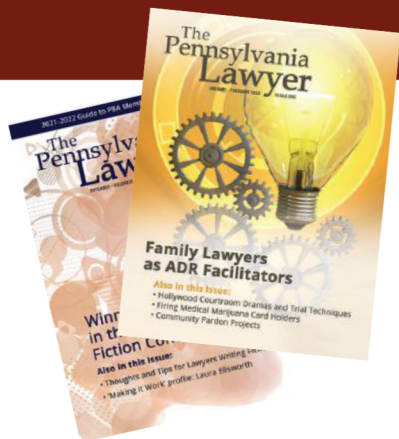


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'WAR STORIES' ►

SPECIAL EDITION

"Now you know . . ."



Photo courtesy of Joni J. Berner

Family lawyers love to tell war stories — usually funny, but sometimes terrifying accounts of the unusual things that happen in courtrooms, in negotiations with other attorneys and in countless settings with clients. In the Philadelphia area, everyone has heard about the lawyer who draped a dozen fur coats on the front rows in the courtroom to demonstrate the lavish lifestyle she wanted the soon-to-be-ex-husband to continue to finance. Likewise, we have all heard the story about the two lawyers who adjourned a contentious settlement meeting with their clients to walk over to Wanamaker's to buy a second set of fondue forks in order to end the parties' inability to agree on who would keep the set they owned.

War stories are what we share at cocktail parties, what adjunct professors tell law students to illustrate points in the lesson and sometimes what a family lawyer uses to guide a client away from a bad strategic move. I have told one of my favorite per-

sonal war stories in all those settings and, especially, when first-time visitors to my office ask me about the G.I. Joes displayed on a rack on my office wall. The story goes like this:

Around the turn of the century, one of my divorce cases was approaching a final hearing on the financial issues. It had been a contentious case from the very beginning and my client, the wife, was perpetually overwhelmed by her husband's threats that she, a stay-at-home "housewife," would get none of his hard-earned assets. On a Friday afternoon, husband's attorney and I each filed our pretrial memos with the court and hand-delivered copies to the other's Center City office. My materials included a chart of the assets and debts, their actual or estimated values and the proposed division between the parties. The previous months had been filled with gathering and exchanging financial documents about husband's pension plan and 401(k) retirement account, the parties' bank and investment accounts, the family house on the outskirts

of Philadelphia, the vacation home at the shore and various cars. In those months, my chart became more and more filled with data and, eventually, all assets had been identified and valued, except for one: “Husband’s collectibles.”

In our initial interview over a year earlier, wife bitterly described husband’s excursions to conventions to collect sports memorabilia, comic books and other “nonsense.” She said he spent hundreds of dollars at a clip and the clips came almost every weekend. I explained to my client that we needed to come up with the approximate value of husband’s purchases and gave her the option of hiring a valuation expert. She didn’t want to incur the cost of an appraisal and, from the onset of our negotiations, husband denied even characterizing his purchases as a “collection,” let alone one with any value. On that Friday when our pretrial memo was due, I told my client we either needed to remove “Husband’s collectibles” from the roster of assets or include a value we could convince the court to accept. She concluded that \$10,000 was a reasonable value to assign to the collectibles, as husband had easily spent at least that much over the years. This was a relative drop in this divorce bucket, from my perspective, and it would likely be excluded by the master at the upcoming hearing without substantiating evidence. If keeping “Husband’s collectibles” at the bottom of our asset chart made wife feel that justice was being done and ended her need to keep fixating on the topic with me, great!

After 5 p.m. that Friday, an agitated building security guard called my office to report that an “unauthorized delivery” was being made by someone who didn’t sign in properly and refused to use the service elevator. As I hung up, the front door flew open and in rolled a cart piled high with a mountain of boxes and bags. One of the two very young-looking deliverymen handed me a piece of paper — the last page of my asset chart from my pretrial memo with handwriting on the back: “\$10,000, my ass!!” I started to demand that the young men stop unloading the cart and take everything away until I real-

ized one of the deliverymen was the parties’ 15-year-old son. He looked nervous and uncomfortable, and it was obvious that scolding him was futile. Instead, I watched him and his friend push the now empty cart into the elevator, and I turned back into the office. Our small waiting area was completely filled with oversized file boxes with hundreds of comic books and seven or eight huge garbage bags stuffed with all sorts of sports memorabilia, figurines, bobbleheads and G.I. Joe dolls, all in their original boxes.

