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CONTINUING THE TRADITION

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TOM DEMETRIO

Continuing the Tradition

by Keith Picher

It's the morning after the mid-term elections. An alert Thomas A. Demetrio, 58, sits in his Dearborn Street office overlooking the Daley Plaza. His dress is casual, perfect for a late-afternoon round of golf on an unusually pleasant autumn day.

"I'm not very good," he confesses.

He's talking about his golf game.

When it comes to his work with plaintiffs' personal injury firm Corboy & Demetrio, by all accounts he is very good in the courtroom and when representing the interests of his clients elsewhere. That's something attorney Philip H. Corboy recognized when he renamed the firm in 1982.

Suddenly, the conversation turns to politics.

"I'm not a one-issue voter, if there is such a thing," says Demetrio. "I'm truly an independent and always have been."

Historically, his firm has supported the Democratic Party, as have most of the plaintiffs' personal injury firms in Illinois. He says House Speaker Michael J. Madigan has been a good friend over the years, and the firm always has backed Gov. Rod Blagojevich. But Demetrio cannot hide his disappointment that Madigan "broke ranks" last year to get medical negligence caps on non-economic damages passed, after which Blagojevich changed his own position and signed the legislation. He says Madigan was under pressure from the U.S. Chamber of Commerce, the Illinois Chamber of Commerce and the Illinois Civil Justice League.

"Caps discriminate against the non-working, especially those whose quality of life is devastated by blindness, quadriplegia or other significant injuries," he explains. "To cap damages to \$250,000 or \$500,000 or some other artificial figure is beneficial only to the insurance industry."

He says the entire tort system—payouts, attorneys' fees, and everything else—amounts to less than one percent of the health care costs in the country.

"It's a pimple, a whitehead," he adds, "and to penalize those who have to, on a daily basis, live with the repercussions of legitimate medical negligence is wrong."

For an independent, he sounds like Robert

F. Kennedy, fighting for the country's most marginalized folks. Demetrio, who majored in government at the University of Notre Dame, was the business manager of the school's mock political convention in 1968. The role earned him a dinner with Kennedy, the convention's keynote speaker, and his wife two months before Kennedy died.

"I've been up close and personal with Bill Clinton, whose presence is profound," says Demetrio. "Kennedy was diminutive, but I've never been in the presence of anyone larger."

Demetrio says experiences elsewhere in the United States show caps are devastating to the seriously injured. Because attorneys' fees must be taken from the less-than-reasonable net result, the severely injured are put in a horrible spot.

He remembers an argument for a caps-like limitation that arose in the case of Rickerson v. J.J. Jeffries Truck Lines, Inc. In 1981 at age 10, Steven Rickerson became a quadriplegic at the same time a semi-tractor trailer truck killed his mother and brother. At the 1983 trial, the truck company argued Rickerson had been so badly injured he could not survive the next 10 years. Demetrio disagreed, and convinced the jury his client was entitled to money for the progress medical science would make to extend and improve his life.

Twenty-four years later in 2007, it appears Demetrio was right.

"Things are happening today to benefit quadriplegics' mobility and communications that no one would have thought of in 1983," Demetrio says.

The injured boy who was to have died by 1993 is well cared for today at age 35, thanks in no small part to a \$12 million recovery Demetrio earned by prevailing at trial. The company had offered \$8 million.

Despite his disappointment over the political climate that allowed such caps to become law, Demetrio has faith the Illinois Supreme Court will hold the caps unconstitutional.

"Politicians love this controversy because it supplies them a lot of campaign money from special interests including trial lawyers, the insurance industry, corporate America and the

pharmaceutical industry," he says.

A test case challenging the latest legislation was filed in November 2006. Demetrio says the court ought to follow the precedents used in the 1970s and 1990s to strike down caps and "other bad things." He says nothing has changed the constitutionally sound reasons cited in the court's *Best v. Taylor Machine Works* decision.

