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Insurance Defense Magazine Feature Story

Robert Glick, Esq.: Tenacious, Innovative & Creative

by Sean M. Connors, J.D.

"There's a phrase that most attorneys heard in law school with regard to a plaintiff's claims; 'they must be subjected to the fires of the adversarial system.'

As I, myself, heard it, images of battle were evoked where the dross of presentation would give way to the incontrovertible gold of fact. The combatants in this battle of fact present themselves and their arguments to a jury with both clever and guile and, above all else, an intimate knowledge of the occurrence which has been brought before a court of law. It is the advocate who applies this knowledge to shape the jury's understanding of the occurrence, spinning his yarn into that of times elusive gold that will purchase a verdict on his client's behalf. It was with this in mind that I approached my conversation with Robert Glick, Esq., one of the more dedicated and aggressive litigators whom I have met. As I walked through the law offices of Brand Glick & Brand, P.C., I noticed an array of fine art photographs that adorned their hallway walls. They were detailed and evinced a visual acuity that left me feeling that the photographer had captured his subject as it truly was. Yes, this man did indeed have an eye for detail; so I was only slightly surprised to find that Managing Partner, Robert Glick,Esq., with whom I was there to speak, was the shooter of those fine photographs. To me, this eye for photographic detail was merely the leisurely extension of a mind that had been trained over a distinguished twenty year career to scrutinize a record and focus on presenting a picture to a jury that was as detailed and comprehensive as the photographs that he shot. As Robert explains, 'preparation is key; and the ability to articulate the superior nature of that preparation to both an adversary and their client is an indispensable skill that should be honed throughout an advocate's career.' This is a fine posture to take in order to settle a case more quickly by telling the plaintiff up front that you know more about the occurrence in question than does his own attorney. It's with a tenacious no nonsense approach to the litigation as a whole that Robert conveys his conviction to his adversary.

As he explains his aggressive approach, Robert is circumspect, train myself and my staff of attorneys to always think like your most competent adversary; because the best defense against a plaintiff is to know his best and most convincing arguments.' Robert views the deposition of the plaintiff as a primary battleground for showcasing his own understanding of the circumstances surrounding the plaintiff's allegations. 'These are not merely a jumble of questions asked to as certain what plaintiff believes, but rather, an opportunity to display to the plaintiff, through the form and content of a question that I know more about the case than the plaintiff and his counsel.' That is, it is a place to allow the plaintiff a foretaste of the fight that will indeed be brought to their doorstep. Further, as Robert demonstrates with every opportunity, deposition questions in a bodily injury suite should be coordinated creatively to set traps for the plaintiff. 'When listening to answers about what a plaintiff is allegedly unable to do physically as a result of the occurrence,careful attention should be paid to crafting follow up questions that will enable you to test the veracity of those prior answers.' By way of example, Robert shared a tale of a woman who, among other things, testified that she was unable to dance. Robert astutely asked if she had

attended any weddings post accident. Without any trepidation, the witness stated that she had. After learning from the plaintiff that the event had been taped, Robert then inquired if she had been depicted on the video dancing. Her response was, 'I wouldn't call it dancing.' That tape was demanded and Robert was able to prove to the jury that the plaintiff's assertions lacked veracity. These dynamics certainly work to shape a professional, but, as Robert intimates, it is the process of learning from your own mistakes and the mistakes of others that really enables an attorney to shape his own profession,. From the tender age of nine, Robert was keenly aware that he would be an attorney . 'It was the professionalism and the respect that the field of law offered that and the opportunity to achieve financial success.' Always aware that perceptions of lawyers vary from person to person, Robert admits that people are indeed quick to mock the profession but he is quicker to point out that the respect that it has been, and always will be, afforded is apparent because the lawyer is the first person an aggrieved person runs to for help with his or her problems. With regard to the relationship between lawyers, clients and the insurance carriers, Robert is resigned as he realizes that there are financial aspects and costs that cause a client frustration along with an inclination to hold the attorney handling the matter accountable. Further, this frustration can be exacerbated by a desire for guarantees that attorneys never provide.

