewer and he had a big spittoon on the floor next to his desk. We sat down, and he started telling us war stories about murder cases he’d tried.

He was in his, I would say, mid 50s then. And he started asking us what kind of work we do. I think one of us said, “Well, we do a lot of trust work.” He said, “Well, I do trust work, too, but I hold people’s lives in trust. You attorneys just hold people’s money in trust. So I’d like to tell you, when you want to become a lawyer and not just an attorney and hold people’s lives in trust, come talk to me and let’s work together.”

It is literally a true and sort of burned-in-my-brain memory of what he said. I’ve repeated it often in speeches. So he and I, in the course of the next two years, became chatty. We’d do coffee, occasionally even something that had an alcoholic content to it.

Unbeknownst to me, in late 1969, Colorado was the first state in the country to adopt a statewide public defender system. Colorado had in the mid ‘60s three jurisdictions -- Denver, Adams County, and Durango -- where they had county public defenders.

They were considered success stories because the indigent criminal defense population got more and more immediate and better service. It turned out to be cheaper than paying court-appointed lawyers, which the legislature, of course, liked.

So there was a movement in the state legislature, which passed and became enacted

effective January 1, 1970, to establish a state public defender system. The Colorado Supreme Court picked the State Public Defender who then picked the rest of his staff. They picked Rollie Rogers to be the first State Public Defender.

So after he was selected to do that, I ran into him on an elevator, and he said, "Partner, I'm not going to take no for an answer. You're coming with me to the public defender's office." So as of January 1, 1970, I left Davis Graham & Stubbs, still an officer, but now I'm a Navy Reserve JAG officer, and went to the Jefferson County Public Defender's office, which was my first job as a public defender. There were three of us in that office, three lawyers. Now there are, I guess, 60 or 70.

Q: It's huge now. So how did it work in those days? Were there limits on the kind of cases that you could take or --

A: If somebody was indigent and charged with a crime, and it went down to -- if it was a crime that could result in jail, so it included some petty offenses, all juvenile offenses, and all the gamut of felony offenses from car theft to murder, a public defender was appointed to represent anyone who couldn't afford a lawyer otherwise.

So there were three of us in Jefferson County which, of course, in those times, wasn't nearly as big as it is now, but the caseloads were still overwhelming. We'd have 200 or 300 cases at any given time.

Q: Jefferson County was not the only office you worked at.

A: No, I worked at Jefferson County for about a year and a half. In that time, I got to try felony cases on my own. Rollie Rogers was the capital punishment lawyer.

He was no administrator. He was a courtroom lawyer. He tried a couple of high-profile capital murder cases, one in Jefferson County involving a really violent guy named Daryl Lee Howell. He had me second chair with him. And Howell was found not guilty by reason of insanity in that case.

So I worked in Jefferson County, and I worked my way up from doing all juvenile cases to doing murder cases in a year and a half, which is a fairly dramatic acceleration of risk. Sometime in mid-1971, there was a big upheaval in the Denver Public Defender's office, which was the biggest in the state.

When the state public defender system started, there were only like 40, 45 lawyers in the entire state, and half of them were in Denver. And the head of the Denver Public Defender's Office, a guy name Truman Coles, who was a very capable stand-up lawyer, he's black, got in serious, serious arguments with the district judges who ran the criminal docket in Denver District Court.

They threw the public defenders out of the criminal court until administrative changes were made. So Truman Coles went into private practice, and Rollie sent me to Denver to be in charge of the Denver Public Defender's Office after about a year and a half's experience as a public defender.

Q: I think as a recent public defender myself, that's a pretty standard trajectory. Things move quickly.

A: You just keep on drinking as much water as you can.

Q: That's right. So you worked with a lot of lawyers who would become really prominent

figures in the legal community, such as Judge John Kane.

A: I actually worked with Judge John Kane earlier than that. John Kane was the first public defender in Adams County. By the time I met him, he was practicing law at Holme Roberts in the 1970s, and his wife, Georgeann, was my secretary/administrative assistant in the public defender's office.

Q: Well, who else did you meet in the public defender's --

A: I met Joe Quinn, who became the Chief Justice of the Colorado Supreme Court and was my supervisor, and I tried cases with him. I met Bill Neighbors who was the Chief Trial Deputy for the state. He got promoted to the Colorado Supreme Court in the mid '70s, and I took his place as Chief Trial Deputy for the state. I met a guy named JD MacFarlane who was an extraordinarily bright guy, who was Rollie Rogers' basically number two guy and who ran the administrative side of the public defender's office, who later became the Colorado Attorney General for eight years and was a state legislator and a really capable, prominent public servant. I met others, including my law partners Bryan Morgan and Lee Foreman.



Colorado State Public Defender's Office, 1973.
Left to right: Beverly Haddon; Hal Haddon; Rollie Rogers; J.D. MacFarlane;
Janet MacFarlane; Bill Neighbors

Chapter 11

INVESTIGATORS

Q: During your time as a public defender, safe to assume that, as is true today, there were quite limited resources at your disposal in terms of experts, investigators, and things like that?

A: In Jefferson County, we had no investigators. Just through absolute dumb luck and fortune, a college student named Dave West showed up, literally, in the public defender's office in Jefferson County and said, "I'm going to school in Boulder, and I'm really interested in being a lawyer. You guys got anything that I could do around here?"

So I said, "Well, we don't have an investigator. How would you like to learn how to be an investigator?" He said, "I'd love it." And so -- this is in 1970 -- I enlisted him to be an investigator. He learned how to go out, interview witnesses, read investigative reports, chase leads, develop legal theories.

I don't know if you know the Dave West story, but he went, ultimately, on to law school, became a public defender, ran the Durango Public Defender's Office and then was appointed to be the United States Magistrate Judge for Southwest Colorado and served in that capacity for almost 30 years. He just retired. He was enormously successful, and he learned his trade as a college student being our investigator, because we couldn't afford one.

Q: That was something that was a practice that you sort of used throughout a lot of your early days as a criminal defense attorney.

A: In the public defender's office, even in Denver where our caseload was huge and it was full of violent felonies, we only had two investigators. So I used West actually as my recruiter to

tell college students and some young law students, “Hey, this guy can’t pay you, but he’ll give you terrific experience and you get to work cases with him.”

If we had an important case that a college student had worked on as an investigator, they got to sit in court next to me and sit through the trial. Some of them sat through some very prominent murder trials.

Q: One of those college students, albeit through a slightly different route, but one of those college students happened to be Pamela Mackey, who would go on to become one of your law partners as well.

A: That’s correct. I met Pamela, I think, in 1981. I was in private practice by then, but it was primarily a criminal defense practice, Denver-based, but really statewide. We were also doing work outside the state by then.

I had just finished running the Gary Hart campaign in 1980 and her boyfriend at CU was a guy named Craig Mackey, her husband now, and Craig had worked as a volunteer, unpaid, press assistant for us in the Hart 1980 campaign.

He called me up after the political campaign was over and said, “Hey, I’ve got this really bright, ambitious girlfriend, and she really doesn’t know what she wants to do once she gets her degree, but she’s thinking about law. Would you let her come work for you and give her some experience?”

I said, “Well, Craig, as usual, I can’t pay. I didn’t pay you either.” I didn’t pay any of these people, because we didn’t have anything to give them except experience. So he said, “Well, I’ll send her down and you can talk to her and see if it’s a good fit.”

So she showed up, very ambitious, fresh-faced, bright-eyed, and asked me what law was all about and what investigation entailed. I gave her the short version. She said, “Sign me up.” So I did, and I almost immediately sent her to Telluride to work on a very famous case with one of the great investigators in this country, a guy named Ed Killam.

The case involved the Marshal of Telluride, named Hank Smith, who was accused of all sorts of improprieties. So she went down there to Telluride with Killam and probably stayed off and on for six months, worked that case, and we ultimately won it.

Q: I can tell you, I spoke with Pamela about that experience in preparation for today, and her memory of your first meeting was that she came into your office, and you were, you know, completely friendly. And some of the first words you said to her were, “Tell me your dreams.” Do you remember that?

A: I don’t remember it, but I would never dispute Pamela’s memory of things.

Q: What she said about that experience was that she walked into it being terrified, because she didn’t have a clue how to be an investigator. She didn’t know at all what she was doing, but that if someone like Hal Haddon thought she could do it, which you clearly did, then she must be able to.

And so your implicit encouragement and trust in her, it gave her that confidence to go and just do the work, which really, you know, changed her life, because, of course, as we sort of mentioned, Pamela went on to have a tremendous career as an attorney on her own, which wouldn’t have happened if it hadn’t have been for that fateful meeting and the work that she got to do with you.

A: Well, she gets credit for being incredibly smart, wonderful with people. She lights up a room, as you know, and manages to get people to tell you what really happened as opposed to how they want to frame what happened. She's also marvelous with juries.

I can't say I predicted all that, but what I did see was a bright, ambitious person who I thought related well with people and really wanted to learn what it was all about. So I signed her up, and I didn't pay her.

Q: That was a good bargain. Well, in addition to giving these opportunities to learn about the law and investigation to college students throughout your career, you also got to work with some tremendous investigators. One of them you already mentioned, Ed Killam, but there were others.

A: Probably to the extent that I've had success in trial law, I attribute a lot of it to really terrific investigators I have always had. Even in public defender times, even when they were just college students or law students, I really believe in drilling down on facts. I think that's how you win cases.

I'm fine with legal theories and sometimes good at them, but I think fact-driven defenses are the defenses that win or lose cases. And so I have always had, from earliest times, really good investigators, whether they were professional or whether they were volunteer.

Ed Killam is a guy I worked with probably for 40 years. When I met him, he was the chief of detectives in Aspen in the mid '70s. He got fired because he was too vigorous in enforcing the drug laws. That's a true fact. That's the reason given for his firing. Aspen was in the middle of its we-don't-enforce-drug-laws-anymore period.

He was a very well-trained investigator. He had been Chief of Detectives in Fort Collins before he went to Aspen. So the City of Aspen let him go, and I hired him to first be my investigator on several Frank Tucker trials, which were complicated and sensational. They went on in the late '70s and into the '80s.

Ed went on to be my chief investigator in Rocky Flats and a lot of other big corporate investigations all around the country. I think some of his witness work won cases, really won cases. So there was Ed. Ed now lives in Michigan. I still talk to him. He lives very close to my old hometown, which I constantly tell him is a gross mistake, but his kids live there.

I started working with David Williams in the public defender's office. David and I have worked together since probably 1971. JD MacFarlane sent him to Denver from Pueblo, where he just graduated from college, to be an investigator in '71 when I got there to run the office. David and I did some wonderful trials together, and David worked all the big corporate criminal cases and civil cases that we did into probably the mid 2000s, mid-2000 decade, I want to say.

And then there was the great David Fechheimer, who died last year, and was lamented in the New York Times as probably the best investigator of our times. I started working with David in the Kobe case in 2003 and did eight or 10 cases with him, on all of which he did magnificent work.

Jon Foster, who was with the Organized Crime Strike Force in Denver, was Dave Williams' partner for a long time and was the key, the key to winning a couple of really big trials we had in federal court in the 1980s. So there's a litany of great investigators I've worked with. To me, any success I've had is theirs.

Chapter 12

PEOPLE v. SNEED

Q: I want to talk for a minute about some of your most memorable public defender cases. And we've chosen a handful, though there are so many to choose from. Would you walk us through a handful of those?

A: Which handful do you want?

Q: Why don't we start with Mr. William Sneed's case.

A: That was the first time I ever got to argue in the Colorado Supreme Court, so it was notable for that reason. But I was in the Denver Public Defender's Office. My beat when I was head of the office and later as Chief Trial Deputy was, I had to do nothing but murder cases and capital cases.

But through very dumb luck in the middle of 1972, the U.S. Supreme Court temporarily put the death penalty on hold in a decision that left it on hold for about six years. So Sneed was a big, good-looking black man from Denver. He had a girlfriend who had a baby out of wedlock.

The facts are just awful. He and his girlfriend were driving down the streets of Denver and got in an argument, and the baby started crying. Sneed pulled over, pulled his car over, shot the baby six times in the head. Reloaded, and then shot his girlfriend twice in the head, but didn't kill her. Killed the baby.

It was a spectacular case and it was awful, monstrous facts. Sneed was a very bright,

very troubled young guy. I think he was probably 20, 21 when this happened. And because I was on the murder beat, the case got assigned to me. The judge, who later became Colorado's first woman federal judge, Judge Zita Weinshienk, presided over that case.

At the time, Colorado had a structure in terms of homicide statutes, criminal homicide statutes that was very vague and hard to follow. Essentially, there was no definitional difference between first and second degree murder. Intentional murder was first degree murder, and murder with intent was second degree murder. There's a reported Colorado Supreme Court case on this.

So I moved to dismiss the first degree murder charge, arguing that there was no rational difference between the definition of first and second degree murder, and, therefore, it was a denial of basic due process notice rights to prosecute anybody under that statute, especially on these facts, as first degree murder.

Judge Weinshienk looked at the statute -- she was on the District Court at that time, Denver, state district court -- and said, "I agree. I see no difference, definitional difference between first and second-degree murder. And so I dismiss the first- degree murder charge."

That got appealed to the Colorado Supreme Court. My recollection is that that was sometime in '72, maybe '73. The Colorado Supreme Court was not about to hold the first-degree murder statute unconstitutional. But they really struggled with it.

Judge Pringle, Eddie Pringle, was the Chief Justice at the time. I still remember him in his Chief Justice chair literally spinning around and leaning over to me and saying, "Well, this is a difficult issue. Tell us how to solve it. How can we make the statute constitutional?" He's

asking me.

Q: Oh, gosh.

A: I said, “Well, I think to make it constitutional, it would have to be rewritten. And I don’t know that is this court’s place to do it. But if you put a requirement of significant premeditation in first-degree murder and define what premeditation is, you could then distinguish premeditated murder from an intentional, but sort of instantaneous murderous act.”

Pringle -- I still remember it. He swung his chair around in a circle again, and he said, “That’s great.” So they wrote an opinion, which you’ve read, that wrote into the first-degree murder statute a concept of premeditation that wasn’t in the statute. And that’s the state of the law today. That’s how “premeditation” came to be in Colorado.

Q: Oh, goodness.

A: Anyway, following that, the case went back down to Judge Weinshienk for trial. We tried it to a jury, a Denver jury. The jury was instructed on first-degree murder with premeditation, second-degree murder without premeditation, and manslaughter, which is killing in the heat of passion. Manslaughter at that time was a Class 4 felony, and because of indeterminate sentencing, it only carried a sentence of indeterminate to eight years.

The jury, for whatever reason, found him not guilty of first-degree murder, not guilty of second- degree murder and guilty of manslaughter. And, of course, guilty of assaulting, first-degree assault on his girlfriend, but that also carried an indeterminate sentence.

I still remember the courtroom was full of press. Sneed leaned over to me and said

audibly, “God, am I lucky.” That found its way into a headline in the Denver Post. But the postscript is very interesting. Judge Weinshienk gave him an indeterminate sentence which she was required to do because that was the state of the law at the time.

He did about two or three years in the Colorado State Penitentiary. He was very bright and really, really learned the enormity of what he had done. I followed him all his life. When he got out, he never got in trouble again. He volunteered on a part-time basis in a battered women’s shelter as his form of penance.

So it was an extraordinary case from a legal standpoint, a factual standpoint, and ultimately, the lesson for me, which I’ve never forgotten, is that we defend people who have done horrible things. Because they’re people, they’re capable of redemption. And if you help them along the way, sometimes they can do wonderful things after doing some of the most horrific things imaginable.

People v. Sneed, 183 Colo. 96 (1973)
514 P.2d 776

183 Colo. 96
Supreme Court of Colorado, En Banc.

The PEOPLE of the State of Colorado, Plaintiff-Appellant,

v.

William M. SNEED, Defendant-Appellee.

No. 25932.

|
Oct. 9, 1973.

Synopsis

Defendant, who was accused of murder in the first degree, moved to dismiss the charge on the ground that the first-degree murder statute was unconstitutional. The District Court, City and County of Denver, Zita L. Weinshienk, J., granted defendant’s motion to dismiss and declared the statute unconstitutional. The district attorney appealed. The Supreme Court, Pringle, J., held that where the first-degree murder statute required a showing of ‘premeditated intent,’ while the second-degree murder statute required that the act be committed ‘intentionally, but without premeditation,’ the legislature intended the element of premeditation to be a distinguishing factor, that the statutes expressed a rational difference between the two grades, and that the first-degree murder statute is constitutional.

Judgment reversed and cause remanded.

Chapter 13

PEOPLE v. RANDOLPH

Q: I think another great example of that is Dick Randolph.

A: Well, that's a classic example. You've talked to Dick more recently than I. Dick Randolph was a young, white man. Sometime in the mid 1960s, he was very mentally ill. He had a girlfriend, and she wanted to break up with him. For whatever reason, they drove down to the banks of the South Platte River, down around where Highway U.S. 6 now crosses the South Platte.

After an argument, he shot her in the head. He was prosecuted in Jefferson County, as I recall, and ultimately pled guilty to second-degree murder. That plea and the way it was conducted became a really seminal case in Colorado. "People versus Randolph," it's called. It's a 1971 Colorado Supreme Court case. It's one of the first ones I was involved with in the Supreme Court.

What happened was that when Randolph pled guilty to second-degree murder in the '60s, the trial judge, who knew that he had mental problems, did not explain to him the elements of the crime, did not make any inquiry into whether he understood what he was pleading to.

He did not make any inquiry into his mental state, and simply said, almost literally, "All right, Mr. Randolph, you're charged with second-degree murder. How do you plead?" And he said, "Guilty." And the judge accepted the plea.

As you know, we've got rules that are more explicit about what you're supposed to ask anyone who pleads guilty to any crime, not the least of which is a profound crime like murder.

Randolph, I think, was sentenced to like 80 years in the penitentiary. When he got to the penitentiary, he also had an epiphany, much like Sneed, much like others who come to understand the enormity of what they've done.

So the Colorado State Penitentiary is in Canon City, which is close to Pueblo, and Randolph enrolled in all of the college correspondence courses he could get and all of the courses that would come into the penitentiary to teach.

He, ultimately, got a bachelor's degree. He was considered a model prisoner, and the warden even wrote a letter to the district judge saying, "You really ought to reconsider this guy's sentence, if you can." It was too late to do it.

But I was in the public defender's office at the time, and I got contacted by the judge -- I think it was George Priest -- who said, "This guy may have an argument that his plea was not proper because he wasn't properly advised.

So I'm going to appoint you to represent him." So I took the case and argued that the plea had clearly, by law, not been accepted properly because he was not properly advised. Judge Priest denied the motion to withdraw the plea. But the Colorado Supreme Court unanimously held that that plea had been improperly taken and gave him a new trial.

When he came back for a new trial, the facts were probably eight or nine years old. Neil Young had written a song about this murder called, "Down by the River," and it was also a cause celebre, but Randolph was also a cause celebre because of all the support he had from prison guards and the prison warden.

So I convinced the district attorney who was a guy named Al Hermann at the time, a

terrific guy, to let him plead to manslaughter. He pled to manslaughter and got time served and was paroled. When he was paroled, he took a job as a legal assistant at U.S. West, which we were able to help him get.

And he went to law school. He went to DU law school nights, as you did. He graduated from law school while he was working as a legal assistant at U.S. West. Then he wanted to be a lawyer, but, of course, he had this manslaughter conviction.

So we applied to the governor, who I think at the time was Richard Lamm. We applied for a pardon for Dick. And it was granted. So Dick then took the bar, became a lawyer. Most of his life he was an in-house lawyer for U.S. West, lived a wonderful, honorable life, married, and is still alive today.

Q: A few things that I wanted to say about Mr. Randolph, because as you said, I did get to talk with him. He was only too happy to talk with me about his experience with you. And he refers to you as “Uncle Hal.” I don’t know if you’ll remember that.

A: I remember that.

Q: And I don’t think you’re much older than he is, but you are “Uncle Hal” to him. And he was so interested in this project and so supportive of you and thankful. And, you know, what he said was that it was a really lucky draw when Uncle Hal was appointed to his case, and how often he thinks of you.

And, yeah, he is living a very happy life. According to him, he and his wife are happily quarantining in these COVID times, but playing a lot of cribbage. And he was just a lovely person to speak with, and I think a terrific example of the kind of redemption you were talking

about before.

A: I think people like Randolph are why criminal defense lawyers do what we do.

People v. Randolph, 175 Colo. 454 (1971)

488 P.2d 203

175 Colo. 454

Supreme Court of Colorado, En Banc.

The PEOPLE of the State of Colorado, Plaintiff-Appellee,

v.

James Richard RANDOLPH, Defendant-Appellant.

Nos. 25005, 25153.

|
Sept. 7, 1971.

Synopsis

Accused moved to vacate conviction of murder in the second degree. The District Court, Jefferson County, George Priest, J., denied the motion and the accused appealed. The Supreme Court, Erickson, J., held that where nothing in record indicated that defendant, who had been suffering from mental infirmity and who had sought to have court intervene to protect him from sheriff and jail personnel, entered plea of guilty voluntarily or that he understood nature of second-degree murder, conviction entered after acceptance of plea of guilty was void.

Reversed and remanded with directions.

Chapter 14

THE DAILY DOUBLE

Q: I think there's a more fun story we can tell, and what I'm thinking of is what we affectionately refer to as "the daily double."

A: Ah. Well, it was pretty dramatic, but it was fun. In the 1970s, all criminal, felony criminal cases were handled on the fourth floor of the Denver District Court, and it must have been before *Furman v. Georgia*, so it must have been sometime in 1972. Rollie Rogers was defending a capital case down the hall in, I think, the southeast corner courtroom.

Q: And this is in the City and County Building?

A: This is in the City and County Building in Denver. The defendant was a guy named Kenny Green. And he was charged with the murder of a police officer. It was a very controversial case, and the prosecutor was trying to give him the death penalty because it was a police murder.

So Rollie started that trial. It went about three weeks. Down at the other, catty-corner end of the City and County Building on the fourth floor on the northwest side courtroom, I was trying another murder case. But it wasn't death-qualified. It was basically a bar-fight shooting.

So we were both simultaneously doing murder trials. My trial took about a week. His took about three. But on a Friday afternoon, my jury came in about 5 o'clock, and they found my client not guilty.

Unfortunately, he had other pending murder charges in other jurisdictions, so he wasn't

released. He had to go back to jail. So I couldn't party with him. I went down the hall and sat in on the Kenny Green trial, and I watched Rollie's closing argument.

The jury went out on the Kenny Green trial, which was a capital murder trial, and they stayed out until about 2:00 in the morning. I sat with Rollie, and I sat with Green until the jury came back. And the jury didn't want to go home. They wanted to deliberate. They deliberated until about 2:00 in the morning.

They came into the courtroom, and the back of the courtroom is filled, filled with uniformed police officers, because it was a Denver police officer who had lost his life. The jury found Green not guilty because he was misidentified. He was a delightful young black kid who went on to lead a positive life.

But in any event, the jury came back at 2:00 in the morning and found Kenny Green not guilty. There was an enormous uproar in the courtroom. There were probably 30 or 40 uniformed police officers in the back of the courtroom. And they were very angry.

The prosecutor got up and said to the judge, "We're outraged. I guess we can't do anything about this verdict, but we want to take Mr. Green back and process him out of the jail." We knew what that meant. They wanted to take Green back to jail and under the guise of giving him his clothing back, beat the hell out of him, maybe murder him.

The judge's name was Cordova, as I recall. Rollie got up and objected and said, "You know what that means. You know what that means, Your Honor. They're going to take him back to jail and do horrible things to him. We may never see him again."

And the judge said, "I'm not going to send him back to jail. I've got a couple sheriff's

officers who report to me. We're just going to stay here until the sun comes up." And that's what we did. The police officers ultimately left. We went back into the judge's chambers. The judge pulled out a huge bottle of bourbon.

Rollie and Kenny Green and me and the judge and sheriff's officers had a few drinks and waited till the sun came up. Then the sheriff's officers ushered us all out to Rollie's car, and we drove Kenny Green back to his home in Aurora.

Q: God. That's so incredible on so many levels.

A: Well, that's what Rollie called "the daily double."

Q: Well, you know, looking back on these cases, and, again, these are only a handful of cases that we could talk about that have remarkable stories. Can you tell us a little bit about the value and the impact of your experience as a public defender?