Over the course of his career, Demetrio has seen how slowly the wheels of justice can turn. The results of the prior day's judicial retention vote are another frustrating example. Demetrio spent nine years on the Chicago Bar Association's judicial candidate evaluation committee from the late '70s to the mid-'80s. When taking on the presidency of the CBA in 1992, Demetrio promised in the CBA Record to "vigorously promote the results" of the process. Today he wonders what has come of the countless hours the CBA and other bar associations have spent evaluating judicial candidates.

"The voters have not booted anyone found 'not recommended' for retention since 1990," he says.

The case for merit selection of judges could not be clearer, he says. Judges must be held accountable for their performance, he believes, instead of being retained whether worthy or unworthy. Demetrio considers it distasteful that attorneys must finance the vast amounts being spent on judicial campaigns.

"But judges can't go to a group of architects or electrical engineers," he acknowledges. "Lawyers are their base."

As frustrated as he is with caps and judicial retention, Demetrio sees justice grinding the right way on other goals he had for the local bar in the early '90s. Minimum Continuing Legal Education has finally arrived, at least for attorneys with last names in the first half of the alphabet. Alternative Dispute Resolution is booming more than ever. Firms are becoming more ingenious with their charitable and pro bono efforts.

Demetrio takes pride in the fact that he pushed Minimum Continuing Legal Education to the Illinois Supreme Court during the year he headed the CBA. Professor Ralph L. Brill of Chicago-Kent College of Law worked hard to



review and update an MCLE plan that was more flexible than an earlier one the court ignored. Demetrio leads a campaign to establish Chicago-Kent's first chaired professorship, which is named for Brill who has more than 45 years of service to the school.

Terrence M. Murphy, the executive director of the Chicago Bar Association since 1985, says the failure of the state to adopt MCLE earlier "certainly wasn't a reflection of the quality of the petition, which was excellent." He said Demetrio has a selfless approach to leadership and that he identifies with the local community very passionately.

"It's never about him or the trial lawyers as much as it's about how to be more effective for the community we serve," he says.

"MCLE is really not that big a deal, when you think about it," Demetrio says, "and I can't think of one reason not to embrace it."

When he became an Illinois lawyer, Demetrio joined the Florida bar thinking someday he might live there. The state has long had MCLE which Demetrio easily could have satisfied were he not on inactive status.

Another projection Demetrio made as president of the CBA was how huge a role Alternative Dispute Resolution, and especially mediation, would play in the years to come. Judge Jerome Lerner, who now serves as the

mediation consultant with Rush University Medical Center in Chicago, had educated Demetrio on ADR. The Illinois Supreme Court engaged Lerner in 1983 to lead three committees to find better alternatives to trials.

"It was through the interest and encouragement of leading lawyers like Tom Demetrio that we were able to accomplish these purposes," says Lerner.

Lerner said Demetrio is a sincere and able advocate who, even now, has great potential. He remembers one of the first trials Demetrio had before him. When Corboy entered the courtroom to handle a matter soon afterward, Corboy asked the judge whether Demetrio was a keeper. Lerner replied, "Phil, he's a jewel—don't lose him!"

Little did Demetrio realize his firm and a friend who once worked there would one day reach a \$75.20 million global settlement in the collapse of the Hancock scaffolding. Donald P. O'Connell, a former Cook County chief judge, mediated the incredibly complex case, which the October 2006 issue of Chicago Lawyer describes in detail.

"To me, Judge O'Connell is the Tiger Woods of mediation," Demetrio says. "He has a way of getting people together."

Corboy & Demetrio uses a variety of settlement strategies on a daily basis, he says,

sometimes resolving significant cases without even filing suit. Demetrio says juries decide between two and a half to three percent of the firm's cases.

"Trials are expensive and more and more companies are trying to save costs," he says.

On the charitable and pro bono front, Corboy & Demetrio is breaking ground with a new initiative. Demetrio says some fields of law practice do not lend themselves easily to pro bono work, including plaintiff's personal injury work. The firm has, over the years, reduced fees liberally or sometimes eliminated them altogether in special cases. For example, sometimes clients are seriously hurt and coverage is sparse. Occasionally the firm has little chance of improving on an earlier settlement offer.