Nevertheless, Robert understands the problems confronting insurance carriers with regard to claims brought against them and he is certainly sympathetic. For starters, Robert is aware that the legal system leaves insurance companies virtually without power to control a jury award. Of course, the case may settle; but the mall on settlement lies squarely int he plaintiff's court. Once the case is presented to a jury, an unknown is created; this unknown car very well create undue pressure on a carrier to settle, notwithstanding the interests of justice. Secondly, on smaller policies , the cost to litigate a claim through all phases of investigation and discovery creates financial pressure on a carrier to settle the claim, often without consideration as to whether or not there had been any liability incurred by the defendant/insured. And as an overriding concern, Robert has seen the insurance industry as a whole overwhelmed by the number of claims relative to the number of claims professionals available to scrutinize each file. The level of scrutiny that an adjuster is able to afford one of forty files is far greater than he is able to afford one of three hundred files; and the latter case load is much more common. These factors have put insurers on the cost cutting track; there has been an increase in on-line billing and there is more auditing of invoices, all stemming from higher verdicts and settlements that they have to pay. However, even though tort reform has been elusive, and as Robert makes clear, is in the grasp of lobbyists rather than practitioners and insurers; he believes that lawyers like him will stay ahead of the curve with innovation and creativity.

One such outlet for innovation and creative thinking that Robert sees as giving insurance carriers an ability to cut those heavy costs is the increasingly frequent use of bio-mechanical Engineers as expert witnesses at trial. Of course, Robert admits, the economic situation must be suitable, but as a means of reducing overall exposure,the biomechanical expert is extremely effective. As he explains, 'the biomechanical expert generates a sense that another level has been added to the wall that a given plaintiff must climb. It's a challenge to the plaintiff's argument on causation that definitely creates a more favorable settlement climate for the defendant and presents a scientific analysis of the facts and circumstances surrounding a claim that a jury is able to wrap their brain around.' Robert continues that it is understood that innovation in the law moves slowly, through increments of acceptance, and notes, 'the court is averse to even ostensible broad-brush applications of the science to every plaintiff who is involved in a certain type of accident.' That is a perception that a plaintiff's attorney, who is understandably without knowledge of physical forces and their actual potential to cause injury to a particular structure of the body, relishes in creating. But once again Robert is circumspect, 'certain opinions written by judges who have precluded such a credentialed scientist, based

their reasoning on factors that can retroactively be overcome by the defense; that is, when a certain criteria is established by the court, such as the need for a citation to a peer reviewed article upon which an expert's testimony is based, the defense attorney can insure that this criteria is met in the next case.' Rather than say the court doesn't recognize these scientists as more nihilistically inclined attorneys may see it, the innovative and creative attorney surmounts the hurdles that the courts put in place. This, mind you is not accomplished by altering or skewing the science to fit the plaintiff's situation, but by having the scientist articulate the actual scientific method more thoroughly to suit the court's notion of what a scientist must have examined to be qualified as an expert witness. In these early incremental phases of legal development, the specifics cannot be taken for granted even where established laws of physics are the basis for an expert's opinion. Here, especially, the innovative and creative attorney thrives, adapting and overcoming obstacles to his presentation of those aforementioned and often times elusive facts both figuratively and literally spinning them into gold for his clients.

Robert received his undergraduate degree from the State University of New York at Oswego, earning a Bachelor of Science, magna cum laude. The following year, he attended Western New England School of Law where he successfully completed his studies in law. Robert is admitted to practice in the State and Federal Courts of New York. A member of the Executive Committee of the New York State Bar Association Tort, Insurance and Compensation Law Section, Robert was also appointed and serves as a New York State Civil Court Arbitrator. Robert is a frequent lecturer for the NYSBA and has authored articles for the NYSBA, Torts, Insurance & Compensation Law Section Journal including: Vehicle Transportation Claims Affecting the Business Owner and Insurers; Dissecting the Deposition: Practical Considerations for the Effective Litigator; and Dissecting the Deposition: More than just a set of Questions. In 1999, Robert received the Young Lawyer of the Year award from the New York State Bar Association's Tort, Insurance and Compensation Law Section. He has been repeatedly voted by his peers and named as one of New York's Super Lawyers."