A: It really is hard to put into words, because, you know, I come from a fairly rudimentary background. But I really didn't, and I don't know that one can, appreciate the difficulties and the problems that people of color and people of no economic means have to deal with on a daily basis and what desperation it drives them to and what mental stress it drives them into.

I just had no appreciation for the difficult circumstances of indigent clients who find themselves in the criminal justice system. Rollie used to preach and I still preach it. It's important, because terrible things happen. And people are charged with terrible things.

It is important to, as a mental discipline, try to think through why this happened to this person. And it's essential to find something that you like or can sympathize with about this

person. You can't do your job and do it well unless you do that. That's a mental discipline that Rollie taught us as public defenders. It's one that I've followed ever since and preach.

Q: I think you know, just to sort of speak again about some of the redemption, I think that is part of what you're talking about now as well. That in recognizing something that you like about that person, there is an inherent, I guess, opening to the potential that that person can have. And I think some of the clients that you've talked about today are fantastic examples of this.

A: One of the most satisfying parts about being a lawyer is that you hear back from people who you've helped through the very, very worst of times. And they thank you. They tell you what they've done. And sometimes it brings tears to my eyes.

Q: I think we should move on to the transition from public defender to private attorney and the creation of your law firm. How does that sound?

A: You can do that, but there was a political campaign that led to that transition.

Q: That's true, but that chapter will come later, unless you want to talk about it now.

A: Well, I left the public defender's office at the end of 1974 to become the campaign manager for Senator Gary Hart and his first senate campaign. I did that campaign for the better part of 1974. And then I went into private practice in 1975 with my lifelong friend Bryan Morgan. So is that the transition you're in search of?

Q: That's the transition I envisioned. We will talk more about the campaigns and about your friendship with Gary Hart in a moment, if that's all right with you.

A: You're the boss.

Chapter 15

BRYAN MORGAN

Q: Let's talk about Hal and Bryan.

A: What do you want to know about Hal and Bryan? Is that like a soap opera?

Q: We know that you met in the public defender's office.

A: Bryan was in the Denver Public Defender's Office. He didn't stay as long as I did. I think he left in like 1973, but after I came to the Denver Public Defender's Office, he was really the brightest light there.

And so we started working together and we became friends when we both attended a CLE legal seminar in Philadelphia. We became friends over several drinks in several bars.

Q: So, at that time, when Bryan left the public defender's, he went to Sherman & Morgan; is that right?

A: Well, he formed a law firm with Eddie Sherman who was the first Denver Public Defender before the state system. Eddie had a son named Harris, who was quite notable and was once Under-Secretary of Natural Resources at U.S. Department of Agriculture.

Eddie and Harris were practicing in downtown Denver, and Bryan joined them and they formed a small firm called Sherman & Morgan. They did probably more civil than criminal work. I'm not sure why that was. But when I left the PD's office and did the Hart political campaign, Bryan started recruiting me to join their law firm when the political campaign was over. So in 1975, I did.

Q: When you joined in 1975, what was -- how many people were in that firm?

A: Well, there were three lawyers. My recollection is that Harris was kind of part-time. So it was Eddie, Bryan and me. We had one all-purpose secretary, legal assistant, paralegal do-everything.

Q: And that's Kathleen Frye?

A: That was Kathleen Frye. Her name is now Kathleen Batson. I still hear from her.

Q: One of the big cases that you did while you were at Sherman & Morgan was a federal case for Cameron Bishop, correct?

A: I recall it vividly.

Chapter 16

U.S. v. BISHOP

Q: Okay. So tell us about the Cameron Bishop trial.

A: We're in 1975 now. And I think by that time Richard Nixon had resigned. Gerald Ford was president. But Nixon and John Mitchell, as has been proven by presidential tapes and some recent documentaries and movies like the Chicago 7 movie that just came out, Nixon and John Mitchell decided that they were going to stop these antiwar protests by grossly overcharging the leaders of the protest movement.

So the Chicago 7 trials ensued probably in the early '70s after Nixon was elected in '68, took office in '69. I think the Chicago 7 trials which were grossly over-charged, absurd trials started in the early 1970s.

Nixon and Mitchell can be heard on tape saying words to the effect of, "We've got to stop these SDS members who are advocating for sit-ins and other violent causes, and we've got to charge them with capital offenses." Literally, capital offenses regardless of whether they've committed capital offenses.

So Cameron Bishop grew up on a farm in southeast Colorado. He was a bright young guy. He was a Colorado State University student in the 1970s, and he was a leader in what was called the SDS, Students for a Democratic Society.

He had led a number of sit-in kind of activities at CSU, which resulted in shutting down some of the administrative buildings. He was a controversial character. And because he was articulate and eloquent, he became a national SDS leader.

SDS was all about stopping the Vietnam War. They concocted this idiotic theory, SDS did, that if the public utilities in the United States were basically at risk and menaced, then the federal government would have to bring the troops home to defend the public utilities. That was actually their operational theory.

So some of their leaders went around the country and basically disabled power plants. Bishop and a couple of his friends decided in probably 1970, '71 that what they could do to bring the troops home to guard the utilities in Colorado, was blow up a power tower.

So they went out to a mesa outside of Golden, Colorado, and they found one of these really big power towers, the tall, high-strung ones with four legs, the main towers, not the feeder lines. They put some dynamite under two legs of the power tower and ignited it.

Because of the high tension wires, all the power tower did was, two legs jumped up and then they settled back down. It didn't knock the power tower down, but it caused a 15-minute interruption to the electricity that went to the Coors brewery.

This became a potential capital crime. There's a reported Tenth Circuit decision about it. The Coors Brewery, in addition to making liquid gold beer, also made porcelain. And porcelain was used, in part, as a container for some beers and also was used in the nose cones of some fighter planes.

So the United States Department of Justice decided to make this a potential capital crime by calling Coors a "war utility," because it was making porcelain and porcelain was going in nose cones. There was a crime in the federal criminal code at that time called "Sabotage of a war utility during a time of national emergency."

So the “war utility” was Coors. The government then had to establish that this explosion occurred during “a time of national emergency.” Those are the words of the statute. In Vietnam there had been no declaration of national emergency and no congressional declaration of war. The president didn’t declare a national emergency, Congress didn’t declare war or a national emergency.

So the Department of Justice decided that they could still make this “sabotage” because in Korea in the 1950s there had been a declaration of national emergency which justified the Korean War. And it had never been formally rescinded, and, therefore, in theory we were in a state of national emergency long after the Korean war ended. And it extended into Vietnam, because, after all, it had never been formally rescinded.

There was also a federal statute on the books at that time which made it a five-year felony to tamper with or destroy a public utility. So what these kids did was commit a basic five-year federal felony, which the government transformed into “sabotage of a war utility during a time of national emergency.”

When Bishop was charged with sabotage, he fled. He was put on the 10 Most Wanted List by the FBI, and they caught up with him in 1975 about the time that I had joined Sherman & Morgan, and I had just exited from Hart’s political campaign.

So they caught up with Bishop in 1975 and they extradited him to Colorado. That’s how I met Cameron Bishop and the great Michael Tigar.

Q: Talk a little bit about the great Michael Tigar’s entrance into this case.

A: Michael Tigar’s probably the most brilliant lawyer of my generation, and you don’t have

to take my word for that. He was actually voted by the California Bar Association as the best trial lawyer of the 20th century. He's a brilliant guy, tall, charismatic.

He went to law school at Berkeley -- first in his class, editor of his law review, and he's my generation. I think he went through law school the same year I did, so he would have graduated in '66. Then he was offered a U.S. Supreme Court clerkship with Justice Brennan.

But because he had been very active in student protests at Berkeley and was probably the most preeminent orator of his time among student protesters, Justice Brennan, who offered him a Supreme Court clerkship, waited until Michael arrived in D.C. with his wife and his young son -- his son, Jon Tigar, is now a federal district judge, by the way.

Michael arrived in Washington D.C. to take his clerkship in 1966 and Justice Brennan said, "Son, I'm sorry. You're too controversial. I can't have you." So Michael kept going, went all the way to Paris with his wife and his young son, became thoroughly radicalized, but also became very fluent in French, and, ultimately, among other things, taught law at the French national law school.

But he came back to the United States in '68 or '69 and became the protege of Edward Bennett Williams, the great Edward Bennett Williams who was the preeminent trial lawyer of the '50s, '60s, and '70s at Williams & Connolly. Michael was his protege.

So fast forward to Cameron Bishop. Michael had been involved in the Chicago 7 trials and got thrown in jail by Judge Julius Hoffman along with the other criminal defense lawyers. For war protesters, Michael was the gold standard. So Cameron really wanted Michael to be his lawyer in this case.

Michael needed local counsel, so he found his way to me. I became his local counsel. I'm brand new to the private practice of law. Bishop didn't have any money, but Sherman & Morgan graciously let me, essentially, work that case pro bono for three or four months, which is all I did between the time I got there and the time that the Bishop trial was over.

Michael and I tried that case, and we tried it probably within three months of arraignment. The trial took about a month, and it was a spectacular trial.

Q: Several incredible things happened during that trial, not the least of which is another explosion.

A: During that trial, while the jury was out, some idiot dynamited the back door of the federal courthouse. That was probably during the second week of the trial. Blew it up. This is like 1975, I think.

And to this day, it has never been restored. There used to be a back door you could come in. Now you have to go through the front door, because some idiot, during the Bishop trial, blew up the back door. It did not have a good effect on the jury, I might say. But that happened.

Q: Maybe you can walk us through the trial starting at the first day.

A: Well, back in those times, the government didn't give you your discovery until after opening statement under a statute which is still on the books but isn't observed in practice anymore called The Jencks Act.

And so we picked a jury. Judge Arraj was our judge. I still remember his voir dire. It only took a couple of hours to pick a jury in this case. We had about 80 people, 80 potential

jurors sitting out in the courtroom.

He looked out and he said, “Now, ladies and gentlemen, this case has had a lot of publicity, a lot of publicity. How many people, how many out there have heard about this case, read about it? Raise your hand.” Almost every hand went up from the jury.

“Now, how many of you after what you have read or what you’ve heard have an opinion about the guilt or innocence of the defendant in this case?” At least half the hands went up.

And then he leaned into his microphone and he said, “Ladies and gentlemen, I’m going to tell you this. I’m going to tell you this once under pain of contempt of court. I’m going to tell you that you must presume this defendant innocent. And anyone who defies my order to presume him innocent, is subject to fine and imprisonment. Now, how many of you, knowing that, have an opinion about his guilt or innocence, knowing that he’s presumed innocent?” Maybe three hands went up. Those were the only people excused from the jury.

Q: Oh, wow.

A: Then the rest of them were picked randomly, and we had a jury of 12, plus four alternates. So it took about two hours to pick a jury. And then the judge called for opening statements. The United States Supreme Court had just decided a case called *Faretta v. California*, which held that a criminal defendant could act as his or her own lawyer, go pro se, if that was his choice.

And because the *Faretta* case was brand new, it had never been interpreted. We knew we weren’t going to call Cameron Bishop as a witness in his own defense, but we wanted the jury to get a sense of his decency and, basically, who he was as a person.

So when the judge called for the defense's opening statement, Michael Tigar got up and grandly said, "Mr. Bishop will give the opening statement." Everyone was too stunned to do anything about it.

Bishop got up and made just a terrific opening statement about where he had come from, he came from humble roots, and he really cared about the country. He said he was opposed to the war, but he believed in American values. And then he sat down. It was fabulous. It was fabulous.

That's how we started that trial. And the next thing that occurred during that trial of note was that, as I told you, you don't get your discovery in federal court or at least you didn't in that time frame until after opening statement.

So after Bishop made his opening statement, the federal prosecutors trying the case rolled in a grocery cart filled with written discovery -- bound volumes, paper -- and rolled it over to our desk and said, "Here's your discovery."

So the lawyers are me and Tigar. Tigar leaned over to me and said, "I'm going to take this discovery out, and I'm at least going to go through it and see if there are important things that we need to immediately get on and use. So you take the first witness and don't let the witness get off the stand until I come back."

True. Happened. He'll cop to it if you confront him. He took the grocery cart full of discovery and pushed it down the center aisle, out the back of the courtroom. And the government called its first witness, who was basically a foundation witness about what the Public Service Company was and what a power tower was and how they function.

The government's direct exam of this guy was about 15 minutes. I had to filibuster cross-examine this witness until Michael came back. So we were about 2:00 in the afternoon then, and I started asking dumb, repetitive questions like, How do you spell Public Service Company? Can you spell it backwards? Painful. Slow. And I would read from a document, and sometimes spell the words. It was just awful.

The judge was crazy, crazy angry with me. The jury didn't know what was going on, but they weren't impressed. I had to do that for about three hours. And after about three hours, it was about 10 minutes to 5:00. The court recessed at 5:00. Michael grandly came back in down the aisle with the grocery basket full of discovery and announced, "We have no more questions of this witness." I slunk back in my chair. I wasn't heard from much after that during that trial.

Q: That is a strong impression. Well, tell us about the outcome of that trial.

A: The trial went on, as I recall it, about 3, 3-1/2 weeks. And after the door to the courthouse got blown up, we had a lot of concerns about the fairness of our jury pool. We asked for a mistrial. The judge didn't give us one.

So the case went to the jury. The case had a lot of notoriety. When the case went to the jury, all of the spectator seats filled up, mostly with war protesters or sympathizers of Cameron.

The jury was out probably two or three hours. They came back, and they convicted Cameron of two of the four counts and acquitted him of two. There was no death penalty. The death penalty had actually been taken off the table before it went to trial.

In any event, they convicted him of two counts of "sabotage of a war utility during a time of national emergency." The courtroom was filled with protesters. Cameron's wife Mary, who

was epileptic, was sitting in the front row right behind the bar that separates the lawyers and the courtroom from the spectators. She was sitting in the front row.

As the uproar started, people started screaming, hollering, “No, this can’t be. Burn this place down.” Mary, Cameron’s wife, had an epileptic seizure. Cameron turned around, came over the rail, took her in his arms.

And while the judge and the jury were sitting there stunned and watching and these people were yelling and screaming and threatening violence, Cameron got up, stood up on the platform that separates the well of the court from the spectator section and said, “Stop. Stop this. Stop this now. You’re in the United States of America. Stop this.”

The marshals were streaming in. Everybody shut up. And it got deathly silent, and the judge excused the jury, and everybody left. That judge -- he was a very, very tough judge, but having witnessed that and having sat through that trial, ultimately sentenced Cameron Bishop to an indeterminate, not to exceed seven-year sentence. He gave him an appeal bond. And because of what happened in the Tenth Circuit, Cameron never served a day in prison.

Q: Let’s talk about what happened in the Tenth Circuit.

A: Well, in the Tenth Circuit, the obvious issue was that this was an utterly over-charged crime, because Coors was not a “war utility” and there was no existing time of “national emergency” during Vietnam in the 1970s.

Under basic Fifth Amendment due process notice principles, no reasonable person could know when they’re contemplating whether or not to commit a criminal act that they’re attacking a “war utility” or that there’s an existing time of “national emergency.” So it’s basically outright

acquittal because there was no “national emergency,” and there was no “war utility.”

So we appealed to the Tenth Circuit and Cameron had gotten an appeal bond out of Judge Arraj, which made law enforcement and the FBI extremely angry. They monitored him constantly. I think we got a pretty fast hearing in front the Tenth Circuit. My recollection was that they heard it within six or seven months, and I think they decided in 1977.

In any event, we argued it in front of the Tenth Circuit. And my law partner Bryan Morgan was riding down on a bus from Boulder. There were two clerks for Tenth Circuit judges sitting on the bus talking about the argument that they were about to witness.

One of the clerks Bryan recalls hearing and reporting to us before the argument, one of the clerks said, “I can’t wait to hear how the government is going to show that we were in a time of national emergency during Vietnam, when there was no declaration of national emergency.”

So Bryan told us that, and we keyed our Tenth Circuit arguments on that. I also remember one of the Tenth Circuit judges, I think it was Judge Breitenstein who wrote the opinion, leaning into the government lawyers who are making this argument that we never got out of a national emergency and said, “Well, I don’t see that the Civil War was ever declared to be over. Is it still in effect?”

Q: And their answer?

A: “Uh, uh, uh. I don’t know.” The Tenth Circuit reversed Cameron’s conviction in a very important opinion that affirmed what really is a basic principle. You’ve got a right to notice of what conduct is criminal, and you can’t over-charge simply because you want to over-punish.

Q: And, as you said, Cam never spent a day in jail.

A: Cam never spent a day in jail. As a postscript, he moved to Maine with his wife and his kids, and he got elected to a school board in Maine, where the only issue was whether or not he was eligible to be a public servant because he had been prosecuted for sabotage. He was elected and served honorably. I haven't heard from Cam in a while, but I have some wonderful, wonderful cards from him thanking me some 20 years after the fact.

Q: It's an incredible story, an incredible case.

Fri., May 6, 1977, Denver, Colo. Rocky Mountain News—5

Conviction in tower blasts reversed

Cameron Bishop freed on charge of dynamiting Denver area utilities

By CLAIRE COOPER
News Staff

The sabotage conviction of Cameron David Bishop, who was found guilty of dynamiting military utilities, was reversed Thursday by the federal appeals court in Denver.

The damaged utilities were Public Service Co. electrical towers in Jefferson, Arapahoe and Adams Counties. They served the general community of the Denver metropolitan area. Because the area included several defense contractors, such as Dow Chemical Co., the prosecution defined the towers as war utilities and accused Bishop of sabotage.

The charge was especially serious because the prosecution claimed the utilities were dynamited during a national emergency.

No national emergency had been declared in the area. But the prosecution cited President Harry Truman's proclamation of a national emergency in 1950, during the Korean War. Neither Truman nor his successors had rescinded the proclamation. Bishop's prosecutors said it still was in effect in 1969, when the towers were dynamited.

Bishop went underground and for awhile was on the FBI's "most wanted" list. He was apprehended in Rhode Island and tried in Denver U.S. District Court in 1973.

His conviction brought a seven-year prison sentence from Alfred A. Arraj, then chief judge. Bishop has been free on \$175,000 bond and living in La Junta while his lawyers appealed the conviction to the federal appellate court.

The appeal was argued in January before Chief Judge David Lewis, Senior Judge Jean Breitenstein and Judge Oliver Seth of the U.S. 10th Circuit Court of Appeals.

Bishop's lawyers said the 1950 emergency proclamation wasn't in effect in 1969, and the electrical towers weren't war utilities. Government lawyer Arthur Bosworth made the opposite arguments.

In a 19-page opinion written by Breitenstein, the appellate court threw out Bishop's indictment but didn't base its decision on the main arguments made by either side.

Breitenstein stopped short of agreeing with Bishop's lawyers that the national emergency had passed. But if a national emergency did exist in 1969, Breitenstein wrote, "a person of ordinary intelligence" would have had no way of knowing it.

The constitutional requirement of due process requires "fair notice that contemplated conduct is forbidden," according to the opinion. In this case, for Bishop to stand convicted of violating a section of the sabotage law that applies only in time of national emergency, "fair notice" of that emergency would be required.

"The justification for the 1950 proclamation was the Korean and Communist aggression. Korean hostilities ended in the Panmunjon Armistice of July 27, 1953," Breitenstein wrote.

"The 1969 viability of the proclamation depends on 'Communist aggression' . . . The term 'Communist aggression' is vague. The imperialistic ambitions of the Soviet Union may be recognized . . . (But) the power of the Soviet Union in world affairs does not justify placing the United States in a constant state of national emergency. . . ."

"Reasonable men of ordinary intelligence may well differ on whether the unexplicit phrase 'Communist aggression' as used in the 1950 proclamation had continuing pertinence in 1969."

Breitenstein said Bishop could have been prosecuted under another section of the law, which prohibits "sabotage at any time." By prosecuting Bishop under the more severe sabotage law, the government invalidated the entire case, the appeals court ruled.

The opinion noted that Congress, the President and the courts haven't been consistent in their interpretation of whether the unrevoked emergency proclamation remained in effect after the Panmunjon Armistice. A declaration of emergency activates 470 federal laws, Breitenstein wrote.

(Continued on page 64)

Chapter 17

FOUNDING OF HADDON MORGAN AND FOREMAN

Q: Well, Hal, let's start by looking back to 1976.

A: 1976.

Q: Uh-huh. And that would be the year when --

A: That would be the year that Bryan Morgan and I started our law firm, which remains to this day. It was called Haddon & Morgan then, and now it's Haddon Morgan & Foreman, because in 1977 Lee Foreman joined us.

Q: So tell me a little bit about how you and Bryan sort of came together with this idea of starting your own firm.

A: As you know, we were at a firm called Sherman & Morgan where Eddie Sherman was the senior partner. Eddie was interested more in civil work, and Bryan and I were more interested in pursuing both criminal defense and what I call "issue kinds of litigation."

So at Sherman & Morgan, while I was doing Bishop for free, I also got hired by the Environmental Defense Fund, called "EDF." I had met some of the EDF people during the Hart campaign. EDF was looking for a regional law firm to handle some of its environmental defense causes and litigation in the Rocky Mountain region.

They were a nationally based organization based in D.C. But they wanted a half-time commitment out of me. At the same time the Native American Rights Foundation, "NARF," was looking for a similar kind of arrangement, although they couldn't afford to pay as much.

Bryan was really interested in the Native American rights work and litigation.

So between us, I became a part-time lawyer for EDF as well as having a criminal and a civil litigation practice. Bryan represented NARF, the Native American Rights Fund. So when we started our law firm in 1976 because we wanted to do more “cause work” than we had been doing, those were our two key clients and we spent a lot of time working on their cases and causes. But in addition, we started to build a criminal defense practice and a civil practice.

So when we started, it was just myself, Bryan Morgan, and Kathleen Frye who came on with us from Sherman & Morgan. Lee Foreman then joined us in 1977. We officed at the Equitable Building in downtown Denver at 17th and Stout Streets. And that’s where we hung out.

Q: What kind of work did you do for EDF?

A: I got involved in what at the time was the Peak Load Pricing litigation. It was considered very controversial at the time. Now it’s considered very standard practice.

The environmentally conscious advocacy groups were pushing utilities to start pricing their electricity and their gas according to when it was used, on the theory that you’re basically using and wasting a lot of electricity and gas during peak load times. And if you make it cheaper during off-load times, you dramatically reduce the amount of energy you’re using.

Public utilities all around the country were simply charging the same price for electricity and gas no matter when you used it. Peak Load Pricing, when it finally became in vogue, sort of spread that out and also required a lot less generation, especially electric generation, because when your power plants are going at peak load all the time, they’re using huge amounts of

energy, coal and gas. If you spread it out, it's much more energy efficient.

So EDF was at the forefront of advocating for Peak Load Pricing and trying to push the big public utilities into peak load price kinds of structures. To do that, in some states you could litigate, but typically, you would always have to start in front of what passes in Colorado as the Public Utilities Commission. And most of the western states have some sort of comparable organizations.

So you would advocate and have hearings in these various state public utilities commissions, and then if the public utilities commission ruled against you, you'd go to state court and litigate the issues there. It was considered real heresy at the time, and power companies actually called it "socialism."

So one of the very first trials I did for EDF was in Helena, Montana. It was after Bryan and I formed our law firm. I think it was 1976 or 1977. And it was against the Montana Power Company, MPC, and we litigated in the Public Service Commission and then defended in the state court system.

What we actually won in the Montana Public Service Commission, was an order that the power company had to utilize Peak Load Pricing in its economic structure, and we had some terrific international experts come to Helena, Montana in the dead of winter to testify and convince a very conservative and initially skeptical Public Service Commission that this made a lot of sense.

It made a lot of sense just in terms of consumers saving money, not just saving energy. So I litigated several of those Peak Load Pricing cases around the west, and the one in Montana

was the striking success.

Q: So even in those early days you were practicing outside of Colorado and sort of building relationships in other places.

A: Yes. And that led to my long-time love affair with Montana and some of my very close personal friends up there. I've tried a number of cases, mostly criminal, in Montana, Bozeman, and Billings. I defended Koch Industries once in Billings, Montana on a bid-rigging case.

Q: A true defense lawyer.

A: They were able to pay a fee.

Q: Looking at these early days, I mean, I know when I talked with Bryan about what life was like for you guys when the firm first started, all he could say was how much fun you had trying so many cases. I know that's how you feel, too.

