

TRIAL PRACTICE

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ARTICLES

My Odyssey: From Litigator to Litigation Consultant

By Daniel J. Bender

Like many law students, when I started at the University of Connecticut in 1992, I did not know where my legal journey would take me . . . or, for that matter, where I wanted to take it. I was a classic liberal arts graduate with a BA in journalism, an affinity for the visual arts, and no idea what I wanted to “be when I grow up.” By the time I graduated in 1996 with a JD and an MBA, I had even less of an idea. Unlike those who always knew they wanted to be lawyers, I was in the large group for whom going to law school seemed like the goal, not the start of a lifelong career. After graduation, I was professionally adrift. Thus began my odyssey.

My first job after law school was with a small firm on the 42nd floor of the Chrysler Building in New York City. Aside from the great location and view from my window, the job was an unmitigated disaster. Of the nine associates that held that same position over the year, I lasted the longest, holding out for six months. The partner I worked for had a long history of serious social problems. (True story: When he looked at a document I drafted the day before with the prior day’s date in the text, he started screaming at the top of his lungs with spittle flying from his mouth, “WHAT DATE DOES THE *NEW YORK TIMES* SAY IT IS TODAY? THE *NEW YORK TIMES* SAYS IT’S OCTOBER FIRST!” all while thrashing his desk with his newspaper. Good thing iPads had not yet been invented!) In the end, life is way too short, and we parted ways, even after he pleaded to have me keep working on some cases.

Soon thereafter, I started working at the American Arbitration Association (AAA), in its International Centre for Dispute Resolution, where I quickly became the director. Working at the AAA was fun. My days were peppered with calls to and from all points around the globe, hosting delegations from a number of countries, making presentations to top-tier international lawyers, and managing a staff of multicultural and multilingual attorneys. Alternative dispute resolution had elements of an alternative legal career. Let’s not overlook the word “alternative” in “alternative dispute resolution.” Nonetheless, a high-profile job at a not-for-profit organization did not pay enough to live in New York City with a wife finishing up her PhD.

So, we packed up the car and moved to Washington, D.C. I spent the next five years working for a former AAA client of mine. I was working as a construction defect litigator at a boutique firm—a decidedly traditional legal job. I handled hundreds of cases in litigation, arbitration, and mediation. Still, something was missing. I just had no sense of satisfaction with what I was doing.

Attempting to fill that professional void, I started my own solo law firm. It was a step up. Even if I was not really enjoying my work, at least I was calling the shots and keeping the profits. All went swimmingly for a while. I was helping clients and battling lawyers from much larger firms, with some decisive wins along the way. My one big mistake—I found out after the fact—was a

classic one made by solo practitioners. When I was really busy with paid work, I did not spend enough time looking for new business. A few years in, the day hit when I realized that all of my then-current engagements had ended. I would go to my office each day and try to find new clients, new work, and, frankly, new viable stopgap sources of income.

It was during that time that I learned of a position as a litigation graphics consultant at a specialty litigation support company. It seemed like an enjoyable way to make extra money while trying to revive my firm. Soon after starting, part-time became full-time and temporary became permanent. My job entailed working with lawyers to analyze their cases and develop visual strategies. The results were effective and persuasive graphics that the lawyers used in opening, with fact witnesses, with expert witnesses, in expert reports, and in pleadings. It was the perfect blend of my visual thinking, legal training, and trial experience. I had finally found not only a job but a career.

Three years into my accidental career, I was hooked and looking for more responsibility and opportunity. I landed a position at the Digital Evidence Group (DEG), based in Washington, D.C. I now manage a team of consultants and graphic designers while working on some of the biggest and most important cases in the country. Because DEG integrates court reporting, graphics, animation, and in-court trial presentation consulting, I now have the chance to have a greater impact on a case—helping to seamlessly combine deposition testimony and video with demonstratives and influence their optimal use in court. Since starting at DEG, I have studied communication design at the Corcoran College of Art + Design and taken Yale University Professor Edward Tufte's course, Presenting Data and Information. With significantly increased knowledge, skills, technology, and tools at my disposal, I am now even better equipped to help my clients win their cases.

I love every minute of it. At last, all of my skills, experience, strengths, and education meld together in what I get to do every day. My law degree and legal experience allow me to have an in-depth understanding of both my clients and their cases. My art and design education and training have sharpened my visual skills, making me better able to translate words and concepts into powerful visuals. In short, I feel like the luckiest lawyer alive with the coolest job around.

Keywords: litigation, trial practice, alternative dispute resolution, legal careers, litigation graphics consultant, solo practitioner, visuals

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