Both Corboy and Demetrio are board members of many educational and charitable causes, including the Pro Bono Center for Disability and Elder Law. Last summer the firm partnered with the organization to open an in-house pro bono department directed by Demetrio's daughter, Heidi E. Harding, a Northwestern University School of Law graduate.

"She didn't miss a single class in her time there, which clearly was not a genetic trait," Demetrio admits.



Demetrio and the late U.S. District Court Judge Abraham Lincoln Marovitz, one of the most respected and admired judges in Illinois history.

Harding meets with people who have landlord-tenant and other legal needs outside the scope of the firm's usual practice. He says he enjoys having his daughter contribute to the firm on a part-time basis and he likes being able to reach out to a wider segment of those in need.

"Nepotism has always been encouraged here," Demetrio says with a grin.

Corboy and his son, Philip Harnett Corboy, Jr., are partners. Corboy's nephew, Daniel M. Kotin, also is a partner. Corboy's daughter used to clerk for the firm when she was at Northwestern. Demetrio's brother, Michael K., has been a partner of the firm since 1992. Though he is not a blood relative, Demetrio's former roommate from Notre Dame, Rene A. Torrado, Jr., also is a partner.

Though Demetrio was immersed in government classes and had dinner with the Kennedys in college, those experiences had nothing to do with his legal career path. He was fortunate to get into an Army Reserve unit after completing college, so he reported to Ft. Ord, Calif., for basic training that September. At the end of training early the next year, Demetrio recalls the frightening evening when soldiers received their assignments. As a reserve, he already knew he was headed to O'Hare Field to serve his artillery unit as a payroll clerk. But the volunteer and conscripted men who lined up knew an infantry assignment meant a trip to Vietnam.

"Three guys in my unit that night slit their wrists because they were given infantry," he says, as if it happened yesterday.

The experience of that night and the demeaning behavior by many drill sergeants back then had a profound and long-lasting effect on Demetrio. He admits he led a rather Beaver Cleaver-style life for 22 years in both Evanston and South Bend. He says the months in the military helped him empathize more effectively with clients who enter his office in what he

calls an "emotionally discombobulated" state.

"When I no longer have that empathy, I'm not going to do this anymore," Demetrio says. "Jurors don't miss a thing, and they sense whether or not you really mean what you say."

Upon returning to civilian life, the thought of law school was far from his mind. He went to American Hospital Supply, a company Baxter later took over. It was a humble start. After three interviews, the company offered him a job for \$7,500 a year selling, primarily, bedpans to hospitals. He remembers leaving the Ridge Avenue headquarters in Evanston, walking to his car, and thinking, "I can't do this!" So he went back and declined the offer.

"I wasn't ready to be in the real world," he admits.

He was not quite ready to be a successful law student either, at least in his first semester of torts, says Brill.

"He did much better the second semester, and his law school career afterwards was fine," said Brill.

According to Brill, it just goes to show that the correlation between law school and reality is very slim.

"I tell people this kiddingly, but it's true," Brill

"I had to be in the courtroom [of Judge James A. Geroulis] only two hours a week," Demetrio says, "but I have to tell you, I was there 30 hours a week."

Richard J. Phelan, Demetrio's trial advocacy instructor and one of a few in the country at that time, also helped him catch the courtroom fever. Phelan, eventually became a Cook County Board president and was the son of a lawyer who advised Demetrio to think about law when they met at the restaurant. Phelan happened to work for Philip H. Corboy. Geroulis also knew Corboy well.

Geroulis gave Demetrio incredible access to the legal system. The judge let him sit in on pre-trial conferences. One day when Demetrio dropped by to see the judge, Corboy was trying a case. Geroulis momentarily halted the proceedings in front of the jury and drew Corboy's attention to Demetrio. Corboy asked him to come by his office to see if he wanted a job. Unlike his bedpan-selling job offer, Demetrio started work that very day.