A: We tried civil cases. We tried criminal cases. We went in front of regulatory bodies. We were on our feet all the time. And I used to say that our law firm was a 24/7 full-services law firm. That's because Morgan and I kept totally different hours.

Morgan is one of these guys who can't sleep beyond 1:00 or 2:00 in the morning. In those times, I would usually work writing briefs and preparing for next day's court until 1:00 or 2:00 in the morning. So we would often pass each other at about 1:00 or 2:00 in the morning coming or going from the office. So we had a lawyer in the office 24 hours a day, 7 days a week.

Q: Someone was always on duty?

A: Somebody was always on duty.

Q: You were also doing appellate work.

A: I did a lot of appellate work in that time, both federal and state. I think that resulted from some of the public defender appellate work I'd done, like *Sneed* and the *Bishop* case and others.

Because of *Bishop*, I got hired by several Latino radicals. The most famous of them was Juan Haro, who was charged with bombing something other than a power tower. I argued that in the Tenth Circuit for Juan and lost. So did Juan. But in the '70s and '80s before Rocky Flats came upon me, I had a very active appellate practice.

Q: I think that is a perfect segue into how the practice sort of expanded from the small group with you and Bryan and Lee, and how you guys worked to build, you know, to add on to your firm. So can you kind of walk us through that?

A: Ultimately, we wanted to be not just a criminal defense firm, but a litigation firm that wasn't just Colorado-based, but was regional, doing complex cases. We flattered ourselves that we liked high-profile cases.

It started to happen that high-profile trials came along. I could give you a litany of them, but Frank Tucker, three Frank Tucker trials happened in the late '70s and the early '80s.

Q: I'm thinking of the Kiewit case as a starter.



Bryan Morgan

Chapter 18

U.S. v. PETER KIEWIT SONS' CO.

A: Well, Kiewit -- there were three Peter Kiewit criminal, federal criminal cases -- we were bumping along doing federal felonies and state felonies, but we had never defended a corporation, a significant corporation.

Back in the '80s and even now, although the emphasis is different, if a major corporation was convicted of a federal criminal offense, it was automatically debarred from doing business with the federal government and a lot of state agencies, some for short periods of time, for some of them, it was the death penalty because of various federal debarment statutes.

Peter Kiewit Sons' Co. was in the 1980s, as it is now, the nation's largest highway contractor. It probably, at one point, was the largest in the world. Kiewit did a lot of business in Colorado. In the early 1970s, there were plans made and bids taken to build the Eisenhower Tunnel, which was the tunnel under the Continental Divide through which I-70 ran.

It didn't used to run that way. It used to be you had to go up and over Loveland Pass up about 12,000 feet, until the Eisenhower Tunnel was built in the early 1970s. Kiewit was selected to be the main contractor for that job.

It was an enormous multi-billion-dollar job, which was a lot of money then and even more money now. In any event, the contractor who got the bid to build the Eisenhower Tunnel had to win it by bidding against other contractors who wanted to do the same job, who had met qualifications in terms of technical expertise.

Kiewit won the bid, built the tunnel. But about the time the tunnel was done, there was a

lot of buzzing that the bid that Kiewit had won had been rigged. It had allegedly been rigged between Kiewit and its principal competitor, which was a Boulder highway construction firm called Flatirons Construction.

So the criminal division of the Department of Justice in Washington D.C. came to Colorado with all its resources and started a really vigorous investigation, ultimately indicted Kiewit and its CEO for bid rigging, which is a federal criminal offense, although it's, it was in those times at least, a common law federal criminal offense. It wasn't codified as a statute.

The charge against Kiewit was that its CEO had rigged the bid to get the Eisenhower Tunnel job with Flatirons. The name of the game in terms of the bid rigging part is you bid an amount that is within what the governmental agency will accept and pay, but you don't want to bid too low because you won't make as much money.

The other risk if you bid too high, or so it was thought, was if you bid too high, some competitor might beat you out of it. So the charge was that Kiewit and Flatirons rigged the bid so that Kiewit would win it and Flatirons would get major subcontracts on the job.

The federal prosecutors ultimately turned and made into their star witness the CEO of Flatirons, who claimed that he had rigged the bid by exchanging numbers on sheets of paper with the CEO of Kiewit at a 7-Eleven store which was located on the corner of Colorado Boulevard and Mississippi right across the street from the Department of Highways.

They supposedly sat down at coffee at the 7-Eleven, exchanged bids, decided who would bid the lowest and then walked across the street to the Department of Highways and submitted these rigged bids. So this is the story that he told under oath to a jury.

And I think the trial was in the mid 1980s now. Kiewit hired us to represent this executive. For a small law firm -- I think we were six lawyers and two investigators and two or three paralegals and assistants -- it was an extraordinary case to have, not just financially, but in terms of notoriety and stress.

But we were able to put all of our investigators on it full-time and really work the case hard. And what we learned through the brilliance of our investigators was that there was no 7-Eleven in existence at the time that the Flatirons executive said he had fixed the bid with the Kiewit executive at the 7-Eleven.

What happened is that we found this out during trial, because again under the Jencks Act, we only got our discovery after the opening statement. We found out that the guy had claimed that this bid got rigged at the 7-Eleven. My investigator and I, on a trial break, drove out to look at the scene.

The building at the 7-Eleven looked very new. So I asked my investigator to go down to the Denver Building Department and see when that 7-Eleven and the building housing it had been built. He determined that at the time the bid was supposedly rigged, there was no 7-Eleven there. As a matter of fact, there was a big construction hole in the ground.

We found an overhead photo, a picture of the hole in the ground, and showed it to the jury and spent the next two or three days just battering the government's witnesses about the 7-Eleven that didn't exist.

After a one-month trial the jury was out for about, I would say, two hours and came back and acquitted Kiewit and its executive. That case sort of launched a whole different phase in

terms of our law firm's practice.

We always stayed small. Whenever we did a case, it was everybody in. Everybody would be involved, the lawyers, the investigators, the paralegals. But we started getting extremely complex cases, a lot of white-collar cases. Kiewit got indicted twice more for bid rigging, which we called the "revenge phase" of the Eisenhower Tunnel prosecution.

So we had two more Kiewit trials and won them both. In the third one, Judge Carrigan was the judge. He actually ordered that we be allowed to take depositions of government witnesses, because the government prosecutors had told the witnesses that they shouldn't talk to the defense attorneys.

The Tenth Circuit affirmed that order 2 to 1, Judge Porfilio dissenting. But it's probably the only reported case in federal criminal jurisprudence where defense lawyers were allowed to take discovery depositions of government witnesses.

Q: We should mention also, or I should mention, when we looked at your reported cases, you had over 50 some cases reported when we pulled those. And so it bears noting just how much appellate work you were doing, because if you had 50 reported cases, you know there were certainly many more that went unreported.

A: I hope I won those unreported cases.

Q: Or not.

A: Or not.

Q: So the firm is working on cases like Kiewit and growing, and the identity is becoming

more associated with white-collar things.

A: Well, we didn't grow a lot. We never got bigger than 10 lawyers.

Q: Right, but bigger than three.

A: Bigger than three



Defense team and Defendants celebrate Kiewit acquittal at the legendary Punch Bowl bar adjacent to the federal courthouse in Denver, 1985

Chapter 19

ROCKY FLATS

Q: So what was the next big change in terms of big cases that the firm had?

A: A dramatic change of my life and practice and the firm's practice was on June 6th, 1989 when 120 federal agents raided the Rocky Flats Nuclear Weapons Plant. I still remember the day, because the manager of the Rocky Flats Nuclear Weapons Plant was an international company called Rockwell International.

Rockwell's General Counsel called me up and said words to the effect of, "There are 120 federal agents who have basically locked down our nuclear weapons plant. And there are 10 of them who are sitting outside our general counsel's office suite demanding to get in and get all of our legal records, and could you please help us." Literally that was the call.

I still remember driving out to Rocky Flats that day, and you couldn't just walk in to see your client. So I drove out there and I met Assistant General Counsel Gary Black who was on the scene, and he took me through about a two-hour security process to just get in the plant and get to the law office, where these federal agents were staking out the office and claiming that they had the authority of a warrant to come in and seize all of the company's legal documents.

Inside the office was the assistant general counsel, a wonderful guy named Jack McNett, and his secretary. They were hunkered in their bunker. I showed up and got on the phone with the federal magistrate and stayed there for about two days while we argued back and forth as to whether or not the federal agents could come in and grab the legal records.

I think the magistrate was Hilbert Schauer then. That's my recollection. And he

ultimately told them that we had to give assurances that we were going to preserve the records and would preserve them in a place that the magistrate knew about and organize them and otherwise keep them appropriately, but the government couldn't have them until there was litigation over whether or not they were entitled to get attorney/client privileged information.

That litigation, the criminal side of that fight took about three years, and they never got the legal records. But as a result of that, our little law firm got hired to represent Rockwell International, which was the contractor at Rocky Flats. And we were required to organize, code, review, and summarize about 200,000 documents most of which were classified. We all had to get --

Q: 200,000 or 200 million?

A: 200 million.

Q: Yeah.

A: We had to get security classifications at the highest level, which is called a "Q clearance" for our lawyers, for our investigators, for our paralegal. That's how I met our lifelong paralegal Ann Lundberg on June 6th, which we celebrate as our anniversary. She got a Q clearance.

So that's how many documents got seized by the federal government in this raid. The government's theory, criminal theory was that the contractor, with the assistance of the Department of Energy, was committing monstrous environmental crimes at Rocky Flats, crimes such as, they said in a search Warrant application they leaked to the public, burning radioactive nuclear waste at night when the prevailing wind would carry it over Denver.

That was alleged in the search warrant affidavit as a reason to conduct this raid. That affidavit was publicly released, and it caused absolute terror throughout metropolitan Denver. It also turned out to be totally false.

The allegations also included the storage of all sorts of nuclear waste in leaky containers, discharging radioactive water into public water streams, which were then used for drinking supplies. Those were some of the allegations in the search warrant, all of which, through really incredible factual digging, we were able to disprove.

For example, the allegation that they were burning nuclear waste at night came from a fly-over that the Environmental Protection Agency and the FBI had done over Rocky Flats at night. And when they flew over Rocky Flats at night, they detected a red glow in one of the tall 400-foot smokestacks, which was adjacent to the place where nuclear weapons, radioactive material was processed.

When it was all said and done and we had those photos analyzed by experts, including some from the government who came around, they concluded that it was simply heat coming out of the smokestack, and it had nothing to do with the incineration of nuclear waste. It was absurd. It was sensational.

That case basically consumed us for three years. We hired probably 80 lawyers in the Denver area to review and code and summarize the key documents. There were 12 individuals, executives of the company, who were targeted for criminal investigation and prosecution. We had to hire individual lawyers for each of them.

The lawyers we hired were either local or lawyers we had worked with from around the

country, like Vince Marella, Vince Fuller. We had frequent very, very confrontational meetings with the government investigators who insisted that they had not made this up, even though it turned out to all have been grossly, grossly misrepresented.

We had a meeting at the United States Department of Justice with the then - Attorney General and others where we made our case. And ultimately the government folded. The company agreed to plead guilty to storing 10 bins of nuclear waste without a current permit. The permit had expired. The company paid a \$10 million fine and no individuals were charged.

That all took three years. And it was intense. It resulted in a congressional investigation which excoriated the prosecutors, not for misrepresenting the facts, but for not indicting individuals. And it resulted in a runaway grand jury, which in turn spawned 20 years of litigation over whether a grand jury can issue a report, a public report that the Department of Justice will not authorize, which the sitting judge, Judge Finesilver, supervising the grand jury refused to release.

The grand jurors then leaked the report and litigated for about 20 years in front of Judge Matsch and the Tenth Circuit as to whether or not they had the right to release the report and speak to the press, because the grand jurors had only been fed the nonsense that resulted in the search itself. They hadn't been told the truth about any of these things. So that's a long soliloquy about an incredible part of Colorado's jurisprudence.

Q: I mean, there's -- like you said, there were 20 years of litigation that followed that --

A: Actually 30.

Q: 30.

A: The last Rocky Flats case -- I overstated it by three years -- 27. That last Rocky Flats litigation was resolved in 2018. It was a civil case brought by the landowners adjacent to Rocky Flats who sued back in 1989 when this raid started, and claimed that the government, by mismanaging the nuclear weapons plant, had devalued their property.

Sort of subsidiary to those claims was that the government and the contractors must have polluted their property and contaminated it. That was never proven. But that was a civil case which was tried in front of Judge Kane probably in the late 1990s for the first time, resulted in a one-billion dollar jury verdict against the company, which the government had to indemnify, the federal government had to indemnify.

The Tenth Circuit reversed that, sent it back to Judge Kane. Judge Kane reluctantly sent it back up and said, "Well, I still find the company is liable under state law grounds." And in 2000, I think, '17 or '18, in an opinion by Judge Gorsuch, the Tenth Circuit, I think it was 2 to 1, said, "This has really gone on long enough, and I'm going to affirm this on state law grounds."

After that, the billion dollars in mediation got whittled down to about \$300 million. And the federal government paid the plaintiffs \$300 million.

Q: Wow.

A: In 2019.

Q: And to be clear, you were --

A: That was 30 years later.

Q: Right. But you were not part of that litigation?

A: I was not part of that litigation. I did some of the whistle-blower litigation for Rocky Flats for the contractor. In the whistle-blower litigation, there was a former employee of the contractor Rockwell, named Jim Stone, who alleged that he had complained about all these crimes and nothing was done, and so he was entitled essentially to about \$100 million.

Judge Matsch was the trial judge in that case. And about 10 years into that litigation Judge Matsch held that because the case was so complex, all of the grand jury testimony should be turned over to the civil whistle-blower and his lawyers so that they could figure out what kind of claims they had and properly present them.

As a basic rule of grand jury secrecy under Federal Rule, Criminal Rule 6(e), grand jury transcripts are secret except under very limited circumstances. That got appealed to the Tenth Circuit. I went up on mandamus on behalf of the contractor and some of the individuals as well.

We had an extraordinary six-hour oral argument in front of the Tenth Circuit. We showed up expecting a half an hour to an hour, and the three judges -- Judge Anderson, Judge Lucero and Judge Baldock -- just kept pushing away and picking at the legal theories in extraordinary detail.

And, you know, you normally, when you do an appellate argument, you figure you've got 30 minutes a side. The bell rings and you leave. They wouldn't let us leave. We got into it about three hours' worth, and they said, "We're going to recess for lunch and come back in the afternoon."

So we came back in the afternoon and argued for three more hours. And, ultimately, they ruled in Rockwell's favor and said that there hadn't been a proper showing that grand jury

transcripts could be disclosed in a civil case in this fashion.

I had a couple of other similar cases in the 10th Circuit on the same issue. One was called *Lynde*, in a little bit different context. It was a case I did with John Kecker.

In re Special Grand Jury 89-2, 143 F.3d 565 (1998)
98 CJ C.A.R. 2157

143 F.3d 565
United States Court of Appeals,
Tenth Circuit.

In re SPECIAL GRAND JURY 89-2

No. 98-1073.
|
April 30, 1998.

Synopsis

Relator in qui tam action against government contractor, which was based on wrongful acts allegedly committed by contractor while operating nuclear weapons plant, filed action to obtain access to testimony given before grand jury that had investigated similar allegations against contractor. The United States District Court for the District of Colorado, Richard P. Matsch, Chief Judge, ordered disclosure. Contractor and intervenors opposing disclosure appealed. The Court of Appeals held that: (1) disclosure order erroneously permitted any party in qui tam action to obtain testimony of any witness in grand jury proceedings; (2) district court abused its discretion when it declined to review grand jury transcripts to be disclosed; and (3) district court could not delegate to counsel and United States attorney task of redacting and releasing transcripts as justified by particularized need for such materials.

Reversed and remanded.

Chapter 20

THE CRAWFORD HILL MANSION

Q: Rockwell was pivotal for lots of reasons for the firm. It was enormous, but also changed the geography of the firm a bit.

A: It did change the geography of the firm. Because when we had all of that monstrous volume of documents and witnesses to deal with and criminal targets whose lawyers we had to coordinate, we needed bigger quarters.

We were then located at a really neat red brick, historic building at 1034 Logan. The Crawford Hill mansion came on the market. The Crawford Hill mansion is one of Denver's architectural masterpieces. It's located at the corner of 10th Avenue and Sherman Streets. It was built in 1906.

It was the set piece for the musical "The Unsinkable Molly Brown" because of some of the early social highlights that happened at the Crawford Hill Mansion. But when Rockwell happened and we were just so overwhelmed for space, the Crawford Hill Mansion came on the market.

It had been operated for about 45 years as a Jewish social club called The Town Club. The Town Club was established in the 1940s at a time when almost all of the country clubs and athletic clubs in Denver were segregated, and they wouldn't allow Jewish people to be members.

So The Town Club was established as sort of the preeminent Jewish social club. I had done some political events at The Town Club for Gary Hart and Tim Wirth, who were U.S. Senators, and so I was familiar with it. And I was familiar with the people who owned it.

As Denver started to integrate and allow persons of color and persons of Jewish faith and others to join their country clubs and their athletic clubs, The Town Club couldn't sustain itself economically. So they put it on the market just about the time that Rocky Flats started. I was aware of it and bought it, renovated it and turned it into the law offices where we sit today.

Q: Where we sit today. Can you talk a little bit about the renovation?

A: Well, it was expensive. It was really expensive. The Town Club had for functional reasons done a lot of things that made the building more functional, but it really ruined a lot of the aesthetics. Some of the neat rooms, like the one we're sitting in with high molding, they had dropped the ceilings, covered up the molding to put air-conditioning in them. So this molding you see right now, you couldn't see.

Q: The fireplace was covered.

A: The fireplace, that fireplace was covered. These gorgeous columns around the side of the building had been covered up with cinder block to make a big coat room. And out in back they had done the same thing. They'd covered up that old back porch with cinder block to make more meeting space.

I became a great friend of an architect named Peter Dominick. Peter and I decided that we were going to renovate this place to make it functional as a law office, which requires all sorts of electronic and systems kinds of installations.

But we also wanted to restore it to its architectural integrity. And that's what we did. We ripped up all the cinder block. We opened up the ceilings. We opened up the fireplaces. As a result of it all, Peter and I got a national architectural award, and the building today is on the

National Historic Registry.

Q: There is also the bubble to speak of.

A: The bubble was a Peter Dominick creation and it is in what was essentially the grand ballroom of the Crawford Hill Mansion where a lot of prominent Jewish weddings occurred. People still come in here sometimes on their anniversaries just to see it and the fireplace.

But it's a huge room, and we couldn't figure out how to functionally use it as part of a law office. Peter designed this giant glass conference room which spans about half of the space, but didn't require that we tear down any of the historic lamps and the other historic artifacts in the room.

When another generation of users other than lawyers come here, that room will still be intact and can be used as it was constructed in 1906 and as it was intended. We refer to it as the "cone of silence," because you can sit in there and have a conference and sound doesn't penetrate. But anybody who is sitting in there can look out the glass and know that there is a future and a world beyond simply talking to lawyers.

Q: We didn't mention the pool.

A: It does have a swimming pool. The Town Club installed the swimming pool, and we kept it, at not an insignificant annual maintenance cost.

Q: We'll revisit pool happenings later, I think. Another case -- there are a handful of cases that are similar in many respects to Kiewit and Rocky Flats in terms of how they expanded the firm's white-collar practice. And I'm thinking of cases like British Petroleum, if you want to

talk about that for a moment.



The Crawford Hill Mansion



The Glass Conference Room



The Crawford Hill Mansion
Photo provided by the Denver Public Library, Western History Department

Chapter 21

U.S. v. BRITISH PETROLEUM AND CORPORATE CRIMINAL DEFENSE

A: Sure. British Petroleum -- everybody knows what British Petroleum is -- in the 1990s and 2000s, the largest oil producer in the world. British Petroleum had a really fascinating drilling operation up in the Arctic Circle on the Beaufort Sea.

The Beaufort Sea is pretty shallow. It's like only 30, 40 feet deep. Down below it's pretty much ice. So British Petroleum built a man-made island called Endicott Island and used it as a base camp for conducting underwater oil drilling operations throughout the entire Arctic.

They had a problem with how to dispose of some of their drilling wastes and solvents and things that they used to clean drills and chemicals they used to keep the equipment in good shape. So their solution in the 1990s was to simply pump it through the wells down into the bottom of the Beaufort Sea and into the subsurface.

That got known by the EPA and federal prosecutors, and so a huge criminal investigation ensued in Alaska, although it was being run out of the Department of Justice in D.C. as was Rocky Flats. And because of the work we had done on Rocky Flats and some other environmental cases, our law firm got hired to represent the facilities manager who was in charge of the entire operation up there.

So for a better part of probably two years, Pamela Mackey and I would fly to Anchorage and deal with witnesses and executives and gather facts and occasionally fly in the dead of winter up to Endicott Island. There's a great picture of Pamela in a moon suit walking around Endicott Island when it's 40 below zero.

In any event, we defended the facilities manager for about two years. Cyrus Vance, who is now the Manhattan DA, represented BP itself, and we ultimately settled for a no criminal prosecution of our client. So that was an interesting side trip from Rocky Flats. We did several other criminal cases for Rockwell, one in Iowa, one in Texas.

We did a major criminal case for Boeing in El Paso, Texas, which involved allegations that the fail-safe device on the nuclear bomber was defective, and there'd been price gouging on it. We won that case both criminally and civilly in El Paso.

So those were the kinds of cases that evolved from Rocky Flats. But the Ramsey case also happened in that time zone, which is the 1990s.

Q: I think what's remarkable in many ways about these groups of cases, the large cases that you've just told us about, is that these are not the kind of cases that typically go to a small firm.

These are the kinds of cases that usually go to an enormous firm with lots and lots and lots of hands. And I think that speaks so highly of the way that HMF and you managed cases like this. It's kind of unheard of.

A: Well, the way we managed them was always the same, a few variants, but all hands on deck. All hands on deck. If you go to court, most of the law firm would go, and not just the lawyers, but a lot of the paralegals, the receptionist -- we'd have to leave somebody to keep the lights on.

But it was all hands on deck. Everybody worked the case. Our investigators were, in those times, as good as you could find. They were all independent. They weren't with big firms like Pinkerton. And we had worked together.

Because we established that kind of a team approach in Kiewit -- I think Kiewit was the first time we really did it effectively and got notoriety -- these big corporations hired us. They always had big law firms that were backing them up and were whispering in their ear.

We coordinated with the big law firms because there were lots of regulatory problems we couldn't deal with, like debarment. But they would hire us to do the line stuff, factual digging, dealing with the prosecutors. Standing up in court.

Chapter 22

GARY HART CAMPAIGNS

Q: I think this is a good time to put a pin in Hal's legal practice and sort of turn our attention to the parallel career that was happening through most of the events we've been talking about here, which is your continuing public service on Gary Hart's campaigns. Shall we?

A: Sure.

Q: Well, let's go all the way back to leaving the public defender's office to work on the first campaign.

A: Well, as we discussed, I first met Gary Hart in 1968 in the Robert Kennedy campaign. He went on to, in 1971 and 1972, manage George McGovern's presidential campaign. McGovern was actually nominated and then soundly thrashed by Nixon in 1972.

I didn't work on that campaign, because I was in the public defender's office and we weren't allowed to do political activities. So I didn't work on the McGovern campaign. But I kept in touch with Gary, and in late 1973, he decided he was going to run for the U.S. Senate in Colorado.

He was casting around for a campaign manager, and he chanced upon my wife who said, "Hal's been at this public defender stuff for a long time. Why don't you talk to him?" So he took me to lunch and pitched me, pitched me on the public service essentials of it. It was Watergate times. And when I started, Nixon hadn't been forced to resign yet.

So we were right in the middle of those times. And it was an enormously important,

consequential time for the country. Gary was one of the most advanced, forward-looking political thinkers in our generation. I don't just say that. Many have said it better than I.

So he pitched me to manage his campaign. I left the public defender's office on December 31 of 1973, and I started in as his unpaid campaign manager on January 1, 1974. I did it until the November election.

Q: I spoke with Gary for this project, and I wanted to share a couple of things that he said about that. For example, when I asked him why he wanted you to manage his campaign, what he said was, and I'm quoting, "I wanted someone I knew and trusted, someone whose political instincts were as idealistic as mine to organize the campaign, and Hal was ideal."

