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What I Learned In My 1st Year: Listen Carefully, Speak Up

By **Marcy Rothman**

This article is part of a continuing series featuring attorneys' true-life tales from the earliest days of their legal careers.

Here, Marcy L. Rothman of Kane Russell Coleman Logan PC reflects on two key moments that occurred in her first year as a lawyer: one that confirmed the wisdom of paying close attention, and one that helped her gain the confidence to speak out in defense of her core values.



Marcy Rothman

When I graduated from law school in 1988, one of the true hotbeds of tort litigation in the United States was an area called the Golden Triangle in Texas. It is the southeast corner of the state, at the junction of the Gulf of Mexico and the Louisiana state border. It includes Beaumont, Port Arthur and Orange, and the Neches and the Sabine rivers.

It is the subject of two books by the New York Times best-selling writer, Mary Karr, who accurately captured what life was like during its heyday. Most families relied on the plants and refineries for their livelihoods and kept pots going on the stove for brothers and husbands who did shift work. When I arrived there in the late 1980s, life in that area had not changed too much from how it looked in the movie "Urban Cowboy," starring John Travolta and Debra Winger, about life in Pasadena, Texas, just outside Houston, which is 80 miles to the west.

The tri-city area of Beaumont-Port Arthur-Orange was the birthplace of asbestos liability claims and true industrial plant and refinery litigation. The work involved brown water and blue water shipping, barges and ocean-going container ships. It was considered a plaintiff venue, and lawyers who learned to be good defense lawyers there could defend a case anywhere.

Jefferson County, where Beaumont and Port Arthur are located, and Orange County were well known in the London insurance markets. There were several old-line firms in the area which were considered large and sophisticated for the day, and I landed at one that had been founded in 1917 by one of the area's most revered gentleman lawyers.



WHAT I LEARNED IN MY FIRST YEAR

Two things worth mentioning happened around that time. The first pertained to learning to listen. The second pertained to refusing to participate in what I heard.

The culture in the Golden Triangle was a cross between life in Southeast Texas and Cajun country. Instead of barbecues, you could always count on invitations to a crawfish boil, or fried catfish and hushpuppies. Many of the litigants injured in serious industrial accidents were Cajun and spoke Cajun French as a first language. They hailed from the bayous and swamps of south Louisiana.

The particular case that taught me to listen involved a boat explosion in which the plaintiff had been seriously injured. As I listened to his day-long deposition being conducted by a much more experienced lawyer, I realized that the story did not seem quite right. I thought about it for a long time and, at the very end of the day, when it was my turn, I asked a few questions which wound up breaking the case.

As I listened to the other lawyer leading the plaintiff through the events of the day in tremendous detail, I realized that the plaintiff had never mentioned the one thing that I had seen almost everyone in the area do: smoke cigarettes. The plaintiff told the story of how the explosion occurred while he was fueling the vessel but never mentioned smoking. Nor had he needed a cigarette break during his testimony.

I realized that, and simply asked him if the last cigarette he ever had was on the day of the accident as he was starting to refuel. He looked at me in shock and answered, "How did you know?" The short answer is, the plaintiff had failed to exercise due regard for his own safety and had lit a cigarette in the presence of fumes and fuel.

I had listened and compared what I knew of life in the area to the real-life story that I was hearing. When the two did not correspond, I was able to use the gap to uncover the truth. I've had other similar experiences since.

Every Friday the firm's lawyers would retire to a private club for lunch and discussion. To my dismay, at one of the first Friday lunches during my tenure there, while all of us white lawyers sat around the table being served by African-American staff, someone in the club started to use a racial slur. I came from a home where this sort of talk was not permitted and the language was not — and to this day is not — aligned with my personal values.

The shock must have registered on my face, because one of the other lawyers looked at me and laughed. She was the first female partner at the firm. She observed my obvious dismay, and commented about it. I don't recall exactly what was said, but my best recollection is that she would have said something like, "You don't like that word, do you?"

And I was faced for the first time with responding to an inquiry on a topic that I thought might put me at odds with those around me who were in charge of my career. I had to check myself and quickly determine how I would reply; lawyers in the area and club members had been born and raised in the area, which included Vidor and Lumberton, small back woods towns known for having been home to the Ku Klux Klan.

Again, I don't remember exactly what I said but I think it would have been something like, "No. It makes me very uncomfortable. We don't use that kind of language in my family and I don't approve of it."

For the first time I voiced an opinion that was typically forthright, but as to the effect of which I was uncertain. Continuing to do so has not always been the easiest way to proceed, but I have never lost any sleep during my career over whether I have been honest.

As it turned out, that particular partner was one of the brightest and most interesting characters from my time in the Golden Triangle. She is the Meredith character in the Mary Karr books "The Liar's Club" and "Cherry." She grew up with Janis Joplin and the other Texas author Chris Cook, who figures in Ms. Karr's books under a pseudonym as well. She punched her ticket out of the area by going to college at Rice University and attending law school at Duke, but wound up coming back and living in the place she knew best until she ultimately passed away.

Our brains did not approach legal issues the same way, and I developed some early concern that I would not be successful because I did not see the issues clearly. As it turned out, and as I tell young lawyers 29 years later, good minds can see problems — and solutions — differently. My approach was different from hers, but I have stayed true to myself, listening carefully and relying on what I hear and what I think.

I have won two plaintiff verdicts with values in excess of \$5 million each, and I have successfully defended countless cases at trial with values in the tens of millions of dollars. I have settled countless cases for hundreds of millions of dollars. I suppose if I were to sum all of this up, the moral of the story would be to listen and learn and walk the straightest line you can, and trust the process.

Marcy L. Rothman is the managing director at Kane Russell Coleman Logan PC in Houston. Her experience includes favorable results in civil trials, administrative proceedings, arbitrations, appeals and negotiated resolutions. She has participated in approximately 100 trials to verdict, two-thirds of which she has handled as first chair trial attorney. She has handled appeals and has successfully represented clients before the Texas Supreme Court and the United States Court of Appeals for the Fifth Circuit.

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