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Order from chaos: Attorney serves as strategist for business leaders

By Sheila Pursglove

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Trial attorney Kevin Fanning notes that patience is paramount in a courtroom.

“The ability to remain silent and wait patiently for another lawyer to argue was a learned skill for me,” he said. “But courtroom patience is a critical skill to master, since judges and jurors almost always lose concentration when voices are raised or when people interrupt one another.”

As the youngest of eight children, Fanning was certainly used to interruptions, raised voices, opposing viewpoints and lots of noise.

“Arguing, debating and struggling to be heard was a necessary part of my existence,” he said. “In many ways, I think my choice of a career in the law presented a logical pathway toward order in the midst of chaos.”

Those boyhood experiences certainly paid off: a partner with the national law firm Clark Hill, and based in the firm’s Birmingham office, Fanning is consistently named a Michigan Super Lawyer, has been honored as a Top Lawyer in Michigan by DBusiness and named to the BTI Client Service All-Stars 2016.

An avid trial lawyer with multiple first-chair trial experiences, he is a key adviser and strategist for top management in a variety of business sectors.

Fanning enjoys assisting the officers of companies to guide their decision-making to solve organizational problems, whether caused by internal or external forces.

He notes that while business leaders tend to be highly skilled visionary thinkers, when problems arise, there can be a wide spectrum of adverse reactions.

“Some ignore problems until they grow to unmanageable proportions, while others over-react to problems and inadvertently exacerbate them,” he said. “Since most effective business leaders are often dealmakers, a large, slow-moving and unpredictable lawsuit runs counter to everything they know and expect — this is especially true when the case presents a grave threat to the company.”

Fanning added it is an attorney’s job to listen and slow the pace, so the problem can be dissected and evaluated, piece-by-piece.

“The lawyer must also learn how to wrestle the problem away from the business people in order to re-cast it,” he said.

According to Fanning, the best lawyers think independently from their clients.

“They have the confidence to tell a business leader they are wrong, and why — especially when nobody else in their organization will,” he said.

Fanning learned the ability to listen and project confidence by watching seasoned litigators in action.

“These skills cannot be Googled or gleaned from any practice manual,” he said. “These are the scenarios I help business leaders manage, and it’s what I enjoy the most about my niche practice areas.”

He enjoys the process of creating an evidentiary roadmap in the discovery phase of a lawsuit.

“The more complex the facts, the more layers are added, and the longer the evidentiary roadmap becomes,” Fanning said. “It also helps with analyzing what really matters, so discovery can be targeted in these areas.”

Constantly chasing down extraneous facts “can bog a lawyer down in meaningless distractions,” he said.

“These ‘bunny-trail lawyers’ often take extremely long depositions that dig into meaningless areas that will be long-forgotten by the time of trial,” Fanning said.

Such an approach signals a lack of preparedness, rather than the opposite, he said.

“It is the lawyer who can whittle a deposition of a key witness down to three or four hours and still get everything who presents a far more formidable opponent,” Fanning said.

Fanning cites two components for success: efficiency and courtesy.

“On direct examination,” he said, “the ability to efficiently lay a foundation for the admission of an exhibit in a courteous manner, while simultaneously sharing the marked exhibit with the witness, judge, and opposing counsel, with no interruption in the flow of the examination, is a critical mechanical skill that moves a trial along and engenders trust in the fact-finder.”

In contrast, he said, “watching the jurors’ eyes roll as a lawyer barks at a paralegal while fumbling through three binders for an unmarked exhibit is comparable to watching a train wreck.”

Fanning said cross-examinations are a test of brainpower, often best delivered by more taciturn, data-driven plodder-type lawyers, as opposed to overly dramatic types.

Fanning recalls how his professors at University of Detroit Mercy School of Law (now Detroit Mercy Law) did an excellent job of reminding students the practice of law is often a test of conscience.

“We were specifically trained to avoid the temptation to pursue gray areas in black and white situations, and to understand that the use of good judgment is never negotiable,” he said.

Fanning noted this is especially true in litigation.

“The response to virtually any modern discovery request will seek emails and metadata that contain the good, the bad and the ugly,” he said, recalling a recent conversation with an opposing counsel after a discovery exchange.

“We both admitted we felt relieved at how our productions were equally damaging for our respective positions, and thereby effectively offset one another,” Fanning said. “But all the data was shared, and this is as it should be — there are no gray areas, and one need only read the disciplinary section of the Michigan Bar Journal to remind themselves of the importance of that fact.”

A native of Esher, Surrey, in south England, Fanning has lived in the Detroit area since 1979 and currently lives in Bloomfield Hills with his wife Stephanie, and daughters Claire and Emily.

The family enjoys family getaways to Okaloosa Island in Florida and Glen Arbor in northern Michigan.

Fanning enjoys watching his daughters compete in year-round competitive swim meets through USA Swimming, often serving as the meet announcer.

He also helps coach softball and basketball, volunteers in various Clark Hill-sponsored community service activities for numerous charities, and serves as chairperson of the St. Hugo of the Hills Parish Finance Council — “a very time-consuming but extremely fulfilling commitment,” he said.

A lifelong Lions fan “from the Silverdome days all the way to the grave,” Fanning is an avid reader of mystery and suspense novels.

He also finds relaxation through manual labor, such grass cutting, leaf raking and snowplowing.

“I also like ‘DIY’ projects, such as painting, plumbing and basic electrical — provided I can quickly learn how to do such things on YouTube and drywall removal is not involved,” Fanning said.

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