What he also said was that when he tried to pitch you, you gave him 18 reasons why you weren't qualified, but he finally broke you down, and you agreed.

A: I think I had more than 18 reasons. I had never run a political campaign. My previous political campaign work was as a death penalty abolitionist and as an advance man.

Q: Well, I think one of the things that Gary also said was so important about your role, and aside from all the work you did on the campaign itself, he said that it was so important because you made sure he didn't get too far out on his skis, and you were pretty good at punching him down when he needed to be.

A: I had lots of constructive disagreements with him.

Q: That first campaign, the '74 campaign, so from January to November, I know you've told me that that was the really fun time. In your words, you said it was like being in a 10-month

murder trial.

A: Exactly. You're in an advocacy situation, but every day is a new news day. Every day you're chasing a different fact. It was Watergate times, and the incumbent was a two-term incumbent U.S. Senator named Peter Dominick, the father of my great architect friend, who had been very close to Nixon.

I actually had a couple of the criminal investigators who I used in the public defender's office come to work on a volunteer basis with me and dug into Senator Dominick's activities with Richard Nixon. On a couple of occasions, we found some fundraising situations that were pretty explosive and publicized them and then had to back up our findings with facts, which we had.

It was much like a 10-month murder trial. We were constantly digging for facts, constantly making sure our facts were correct, and if I had to correct Senator Hart, I would correct him -- publicly a couple of times, because your credibility is everything.

Q: One of the things that Gary said about you in particular was that you were very, very savvy with the press.

A: Well, there's a lot of irony in that since I became a mortal enemy of the press. But back in those times, Denver had two very good competitive newspapers and very good TV reporters who were substantive. It was Watergate times and so investigative reporters were very much in vogue.

Bob Woodward was a good friend of Gary's. Gary sometimes lived in Woodward's apartment when he was in D.C. So I got to know Woodward and Bernstein in those times. I

dealt face-to-face with a lot of really competent reporters who were in a competitive news environment in Denver, totally dissimilar from what you see now.

And, you know, my life experience is if you shoot straight with them and don't exaggerate, they'll respect you, and they come back for more. I developed some great friends in the press during those times who remain my friends even now. A couple of them have died. Peter Blake, in particular, was a great friend. He was sort of dean of the Colorado political reporters at the Rocky Mountain News. And Paula Woodward of Channel 9 is still my friend.

Q: After the '74 campaign, you then went to Morgan & Sherman?

A: Sherman & Morgan.

Q: Sorry. Sherman & Morgan. And those -- we've talked a little bit about what took place there, but you left again in 1980.

A: Well, by that time, we were Haddon Morgan & Foreman.

Q: Right.

A: So we'd been Haddon Morgan & Foreman for about five years, and we were establishing our practice. In that five-year interregnum I had also been appointed by the Governor to be Special Prosecutor for a state grand jury, which I was allowed to do while in private practice and did because it paid bills, too.

But that wound down in probably the 1979 time frame, after about three years. And Hart came around again and said, "Obviously, I'm going to run for reelection in 1980, and I want you to manage my campaign again."

I really didn't want to do it, because we had a really interesting, thriving law practice, and it involved me leaving it again for a year. Ultimately, I worked out some arrangements with Bryan and Lee and left and managed his second Senatorial campaign.

Q: That one wasn't nearly as fun as the first.

A: That one was no fun. The first one we won by literally 18 percentage points. The second one, we won by a little over a half a percentage point. It was 1980, and Jimmy Carter was up for reelection against Ronald Reagan. Carter was unpopular, and Reagan was charismatic. And there was a huge, huge Reagan wave coming across the country that was taking out Democratic politicians left and right.

A lot of sitting U.S. Senators, Democrats, lost their seats. It was the first -- it probably wasn't the first, but it was the first nasty negative campaign I had experienced, much like what is standard fare now, a lot of outside groups throwing money, doing ugly attack ads.

I remember a TV ad that portrayed Gary Hart as a baby in baby clothing shaking a rattle and crying because he was protesting some environmental issue, doing stuff like that. And it was ugly, ugly, ugly from beginning to end.

Q: How did you --

A: Except we won.

Q: How did you win? What do you think?

A: All the hard campaigns I've participated in, both Senate and Presidential, we put enormous importance on volunteers, unpaid volunteers, who because they believed in what the

Senator's ideals and policy proposals were, would go out and work precincts, door-to-door, phone calls, signs, rallies.

And we had what the New York Times said was the most impressive political organization it had seen in 1974, and we perpetuated that in '80. I believe we won that campaign strictly because we had volunteers who really cared and they worked their butts off. We got out every vote that there was to get.

Q: After those campaigns, came 1987's campaign.

A: Well, there was 1984 before 1987.

Q: That's true. There was an '84 campaign.

A: Senator Hart ran for President in 1984 --

Q: That is true.

A: -- and asked me to manage that campaign, and I declined.

Q: Why did you decline?

A: He and I had had some disagreements about policy and campaign approach. Some of them are personal. And I really liked being a lawyer. I had a terrific practice. I think I had a Kiewit trial under my belt by then. I didn't want to leave my practice.

And I didn't have a high confidence that I wanted to essentially live in Washington D.C. and not in Denver for all the reasons. So I said no. But he became a very hot commodity very soon in that campaign. He won the New Hampshire primary, and then he was the boy wonder.

So I got enlisted to go to some of the tougher states on the primary schedule: Illinois, where I spent about two months; Texas, where I spent about a month and a half. We lost both of those states, by the way. And then I went to California and we had a great victory, but it was too late.

Then I ran the floor of the '84 convention for Hart. But I didn't totally leave the practice of law. My loyal law partners kept me afloat and kept our cases going.

Q: When that campaign came to an end, in speaking about the press as you were a few moments ago, it brings to mind what that ending looked like. And I wonder if you would just say a little bit about that.

A: Well, the '84 campaign ended because Walter Mondale got more delegates at the convention, and then Mondale got swamped by Reagan. So Hart was the front runner for the '88 nomination. In fact, there's a brand new film out now called "The Front Runner," where Hugh Jackman plays Gary Hart as the front runner for that 1988 nomination.

So to get that going, Hart did not run for a third U.S. Senate term in '86 and announced that he was going to run for President and set up a campaign office in Denver on 16th Avenue, 16th and Park is where our offices were, and brought in a really high-powered national campaign staff to start building a Presidential campaign.

And he was clearly the front runner. For a change, we were able to raise money. I decided that he was likely to win it, and I wanted to be a part of it, and he asked me to be a part of it. So I signed on full-time and left my law practice again to run essentially the national delegate operation, the field operation.

Q: What did that look like?

A: Well, it didn't last very long, so I can't tell you much about what it looked like, because within about two, two-and-a-half months of my signing on, the Monkey Business scandal occurred, and Hart was out of the race.

Q: In that moment in time, I think of that moment in time as one of the very beginnings of what I will call the tabloid press monster, the feeding frenzy around that. Would you speak to that a little bit?

A: It's really hard to describe how bad it was. As you said, I had a lot of experience dealing with the press in previous Hart campaigns and in some of these legal cases, because they were high press cases. But my dealings with the press had always been straight-forward, factual. Some of them were more hostile and opinionated than others.

But in my experience, the vast majority of working press were honest and even if they spun things a certain way, they had factual reasons for doing it. The tabloid press, which really in many ways was sparked by the Monkey Business scandal and all that it entailed, the tabloid press is after people for their blood, their guts. Tear them down to tear them down. Sporting.

The National Enquirer is "sporting." I don't think the National Enquirer was very big then. They were in the game, but were not big in the game. I think they were just starting. But when the Monkey Business thing broke, literally hundreds of TV reporters, photo journalists descended on Hart wherever he went, shouting out questions.

I still remember Paul Taylor, a Washington Post reporter, a noted Washington Post reporter, yelling at Hart in a press conference where he's talking about arms control, "Do you

consider adultery immoral?" "Have you ever committed adultery?" That kind of stuff coming out of Washington Post reporters' mouths.

He was in New Hampshire when that happened, but they were just following him everywhere, swarms of them, yelling and insulting him. So at some point, Hart called me up. He was in New Hampshire. I was in Denver. I was full-time on the campaign.

He said, "I'm going to get out of this race. I can't function. I can't talk about issues. This is just going to overwhelm anything positive I want to do. So Ben Bradlee has some other damaging information about me, the Washington Post does. Would you call Ben Bradlee on my behalf?"

Ben Bradlee was the editor of the Washington Post at the time. "Tell him I'm getting out of the race, and I would appreciate it if he wouldn't run this next article he's contemplating. And ask him not to do that as a matter of good taste and comity." I tell this story, even though it sounds private, because Paul Taylor published a story about it.

So I called Ben Bradlee. Bradlee and I had an interesting conversation. Bradlee talks like this. He talks very low and he's very aggressive. I still remember him, and I think he had Paul Taylor on the phone when we were having this discussion.

Bradlee said, "Well, if he's getting out of the race, I don't see any reason why the story is newsworthy, so tell him God bless, and I hope we can work together on something else." He hung up the phone. Hart dropped out of the race the following day.

And then the Washington Post published a really damaging ugly, with-picture story of Hart's relationship with another woman the following day with an insinuation that I had tried to

“extort” them into not publishing the article by promising that Hart would get out of the race.

Bradlee called me back up and denounced the article. Ultimately Taylor, years later, left the Post and tried to track me down. In fact, he showed up here in this office and I refused to talk to him. But that’s that long, sad story.

I became, at that time, and have ever since been a total, complete enemy of the tabloids and a very unfriendly press source.

Q: That’ll do it. It was not for lack of having cases that involved the press. There were lots of very high-profile cases.

A: I’ve had plenty before and after, but it became readily apparent that you didn’t need a press profile to get important and substantive significant cases. You needed results and a good team. That’s what we always had.

Q: Unless there’s anything else you want to say about your time with the campaign --

A: Well, if you’re on the press theme, there was this last scene after Hart dropped out of the Presidential campaign in the spring of 1987. He hadn’t been in the campaign long. He was flying from New Hampshire to Denver with his wife, Lee, on a private plane. And I was detailed to pick him up at Jeffco airport and drive him about 20 miles to his ranch up around Kittredge.

I had hired a van with Pinkerton guards to drive it. I picked Gary and Lee up at Jeffco airport, and we drove to Kittredge. It was about 20 miles north and west. The press figured out that we were there. They literally sent chase cars after us to try to get the car to go off the road so they could take pictures. There were two press helicopters following us all that way to

Kittredge.

And when we got on this dirt road -- I'll never forget it. We got on this dirt road that runs from the paved highway to Hart's gate, which was about a mile long. It's a dirt road, fairly narrow. It was packed on both sides with cars and a lot of press trucks.

A couple of times reporters would drop out of the trees onto the hood of the car to take photos of us in the car. One of them dropped on the hood and shook a condom at Hart. That's sort of the origin of my distaste for the press.

Q: You and Gary remain very good friends to this day.

A: We were estranged for a good long time. But we've done some campaign things together. And I now sit on the board of the Hart Center for Public Service, which is centered at Metropolitan State University.

Q: Can you just say a few words about what the world might look like today had Gary Hart become president?

A: Well, if you look at the times, there would have been dramatic, dramatic kinds of climate and environmental initiatives. Hart was very, very knowledgeable and substantive about that.

There would have been much more significant enforceable arms control agreements in place. Hart had a great relationship with Gorbachev, interestingly. Gorbachev was, into the Reagan years, Russia's Premier.

Hart maintained those relationships, and the kind of international comity and arms control arrangements that would have resulted from that, would have been extraordinary, not in

terms of just the security of the country, but the livability of the planet.

Q: What a loss, truly.

A: Enormous loss.



Gary Hart and Hal Haddon, 1974

Haddon to Lead Hart Campaign

U.S. Senate candidate Gary Hart announced Wednesday the appointment of Harold A. Haddon, 32, of Aurora, to direct his campaign full time starting Jan. 1.

Hart is seeking the Democratic nomination in 1974.

He said Haddon has resigned a position as chief trial deputy for the Colorado public defender's office.

Haddon has been with the state office a year and formerly was on the public defender

staffs of Denver and Jefferson counties.

He has a law degree from Duke University and a master's degree in political science from the University of Michigan. From 1965 to 1970 he was an associate with the Denver law firm of Davis, Graham and Stubbs and for a year was an adjunct professor of law at the University of Denver.

His wife, Beverly, is associated with United Banks of Colorado, Inc., and is a volunteer

coordinator for the Hart campaign. They live at 2378 S. Oakland Circle East, Aurora.

Lure of campaign proves too much for Hart's chief

By BARBARA HADDAD RYAN
News Staff

Harold A. Haddon declared in 1974, while running Democrat Gary Hart's first campaign for the U.S. Senate, that he'd never do it again.

But you could have spotted Haddon the other day, in a dapper tweed suit and incongruous Western hat, moving equipment into Hart-for-Senate headquarters at 1540 Race St.

What happened to that 1974 promise?

"I lied," he said.

Pressed for a motive, Hart's 1980 campaign manager said with a smile that he's in the fray again because he cherishes his two basset hounds, "and Gary promised to make the basset hound the national beast."

Come on, be serious.

"Well," Haddon said, "I don't want to sound mushy, but I think Hart has done a superior job. When he first asked me to run the campaign, I said no. He told me to think about it. I thought about it, and I knew I'd do something."

Haddon's situation was different six years ago. He resigned as chief trial deputy for the Colorado public defender to manage Hart's race, while today he has his own law practice. He normally puts in an 80-hour week, mostly in criminal law, although his clients also include Howard Beck, ousted director of the Regional Transportation District.

Hart, of course, is no longer the untested kid out of Kansas but the right honorable incumbent. He's now a member of what has been called the world's most exclusive club — and is rumored to have presidential potential.

For all the enormous advantages of incumbency, however, Haddon thinks it's more fun to be the challenger.

"My instincts are to attack," he explained. Yet the incumbent must defend — his votes, his principles, every random remark that has made its way into the public record.

"It's also nice for the challenger because he can be here in the state all the time," Haddon said. "Our

candidate can't be. Three weekends a month is a lot tougher."

It's notably tough in scheduling events to raise the \$750,000 that Haddon is aiming at (compared to the \$300,000 which Hart spent to defeat Peter Dominick in 1974).

Among the fund-raisers already on tap is one next month, hosted by Denver oilman Marvin Davis, whose business associate, Myron "Mickey" Miller, is Hart's finance chairman. Also scheduled is an April concert by pop singer Linda Ronstadt, who put on a Hart benefit in his first campaign.

Haddon isn't about to predict who will win the Republican nomination to oppose Hart.

"That race is very fluid right now," he said. "If you had to put 'em all in a sack and shake 'em up," he added, the probable names on the primary ballot would be Secretary of State Mary Estill Buchanan, former Georgia congressman and Army Secretary Howard "Bo" Callaway, and state Sen. Sam Zakhem, R-Denver, with Callaway perhaps the winner.

"But I don't have a clue as to how Callaway would campaign in Colorado in the '80s as opposed to Georgia in the '60s," Haddon said, referring to Callaway's congressional races in his home state.

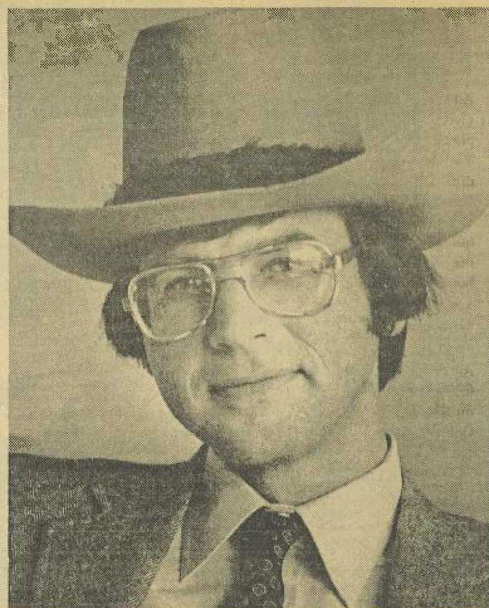
"And I don't think guys like John Cogswell and Frank Lee can be counted out," he added. "One of them could come from the outside and take it all."

Haddon is aware that GOP strategy includes charging Hart with inconsistency, claiming he's shifted from the far left toward the ideological center as election day approaches.

"That just won't wash," he said. "They're trying to put a label on Gary, and he's not a traditional politician. He goes beyond cliché solutions."

Haddon also pointed out with barely suppressed glee that such staunch Republican conservatives as Sens. Barry Goldwater, R-Ariz., Alan Simpson, R-Wyo., and Paul Laxalt, R-Nevada, have praised Hart's consistency and integrity.

What first attracted Haddon, he



NEWS PHOTO BY HOWARD BROCK

Harold A. Haddon

said, was Hart's "facility in applying innovative solutions to problems in a consensus way. He's both a pragmatist and an idealist."

They met when both were working on Robert Kennedy's presidential campaign in Colorado in 1968. Haddon said Hart, like Kennedy, "has grown in the job. We had a lot of ideas in '74, some practical and some not."

"He didn't really break out of the mold of relying on his colleagues until '76. Then he started staking out his own positions."

Hart, he said, has done extensive work on the economic and social impact of growth and new technology, as seen currently on Colorado's Western Slope.

"But I couldn't have predicted his military expertise, especially on the Navy," Haddon said. "This has helped him on the Armed Services Committee. He and (Sen. William) Cohen (R-Maine) have turned out to be lightning rods for the newer, younger strategists in the Pentagon."

Asked to name Hart's major asset and liability, Haddon said they're one and the same. "He's stubborn," Haddon said. "Once he sets his mind to something, he's hard to change. He's not much of a waffler."

Haddon was born in Holly, Mich., and grew up on his father's farm, where he became adept as "a manure spreader." He said his parents "were Eisenhower freaks," and the Kennedy race was his own first political activity.

A graduate of Albion College, Haddon earned a master's degree in political science at the University of Michigan and a law degree at Duke University, where he edited the law journal.

A Colorado resident for about 15 years, he has practiced law with the firm of Davis Graham Stubbs, has taught at the University of Denver Law School, has run the Jefferson County public defender's office, and has worked for the Environmental Defense Fund, in addition to his job with the state public defender's office.

Haddon will turn 40 a month after the November election. Then, he said, he'll have to decide — like Peter Pan — whether or not to grow up.

He does have two dogs to support, but his wife, who handled finances for the last campaign of Gov. Richard Lamm, is a vice president of the United Banks of Colorado.

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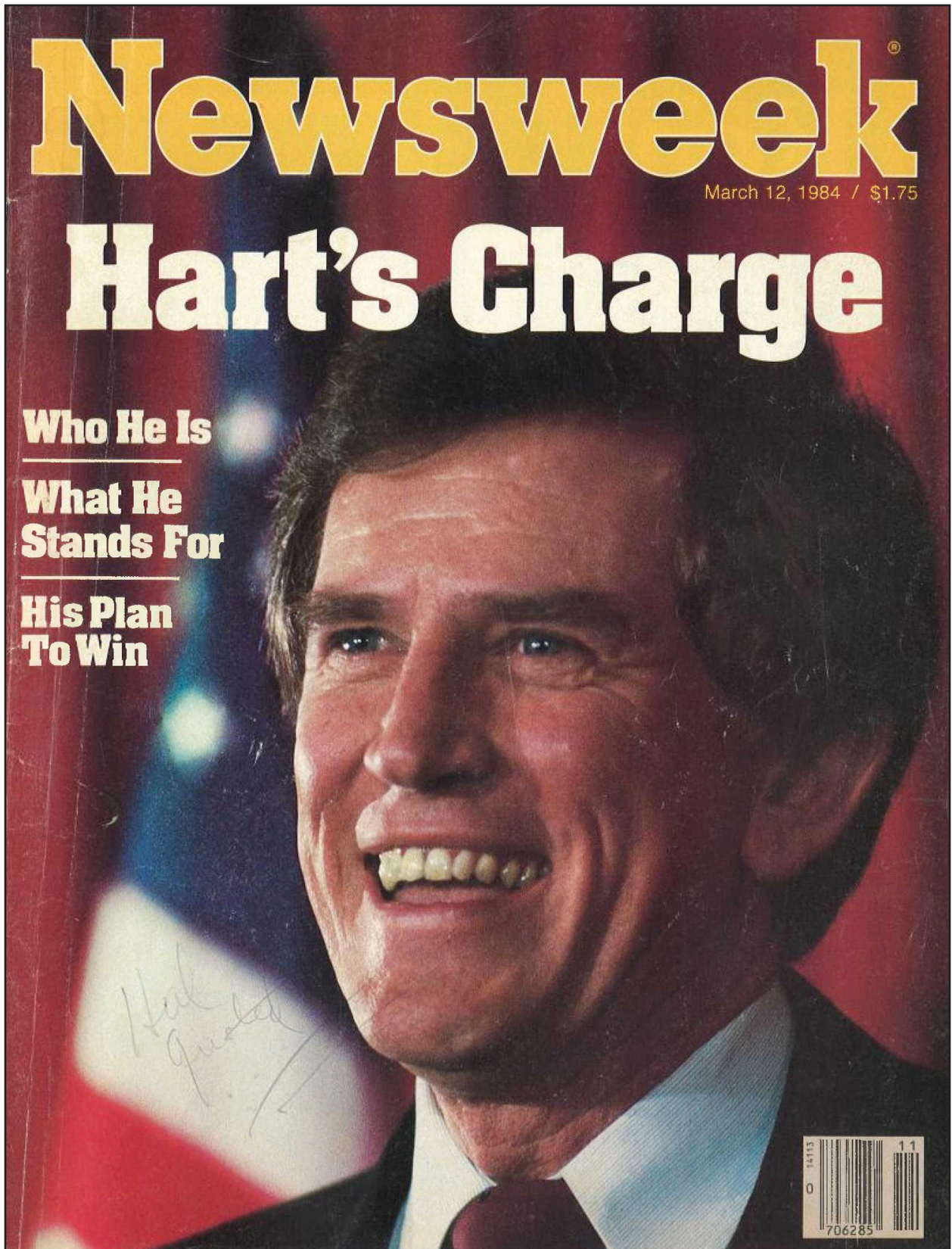
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Hart's Charge

Who He Is

**What He
Stands For**

**His Plan
To Win**



Gary Hart, 1984

Chapter 23

PEOPLE v. ROZEK

Q: Yeah. Well, turning back to your law practice, you've had some cases that you have categorized to me as the life-changing cases. One of those cases we've already talked about, which was the Cameron Bishop trial. But there are some others I wonder if you would tell us about. And I'll give you the first one I'm thinking of which involved Dr. Rozek.

A: Oh, Dr. Ed Rozek.

Q: Yeah.

A: Dr. Ed Rozek is dead now. He was a World War II war hero. He was Polish. He was a Polish patriot. He was captured and he spent at least two years in concentration camps. Because it was fashionable in those times at concentration camps to terrorize people, they would turn a pack of rats loose in his cell every night.

Ed Rozek ultimately got out, came to the U.S., got a Ph.D. and became the head of the political science department at the University of Colorado. He was a very charismatic guy; very, very conservative politically in his views. He became the political advisor and really godfather to the Coors family, godfather in the sense that he helped them set and frame their political agendas.

So he was a very, very conservative side of political and world view, totally different than the side that I came from. But Ed Rozek in the early 1980s had an ugly divorce with his wife. His wife started accusing him of misappropriating money that he had raised, nonprofit money he had raised for some programs at CU.

A special prosecutor was appointed because Boulder, Boulder County was the venue, but a special prosecutor from Arapahoe County was appointed who was grossly ambitious and press-conscious. He literally hired Rozek's wife, didn't pay her, but made Rozek's wife his investigator.

She would help draft search affidavits and things like that and they cooked up an insane prosecution of Ed Rozek for theft, fraud and forgery. Forgery for things like signing his own name to a check, because somehow the check was thought to be an improper use of nonprofit funds, even though it wasn't.

So with that as a background, we're in -- I think we're in the early '80s, and I've got a fairly high profile as a liberal activist trial lawyer. But Dr. Rozek gets charged with these things, and the Coors family, who are our mortal political enemies, told him to hire me.

So I took on his case. I had fabulous, fabulous discussions with him. I mean, his experiences and his views, even though we differed radically on premises, we always agreed on outcomes and where the world, where the country ought to be.

