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The Benefits of RAISING YOUR HAND

Scott A. Wolfson of Wolfson Bolton in Troy on bittersweet boom times and how a bankruptcy lawyer wound up trying a freedom of religion case

INTERVIEW BY ROSS PFUND
PHOTOGRAPHY BY SCOTT STEWART

Q: What was your first move out of law school?

A: I'm originally from a really small town up on the upper peninsula of Michigan called Ishpeming. I was the first person in my family to go to college. I wanted to get back up there and I wanted to work in the community, in government or in politics, to try to help it out. I had no intention of practicing law. I just thought a law degree would be something beneficial or helpful for what I planned to do. But I practiced for two years and I guess I ended up liking it, and here I am now.

Q: That was when you got your criminal jury trial experience?

A: That was a lot of fun. Actually, if

you've ever heard of the movie *Anatomy of a Murder*, that case was filmed in the Marquette County Circuit Court where I had my first jury trial.

Q: Does the broad legal experience that you got as a young lawyer benefit you today?

A: I am very thankful for that. Trying criminal jury cases taught me how important preparation is and how much actually goes into preparing for trial. And while I had had and enjoyed trial advocacy classes at the University of Minnesota, which really helped me, nothing is like trying a case until you actually try one. Especially when your client is looking at going away to prison for a long time if things don't go well.

Q: Did you feel pressure in situations like those?

A: I felt pressure to do the best job I could with the facts I had. For example, with one felony case, I had a woman sitting there with her children of 4 and 2 in the courtroom with us. And mom was looking at going away for a long time. So I did feel pressure, wondering what would happen if these kids lost their mom. And I'll tell you what, I hadn't heard from this woman since I said goodbye to her in the courtroom that day. Last year, out of the blue, [she left me] a voice message that I still have saved. She called me to again thank me for helping her get her freedom. So whenever I'm having a bad day, I play that.

Q: It has to be a great feeling when





SCOTT A. WOLFSON

- FOUNDER, WOLFSON BOLTON; TROY
- BANKRUPTCY: BUSINESS; BUSINESS LITIGATION
- MICHIGAN SUPER LAWYERS: 2009–2015; TOP 50 BUSINESS: 2013–2015; TOP 100: 2010–2015

something you did many years ago is still paying off for somebody.

A: I mean, we're fighting about money and big dollar amounts a lot of the time. But nothing is more personal than when you're talking about someone's freedom.

Q: What eventually brought you down from the U.P.?

A: I was busting my tail. I had big student loans that I realized I was never going to repay no matter how hard I worked in that geographic area. So I went down and started working for Honigman Miller Schwartz and Cohn, where I worked for over 11 years and became an equity partner.

Q: Who were your mentors there?

A: Judy Calton, Carol Clark. One of the things

I learned from Judy was staying cool under pressure. I will never forget this: We were doing a lot of work for an auto manufacturer and were keeping an eye on a financially troubled supplier. We were in the beginning stages of preparing for potential litigation we thought we might have to bring in a couple weeks. So I got to work one morning and [found out that] we had to go to Ohio immediately and file for an injunction to force this supplier to keep supplying. And it turned out that there wasn't enough time to get on a commercial flight. So then they sent a plane to Detroit City Airport. We hustle over there, we get on the plane, I'm preparing and preparing and preparing. I turn around to ask Judy a question and she's reading a novel. [Laughs] That made me realize, "I guess we got this."

Q: Other than keeping your cool, what does it take to be successful in bankruptcy law?

A: In addition to always being prepared, not making the arguments personal. I think that's important. And in the bankruptcy field, it really is a smaller community and personal relationships count. So I think you see a lot less of the scorched-earth litigation tactics sometimes you see in state court. Also, make sure that every time you put a brief in front of a judge, that judge knows that it's going to be well-written, well-reasoned and not bombastic.

Q: Is complexity a challenge?

A: One reason I think that bankruptcy can be more manageable than some other areas of law is that it's code-based.

You've got a bankruptcy code that you can turn to for a lot of issues. There's a huge amount of spin-off issues and other state law issues, but you really have a code to proceed from.

Mastering the code as a starting point is big. When I was doing commercial litigation, you didn't know what kind of case you're going to get. Who knew what the cause of action could be? But with respect to bankruptcy, at least when you're litigating in the bankruptcy court, you have a pretty good idea of the types of issues you're going to face. What makes it more complex is there's a lot of times where there are state law interrelationships and then that comes into play.