The way I’ve ended this story over the past 20 years has depended on my audience. With law students in one of my divorce seminars, new lawyers and law clerks in our firm and lawyers in CLE courses about ethics or law firm management, the topics have included ethical considerations about safeguarding property placed in a lawyer’s possession, using DIY evaluation methods in equitable distribution cases and candor with the court and opposing attorneys about marital estate inventories. Most of the time, however, the conversation has been with new clients or first-time visitors in my office who are surprised to see my G.I. Joe display. My usual short response is something like, “Oh, those are souvenirs from a negotiation gone bad and the knee-jerk reaction of an angry spouse without talking to his lawyer.” Often with clients, I circled back to the Joes when the consultation reached the point where I described exactly how we go about gathering and sharing information and how property division in a divorce balances all the assets and debts, as opposed to dividing each thing individually. Rather than getting hung up on a particular asset as the marital estate is identified and valued, wait until we can look at the whole picture.

Perhaps the most valuable feature of my G.I. Joe story is the opportunity it provides to explain to clients that few things in the divorce process require immediate response and almost never warrant self-help. If husband had just called his attorney, he would have learned that the divorce master would ultimately decide the reasonable value and distribution of the collectibles. If wife had guessed too high and couldn’t provide ob-



What’s the lawyer story you most love to tell when you bend an elbow with friends after hours?

Every lawyer has a favorite “war story” — a tale of a hard-won legal battle, a story with a hilarious twist, an account of an incredible escapade. Pick your best can’t-top-this adventure with a judge, jury, client or colleague and write about it for us in 400 words or less. We’ll choose the best of the best to share with our readers in an upcoming issue of *The Pennsylvania Lawyer* magazine.

Email your “war story” to us at editor@pabar.org or mail it to Pennsylvania Bar Association, Attn. Editor, *The Pennsylvania Lawyer*, P.O. Box 186, Harrisburg, Pa. 17108-0186.

jective support for her position at the hearing, the master would substitute a lower number, possibly zero.

Like many war stories, with the passage of time the exact details of what happened after my office was invaded escape me. Oh, I do remember being furious and calling the other attorney, demanding that husband arrange to have the cargo picked up during the weekend. She called back five minutes later and said her client refused to retrieve the collectibles. "He's being a jerk. Do whatever you want with the stuff," she said.

Our law clerk and her law school friend were still in the office. One of them logged onto the Internet on our one computer connected to a modem. She knew about this marketplace (eBay) where people bought and sold things. She had no luck with the bobbleheads (all Phillies players), but she found G.I. Joes selling for \$20, if

still in their original packaging. The G.I. Joe boxes filling our office all had \$20 written on a price sticker. If husband had been hanging on to them for a long time waiting for them to earn a profit, his plan hadn't worked. The other law student sorted through the two cases of comic books. None of them were Marvel comics, the brand my husband saved since his youth, and I certainly didn't want to add more to his "collectibles." I was thrilled that our law clerk's friend happily took the comic books to a youth program where she volunteered.

That just left dozens and dozens of bobbleheads and G.I. Joes. I moved them to my office for almost a week, just in case husband changed his mind about retrieving them. He didn't. I offered them to wife, who also didn't want them. Eventually, I brought most of them home to my then-10-year-old son. But I saved five of the Joes and displayed them on a repurposed Ikea

wine bottle holder as a weird piece of art and as a reminder to myself of how the logic and cool-headed thought I try to bring to financial negotiations can be eclipsed by emotions.

I don't recall how much time was spent discussing "Husband's collectibles" at the divorce master's hearing a few weeks later, although I do remember the divorce master awarding wife the attorney's fees she requested without deducting \$10,000 for the stuff husband dumped in my office.

Fortunately, war stories aren't intended to be completely accurate accounts of history. Sometimes they just help explain an oddity on display in a lawyer's office.

Joni J. Berner
Philadelphia

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The Pennsylvania Lawyer

The background of the cover is a warm yellow-orange gradient. A large, glowing incandescent lightbulb is positioned on the right side, emitting a bright yellow light. To the left of the lightbulb and in the foreground, there are several interlocking gears of different sizes. One large gear is dark grey, while the others are lighter, appearing almost white. The gears are arranged in a way that suggests a complex mechanical system. The overall aesthetic is one of innovation and industry.

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