So I defended him for about a year and a half. It was very, very press-intensive. We had a preliminary hearing in Boulder District Court. He was charged with something like 10 felonies. At the end of the preliminary hearing, the judge, who was, I think, Joe Bellipanni, dismissed all but three of the charges and said at the end of it, "And I wouldn't convict him of those three either."

And then he said, "I think we need a new special prosecutor." So he dismissed the then-special-prosecutor, who was replaced by Jeff Bayless, who became a really terrific Denver

District Judge, who was then a prosecutor in Denver. Bayless worked the case for a about month and then dismissed it.

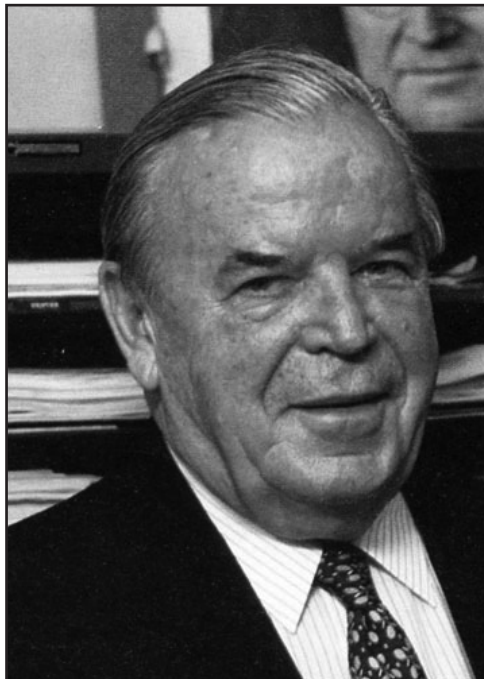
But poor Ed Rozek just went through hell in terms of his reputation. He lost his chairmanship at CU. But at the end of it all, he really became a hero again, a hero with a couple of different hats. U.S. Senator Hank Brown named Ed to be the godfather for his kids after that. In any event, it was a really important case for me in terms of perspectives. I learned a lot.

Q: Am I remembering correctly that Dr. Rozek's wife also tormented him in extremely --

A: Knowing his terror of rats, she used to come around at night and put rats in his house after they separated.

Q: And that was the person the special prosecutor chose to be the investigator?

A: The same.



Dr. Ed Rozek

Chapter 24

JONBENET RAMSEY MURDER

Q: Another life-changing case that you have mentioned would have started with a call on December 27th of 1996.

A: I will never forget it. December 27, 1996 is the day after JonBenet Ramsey was murdered in Boulder, Colorado. She was murdered Christmas day, I think actually the 26th of December of 1996. I have a very remote ranch in southwest Colorado, which does not have a television, not now, not ever. So I wasn't aware of what was going on.

But this enormous case in terms of press intensity had just blown up, because JonBenet Ramsey was a child beauty queen, and her parents were considered to be very rich, successful and -- showy rich in the sense that they were seen a lot at society functions and such.

John Ramsey was the chief executive of an electronics company, a software company, which was one of the really early pioneer software companies, called Access Graphics. So this child beauty queen is murdered. A ransom note is found, which starts out by saying, "We have your daughter."

When the parents come down in the morning on Christmas, they find this ransom note and their daughter is missing. Patsy Ramsey, the mother, calls 911, screams, says, "My daughter's gone. My daughter's gone." Boulder police arrive, the press arrives.

This case, the Ramsey case, occurred about six months after O.J. Simpson had been acquitted. So it was the first major media feeding frenzy of a "True Crime" nature since O.J.'s case. Press from all over the world descended on Boulder, Colorado, descended on the Ramseys,

who were living in this sort of gingerbread house in the middle of Boulder where their child had disappeared.

Boulder police sent a bunch of officers over who contaminated the scene. At one point, one of the officers told John Ramsey and one of his friends, “Why don’t you look around the house and see what you can find,” rather than securing the house for evidence and searching it themselves.

So John Ramsey and his friend walked around the house, went down in the basement, and in a closed storeroom in the basement, John Ramsey found his daughter JonBenet laying on the floor dead, picked her up, carried her upstairs, where Patsy Ramsey, JonBenet’s mother and about five of her friends were sitting comforting Patsy, and laid JonBenet down in front of her. They all fell on JonBenet and clutched her and cried.

If you look at it from a forensics standpoint, the contamination of that crime scene was just horrendous. But all that aside, the tabloid press grabbed it, because it’s the next O.J., and they decided that the spin that they were going to put on it was “rich people who put their kids in beauty pageants are basically child abusers.” Not even basically -- that’s the spin that they put on it from the beginning.

The Boulder police are blinded by the lights and as were some of the prosecutors. Not all the prosecutors in Boulder, but some were blinded by the lights. And they decided to target the Ramseys, because they put their kid in beauty pageants -- Patsy Ramsey by the way had been a beauty queen when she was 18.

But because they had put this beautiful six-year-old child in beauty pageants, they must

be child abusers, they must have killed their kid. The Ramseys were the sole targets of this criminal investigation, really for the better part of three or four years.

That's a long way of saying what happened to me on December 27, 1996. Because I got a call from the Ramsey's corporate lawyer, a terrific guy named Mike Bynum, who said, "My dear friends have lost their daughter, and the police simply, it seems to me, want to charge them with it. And there's no way they could have done it."

So I got in my snowcat, and I got back to Denver, which took me about two days. Bryan Morgan, who lived in Boulder, was on scene and started working, helping them right away. And not to complete a circle, but to tell you where we are today in 2020, no one has ever been charged with the murder of JonBenet Ramsey.

We're in the 24th year. We'll be coming up on the 25th anniversary of her murder in a year. And Boulder Police to this day seem to think the parents killed their daughter. And they operate on that investigative theory.

I still represent John Ramsey. After about a year of this 24-year investigation, the Ramseys went essentially broke, and we continued to represent them without fee ever since.

Q: One of the things that you've said to me that I think summarizes exactly what happened to John and Patsy was that the only thing that wasn't taken from them from this nightmare was their liberty.

A: In the course of all this media holocaust and law enforcement targeting, I know that they lost part of their sanity. They lost all their reputation. They lost all their money. Patsy died of ovarian cancer. John is still alive and living in Moab, Utah, where he runs a tour flight service.

But the media and the police destroyed these people, and they're utterly innocent victims of a monstrous crime.



Patsy and John Ramsey

Chapter 25

KOBE BRYANT

Q: Another life-changing case also was a call you received in Pagosa many years later.

A: That was the call I got from Kobe Bryant.

Q: That's right. Tell us about that.

A: I remember that day, too. It was July 2nd of 2003. I was back at my very remote ranch in Pagosa with no television. But I do have a telephone. I got a call from a guy named Rob Pelinka, who is now the general manager of the LA Lakers.

But Rob, at the time, was Kobe's agent, and he was also a lawyer. He practiced law at Mayer Brown in Chicago for a while before he became a full-time sports agent. I got a call from Rob, who said, "I tracked you down through sources who know you, and I just want to tell you that Kobe Bryant's in big trouble. I don't know much about it, other than it's someplace in Colorado around Vail. And I've asked him to give you a call, and he's got your phone number."

So I called down to my wife -- I'm upstairs in my office. I call down to my wife and I say, "Hey, Beverly, I'm going to get a call from Kobe pretty soon, and you need to put it through." She said, "Who's Kobe?"

Kobe was only 23 years old then, but he was already a huge NBA star and a legend. So the phone rings about a half an hour later, and I pick it up, and the voice on the other end says, "This is Kobe." I'm glad it wasn't my wife who answered the phone.

And so we talked. He was calling me from a pay phone in Glenwood Springs, Colorado.

What he related to me is that he had been in Vail at the Steadman Hawkins Clinic, getting an operation on his knee. He was staying at a lodge next to Vail called the Cordillera Lodge. And he had had a dalliance with one of the hotel staff at the Cordillera.

After his surgery, the police had swept him up, literally outside of his surgical suite, and driven him to Glenwood Springs for a rape kit analysis. After they did the analysis at some public hospital facility in Glenwood Springs, they just told him he was free to go, so he walked out the door.

But they did say, “We’d like you to come talk to us tomorrow in Eagle at the sheriff’s office.” He said to me, “Well, what do I do?” I said, “I don’t know enough about your situation to tell you how serious it is, but I can tell you there is no way you’re going to Eagle County Sheriff’s Office tomorrow to talk to them. What have you got for transportation?”

He said, “Well, I’ve got a private plane.” I said, “Where is your private plane?” He said, “Well, it’s at the Eagle Vail airport.” I said, “Well, you’re in Glenwood Springs now. And I suggest that you tell your pilot to fly to Aspen. And I have a good friend who is going to pick you up at Glenwood Springs Hospital and drive you to the Aspen airport. Get in your plane and fly back to LA, and we’ll deal with it.”

That was the beginning of the Kobe Bryant criminal and civil case, which lasted an intense 18, 19 months, which was almost all I did for the next 18 months.

Q: Yeah. We’re not going to talk a whole lot about the facts of that case, but can you speak to --

A: I’m required to say that the facts will always be in dispute.

Q: Correct. Can you speak a little bit about that prosecution, generally, in terms of the lessons that you took away from some of this?

A: Well, the sitting DA in Eagle was a guy named Mark Hurlbert. He was a perfectly pleasant guy who had, in my view, minimal experience and, quite frankly, didn't have a lot of judgment about questioning facts.

A good prosecutor, a good investigator, a good cop always looks at every side of a fact, turns over the rock and looks at every surface. He was totally uninquisitive. But he was also very politically ambitious. He's since run for offices a couple times, which didn't work out for him.

But he got a report from a couple of Eagle County Sheriff's officers who had interviewed the woman accuser who claimed she had been raped by Kobe. He took those reports at face value, in my view didn't seek any sort of forensic follow up, like, for example, sending investigators to the room where it supposedly happened to follow up on forensic evidence, fingerprints, fibers, hair, fluids. That didn't happen.

He just took the allegation at face value, went on national TV, and accused Kobe Bryant of rape. He, to this day, says that it was a totally righteous charge. But as our investigators went to work, they uncovered a trove of exculpatory evidence that you're well aware of. I won't go through it all.

But the most dramatic was DNA evidence and DNA analysis, which had been done by very capable Colorado Bureau of Investigation laboratory scientists, that showed that the accuser had had sex with another man within hours after she claims she had sex with Bryant, and had

DNA evidence of other sexual encounters on her body.

That DNA evidence was withheld from us. We had to file motions to get it, and the arguments against giving it to us were nonsense, like “work product.” Finally, we got an order from the judge, Judge Ruckriegle, who ordered that we get it and that we be allowed to talk to the scientist at the Colorado Bureau of Investigation.

Pamela Mackey and I worked that case together, intensely for 18 months. And when we talked to the scientist, she very candidly told us everything she had found and then said, “I told these prosecutors that they should be questioning the story that’s being told to them, because it is not consistent with DNA evidence that I have examined.”

That was never told to us. None of that exculpatory evidence was given to us except that which we had to force out. And you know how that case played out. The criminal case played out over 14 months, constant motions practice, intense, intense press notice.

As for the press, Eagle County has a little courthouse on the east end of the town of Eagle. And you will remember, because you were up there, that there were probably 100 to 150 press tents which were erected surrounding the entire courthouse, not to mention all the press vehicles and the satellite trucks and all the reporters who basically surrounded us every day that we were in court and traced everything we did.

But the press in that case was not all anti-Kobe. There was a lot of tabloid stuff. At one point I recall, we had a tabloid reporter down here at the Denver law office who climbed a tree and was taking pictures inside. The press was hideous on both sides, but it was sort of hideous-balanced. It was as adverse to the accuser as it was to Kobe.

Q: Would you call that prosecution sort of the actions of or the dangers of ambitious prosecutors?

A: Dangers of ambitious prosecutors totally and completely blinded by press attention and the chance to get your 20 minutes of fame. And now famous forever.

Q: Yeah.

A: I've seen a lot of that in my life. That was the worst. Ramsey had some of those elements, but that was the worst.

Q: Uh-huh. Can you talk for a minute about Kobe, Kobe the person. Because, of course, tragically we lost him recently.

A: You knew him. You knew him well. I loved him. When you're defending somebody in a case that intense, you spend hours every day with them, and even though he was playing basketball while he was defending himself, I probably talked to him every day for 18 months.

He never ever, ever, ever told me anything that I considered to be untrue. It's pretty rare in criminal practice, because even when your clients want you to be effective, a lot of them, because they've done terrible things, want to shade the facts in ways that are favorable to them or want you to shade the facts with prosecutors and juries that are favorable to them even though they're not totally accurate.

I never got anything but unvarnished truth from Kobe, even when it was embarrassing. He never went to college, but he was bright, sophisticated, and you'll remember this. I sure do. We had lots of really complicated motions practice with a lot of intricate legal issues in the

course of that case.

Every time we'd go to argue one of those motions, one of those issues, he would want to sit down. He would want to be told exactly what the basis of it was, the legal basis, what the tactical significance of it was. And he would want to understand what it meant going forward.

He was -- he thought like a lawyer, and because it was his life, he managed to see exactly how those issues affected him. It was an enormously complicated case in terms of legal issues. He always wanted to know exactly what it was about, and he got it.

And you may remember this, too. Before an important motions hearing every now and then, Kobe and Pamela and I would get in a small room, a lawyer's room, and Kobe would pump us up and say, "All right now. We gotta win this one. We gotta win this one." And he used to chest bump me. He didn't do that with Pamela, but he did it with me.

Q: He was a really special person.

A: He was. And he remained a friend until the end. I think I talked to him about two months before he died. I didn't have as much contact with him as Pamela did after the case, but I would often get a call out of the blue or a text saying -- it always started out the same way -- "Wassup? Wassup?"

And then he would talk about not necessarily basketball. He was doing wonderful stuff, nonprofit stuff, wonderful things with his wife, with women's basketball. And he was transitioning out, and finally was out of the playing part of basketball.

He was moving into public service, which you really saw at his funeral. All those

extraordinary people, many of them women, standing up and talking about what a change he had made in their lives.

Q: Yes.

A: And when that case first started, he was 23 years old. He learned so much. He grew so much.

Q: I wonder if you would mind telling a story that I love about Kobe, which is from the day that the case was dismissed. And Kobe had left Eagle to go home, and we couldn't reach him.

A: I remember it. I remember it vividly. After 14 months and on the third day of jury selection, the prosecutor finally quit. Quit because the accuser said that she wouldn't go forward. They didn't have her under subpoena, and she was in Florida, and she wouldn't come back to testify, which is in and of itself stunning in a case like that, after 14 months and three days of jury selection.

But in any event, Judge Ruckriegle on the prosecutor's motion dismissed the case. And then we had a long argument about whether or not the dismissal should be "with prejudice." And you may recall that the judge said, "Well, I don't know if I can dismiss it with prejudice, but I can put in my order that it can never be filed again. Will that satisfy you?" I said, "Yes."

Q: But Kobe wasn't there for that.

A: No, Kobe wasn't there for any of that, because that dismissal and that whole ruckus with the judge happened when he had flown back to LA because I think he had a ball game.

Q: And it was a Friday.

A: It was a Friday, and so he had flown back on his private plane to LA, and Pamela and I were trying to call him and reach him, but he's in his plane. So we couldn't reach him to tell him what was going on, the case had been dismissed. And so we had rented a house -- you were there.

We had rented a house in Beaver Creek and all the investigators and all the lawyers and all the staff who worked on the case were all there, and we were proceeding to consume alcoholic beverages. Kobe, who didn't drink, although he developed a taste for wine later in his life -- Kobe, who didn't drink, finally, took our call.

And when he heard what had happened, it was about, I've got to say 8 o'clock, 9 o'clock at night. He said, "I'm coming back. I want to be with my team." That was us. And so he got back in his private plane, and he flew from LA to Colorado.

And he got to the house, we were partying, at about 12:00, 1:00 in the morning. And we partied and told stories and hugged until dawn. We all stayed up all night long. I still remember, he was wearing a powder blue jump suit. And he was a gorgeous, gorgeous man.

So he came back to be with his "team," which was us, and about 7:00, 7:30 in the morning when the sun was just coming up, he said, "All right. I've got to go. I've got to get back to my plane." So he walked out the door, and he walked to the car that was going to drive him back to the airport.

Pamela and I were out there with him. It's frozen in my mind. He jumped straight up in the air with his right fist tightly clenched, and in his blue jump suit screamed, "Freedom. Thank you." And then he was gone.

Q: That was really emotional.

A: Yeah, it was. It's frozen in my mind.

Q: Well, Kobe was a big loss.



Kobe Bryant and Hal Haddon



Hal Haddon and Kobe Bryant at the Eagle County Courthouse, 2004



Kobe Bryant, Hal Haddon and Pamela Mackey at the Eagle County Courthouse, 2004

(Beginning of Day 2)
Chapter 26

CU FOUNDATION PATENT LITIGATION

Q: Thinking also of some of the other huge cases that you and the firm worked on, another case that comes to mind is the CU Foundation case. Can you tell us about that?

A: That was an exceptional case not just because of its facts and its jurisprudence, but also because of the way it came to me. It was a case that was filed in 1993 by my colleagues at Davis Graham & Stubbs and some other lawyers.

And our clients were the University of Colorado Foundation, which is a nonprofit arm of the University of Colorado, and two research doctors at the University of Colorado Medical Center. The research doctors, headed by Dr. Robert Allen, had been hired by a large international pharmaceutical company called Cyanamid to investigate the efficacy of a prenatal prescription vitamin called “Materna.”

The doctors were asked by the company to investigate its efficacy in terms of whether or not it gave pregnant women additional iron absorption, which they need during pregnancy. The doctors, hired by the pharmaceutical company, conducted a series of studies and concluded that this best-selling prescription prenatal vitamin didn’t work, that it didn’t deliver any additional iron in any significant quantities to pregnant women.

So they reported their initial studies to the company. The company said, “Well, thanks for your help. Don’t go any further. All your work is confidential, and we’ll look into it,” and did nothing else. The doctors were very anxious to figure out how to actually make the product work.

So even though they had been told to do nothing further, they kept on doing further studies and started tweaking the formula for this prescription prenatal vitamin, so that additional iron could be absorbed into a pregnant woman's body.

They actually invented a way to make this mass-market product work for pregnant women, so that they would get the additional iron absorption that they needed. So they're all excited about it, and these were very notable doctors -- Robert Allen and Paul Seligman.

They were well-published, and they wrote a draft article for publication in the New England Journal of Medicine talking about what they viewed as the failure of all of prescription prenatal vitamins on the market to actually give pregnant women what they needed in terms of additional iron and iron absorption.

As part of their article, they talked about how by changing the formula, they could actually make it work and make it very, very efficacious. And after they wrote a draft of that article, they presented it to the chief scientist at Cyanamid, and really as a courtesy said, "Look, you told us not to go any further, but we did, and we figured out how to make the product work and also how to improve the products of your competitors. And here is an article in draft form that we're going to submit to New England Journal of Medicine."

What the chief scientist at Cyanamid did after reading it was have an epiphany of his own and literally cut and pasted portions of the draft article that the doctors, the CU doctors had prepared, put it in a patent application, and patented a product called "Materna X," improved Materna, and got a patent on it so that none of the competitors could use the same formulas that these doctors working on their own for no pay had found and really invented.

That happened in approximately 1993. I was running around doing Rocky Flats work. And when Rocky Flats finally wound down as a criminal case in 1995, I took off for New Zealand and went fly-fishing for a month. When I came back, this lawsuit, which had been filed by a couple of the big law firms in town against American Home Products and its predecessor Cyanamid for patent infringement and intellectual property theft was set for trial in about a month's time after I got back.

American Home Products moved to disqualify the plaintiffs' lawyers, Davis Graham & Stubbs, some of my friends there, because at the same time that they were representing the professors in a suit against American Home Products, the same law firm was representing American Home Products in some unrelated litigation.

So Judge Matsch with about a month to go before that trial disqualified Davis Graham & Stubbs. CU and the doctors had nobody to try the case. But the good fortune for me was that I had just come back from New Zealand, and I didn't have a lot on my plate.

They actually came to me through a former district attorney in Grand Junction who I had done cases against and who was a friend of Dr. Allen. They came to me and hired me. I had for that case no backup except Bob Miller who was co-counsel and who was the former U.S. Attorney. So I had to learn the case in a month and try it.

Q: Wow.

A: There were some interesting articles written about how "lucky lawyer gets case in month and wins \$45,000,000." There's actually an article with that headline in Lawyers Weekly.

Q: Oh, wow.

A: I didn't get all of the \$45 million, but that was the damage award. We tried the case in front of Judge Kane. The trial went on for about three weeks, and our clients were extraordinarily persuasive. Judge Kane was perceptive in noting that the article had literally and demonstrably been cut and pasted and put into a patent application.

So he found for the doctors and he awarded them, he awarded CU \$43 million. And he gave each of the doctors a half a million dollars in punitive damages. That trial was in 1996.

The case didn't resolve for eight more years, because the defendant company took exception to, first of all, a federal judge relying on state law theories in addition to federal patent law, and also took exception to the way the judge computed the \$43 million in damages, which is essentially a computation of the amount of royalties that, a percentage of royalties that should have gone to the doctors according to the five percent royalty formula that inventors usually get.

So that case was appealed to the Federal Circuit. When we got to the Federal Circuit, I asked Michael Tigar to argue the case. It was an extraordinary argument because there were three Federal Circuit Judges, and one of them was about 95 years old. And he was the presiding judge.

Q: Wow.

A: And he was obviously not competent, but the other two judges had to defer to him, because he was still an active judge at age 95. He was the senior judge. So the oral argument was extraordinary. And the presiding judge, among other things, went off talking about an article he'd read in Hustler Magazine, which had nothing to do with the case or anything else.

Q: Oh, my.

A: And that argument went on for two or three hours because the senior judge wouldn't stop talking. And at the end of it, and I think we're in about 1999 now, the end of it, the case recessed, and because he was the senior judge, he apparently assigned the opinion to himself and then he did nothing.

Nothing happened for about two years until he died. And then after he died the remaining two judges on the panel filed an opinion and reversed the case in part because they said that the judge had used the wrong metrics for determining damages in a patent law context.

So we had a second trial. I think we're probably now in 2001. We had a second trial, but it wasn't on liability, because the Federal Circuit affirmed as to liability. In the second trial, we were arguing about how much in damages the Foundation and the doctors should get.

And one of the ironies in the first trial is that the lawyers for the doctors hadn't endorsed a damage expert for reasons that are still opaque to me. So I literally had to present a spreadsheet, which I prepared, calculating damages in the first trial.

At the second trial, we had a fantastic expert from Stanford who was very knowledgeable about royalties and royalty structures in pharmaceutical matters. His name was Dr. Dan Rubinfeld. He was an internationally renowned economist.

He testified, and he was extraordinarily persuasive. And instead of giving us \$43 million, the judge gave us \$58 million. But, of course, the time value of money is such that we're now into the case -- I'm into the case five years, and the case was almost eight years old.

That then got appealed to the Federal Circuit, which affirmed, and that got appealed to the United States Supreme Court. So in 2004, which was 11 years after that case was first filed,

the U.S. Supreme Court finally affirmed the liability and damage award parts of it. At the same time as we were doing Kobe Bryant, we finally got paid.

Q: That's a long -- a long-earned paycheck.

A: It was shorter than Rocky Flats.

Q: I remember that. I didn't have any familiarity with what the case was about, but I do remember the paycheck.

A: I hope you got a bonus.

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VERDICT SPOTLIGHT

Lawyer Gets Case One Month Before Trial, Wins \$45 Million

By Amy Johnson

Just one month before trial, a judge ordered the law firm representing the plaintiffs in a complex patent dispute to back out because of a conflict of interest. Hal Haddon, a small-firm lawyer who primarily does criminal defense and had never tried a patent case, agreed to take over — even though he couldn't use any of the previous lawyers' notes, only their depositions and exhibits.

The businesslike Haddon, who practices in Denver, can't help but smile when he recalls the verdict.

"Forty-five million dollars," he says, giggling.

Preparing a case on the fly is nothing extraordinary, Haddon insists. Federal courts al-



which eventually concluded that both Materna and the competitor's vitamins had poor iron absorption ratings. The results were reported to Ellenbogen.

Independent of Cyanamid and Ellenbogen, the professors conducted a second study to determine why iron absorption was low. They reported these results to Ellenbogen, who paid the university an additional \$5,000 for the new study.

