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Family Guy

Richard Orsinger of McCurley Orsinger McCurley Nelson & Downing talks about designing CLE presentations, the genius of Bruce Bowen and just how long it takes for a divorce to stop hurting

You're one of the top family law lawyers in Texas. What attracted you to the practice area and what do you love about it?

Family law has become much more technical than it used to be. When you say you're a family law specialist, you have to be prepared to learn and apply just about every kind of law there is.

If you have a bunch of business partnerships and a dispute over whether distributions are community property or not, you have to understand partnership law, you have to understand tax accounting, you have to understand accounting for partnerships, you have to understand tax reporting for partnerships. If you get an oil and gas case, where a guy had a lease before he married but he entered into a whole bunch of contracts and farm-outs and stuff like that during marriage, you have to go and understand oil and gas law to figure out whether these rights and contracts and leases and farm-outs and whatnot are separate or community, and I could go on and on in just about any area, corporate law, you mention it. Family law is the interface of all these different laws that come together.

Sounds challenging.

It is. Not only do you have to understand how the law interfaces with these other areas, but you have to be a litigator on top of that. And then in addition to that, over on the parent-child side, you've got all the psychological stuff that's now involved in custody cases.

Just this last week, I was interviewing with the client who was contemplating a divorce but wanted to talk about efforts

to make it work. He was telling me about some of the problems he was having with his wife, and I came into my office and I got a book over there that's called the *DSM-IV, The Diagnostic and Statistical Manual of Mental Disorders*, published by the American Psychiatric Association. That book is about three inches thick and it basically has every mental disorder that the psychiatrists in America can agree on. They have these things called personality disorders that are really personality *types*, 10 of them, and it seemed to me that his wife fit at least three of them. Then he showed me a battery of psychological testing and, sure enough, [the test results showed] some of these very same qualities that I was seeing. So if you're going to try custody cases, you have to know about the mental health categories and what constitutes disorder and doesn't; you have to know about a personality test, like the Rorschach and the MMPI (the Minnesota Multiphasic Personality Inventory). When you say you're board certified in family law, what that means is you basically have to be ready to understand anything.

You've presented a ton of CLE articles in your career.

Yeah, probably 250.

How do you fit those in?

I've benefited more than others, I assure you. I have people come up, saying, "I used your article the other [day]," or "For the first time I understood it." But if you just study things to solve the particular case you have, you learn great details about specific aspects of the law. But when you

sit down and you write something where you take an entire area of the law and try to put it together in a sensible framework so that you understand it, and the reader can understand it, then you're required to really get the big picture. Usually law professors are the only ones who do that. Lawyers are too damn busy. Law professors, all they have to do is show up in class six hours a week; the rest of the time they can research and write. Lawyers are handling clients and filing motions 40 hours a week and [anything else] they have to do at night and on the weekends, which is what I did. I benefited from it more than anybody else benefited from it because it forced me to understand it well enough to explain it to others. In the process, I learned it myself.

You know, I was asked to talk at the Advanced Civil Appellate [Practice] Course this fall. They wanted me to talk on the parallel development of the common law and modern science between, say, 1500s to 1700s. I said, you know, I know a lot about the development of modern science, but it's very difficult to know anything about the development of black letter common law. Every century or two, somebody would sit down and explain it. But the rest of the time you'd have all these decisions by these different people, many of which are not published or widely known, so you don't really have



an easy way to describe the development of black letter law. I said I'd rather talk on logic, and the way that logic was developed, starting with Aristotle, and the way it developed through the Middle Ages, and through the Scientific Revolution, and the way it's used in law practice today. Well, they were just overjoyed with that topic. The paper's not due until July, but I've been working on it, one or two or three hours a day probably, for the last two months. It is one of the most fascinating topics I've ever written on. I've never really sat down and tried to put all of this 2,300 years of writing on logic together and put it into a context where it's useful to a lawyer or a judge. It's been an incredible challenge but I've just enjoyed the heck out of it.