Demetrio says those sorts of hires do not happen very often nowadays, although he remembers a parallel situation at his firm a few years back. Demetrio greatly admired the late



Demetrio with Corboy & Demetrio Managing Partner, and fellow Notre Dame alumnus, Robert J. Bingle, viewing the famous golden dome on the Notre Dame campus in South Bend, Indiana.

adds, "I carry in my wallet a message to my daughter to call Tom before they call anybody else in case I get into an accident or am killed."

Although Demetrio mentions the importance of his father's LaSalle Street restaurant—the clientele were mostly lawyers and judges—in getting him to think about law school, he says he had no clue what he would do with his law training during the first two years at Chicago-Kent. He performed research for the renowned Walter H.E. Yeager, who edited *Williston on Contracts*, but he could not imagine becoming a contract lawyer. Two courses in his third year opened his eyes to trial advocacy and court watching.

U.S. District Court Judge Abraham Lincoln Marovitz. One day Marovitz called Demetrio and said, "There's a young man I think you should hire." Demetrio skeptically replied, "O.K., Judge." Marovitz said he was sending him over. The young man who walked into the office was Robert J. Bingle, a fellow Notre Dame graduate, who today is the managing partner at the firm.

Over the years, Demetrio's relationship with Corboy has changed considerably. Corboy allowed him to get into the courtroom quickly to start trying lawsuits, the way he did all his young attorneys. Demetrio claims he was talking on his feet, picking juries, arguing motions,

drafting jury instructions and eventually trying cases years before many of his friends at larger firms set foot in the courtroom.

"I would scrounge around and find cases no one else wanted to try," he says. "I didn't care if the case was going to be lost because that was the challenge of it."

Doing that increased Corboy's confidence in Demetrio, which led him to entrust him with cases Corboy ordinarily would have handled. Corboy approached Demetrio one day in 1982 and told him how he regretted letting John D. Hayes, an investigator and former lawyer at the firm, get away. He told Demetrio he did not intend to repeat that mistake, so the firm became Corboy & Demetrio.

Demetrio says that Corboy—the hard-charging, nonstop dynamo he first met in 1973—is now the firm's elder statesman in the best sense of the phrase. Corboy remains interested in all the changes in state and federal law, in national and local politics, and in the firm and its more than 20 lawyers.

"So do we take advantage of that opportunity?" Demetrio asks rhetorically. "You bet!"

Administratively, the 90-employee firm operates like an extended family today. Demetrio remembers looking at a crowd of around 500 at last year's Christmas party and asking, "Are we responsible for all this?" The firm also had a big party recently because 12 employees happened to turn 50 in the same year. He also recalls the shock of learning that several employees were on the CTA Blue Line train that derailed and caught fire in July 2006. The firm now represents more than 60 of the train's passengers.

The closeness the office has enjoyed historically made it difficult when three lawyers with 31 years of combined experience left the firm abruptly a few years ago.

"Other firms have people leave all the time," Demetrio says, "but the reason it was noteworthy was that it was unprecedented here in the manner in which it was done."

Demetrio says the firm has taken great pride in all the terrific lawyers who have come through the office and moved on to great success on their own. When Todd A. Smith decided to leave, Demetrio says Smith told him he would stay "as long as necessary." When his pal Robert A. Clifford left the firm in 1985, the firm started him out with 200 cases. As upsetting and disturbing as the most recent exodus was for the firm, Demetrio says it brought everyone closer together. He says the firm's attorneys are a good group of people who are well compensated. If any wants to leave in the future, Demetrio says they are obviously free to do so; they can even have a

year if they need it.

"The way these three did it is just not the way it's done," Demetrio says, because it potentially compromised the clients' interests.

Demetrio admits that belonging to the legal community is not as fun as it used to be. Demetrio sees more greed today and less

front of me and, of those, Tom would rank in the top two or three."