The professors then continued their research on iron absorption, this time without the sponsorship of Cyanamid. They conducted two more studies but weren't paid for them.

In March 1980, the professors developed a formula for a new prenatal vitamin that was better than Cyanamid's.

Scientists at the University of Colorado developed a formula for a prenatal vitamin; a colleague at American Cyanamid secretly obtained a patent on it — and the company earned millions.

Chapter 27

PRACTICE IN SOUTHERN DISTRICT OF NEW YORK

Q: You mentioned being in the Federal Circuit and the Supreme Court, and that was not your only case in lots of different jurisdictions, particularly federal jurisdictions. And I'm thinking now of the Southern District of New York.

A: I had about a 10 to 15-year diversion to the Southern District of New York. It started really in the year 2000 when I took on a very complicated securities fraud case involving manipulation of the IPO market, the market for initial public offerings. The person who I was representing was from Denver.

I still remember flying into LaGuardia at midnight on a private jet with my partner Pamela Mackey to start the representation of that case, which was both a criminal investigation involving the Southern District of New York U.S. Attorney's office and also was a civil SEC investigation, a regulatory investigation.

We had grand jury proceedings. Ultimately my client gave grand jury testimony. One of the great ironies of that case is that the government had executed a search warrant on my client's office in Denver in 2000 on behalf of the SEC, seized all of his documents and took them back to New York at SEC headquarters, which were located in the World Trade Center. And on 9-11, all of the documents that they had seized from my client were incinerated.

Q: Oh, wow.

A: In any event, I don't think that necessarily affected the outcome, but, ultimately, after 2, 2-1/2 years of really intense work, the government did not charge him criminally, and they did

not seek any civil or regulatory sanctions against him.

They did, in a really famous case, indict Frank Quattrone. Quattrone was sort of king of the IPO market-makers in the early 2000s when there was a big scandal about how the IPO market was being manipulated. Quattrone went to trial represented by my friend John Kecker, not once, but twice. My client testified in one of those trials.

So I had a complete immersion in not only how business gets done in the U.S. Attorney's Office and the SEC in the Southern District of New York, but I started living in New York about half-time and learned just about all of the good, and some of the bad hotels in Manhattan up and down the street.

And as a result of that, I got hired not just by Denver people, but by people from other places to represent them in securities fraud, insider trading cases. And, as you know, I ultimately had about a three-month trial in the Southern District of New York representing a businessman, Frederick Bourke, in a Foreign Corrupt Practices Act prosecution, which is the only Foreign Corrupt Practices Act case ever tried to a jury, I think.

And so I spent probably the decade between 2000 and 2010, at least half-time, practicing law in the Southern District of New York Federal Court and in the Second Circuit.

Q: And the Supreme Court again.

A: And the Supreme Court.

Q: You've been around, let's just say.

A: I loved New York then.

Q: Turning the page to, well, some of these life-changing cases around the country, let's talk about some of the other legendary characters, we'll say, that have darkened your door over the years.

A: I'm not sure they darkened my door. I think they lightened my life.

Chapter 28

HUNTER S. THOMPSON

Q: Let's start with one of your good friends and a real icon, Hunter S. Thompson. Can you tell us how you met Hunter?

A: Hunter Thompson was, along with Tom Wolfe, probably the most renowned literary political satirist of the 1970s and the 1980s. He was an extraordinary character, and one of his best books -- I think it was his best book -- is called, "*Fear and Loathing on the Campaign Trail*," which is a book that he wrote in 1972 about the McGovern campaign.

And he published about 20 other books. But, to me, that was the best thing he ever wrote, although a lot of people disagree and think things like "*Fear and Loathing in Las Vegas*" were better. But that as an aside, he had covered the McGovern campaign, for which my friend Gary Hart was campaign manager. So Hart and Hunter developed a relationship.

Hunter was, at that time, a very prolific writer and he was publishing an article at least once a month in *The Rolling Stone*, which people, people of my age -- I was in my 30s then -- and people younger, who were politically aware, were just devouring. We would wait until *Rolling Stone* would arrive in a newsstand at one minute past midnight and try to get our hands on a copy. They were just extraordinary, extraordinary works of political satire.

So when I managed Hart's campaign in 1974, he wasn't able to pay me anything. When we got done, and we had won, he said, "So what can I do to thank you for all you've done?" I said, "I want to meet Hunter Thompson."

So as it happened, Hunter was coming through town, town being Denver. Hart arranged

for us to have a “lunch” as he called it, because we arranged to meet Hunter at the Oxford Hotel in downtown Denver about 12:00 for lunch. Hunter had pretty nocturnal habits that were fueled by all sorts of controlled and uncontrolled substances, and so we got to the Oxford Hotel in the restaurant about noon, as we were supposed to do. Hunter didn’t show up until about 4 o’clock.

And when Hunter showed up, he immediately ordered at least three different cocktails -- a Bloody Mary for sure, a glass of scotch on the rocks for sure, and a glass of Wild Turkey on the rocks for sure. And then when the waitress asked what he wanted for lunch from the menu, he said, “I’ll take it all.”

When the waitress said, “You mean, everything on the menu,” he said, “Yes.” I saw him do that several times in restaurants after that. So the poor waitress goes and gets him his three drinks. Hart and I are sitting there drinking water. And the waitress brings out a sampling of everything on the menu.

So we sat there for about three hours and had just marvelous discussions about politics and law, because he found out I was a lawyer and had been a criminal lawyer, which he liked because he had constant need for criminal lawyers.

After that, he started calling me just to talk, talk about politics, talk about law. I had a small condo in Aspen at that time in the mid-1970s. When I would go to Aspen, he would lure me up to his place at Owl Farm, which was made famous or infamous by Gary Trudeau’s Doonesbury column. I would spend many a Sunday afternoon up there watching football with some fascinating, interesting people like Ed Bradley, Tom Friedman, Don Henley, the Sheriff, and others.

Q: You had a rule, though, for hanging out with Hunter.

A: I had an ironclad rule about hanging out with Hunter Thompson. He knew it was my rule, and it was one he constantly tried to get around and violate. My rule was, I will be out of your presence and out of your house by 10:00 p.m. any time I come visit you, because what happens in your house after 10:00 p.m. is beyond description.

I have a law license. I want to keep it. And whatever happens in your house after 10:00 p.m. will not be on me. Occasionally when he wanted me to stick around for some horrible 2:00 a.m. event that he was planning, he would pull all sorts of stratagems and claim my tires were flat and go out and pull me back or wave his gun at me just to get me to stay.

But my rule, which I never violated, was “I’m out of your house by 10:00 p.m. because everything that happens after 10:00 p.m. in this house is almost by definition unlawful.”

Q: Aside from the rule, can you talk a little bit about Hunter’s sort of style of communication with you and the timing of that?

A: Whenever my phone would ring at 3:00 or 4:00 in the morning -- typically you get a call at 3:00 or 4:00 in the morning, you think something’s happened, something terrible has happened to some friend of yours or some case. But almost always when my phone would ring at 3:00 or 4:00 in the morning, it would be Hunter Thompson wanting to talk.

You’d pick up the phone and the first words you’d hear were, “Counselor, we must talk.” And then off he’d go wanting to discuss political events of the day or the week and whatever legal problems he had acquired during the night. And off he’d go.

He never was computer literate. He always typed on an electronic typewriter. He'd often fax me stuff at 2:00 or 3:00 in the morning with all sorts of grim and dark predictions about the future of mankind and what was going to happen to me in particular.

Q: I remember several days coming into the office and pulling off some Hunter faxes. He had a very distinct handwriting that was rather slasher, I guess I might describe it. You knew what his night had been like based on whatever was on the fax machine that appeared in our office.

A: That's true.

Q: You mentioned his need for criminal defense attorneys. And, in fact, he did need you on a couple of occasions. Can you talk us through some of that?

A: Well, the really famous case that drew international interest happened in 1989 in Aspen. It involved Hunter having his house searched top to bottom with a search warrant that was executed by the local district attorney's office on the allegations of a woman named Gail Palmer-Slater, who in the search warrant affidavit claimed that she was a journalist who had gone to Hunter's house at Owl Farm to conduct a serious journalistic interview.

While she was there, she claimed she was shocked to see, "shocked" to see that cocaine was being consumed, and she was even offered cocaine. There was a lot of violent language. At some point she somehow found herself in a hot tub. And Hunter, according to her, viciously twisted her breast and otherwise sexually assaulted her. When she protested, he threw her out in the snow and called a cab for her.

Those were the allegations in the search warrant affidavit, which led to about a 12-hour

search of Hunter's house, top to bottom, where very, very small quantities of drugs were found. Actually, the only quantities of drugs that were found were residue of cocaine on a spoon, not in an amount that could have been used, and some LSD in his son's suitcase.

As Hunter said later, "If I'd known there had been LSD, I would have eaten it a long time ago. That wasn't mine." That was his defense to that LSD charge. And they found explosives. So they charged him with possession of all of those substances -- possession of explosives without a permit. The explosives were to be used essentially for entertainment at night to light up the sky.

They charged him with sexual assault, which was by far the most serious and grave offense charged because of the allegations of the so-called reporter. So he hired me to represent him. It was an extraordinary circus. We've talked about media circuses. That was an early one.

Because of Hunter and who he was, TV and print reporters showed up from all over the world to cover everything that happened in court. When he was writing for the San Francisco Chronicle, Hunter had spent some of his nights in a strip club called the O'Farrell Theater where he billed himself as, quote, "The Night Manager."

He even wrote an unpublished book called, "The Night Manager," about the strip club at the O'Farrell Theater. So the proprietors of the O'Farrell Theater sent their strippers to Aspen to demonstrate during the time we were in court.

Strippers in very, very slight garb would troop around the courthouse with signs saying, "Free Hunter." "Free my G-string." "Save the 4th Amendment." And that caught some media attention, too. So all that was going on while we were in court defending this case.

We won the case. It unraveled at a preliminary hearing where the accuser, Gail Palmer-Slater, testified. In the Aspen district courtroom, unlike most courtrooms, the witness box sits pretty close to the defense table as opposed to the prosecution table.

So when Gail Palmer-Slater was called to testify by the prosecution about all these vile deeds, she walked up to the witness stand, and Hunter was sitting at the defense table. She leaned over and smiled and waved at Hunter and said, “Hi, Hunter. How are you?”

Q: Oh, my gosh.

A: Literally happened. Literally happened. So I got up to cross-examine her. The main point I was trying to make was that she was not a “reporter” from out of town coming to Aspen to write a serious story.

In fact, my investigators determined that she was the first woman producer of pornographic movies and had appeared in several where she had production credits as well as acting credits. She had told some friends, which she admitted to on the stand, that she was up at Hunter’s house because she wanted to produce a pornographic movie version of his book *“Fear and Loathing in Las Vegas.”*

Although she initially claimed that she didn’t do anything to suggest that she might be interested in him sexually, we discovered that she had a preprinted card which she often sent to people and which she had sent to Hunter. On the front page of the card it said, “Sex is a dirty business.” And then when you opened the card it said, “But somebody’s got to do it.”

She had sent that card to Hunter as an introduction to herself to come and interview him and talk to him about making a pornographic movie. So the notion that she was some innocent

reporter who had simply fallen afoul of this monster in his lair was total nonsense.

That preliminary hearing was sensational. The courtroom was packed. The press was streaming out the door and out onto the street. And it was such outrageous testimony that the press just went wild. After the preliminary hearing, we walked out of the courthouse, and Hunter looked at the crowd, he held up a victory sign, and then he rolled in the grass for the cameras.

It was just crazy. The judge actually dismissed a couple of counts and confessed that he was a reader of Hunter Thompson's books in the course of his ruling. And the disgrace of what had happened, disgrace to law enforcement at the preliminary hearing, was such that after about a week, the prosecution just quit. Dismissed the entire case.

Q: There are some really incredible press stories about that.

A: Yes, there are. They're all true.

Q: And the pictures of the moment that you're describing with Hunter are also -- there are lots of those. Really incredible. Saskia Jordan, your partner, was with you in that.

A: Yes, she was. And she was in charge of controlling Hunter at the defense table, which was no mean feat. Because Hunter, as you might imagine, is very demonstrative. And even though we would start court about 8:30 in the morning, he had to have alcohol with him at all times. So under the guise of having a big water bottle, he had a bottle full of vodka in front of him which he was sipping at all times.

Q: Oh, gosh.

A: And there's no telling what he did during court breaks.

Q: You know, Hunter remained really involved in, sort of as an observer of criminal cases and the criminal law in Colorado, in particular. And he spoke with you about that frequently.

Am I right about that?

A: Too frequently.

Q: He became particularly interested in the case of a woman named Lisl Auman.

A: He gets credit, great credit for saving Lisl Auman. Saving her from the legal system. Lisl Auman was a woman who was convicted of felony murder out of Denver.

And the short fact pattern is that she was living in a condo in Jefferson County with a boyfriend. She broke up with the boyfriend, and he wouldn't let her take her belongings with her when she left. So she found another boyfriend to go up and help essentially break down the door and take her clothing and her personal items and drive them back to Denver.

But somebody, some neighbor, saw that happening and called the police. So they were driving back to Denver down U.S. 6 and all of a sudden there's a big police chase. And a lot of police cars joined in. This guy that she was with started driving 120 miles an hour and leaning out the window and firing guns at the cops.

She's just sitting there in the passenger seat, but occasionally while he would hang out the window, she would hold the steering wheel at 120 miles an hour so the car wouldn't crash. They finally got to Denver and pulled in behind a building, and the cops surrounded them.

He got out with a gun and started running. She got out and held her hands up and was arrested. He kept on running and turned around and shot a police officer while she was under

arrest. And then, of course, they shot him.

So there was no defendant to be tried except her. And she was tried in Denver and convicted of felony murder because she was complicit in driving back to Denver by holding the steering wheel. That was the theory of the felony murder. It was a highly publicized case.

She was a very sympathetic woman, a bright woman, and probably spent eight years in the Colorado State Penitentiary. But she was a reader, and she read a couple of Hunter's books. From prison, she sent Hunter a note saying, "I loved your books. My name is Lisl Auman. I'm here doing life without parole, and here are a couple clippings about my case. I really wish I could come see you, and we could talk."

She didn't ask for help, but Hunter read the articles, and he read her note. He called me up and said, "We've gotta get this woman out of jail." Her conviction had been affirmed. She'd been through a lot of post-conviction relief motions by that time.

Really with Hunter's leadership, Hunter started writing articles, holding rallies, and we put together a team of lawyers to file a Rule 35 motion, the gist of which was that even though there had been other appeals, they hadn't been competently handled, in part because there was a defective jury instruction that had never been raised as an appellate issue.

The Colorado Supreme Court took it. I think they took it in large measure because it was a matter of great public interest. In a 5 to 2 decision they reversed her conviction, gave her a new trial, after which we were able to negotiate a plea to a lesser offense, and she was released with time served after eight years, and has gone on to get a college degree. I think she works now in healthcare.

But Hunter gets credit for that. Hunter had a keen eye for injustice. He founded what he called a “Foundation.” It never had any money, but he had a group of notables who were directors of something he called the “Fourth Amendment Foundation.”

Occasionally the Fourth Amendment Foundation filed amicus briefs in the Supreme Court on matters of interest. Because of the notables like George McGovern who were on the Foundation board regardless of their knowledge, they got attention when they filed amicus briefs.

Q: Hunter sort of became an advocate for you in terms of the Aspen community in those early days. Can you talk a little bit about that?

A: Well, he was my referral source, and because he knew all of the miscreants in town, he was a great referral source. I did a lot of trial work in Aspen in the 1970s and ‘80s. A lot of it was very bizarre.

I once defended the Sheriff of Aspen and the City of Aspen because the federal government, U.S. Attorney’s Office in Denver, had decided they wanted to charge the City of Aspen and the Sheriff with being racketeers, and the City was a racketeer-influenced, corrupt organization (RICO). Their legal theory was, the U.S. Attorney, that Aspen’s prosecutors and police wouldn’t prosecute drug offenders, and, therefore, they were racketeers.

They convened a grand jury in Denver, a federal grand jury, which started subpoenaing law enforcement people and local people to try to make a case that Aspen, the City, was a racketeer-influenced, corrupt organization.

Hunter got me involved in that. I represented the Sheriff and we ultimately, with the help

of some enterprising reporters for *The Rocky Mountain News*, shut them down, because they were making public statements which were totally inconsistent with statements, tape-recorded statements, that the DEA agents had made to the Sheriff.

That was a sensational case, and after that I probably tried five or six cases to verdict in Aspen in the late '70s and early 1980s. Most came to me because Hunter knew these miscreants.

Q: You mentioned a moment ago about some of the time that you spent with Hunter with people like Ed Bradley. There was a name for that group, or so it is said in legend.

A: Well, the name of our Sunday afternoon group was called The Woody Creek Rod and Gun Club. It was a mythical organization with no dues, no membership, no logo. But we called ourselves charter members of The Woody Creek Rod and Gun Club. It meant that on Sunday afternoons when there was professional football being played, there were no laws which needed to be observed in Woody Creek.

Q: There was letterhead for the Woody Creek Rod and Gun Club.

A: Yes, there was letterhead. Ed Bradley, who I actually, as you know, interviewed on this subject, was one of the charter members. Ed Bradley was the great 60 Minutes reporter who died about 10 years ago. Ed was probably the ringleader of the Woody Creek Rod and Gun Club. He'd call us all up, harass us, make us go up to Hunter's house, watch football, let Hunter fire off weapons and talk about events of the day.

Q: You visited Owl Farm many, many times, but you also visited one time in particular with Gary Hart and his son. Would you tell us about that?

A: That was a notable event in 1984, because Gary Hart at that time was running for President of the United States. He had won the New Hampshire primary, and he was thought to be a rising star and probably the front runner for the Democratic presidential nomination that year.

And he knew, because he had been responsible, that Hunter and I had become good friends. And he always valued Hunter's political advice, truly, because Hunter was a voice for young progressives. So he asked me to set up a lunch with Hunter at a time when Gary was going to be in Aspen with his son.

So I arranged to have lunch at Hunter's house at Owl Farm with Gary Hart and his son John and me, to essentially talk about the presidential campaign and Hunter's perspective on the kind of themes that would be important to young people and people who he particularly resonated with.

We went to Hunter's house. Hunter was sober and charming. Showed up about noon, which was early, extraordinary. It was summertime, and he brought out a big roast turkey. He put it on a lazy susan on a table. We were all sitting around this table. The lazy susan was in the middle, and we were slicing turkey and eating it.

Hunter, among other things, raised peacocks. You can see peacocks in the Doonesbury comic strips. They're huge, aggressive birds. Hunter let them run all over his place. Because it was summertime, his side doors and windows were open. A giant peacock flew into the living room and attacked the turkey, which was on the lazy susan.

Hunter always had a pretty short fuse, and he got outraged. The peacock was on the lazy

susan eating the turkey. Hunter jumped on top of the peacock and started strangling it. The peacock did not take that well and started beaking and pecking Hunter and tearing up his face and turned him into a bloody mess.

So Senator Hart is sitting there watching this and thinking he might be President of the United States in about six months. And he was horrified, so he got up with his son, and they just fled. They ran out and got in the car. Never came back.

Q: Smart.

A: Yeah. And, ultimately, the peacock won. Because we had to take Hunter in and bandage him up. We kicked the peacock out and fed it some extra turkey.

Q: It's funny that that wild of a story is not the wildest story you probably have. And I won't ask for any more wild stories.

A: This is, after all, a judicial interview.

Q: Correct. Not to do too harsh of a left turn, but ultimately, you know, Hunter took his life and left you and other people in charge of his estate. Would you tell us a little bit about that?

A: Hunter got in increasingly poor health. He lived a savagely bad life in terms of what he did to his body. And probably starting in about 2001, 2002, he had trouble being ambulatory, walking. He had hip surgery, which doctors were terrified to do because they couldn't medicate him, because of all the other drugs in his body.

And he got to the point where he couldn't go anywhere without being assisted and sometimes carried, which he hated, being such an individualist, having led such an independent

life. So in February of 2005, which was about six months after we got done with the Kobe Bryant trial, Hunter took his life.

The last note he left in his typewriter was to me. And I learned he had also named me to be the executor of his estate and one of the three trustees of his literary estate. So it was my charge and the charge of the other two trustees -- one of them is Doug Brinkley, a very famous historian who is now writing his definitive biography. It fell to us to organize his papers, and they were voluminous.

His house was full of his papers. I don't think he ever threw anything away. He had some 800 bankers boxes full of paper. It wasn't quite precomputer, but he didn't have anything scanned or on-line. It was all paper.

And amongst the things he had in his house, all of which we had to organize and assess for literary value, were a number of files that he kept of women who he had had romances with. Some of them were very explicit. He had told me of the existence of those files. And his son was also sensitive to the existence of those files.

Hunter wanted me to, and told me this before he died, he wanted me to go through the files and make sure that indiscreet photos and indiscreet letters and such were destroyed. It was a really hard thing to do when you're trying to assess, in the light of history, what has literary value and what does not.

Some people would say it all has literary value, because it's all part of his history and his body of work. But after Hunter died, I and his son Juan went down to the basement. I knew where he kept these sensitive files about some of the women in his life.

Juan and I spent about two days, 24 hours, day and night, going through all those files, culling the things that we thought should not exist. Actually, a couple of women came by to make sure that we did right by them. That was interesting. Did right by their files.

Then we started a huge bonfire on the side of Hunter's house at Owl Farm outside. And for about 48 hours we burned that stuff. The remaining files, which were over 800 boxes, we took to the Aspen Institute. I hired a couple of paralegals to go through them and organize them.

I, ultimately, brought them back to Denver where our law firm's paralegals organized them, indexed them. I kept about 20 files, mostly with tape recordings which I thought had historic value, that should remain a part of his estate. And the other 700 files, actually 783 file boxes, we sold to Johnny Depp for 3.5 million dollars, which essentially made the estate solvent.

Q: Yeah, I was intimately involved in that project. I learned a lot about Hunter and other things in going through those 700 boxes and inventorying them. It was a fascinating experience, though. And can you speak a little bit about Hunter's relationship with Johnny Depp, why that was how the archives ended up.

A: Well, Hunter Thompson and Johnny Depp were both born and raised in Louisville, Kentucky. So they had this common geographical and in many senses cultural bond. They were both iconoclastic outlaws in their own ways. Johnny played Hunter in at least two movies, the first of which was "Fear and Loathing in Las Vegas," which is a movie that I think they did in the 1990s, late '90s.

To get in role for that movie, to play Hunter, Johnny Depp moved into Owl Farm in the basement and lived with Hunter for a couple of months. They learned each other's tastes and

foibles very well. They were the closest of friends and really loved each other.

So when Hunter died, Johnny was really at the height of his fame and film significance. Johnny decided he was going to give Hunter the funeral that Hunter had always asked for. Hunter had actually done a video with a mortician where he was asked how he wanted to be buried.

Hunter had said, "I want to be shot out of a 300-foot cannon. I want my ashes to be strewn into the atmosphere where the jet stream is the strongest. And I want to hear 'Spirit in the Sky' being played as my ashes waft into the universe." It's a hilarious video by the way. You can find it online.

Hunter had two funerals, actually. One very moving one was all night at the Jerome Hotel where a lot of people spoke and spoke eloquently, and then a second funeral at Owl Farm which you attended --

Q: Yes.

A: -- where Johnny Depp did, in fact, erect a 300-foot cannon and on the top of the cannon was Hunter's logo. Hunter's logo was a one-fisted hand with a big, green peyote button in the middle.

Q: Two-thumbed.

A: Two-thumbed, you're right. A two-thumbed hand with a peyote button in the middle. So there was a giant two-thumbed fist with a peyote button on top of a cannon that was flashing green and red. In the presence of thousands and many thousands more who tried to get in and

couldn't but lined the roadways, Hunter's ashes were shot into the jet stream.

Q: It was really incredible, because the cannon was covered with, you know, cloth, so that it was a real unveiling moment. And, honestly, it was like a striptease when "Spirit in the Sky" started and, you know, the cloths began to reveal the cannon. And it was a party that was full of incredible people who really loved Hunter and who he loved.

A: George McGovern was a keynote speaker at that funeral. Lyle Lovett played at that funeral. And John Kerry who had been the most recent nominee for President by the Democratic Party, attended. He basically crashed the party, but nobody let him speak. I was in charge of McGovern. I was his keeper. George was in his mid 80s and kind of feeble, physically. But he gave a marvelous talk about Hunter and how important Hunter was to his generation and the political thought and the political activism in the '70s and '80s.