Let me mention one other thing before we leave that topic. Last year, I got carried away with a CLE topic as well: "Practicing law in a depressed economy," which I have done. Well, that course won [The Franklin Jones Best CLE Article Award]—I just found out a couple weeks ago. I spent over 250 hours working on that. I kept time on it intentionally. That's more than several hundred thousand dollars of my time at my billable rate.

What have you learned about the divorce process that you tell clients?

The first thing you need to do is listen to them. Because they want to tell you what's wrong, why they came to see you, and they want to tell that from their own standpoint. If you cut 'em off and tell 'em, "Just the facts, ma'am," like Joe Friday did, that isn't going to work well. You have to listen to them and you have to be sure that you make notes that you want to come back to and get clarification. After you get a lot of the facts down you can tell them how the law looks at those disputes or those issues.

And as you go through the case, particularly in mediations, yes, you'll find people who are taking an irrational position for emotional reasons, and you just have to work with that. Sometimes you have to make accommodations, sometimes you have to strenuously change your clients' minds, sometimes you let the mediator do it, or

sometimes it just trainwrecks the whole settlement and you just have to go to the courthouse and see how it all works out.

If I may ask, have you ever gone through the process yourself?

Yes, I have.

Did that give you some insights?

It did. I know what it's like. I probably was not a very good client because I knew too much about what was going on and I had too many of my own opinions. I probably would have been better off if I had just let my lawyer make the normal lawyer decisions. But I don't have any regrets.

One of the things my experience made me aware of is that no matter how agreeable your divorce process is, it still causes an imbalance. You're distracted, or there's uncertainties that kind of hang around and complicate things, and even if you're not having a difficult divorce, it's still very destabilizing both financially and psychologically. The process of breaking that tie that's been so close, usually for so long, has its consequences. And it has its consequences after the divorce. I always try to encourage my clients not to remarry within two years of when they divorce, and some of them tell me, "Oh I'll never remarry," and others are planning to remarry as soon as the decree is signed; But it's not until two years after you're divorced, whether it was a difficult one or not, it's not until two years that you're really back on an even keel.

Have you lived and practiced in San Antonio your whole career?

My principal home is in San Antonio, but I split my time between San Antonio and Dallas. I was a sole practitioner from 1989 to 2000 but I affiliated with a law firm that is headquartered in Dallas, and so I fly from San Antonio to Dallas every Monday morning and I fly back every Wednesday afternoon.

Why did you decide to do that?

I wanted to be in a law firm environment. I had been a solo practitioner long enough, I was getting old enough, I was starting to feel the need to have the security of some

other lawyers around me in case I was ill or couldn't attend to a case for a six-week period or something like that.

I grew up in Dallas. I was born and raised in Dallas and I lived there until I went out of high school, so I know Dallas. [But] as a result of being a sole practitioner for so long and being a specialist in particularly complicated property cases, I've had the opportunity to work for and against almost every good family lawyer in Texas for the last, say, 20 years, either on the same side or on the other side of them. I see what the practice is in Austin and El Paso and San Antonio and Houston and Dallas and small towns, Tyler, hill country, down south toward the valley. The way the law is practiced is entirely different in different parts of the state. The practice of law in Forth Worth is so different than the practice of law in Dallas and they're, what, 40 miles apart? So I've had the opportunity to meet some great lawyers and I've really enjoyed getting to know all them. Of course, you can meet them on committees, but until you're in court against them and they're trying to whup your ass, you don't really know what it's like.

So who do you root for when the Spurs take on the Mavs?

San Antonio has been good to its basketball fans for the last nine years, so I'm with them for life.

Hard not to be a fan of Tim Duncan.

True, but my favorite Spur was Bruce Bowen. I remember him guarding LeBron James in the playoffs one year and LeBron didn't have a single point until halfway through the third quarter, not a single point. Bowen was so good. I used to just watch him and just say, "God, I can't believe it, the guys that are making the points are getting all the glory but he is winning these games." My basketball hero is Bruce Bowen.

Sounds like you appreciate good defense. Is that what family law can feel like, helping people protect things?

That's exactly it.

—Adam Wahlberg