Q: How long did it take you to master the code?

A: I think I'm still pursuing expert status. But it seems like the more you do this work, the more landmarks you're able to chart.

Q: Do national economic trends affect your work?

A: It was a crazy time during the auto meltdown. Those were times when we were pulling at least two shifts. I remember talking to a consultant, trying to schedule a call for a Sunday. And we kept [missing each other] ... I had a call, he had a call, I had a call, he had a call. Then we finally found a time where we could both talk on a Sunday. And I just remember he said to me, "sign of the times." And unfortunately for our practice, the bust times in the economy can be the boom times for us.

Q: That's got to be bittersweet.

A: Yeah. I think we got a very favorable result for a lot of our clients during the automotive bankruptcies. We really manage a large number of clients, and drove to a favorable result with them. I'm proud of how we went through that, that meltdown.

Q: It's such an intensely local issue.

A: Right. That was Armageddon here for most folks in town for a while. It's funny how things are cyclical, because all of a sudden everybody was becoming a workout, restructuring or bankruptcy attorney. Whereas, in most times, we're fewer and further between.

Q: What aspect of the work comes most easily to you?

A: Typically, it's negotiations with informed opposing counsel. I like getting together and sitting down with an informed opposing counsel to talk about realistic ways that we can save our clients a lot of time and aggravation and try to find common ground; because a lot of cases do settle now.

One of the things I like is, I can conduct a mediation, get two parties together and, if we document a settlement at the end of the day, there's a bit of a feeling of accomplishment. Whereas a lot of the work we do on a daily basis can drag on for two to four years.

That's one of the reasons I used to paint houses in the summers. And even in cutting lawns, there's a sense of satisfaction when you're done and you can look at what you've done, right? I kind of get that feeling from mediation when I get two parties to settle.

Q: The flipside of increased mediation is that many young attorneys are not getting trial experience.

A: Right. I'm grateful to Honigman for allowing me to do that freedom of religion pro bono case [in 1999], because that was very time-intensive.

Q: So how does a bankruptcy attorney end up working on a First Amendment case?

A: That's a good question. I think the pro bono coordinator mentioned that there was this freedom of religion issue. And that's something that's near and dear to my heart, and I volunteered to do it.

Q: Did you just jump right in?

A: I had some great professional guidance. The first thing I did was I reviewed my bar exam materials on constitutional law and the First Amendment. And then I had an amazing mentor in Professor Robert Sedler at Wayne State University. He's a constitutional law expert and he's a great man. He was a lot of fun to work with.

Q: So the issue was that this student was not able to wear a symbol of her religion in her high school?

A: Her religion was Wicca. The sign of the

Wiccan faith is a pentagram, or a five-pointed star. And it was barred under this broad-ranging "gang/cult" policy, is what the school district called it.

Q: Seems like a very broad policy just by the name.

A: That's why it was so easy to get fired up over this, because it was such a very basic freedom of religion issue.

Q: Was your success just a matter of pointing out the obvious?

A: Well, it wasn't obvious to Lincoln Park High School. They thought that they had a legitimate reason for doing this. I'm not sure how well thought out that policy was, but the fact is we sued and they didn't rescind it. We had to take them to trial.

I did the direct examination of our client, Ms. Seifferly. [Sedler] did the cross-examination of the school. And the trial went very well. The judge made some comments indicating that he seemed to be inclined to rule in our favor. And we ended up settling with the school district. Even though we weren't charging, they paid the ACLU all of our attorney fees that would have been otherwise payable.

Q: Looking back on the experience now, what sticks out to you?

A: First, it was a very highly publicized case. So as I was doing the direct examination of her, they were shuffling in and out school buses of kids that came to watch the case. That is something that hasn't happened in any of my other cases. [Laughs] But what also was great was just the feeling from prevailing in connection with one of what I believe to be one of our fundamental principles of this country. So it felt really good to help this woman who very earnestly practiced this nature-loving religion to wear the symbol of her religious faith to graduation.

Q: All thanks to a bankruptcy attorney.

A: I raised my hand, I guess, is the lesson there. Be careful. ☐

This interview has been edited and condensed.