Q: It was an incredible way to say good-bye to a pretty incredible character. Another incredible character that I think we would be remiss if we did not mention is someone named Lloyd Rubin.



FRANK MARTIN / For The Times

Writer Hunter S. Thompson, left, and his attorney, Hal Haddon, are shown during preliminary hearing in Aspen district court on April 9.

Hal Haddon and Hunter S. Thompson, Pitkin County District Court, 1990

Chapter 29

LLOYD S. RUBIN

A: Oh, that's a long story. I'll make it short. Lloyd Rubin was a Brooklyn-born businessman who grew up in New York City, founded a company that sold paper products, took it public on the American Stock Exchange. And then in a violent thrash of litigation, the IRS took away all of his profits, because the IRS claimed that he hadn't paid his proper taxes on the stock transactions. So the IRS essentially took the company.

Lloyd became very bitter. He was a man in his 30s then, brilliant guy. He moved to Denver. He started a business called Univest. He would tell people, if you have a start-up company and you want to raise money, give me your business plan, tell me how much money you want to raise, and give me a 5 percent up-front fee, and I will give my "very best efforts" to raise the money that you believe you need to start your business.

So people would come in with business plans. I want to raise a million bucks. I want to raise 10 million bucks. I want to raise 50 million bucks. I want to raise 100 million bucks. Lloyd would charge them all an up-front fee. And then he would work, work, work to try to get banks to loan them money and to try to take them public.

But because they were such hopeless business plans, he never got anyone any money. So when he came to me in Denver while he was doing this work, he probably had 300 or 400 clients, all of whom had given him money, none of whom had gotten funded. And they were screaming at the U.S. Attorney's office, needless to say.

So Lloyd was indicted in Denver, essentially for fraud. But Lloyd had some really

interesting information on another businessman of more prominence who the government was interested in. So they gave Lloyd immunity in return for which he testified and gave information about somebody else.

Lloyd was fascinated by the notion that you could get immunity for stealing. He actually used to say that. He tried to figure out how to take his scam to the next level. He learned that Panama had a new dictator named Manuel Noriega. Manuel Noriega didn't have a stock exchange or a stock market in Panama.

So Lloyd moved to Panama sometime in the mid-1980s, and he bribed Noriega to let him be the Panamanian Stock Exchange. Then he advertised and got clients from all over the world with the promise that he would take them public on the Panamanian Stock Exchange in return for front-end fees.

The Wall Street Journal estimated that at some point Lloyd had received several billion dollars in front-end fees while he was basically the Panamanian Stock Exchange. That was all going really swell for Lloyd until George Bush the first decided to invade Panama and arrest Noriega and bring him back to the United States as a drug dealer, which meant that Lloyd's reign as head of the Panamanian Stock Exchange was over.

So Lloyd, thinking that the United States authorities might also get a renewed interest in him, Lloyd went to Thailand and went into a Buddhist Monastery, faked his own death and had a Buddhist monk sign a death certificate which said, "Cause of death, very unhealthy, complicated," and then faxed that back to his friends in Panama and to me. I'll never forget that coming over my fax here in Denver. Then he disappeared.

He had a Panamanian wife, and he had massive amounts of U.S. dollars. So he and his Panamanian wife moved to Vancouver, Canada, and they lived there for a number of years very, very happily and successfully. But she had a panic attack. This is probably 1994, '95. She had a panic attack and decided that law enforcement was coming after her and that they were going to menace her children in Panama.

So she told Lloyd they had to pack all their things and drive from Vancouver all the way to the tip of Florida. She wanted to go back to Panama. So they packed all their things in a van and they crossed the U.S./Canadian border in Washington, the State of Washington. U.S. Customs stopped them.

When customs stopped them, they started searching the van. They discovered, among other things, that Lloyd had about 25 passports all in different names and from different countries. That made them very suspicious. They confiscated all of his passports and confiscated, among other things, a diary which contained a page in Lloyd's handwriting that read "reasons to fake own death." Then they let him go. He drove directly from there to Denver, to my office here, wringing his hands, wanting to know what to do, and decided that he was going to get a new U.S. passport in his own name, which he was able to do by flying to Minneapolis where there was a passport office where he could get a quick passport.

Then he flew to Ecuador with his wife and sort of left me as his legal agent for purposes of referrals if some cops wanted to talk to him. But I didn't know where he was until I got a call from him in a Florida jail about a month later.

What he had done is he had flown to Ecuador, and he was hiding out in Quito. The U.S. government, after figuring out that this guy who'd faked his own death wasn't really dead and

had stolen all this money, the U.S. government was really angry.

So they tracked him down in Ecuador, and sent some Ecuadorian police to grab him and told him that they wanted him to waive extradition to the United States, and he refused. Then they played Russian roulette with him until he signed the waiver of extradition.

Q: Literal Russian roulette.

A: Literal Russian roulette. Here's a six-shooter. There's one round in here, Señor. If you sign, you can go to the U.S. If you don't sign, we'll keep playing. So after about one click, Lloyd signed and was extradited to Florida.

Then the government had to decide where to prosecute him. And it was a challenge, because he had probably stolen money from some individual or business in almost every federal judicial district in the United States, all 92 of them.

They decided to prosecute him in what they thought would maybe be the worst place in the United States for somebody like Lloyd to be prosecuted, which was the Southern District of Georgia -- Augusta, Georgia. They dragged him to Augusta and charged him with multiple felonies, frauds and such and held him in jail there without bond.

I flew down to Georgia several times to represent him in Augusta, Georgia. It became apparent that Lloyd didn't really want to be managed by a lawyer. He wanted to talk his way out of this. The federal district judge down there was a judge named Dudley Bowen.

He was a very, very slow-talking judge -- "Now, Mr. Rubin and Mr. Haddon, we'll have you an arraignment now." He would talk like that. I showed up for the first appearance, which

is a very routine thing wherein you're advised of your rights and the charges against you and dates get set.

Well, Lloyd told me as we were getting ready to go into court, "I'm going to tell this judge my story. I want him to understand all the trouble I've had as a Jew in Brooklyn and how I've been oppressed by the IRS and why I did these things." And he had a long, three or four-page letter that he wanted to read to the judge, which was essentially a confession, but "here's why I'm such a horrible crook."

I absolutely forbade him to do it. I said, "I won't let you do it. That's insane. And let's just go in and do this procedural hearing and move on and see if I can't get you a decent plea bargain." We get into the courtroom. I'm standing next to him on the podium. We're standing next to each other. The judge said, "Well, Mr. Rubin, I'm here for your first appearance."

Lloyd stood up and said, "Your Honor, I want to tell you about me. And I want to tell you my life story now." I started kicking him under the podium, kicking his leg. Lloyd leaned in and said, "Your Honor, Mr. Haddon is kicking me under the podium. He's trying to shut me up. I want to tell you my life story."

Then the judge leaned into the microphone and said, "Mr. Haddon, you stop kicking Mr. Rubin. Mr. Rubin, you can tell me whatever you want." Whereupon Lloyd told his life story and confessed to massive fraud on the record.

Q: Lee Foreman was with you.

A: Lee Foreman was with me, but he refused to stand there. He was a silent observer.

Q: Ultimately what happened with Lloyd's case?

A: Well, ultimately just to show you the power of money, the government prosecutors and the judge were very interested in restitution, restitution to the victims. And the victims, the U.S. victims who were part of this Georgia indictment claimed that they were owed about \$10 million.

The judge knew an Augusta lawyer who was very interested in administering a restitution fund. So we worked out a plea agreement, the gist of which is that Lloyd would plead guilty to several counts of like a multi-hundred count indictment if, in advance, we would deposit with the registry of the court approximately \$10 million.

Lloyd didn't have any money like that easily accessible, but he had many millions of dollars in various banks in Thailand. So I had to send an investigator named David Williams to Bangkok, Thailand with all sorts of papers, and he successfully managed to negotiate with the banks to wire to my trust account \$10 million.

I was really concerned that I might have some exposure for money laundering. So the minute that money hit my law firm's bank account, I wired it to the registry of the court. The judge and the prosecutor were quite happy with it. They spent years administering that money.

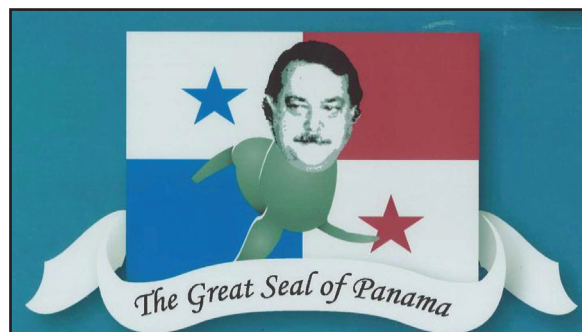
Lloyd at one point, while he was doing time, filed a motion to have some of it returned because the judge and his lawyer friend were basically not spending it on restitution. That didn't go well. But the best part of the case in terms of the legal proceeding was sentencing, because it was a really favorable plea bargain: a two-year maximum prison sentence. And then typically you'd have three to five years of supervised release.

So at sentencing we thought it was pretty pro forma, until the judge leaned in and said words to the effect of, “Mr. Rubin, I’m accepting your plea bargain. And I’m going to sentence you to two years prison and five years of supervised release and restitution. But as a further condition, I hereby order, whether you’re a United States citizen or not, that immediately upon your release from federal prison, you shall return to the country of Panama and never return to the United States again.”

It was a fairly extraordinary order to issue against a U.S. citizen, but Lloyd took it very seriously. He did his two years, and after his two years were done, he went back to Panama and never came back. Lee Foreman and I visited him there once, very memorably, but he never came back. There are some fabulous Wall Street Journal articles that chronicle all this, some of which I framed and have on my wall.

Q: He was, yes, absolutely a one-of-kind character there.

Q: The number of pretty legendary people that you’ve worked with over the years is far too high for us to ever tackle in an oral history like this unless we wanted it to go on for years. But I think it feels like a good time to sort of switch gears and talk about some of the other aspects of your career outside of your trial work that you did that really impacted the legal profession, certainly in Colorado and other places.



Lloyd S. Rubin

Chapter 30

BEVERLY

Q: One of the things that really comes to mind in this vein is your ability to recognize the need to advance women and people of color in the legal profession, which I think is a unique attribute for a lot of people of your generation.

A: Older generation?

Q: And I wonder if you would say a few words about one particular aspect of this, which is having what I will call a boss for a wife. Would you tell us a little bit about Beverly's pretty incredible career?

A: Well, we talked about how I grew up. I grew up around strong women, especially my grandmother, and talented women, my mother. My wife Beverly grew up in Cedar Rapids, Iowa and went to college at Iowa State University and got a degree in business.

That was approximately 1963. She moved to Denver and wanted to find a job in banking. But none of the banks in Denver, whether they were nationally chartered or local, would give her a job as anything other than a secretary, which is pretty extraordinary, even then. She had a stellar background academically, and she had done some work in business with her father's company.

So she started as a secretary and learned shorthand. But she was never content to stay a secretary. When I met her, I was impressed -- I'll use that word -- at how strong-willed and ambitious she was, ambitious in the best sense.

She was a feminist in those times when there weren't very many, certainly not in business. She wanted to advance herself not just financially, but to prove that women could succeed in a very male-dominated, man's business environment.

When we got married, she was working as a secretary in a bank. It was called Denver United States National Bank downtown at 17th and Broadway, and she became the first woman to be promoted to be an executive in that bank, and indeed, in the Rocky Mountain region.

She ultimately, through dint of a lot of hard work and very capable work, became the Executive Vice President of all of her employer's Denver suburban banks -- by then renamed United Banks of Colorado, later becoming Norwest and then Wells Fargo. She was the highest ranking woman banking executive in the Rocky Mountain region. She did it for about 30 years. When Norwest finally bought the company, she decided she had had enough. She then took a sabbatical, and one year later started career number two. She joined Maria Garcia Berry's political consulting firm for seven years.

Then she took another sabbatical and went to the mountains. About two months after she got to the mountains, Sam Gary called her because she had served on the board of the Stapleton Community Foundation when the Stapleton community was first conceived and built. Sam, the head of the Foundation and a great, great philanthropist said, "I want you to come run the Foundation and be our executive director."

So she cut short her sabbatical, came back to Denver and ran that Foundation for about 15 years until she retired three years ago.

Q: Beverly is really an incredible person, just one of the best human beings I think I've ever

met for sure. And when I spoke with her a little bit about how, you know, how she advanced and the kind of support that you gave, she gave lots of examples of incredible support and encouragement from you.

And, basically, to sum it all up, she said that you were her number one coach, whether that was encouraging her to apply for promotions or expand her network or learn some kind of a new aspect of her trade. You had a huge and strategic impact on her career.



Hal Haddon, Beverly Haddon and their basset hounds at the Crawford Hill Mansion, 1995

Chapter 31

WOMEN IN THE LEGAL PROFESSION

Q And I bring Beverly up, because having someone as strong and brilliant as Beverly as your wife, you also partnered with some really incredibly strong women who we've talked about a little bit -- obviously, Pamela Mackey is one of those and Saskia Jordan is another. And I do want to just say, from my conversations with them, a couple of comments they had about your support in their own careers.

One of the things that Pamela remarked on is your really incredible ability to let people do things in their own way, and to support them, but never to impose your own style or way. And I think that really speaks to your view and your truly egalitarian views about people who are capable, and also to your own humility, frankly.

I think there are a lot of prominent professionals, not just lawyers, who are only too happy to impose their own will and think that they are always right. But you never did that with any of these women. You recognized their smarts and their talents.

A: Well, they're extraordinarily talented. And everybody has their own personality. And everyone has their own unique ability to reason and persuade. I think with too many women, less so now than certainly 20, 30 years ago -- but with too many women who are in the profession, they expect to basically follow the lead of a male senior partner and to do what they're told rather than following their own instincts.

In the case of talented women lawyers like Saskia and Pamela, their instincts are often better than mine. They're different because their life experiences are different. I think they have

the ability to relate to women clients and judges and jurors in ways that men can be overbearing and insensitive with.

They have a lot of perspectives that people of my gender just don't have, because we grew up differently. I grew up in locker rooms. But Saskia and Pamela are just extraordinary trial lawyers and have proven their mettle for 30, 40 years.

They're both highly distinguished members of the American College of Trial Lawyers. Because of them, there are a lot more women following along in their wake who are confident in their own skills and are terrific litigators.



Pamela Robillard Mackey



Saskia A. Jordan

Chapter 32

FEDERAL JUDICIAL SELECTION COMMISSIONS

Q: I think of these, having these, you know, really great women in your life professionally and personally, that translated to you into action. And what I mean by that is the work that you did in the judicial selection process here in Colorado. Can you speak a little bit about that?

A: It requires a little bit of federal judicial selection history in Colorado. Typically, in the United States, certainly true even now and more so in the '60s and '70s, if you wanted to be a United States District Judge, you had to have essentially the blessing and the nomination of the senior United States Senator from the party in power.

So if there was a Democratic President and you wanted to be a federal judge, you had to have the blessing of the senior Democratic Senator in Colorado. There was a lot of criticism of that then and now, that it led to too much cronyism.

When Jimmy Carter got elected president in 1976, Carter was an advocate of significant reform. Gary Hart had only been elected to the Senate two years earlier in '74 and the ABA, the American Bar Association, was pushing the notion that instead of, essentially, senatorial courtesy, there ought to be federal judicial nominating commissions in states where there were vacancies and commissions should be bipartisan.

They should consist of distinguished members of the community and not just the legal community, but leaders in the community who were not lawyers and that there ought to be a non-partisan process for sending names to the United States Senators for their consideration and to the President, for the President's consideration.

So all that converged in 1977 because Carter became President, and he was an advocate of this very new judicial commission selection process for federal judges. Gary Hart and Floyd Haskell at the time were the two Democratic U.S. Senators in Colorado.

So Hart and Haskell decided that they would try this commission process rather than simply suggesting that some of their best friends be nominated. And as an aside, Senator Hart asked me before we started the first commission whether I wanted to have one of the two judicial vacancies which were available.

I said, no, I think we need to establish this commission. I think we need a lot more diversity on the bench. And I think the commission process gives a lot of credibility to people who go through it, because it will be thought of as not simply being political acts and favors, but people who really have qualifications to be federal judges.

So with President Carter's blessing, Gary Hart and Senator Floyd Haskell started the first federal judicial nominating commission in Colorado in 1977. There was one vacancy during the first commission, which I sat on and which was chaired by a Republican named Chester Alter who was the Chancellor at the University of Denver and a marvelous guy.

That resulted in Judge John Kane being nominated. Judge Kane who had utterly no political credential or contacts, has been a fabulous Federal District Judge going on now some 45 years. Then two more vacancies came up in 1978. I was very keen to have a woman on the federal bench. And one of the few woman state district judges in Colorado was a woman named Zita Weinshienk. She was a District Judge in Denver District Court and she was, by coincidence, the woman I tried the *Sneed* case in front of, which we talked about yesterday, and a very capable, very able woman.

She applied, went through the process, was selected as one of six who were recommended to the president, and President Carter nominated her and nominated Jim Carrigan who was on the Colorado Supreme Court at the time. They were both confirmed.

So within three years, this commission produced three confirmed nominees, including an extraordinarily qualified woman, for the federal bench, and they all served with great distinction. And, as you know, the Republicans in Colorado have never followed that process. They always have a small group which vetts potential nominees, I think for ideological purity. They don't go through the bipartisan process that we have gone through.

I have now sat on seven of those commissions. I chaired one for Senator Ben Nighthorse Campbell. I co-chaired three for Senators Michael Bennet and Mark Udall. My co-chairs were Republicans, Becky Kourlis and Candy Figa.

Q: And from those commissions, we also had some judges of color appointed.

A: When Ben Nighthorse Campbell became U.S. Senator in I think 1992, Bill Clinton had just been elected. So we had a Democrat in the White House. And at the time, Senator Campbell was a Democrat. He decided later to become a Republican. But he was a Democrat at the time. He appointed me to chair a judicial selection commission.

There were two openings. He and I agreed that it was essential that persons of color be put on the U.S. District Court bench in Colorado. There had never been any, and it was long past time. So his priority, his direction to me was find me the most qualified persons of color.

We had -- right in this room we had three or four meetings where we interviewed probably 40 or 50 applicants. Ultimately, we sent to the Senator and the President a list which

consisted of three very qualified Black applicants, one very qualified Latino applicant and two very qualified white men. President Clinton nominated Wiley Daniel who served with great distinction as the first black federal district judge in Colorado for about 30 years. He recently died. He did not nominate the Latino person who I thought he should have, but that's how we got Wiley Daniel.

And later, during the Udall/Bennet process, we sent up the names of Ray Moore, the second black federal district judge to be nominated and confirmed to the Colorado district bench, and Judge William Martinez, who is now serving on the federal district court bench.

Those were all results of the commission process which looked at merit and prioritized diversity. In states where senators simply pick people who are their friends and thought of as politically correct, you don't have that kind of diversity.

Chapter 33

THE COLORADO CRIMINAL DEFENSE BAR

Q: The impact of that, obviously, really can't be overstated to improve the diversity of the bench in terms of gender or race or ethnicity. I think there's another aspect of your influence in the legal community in Colorado that I think is really important to include here.

And that influence is from you, from the firm together, but the fact is that for many, many years Haddon Morgan & Foreman has really been at the heart of the criminal defense community in Colorado. And I wanted to just read a couple of words from an old speech from a time when you won an award from the criminal defense bar.

I think what sums up what I'm trying to say in a much more articulate way are the statements of Larry Pozner, who is on his own certainly a notable trial lawyer in Colorado. And these are his statements about you back from the Olom Award dinner. And I'm trying to remember --

A: 1986.

Q: '86. What Larry said is, in reference to you,

Hal, you have a calendar that is filled to overflowing, yet daily you take time to answer our calls. We call for advice in terms of preparation, and you take time to talk to us. We call for guidance in our times of trouble, and you take time to give it to us. We call after our loss and in our disappointment and you take time to give us solace.

And we call and we call. We call to say, Hal, do you have any cases on this point? Hal, let me tell you what the DA is trying to do to me. Hal, this judge is ordering me to do this. Hal, do you have that name of an expert I can call? For years the word has been in this city and across the state, "Why don't you give Hal Haddon a call." And you have always answered it.

And, Hal, so great has been your magnetism that you have formed around you such a firm with Bryan and Lee and Norm and Saskia. But the greatest tribute is that now we do not simply say, “Why don’t you give Hal Haddon a call.” We say, “Why don’t you give Hal’s firm a call.” It doesn’t make any difference who answers the phone. You’ll get an answer. They’ll have time for you.

In the political world, they keep your name and number. We know that that world is open to you. They’ve recognized your talents. We understand that you could be on a jet to Berlin, but you’re in a car on the way to Brighton. And we know that you know it, too. We know you would rather defend the accused than defend the government who accuses them. You’ve made us all so very proud to be known as criminal defense lawyers.

I wanted to include that, because I think that is a perfect summary of how you, not just for yourself, but also for this law firm, created a community when there wasn’t really one. And I wonder if you would take a moment to talk about one of the core tenets of that community which is the formation of the Colorado Criminal Defense Bar.

A: When the public defender system was first started and founded in 1970, there was no organized criminal defense bar, and most criminal defense lawyers simply responded to judges’ calls to come handle a court appointment, quite often for no fee.

After the public defender system got up and running and was doing recognizable, competent work, we criminal defense lawyers started to recognize that there are unique things that we needed to do in terms of advocacy for various parts of criminal justice -- sentencing reform, open discovery, to name the two that were very much at issue in the 1970s.

The umbrella organization, sort of the bar association for trial lawyers in that time in the ‘70s was CTLA, the Colorado Trial Lawyers Association. The criminal defense bar was a small, small group that was recognized, and some CLE programs would go on at CTLA for criminal defense. I would present to their CLE conferences and their annual meetings.

But they were mostly interested in civil, personal injury work and a predominant number of their members were PI lawyers and civil commercial litigators. So in 1972, I think it was, the United States Supreme Court abolished the death penalty in *Furman v. Georgia*.

But they didn't abolish it for all time, they abolished it with suggestions that if states adopted death penalty statutes that had more specifics in terms of juror findings of aggravating and mitigating circumstances, that the death penalty might be reinstated.

So there was a huge legislative battle in every state in the country and especially in Colorado where there was always a strong, if not majority-driven at that time, consensus that the death penalty ought to be abolished, because it was not only immoral, but it imposed enormous costs on the criminal justice system and its participants and even victims.

After *Furman v. Georgia*, there was a move in the Colorado State Legislature to readopt the death penalty. There was also at the same time a lot of agitation for tort reform, to limit the amounts of damages that certain personal injury plaintiffs could receive and limit the amounts of fees that plaintiff's lawyers could receive and limit some defenses.

So all those things were swirling around in the Colorado State Legislature in the late 1970s. I and a couple of my friends, including my partners Lee Foreman and Bryan Morgan, very much tried to get the CTLA, which had a strong lobbying arm, to lobby against the reinstatement of the death penalty.

What happened was that they essentially traded tort reform and some legislation they wanted to limit tort reform for the reinstatement of the death penalty. They didn't lobby against the reinstatement of the death penalty.

So seven of us, all criminal defense lawyers -- all seven of us became so angry that in 1978 we formed the Colorado Criminal Defense Bar, which was designed to have CLE programs, newsletters, mailings and essentially lobbying to the extent that seven of us could pull off that feat, lobbying with the state legislature and the governor's office and regulatory agencies on behalf of criminal justice issues as we perceived them -- sentencing reform, bail reform, discovery reform.

So we established that organization in 1978. It's now grown to be more than 1,000 strong. In my view, it's the most effective public statement lobbying organization for criminal justice reform issues in the state and in many ways around the country. And so that was the seeds of it, and my partners, Bryan Morgan and Lee Foreman and myself, were three of the seven founders of that organization.

Q: The legacy of the CCDB lives on, obviously, and it's, as you said, an incredibly effective organization in terms of working to advance criminal justice reform in Colorado. It has also become a very centralized focus for criminal defense attorneys in Colorado.

Chapter 34

THE ANNUAL PARTY

Q: On a more fun note, there is an HMF-specific centralized event just about every year until recently that brought criminal defense lawyers in particular, but also others in the legal community together. Can you talk about that a bit?