He says Demetrio is a well-prepared, extremely confident and competent trial lawyer who only has the best interests of his clients at heart.

As the interview winds down, Demetrio walks



A treasured artist's sketch of Demetrio and his friend, mentor, law partner and living legal legend, Philip H. Corboy.

common courtesy, a problem he warned the local bar about during his CBA presidency. He says the camaraderie between the bench and the bar has declined. But he delights in some of the bright spots, such as the small but prestigious Inner Circle of Advocates he belongs to and the many close friends he has made over the years.

"Tom has tried at least two cases in here," says Cook County Circuit Judge Thomas L. Hogan, who has known Demetrio for a handful of years. "I've had a lot of lawyers try cases in

around his office and hands over his resume. The numbers are impressive: 12 articles written about him, 23 articles written by him, membership in 32 organizations, some 120 lectures and teaching sessions. There are committees and colleges and academies of trial lawyers, legal and philanthropic causes galore, advisory councils for academic institutions at every level, and even the United States Supreme Court Historical Society and the Vatican Restoration Committee.

But ask jurors or friends why Demetrio is so successful and they focus on something else.

Often referred to as the Corboy College of Law, or PCU (Phil Corboy University), these are some of the personal injury lawyers who gained invaluable experience and worked alongside the master:

Mary Bennett, Patricia C. Bobb, John Bernard Cashion, Timothy J. Cavanagh, Robert A. Clifford, Joel T. Daly, James Thomas Demos (Deceased), George Elsener, Paul Episcopo, Ellen Etscheid, Mark Fedota, Stacy Feeley, Teree Foster (Former Dean of DePaul Law School), Kevin Freeman, Maurice Garvey, Kenneth L. Gillis, Robert J. Glenn, Tim Groark, Jack Gustafson, Patrick Harrington, Allen Hartman, Jack Hayes (Deceased), Albert Hofeld, Phil Howard, Matt Johnson, Young Kim, Larry Kotin (Deceased), Jerry Latherow, Terry Lavin, Tom Leahy, Elizabeth Lewis, Susan E. Loggans, Charlie Loverde (Deceased), Nancy Lyon, John McConnell, Donald McGarrah, Terry Mahoney, Richard F. Mallen, Kevin Martin, Ken Miller, Nicholas Motherway, Michael Muldoon, Mariann Zanos Murphy, James Murray, Mindy Nam, Tom Needham, Robert L. Nora, Jim O'Connor, Frank Pasternak, Bruce R. Pfaff, Richard Phelan, Judith Reese, Elizabeth Rochford, Rohit Sahgal, Dennis Schoen, Todd A. Smith, William G. Sullivan, and Thomas Tobin

Brill, who worked with the firm from time to time, stopped by the office several years ago. Demetrio asked him to view a “day in the life” presentation about a young stewardess who became a quadriplegic when a truck hit her from behind.

“It was just the two of us sitting there, so there was no reason for him to act in a phony way with me,” Brill says. “As we watched, I peeked over and he was in tears.”

Demetrio explained he had the same reaction each time he watched the film. Brill says that reading the transcript of the closing argument even now would bring tears to his own eyes.

Demetrio is well aware of the fine line between showing appropriate empathy in the courtroom and letting emotions affect legal judgment.

“We professionals have to remain objective,” he explains. Today Demetrio chooses to document injured clients’ lives more with still photos than films.

Photographs dot his office—many are of his mother, who acted as a shadow juror early in his career. In one photo she is with the Rev. Theodore M. Hesburgh, a great family friend, on the Notre Dame campus. Father Hesburgh later officiated at her funeral in November 2006. He did the same for Demetrio’s father 17 years earlier. Other friends and mentors are in picture frames nearby. Demetrio wonders if readers might want to see some of the images of the people who have been so important to him. But his life has been so focused on good people, on clients, and on the challenges facing the legal profession that he has to ask a question most folks in the country could have answered years ago.

“Can photos be sent by email?” ■