A: You shouldn't forget the prosecutors who also attended that event, because there were many.

Q: That's true. That's true.

A: Many of them fairly rowdy. I always conceived and I really did have it in mind that our law firm would not just socialize and work with other lawyers and bar associations on lawyer-related things, but I thought that we ought to be a magnet for public service organizations, for political candidates, for political causes.

So starting in 1977 when Bryan Morgan and I first got together, we started having an annual party for lawyers, judges, politicians, and all sorts of public figures, some ne'er-do-wells, some prominent. It was always held in September. And until COVID came around in 2020, it was held in every September of every year.

Typically, we would attract 500 to 1,000 people in our law offices, which are bigger now than they were in the '70s. But they were all fantastic events. They got a little too rowdy. At one juncture, for about five years, I used to give an award for the worst behavior at our annual party.

The word got out that there was an award to be won. One year the head of the United States Attorney's Criminal Division decided that he was going to get his name put on the trophy, because I had a trophy that I would engrave their names on for misconduct. He hired a "campaign manager" to persuade everybody at the party that he was the most misbehaved.

And he did win, but it occurred to me after that, maybe for liability reasons if nothing else, I ought to retire the trophy. So I retired the trophy and I gave it to him. He subsequently became a judge. I don't know what became of the trophy.

Q: That party was really kind of a seminal event in the legal community, and I can say for the many years that I got to work here at the firm, if the invitations, which are their own separate event, but if the invitations hadn't gone out by late August, very early September, we would begin to get calls from people to make sure the party was still on and make sure they hadn't been cut from the invitation list. It was a big deal for a lot of people.

A: Well, I used to tell people who asked to be kept on the party list, that to be booted off the party list you have to either A, die, or B, sue me.



Hal Haddon as the "Joker," law firm Halloween party, 1997

Chapter 35

THE CLIENTS

Q: Well, while we're talking about your work and how that has built a community within the legal community and outside of it, I think about how that work has impacted the lives of so many of your clients. And I know that we have spoken about a lot of them in this time, but I wonder if you would say a few words just generally about what it has meant to you over the years when you hear from former clients or see their lives long after you have represented them.

A: I think when we were talking about Dick Randolph, I noted that the ultimate satisfaction and sort of your reason for being, is if you make a difference, a positive difference in people's lives. When you're doing criminal defense work, you can hopefully do that.

Over the years, especially this year of COVID where people are more reflective, I get calls. I get e-mails. I get cards. Probably 20, 30 this year from former clients who tell me what they've done with their lives since they were involved in the criminal justice process and thank me. Thank me for getting them through it.

One guy you talked to who I represented as a juvenile in Jefferson County in 1970, reached out to me this year. Albert Gore, who I represented in Portland, Oregon on a bogus sex assault charge, regularly calls to say thanks. Cam Bishop, although I haven't heard from him in a while, sends me cards. Kobe would always call.

A lot of public defender clients who just went on to live decent lives call and write and send emails. I get emotional about it. It's really the reason we do what we do.

Q: Every single one means so much, I know. In addition to those people whose life you

impact so directly as their attorney, you've worked with lots and lots of people who have gone on to do lots of different things. And I think that a good part of that has to do with the really unique identity and culture that was built in Haddon Morgan & Foreman by you and Lee and Bryan.

There are a couple of things that I want to talk about in this context. One of those things in terms of firm culture is a firm motto that developed that harkened back to your childhood. "Reasonable doubt for a reasonable fee."

A: When I decided that the law firm needed a T-shirt, I actually had an artist client -- who was charged with attempting to murder her stepfather, but is otherwise a really decent person. As part of her fee, I had her design some stained glass in this building and also a T-shirt.

We had to decide on a motto and a logo. I coined the phrase, "Reasonable doubt for a reasonable fee." And then I harkened back to my childhood nemesis, the most terrifying vision I could think of in terms of being imposing as an opponent, was a rattlesnake.

So we designed a T-shirt, and we actually have a large illuminated stained glass picture in our office of a giant rattlesnake with the motto, "A reasonable doubt for a reasonable fee." It really is a remnant of my youthful fear of and respect for rattlesnakes. A Washington Post columnist named Al Kamen once wrote a short op-ed piece about it. Other lawyers, by the way, have stolen it. It's been stolen several times.

Q: Another really critical piece of what made Haddon Morgan & Foreman such a special place in my view was the friendships and the camaraderie that really existed between members, not just attorneys, but also staff and attorneys and investigators and all of us. I wonder if you

would say a few words about that.

A: Well, we've been talking about some of the big cases -- Kiewit, Rocky Flats, Kobe, some of the really huge trials and struggles. Because we were a small firm, we were all in. Nobody had a specialty. You might claim you had a subspecialty like sex crimes or murder or appeals, but nobody really had a specialty.

We were all about the client and about winning the case. In these big cases, and there were a number of them, everybody in the firm was in. They would come to court. They would work the case and would want to know the strategy, would want to get to know the clients. So it was "all in." Everybody was in. Everybody was part of a small very effective, what I call "Navy Seal team" on these cases.

The reason these huge corporations hired us was that we basically came as a team. We had big law firms overseeing us and making sure we didn't screw up, but they hired us as essentially a Navy Seal SWAT team. We all bonded. Because of those shared experiences, it's just like being in the military and being with your own platoon. We're all together. And we did become and hopefully remain very close.

Q: One of the things that Bryan Morgan talked about in terms of the great camaraderie over the years was just how important it was, even when you weren't working on the same case, that everyone knew what was going on in each other's cases, and how much he treasured being able to come back from court and share in a great victory of your own or with someone else or defeat and drown your sorrows. And I think about the drinking lamp.

A: Whenever someone would conclude a case for better or for worse, the word would go out

that “the drinking lamp is lit,” and everyone would congregate either outside or in the break room and drink and tell war stories until the stories petered out and we petered out with them.

Q: Those were some of my favorite memories of working here, just being able to be with your friends really. And, you know, the overarching theme of what the Haddon Morgan & Foreman firm culture was about is that the client always came first. Would you speak to that a little bit?

A: Well, I really think we have. I harken back to what we discussed yesterday that my great mentor was Rollie Rogers. When he drew me away from a business law practice to representing people, he made the speech that is really indelible in my mind. “We hold people’s lives in trust. We’re trust lawyers.” And that’s true. When some human being comes to you with life- and death-altering problems, they have to come first. If they don’t, you won’t do your job for them.

Q: I spoke with several different people about many of the things that really set you apart in their minds, and I wanted to mention just a couple of things that I gathered as we prepared for this oral history.

Speaking with Pamela Mackey, when I asked her about what set you apart, what she told me was that what makes you great is that you never believed you had it 100 percent right. You always kept working to get it right, and that you did everything you could to make sure you gave the client the very best advice.

And she pointed that this comes from a place in your core that is absolutely humble. These cases and the clients, these incredible war stories, they’re never really about you. They’re always about the client. Larry Pozner in that same speech I read from earlier said something

really great, on point, that I want to read briefly.

And what he said was, “In a profession that is characterized by towering egos, it’s ironic that the only person in the world who doubts why that award was given to Hal Haddon is inevitably Hal himself.” And I do think that that really speaks to your ability to, and your view about your role in any of these situations, that it’s not about you.

Another thing that Pamela said to me that was noteworthy for this conversation is that you always wanted everyone to have the same chance. Even if you didn’t expect them to get to the same place, you always wanted everyone to have the same chance. And in that regard, what she said is that, “Without Hal there would have been no Pamela.”

And that gets emotional for me, too. Because your support of other people and your belief that people can do things, created a lot of other people who have gone on to help people. And I would put myself in that category, because I would never have gone to law school if it hadn’t been for you. And I don’t think Pamela would have either.

As you know, Pamela is an incredibly accomplished trial lawyer. She has won countless awards and been the subject of, you know, a lot of incredible things on her own. And she retired just this last month.

Of all those trophies and awards and plaques that have been devoted to Pamela and her great career, what she told me is that the most treasured thing that she took with her is a Black’s Law Dictionary that you gave her when she went to law school, and that that is her most treasured artifact of her career.

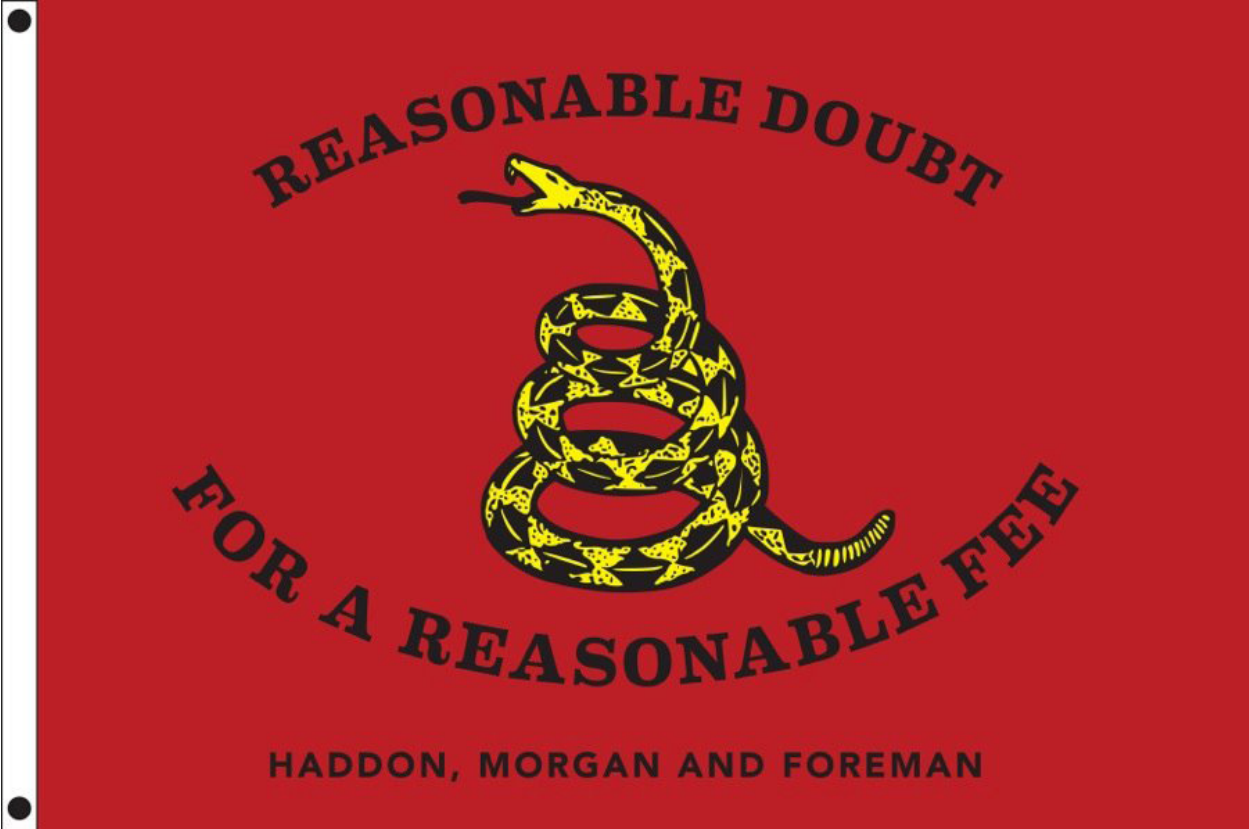
And I think that that is 100 percent a reflection on the good person that you are and the

incredible influence that you have had over people. I also spoke with Michael Tigar, your very good friend who is a really incredible person to speak with. And when I asked him what sets you apart, he had a brilliant response.

And one of the things he said was that there were two main reasons that you are different. And the first reason is that you have a great sense of injustice. Michael said, “Hal sees the client right in front of him who says, I’ve been treated badly. And from those set of human circumstances, he builds a theory of what ought to be done about it.”

And the second part is that you’re willing to do something about it. What Michael, in his brilliant way did, that you’ll not be surprised about is that he immediately thought of a quote, a long beautiful quote from William James when he was talking about Robert Gould Shaw, who was a white colonel in the Civil War and led a regiment of African-American soldiers, the only black regiment.

And I won’t read the whole thing, but essentially that quote was about your willingness to do something about it, and about the kind of courage that comes with taking on that mantle. “Whatever doubts may have beset him, they were over in a day, for he inclined naturally toward difficult resolves.” And he summed that up after reading me that quote and just said, “That’s my friend, Hal,” which I think is a treasure, honestly.



Chapter 36

REFLECTIONS

Q: I wonder if you would talk for a moment as we are reaching the end of our discussion here about some of your reflections looking back on your life and on your career about things that you might have done differently. The first question I'll ask or the first issue I'll point your attention to is whether you regret not going to Washington with Gary Hart.

A: There are some anecdotes about that. When Hart was first elected to the Senate in 1974, he tried to seduce me and my wife to come back to Washington to work in his office. He wanted me to run the policy side of his Senate office. I think at the time he was elected, I had only been to Washington, D.C. once, but it already had a reputation for, shall we say, moral ambiguity.

But it was 1974, and it was in the immediate wake of Watergate, and it was a very idealistic time. So my wife and I went back to Washington at his request and he took me to the Lincoln Memorial and gave a very eloquent short speech about the importance of Lincoln and of the civil rights movement.

He pitched me and said, "Come back here with me. Let's work this town together and let's struggle together. I have a great opportunity in the United States Senate." But, as I have been in other things, I was skeptical.

I liked the physicality of Colorado. I really liked my life in Colorado. I was skeptical about what life would be like for somebody of my relative rural roots in Washington, D.C. So Hart said, "I want you to meet a political consultant named Chuck Fishman."

"He is the most progressive political consultant and lobbyist in Washington, D.C. right

now. He works for disarmament organizations like The Council for a Livable World. And I want you to go to lunch with him, and he will -- I hope will tell you how you can really achieve very idealistic goals in this town.”

So I went to lunch with Fishman, who was a fabulous character, and at the time was very top of his game in terms of being a political influencer in the progressive side of politics in Washington. Fishman asked me what I did and where I lived and what I would do if I continued in the practice of law and what I liked about being a criminal defense lawyer.

Ultimately, after about an hour, hour and a half, and there were some cocktails involved, he leaned in to me and said, “I know I’m here to try to talk you into coming to Washington and working on Senator Hart’s staff, but why would you leave a vibrant life and a vibrant law practice to come back to Washington and root around with us pigs? You shouldn’t come.” I didn’t.

I never told Hart what Fishman said, because Hart would have destroyed him. But I still remember it. And I’ve run into him since, and I’ve reminded him that I, unlike him, do not live with pigs.

Q: So no regrets on that decision.

A: I have no regrets on that decision. I do regret not going for a Rhodes Scholarship. That in hindsight was in a lot of ways out of ignorance, because I didn’t know what it meant, and I didn’t know what was out there in the world.

But that certainly would have opened my eyes to a lot of things and brought me in contact with the world a lot sooner than I came in contact with it. I was offered a couple of

federal district judgeships, one by Senator Hart, one by Senator Campbell, and I declined them.

And I'm glad I did that, because I think I am an advocate, and I have trouble, as you know, measuring my words from time to time and keeping a judicial demeanor. I really respect those judges who can. I'm, I think, too outspoken for the trade. I think you know that I was on the short list for a Tenth Circuit judgeship, which I didn't get, and I'm not sure I regret that either, looking back on it, even though I allowed my name to go up to the President.

I think I've had a wonderful run, and I've had a wonderful run as an advocate. That is probably what I was born to be, if people are born to be things.

Q: Do you think advocates should not be judges?

A: I think strong convictions are essential for great judges, but I think advocates tend to talk too much and listen too little. You've got to be prepared as a great judge to make rulings that contradict some of the things you think are progressive principles, because that's what the law requires.

That would have been difficult for me. I know it's difficult for great judges. I've talked to them about it, but they show a remarkable restraint. I've never been known for remarkable restraint.

Q: One of the things that we've touched on a bit here and there is the difference in bipartisanship that exists now versus, you know, years back. I wonder if you'd talk about that, your views on bipartisanship, and its importance.

A: I think that our present state of what I call uncivil war right now is disgraceful, and it's

potentially ruinous, ruinous to this country. I came up in a really turbulent time. I came up through the civil rights movement, and I was active in that movement. And I came up through the antiwar movement. Even though I chose the military, I had a lot of respect for people who were conscientious objectors and represented a number of them, including Bishop.

When Hart went to the United States Senate in the '70s, there was a lot of bipartisanship. There were a lot of bipartisan bills. Hart became best friends with John McCain. He was a pallbearer at John McCain's funeral, because they came through the Senate in an age where to get things done, you had to respect other people's views, and you had to find the decency in each other and respect it and work to common ends, even if you disagreed, not just on detail, but in many ways on deeply held principles.

I'll give you probably the most compelling example in my life. I ran Gary Hart's campaign in 1974 against a two-term United States Senator named Peter Dominick. It was a tough, hard campaign. It was in the middle of Watergate. And so there were a lot of hard words spoken, a lot of tough commercials ran.

About two or three years after that campaign, and Senator Dominick was badly defeated, he later became Ambassador to Switzerland and died. It turned out that he had been ill during that campaign, something we didn't know, which probably affected his political performance. But about two or three years later, I got introduced to his son, Peter Dominick, Jr., who was a terrific architect, became my architect in this building and a log home I built.

I got introduced to him on a fly-fishing trip by the piano player Peter Duchin, who was also someone I met on our campaign. Duchin put us together on a trout stream and after that, at a campfire. We fished together for three or four days in Montana.

Peter Dominick, Jr., became one of my very closest personal friends. I fly-fished with him all over the world, in the Bahamas and Alaska. I skied with him all day in Aspen the day before he died in 2009. He was staying in my house. He was always a Republican. He was always very aware of the campaign that I ran against his father.

But we had enormous respect for each other. He taught me art. He taught me modern art. He taught me architecture. I taught him fly-fishing. And I occasionally represented him in some fairly high-profile business trials, which you're aware of.

I, also over the years, became very close friends with a couple of men who were head of the criminal division of the United States Attorney's Office in Colorado. I became a good friend of the United States Attorney for the District of Colorado, Bob Miller, all Republicans. All of whom think that I am far out there with my progressive politics from time to time, but they're open-minded, they're thoughtful and they, more often than not, when it comes down to practicalities, were right.

I think that's lost. I think that's lost not just in politics, but it's lost in the legal community. Prosecutors and defense lawyers, in my experience -- and you're closer to it than I am now -- don't socialize together, don't talk to each other, don't share their stories that show that they're all human with different perspectives, but have basic decency.

That's true of cops. I personally enjoyed working with cops, even the ones that I had to cross-examine. I used to lecture at the police academy. I was the designated defense lawyer. The title of my lecture was, "There is no defense to an honest cop." I was just encouraging them to tell the truth on the stand, because we defense lawyers live for the lie. And there's no need for it.

But that's a long ramble about how I think these polarized, toxic times are terrible, not just for society, but for the legal profession, for law enforcement.

And it's my hope that the message of COVID and common survival from COVID in this country will bring us back to, if not that place, at least a state of grace where we respect each other and we talk to each other in civilized ways and we accomplish common goals.

Q: I think we've reached the conclusion of these chapters of the oral history of Hal Haddon. And as we bring this to a close, I am reminded of something that you have said to me about your career overall, and that is, that "service is the calling. What happens to you is collateral damage." Would you elaborate on that a little?

A: I'd like to think it's not all collateral damage, but I think the greatest satisfaction in a lawyer's life, certainly in my life, and it ought to be in every lawyer's life, is to serve your clients, make their lives better in small and large ways. I think that's the oath we took as lawyers. And it matters.

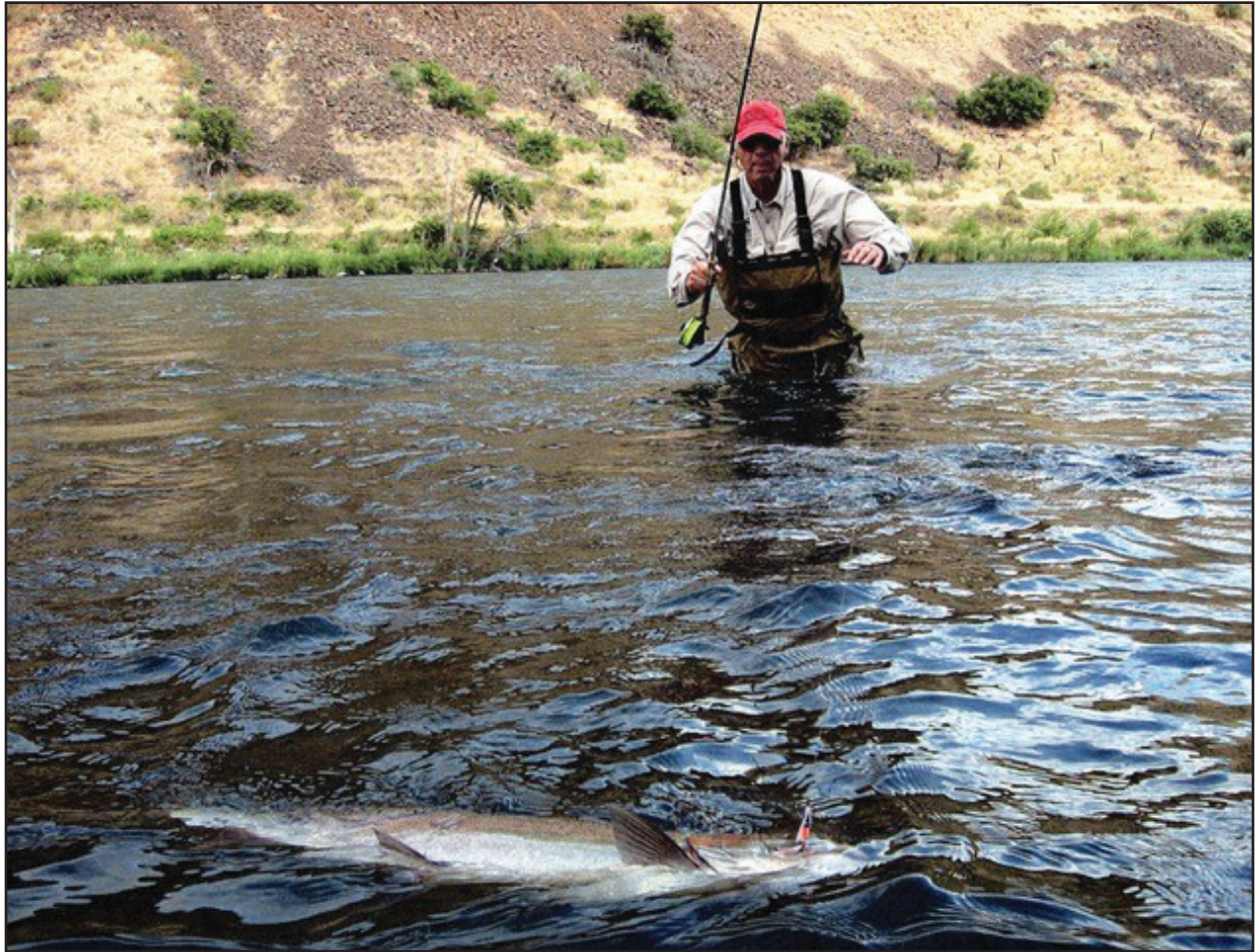
Q: And that's my friend, Hal. Hal, thank you so much.

A: Thank you so much. Thanks for your time and your friendship. And I want to thank the 10th Circuit and Tenth Circuit Historical Society for asking me to do this. It's a great honor. So thank you again.

Q: Thank you.

Chapter 37

COURT IS IN RECESS



Hal Haddon, his fly rod and a steelhead trout on the Deschutes River, 2005



Hal Haddon and Michael Tigar sailing in the Caribbean, 1980s



Hal Haddon helicopter skiing above Telluride, 1990s

Those were the days, my friend



We first ran this photo in The Colorado Statesman some 25 years ago and a couple times since... We just never tire of seeing a young Bill Clinton in Denver with local lawyers/good friends Hal Haddon, left, Mike Driver and Jim Lyons, right.
— Photo by Jody Hope Strogoff/The Colorado Statesman

Left to right: Hal Haddon, Mike Driver, Bill Clinton, Jim Lyons

REASONABLE DOUBT



FOR A REASONABLE FEE

HADDON, MORGAN AND FOREMAN