

LITIGATION COMMENTARY & REVIEW

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Cecille M. Loidolt

1. At the 2015 LCA Spring Conference & Celebration of Fellows, you, Marguerite Willis, Lisa Bertini and Denise Smith Cline presented “Glass Ceilings and Glass Slippers,” with content that has risen to the top of current law firm issues. The main issue being that of equal pay. Since different firms utilize different approaches and formulas to calculate earnings, including elements of origination, billing, working and the like, do you think quantification of values reaching true equality is possible in scenarios where not all things are objectively equal?

Well, I think we should at least try. I work in a firm that has a compensation formula, which is very objective. What we want as women is not special treatment, we want the same treatment. A compensation formula removes discrimination and bias. The issue then, is getting opportunities to women *early*, so that they have the same opportunities as men to build a book of business. This has to start early, with inclusion in client events and opportunities so that young women can build a book of business, and have experiences equal to that of their male colleagues, when decisions about raises and promotion to partnership are made.

2. You practice in an area of law, medical malpractice, where the jury must be convinced by the defense that a bad medical result is not necessarily indicative of professional error outside the applicable standard. When standing before jurors, how do you assess their collective ability to understand complex medical issues and then steer them with an understandable legal road map to a favorable verdict?

I treat jurors with respect. Some have said that jurors possess no more than an eighth grade education. To treat them that way is to underestimate their intelligence and investment in the process. I think they want to get it right. I give them the information – the facts and evidence – to help them get it right.

3. How do you deal with your personal feelings when working on a case with horrific facts that has questionable or close liability, even from your viewpoint?

I always find the good in my cases, and I always find it in my clients. I do for them what I would want done on my own behalf if I were being sued. Horrific facts do not make the person horrific. Any physician can have a bad outcome, and they deserve a good defense.

4. Is your approach at trial to slice and dice the other side with finesse or scorch the Earth beneath their feet? Or is your style adaptable to what the other side dishes out? I mean, after all, one article about you was entitled “The Gunslinger, the Bulldog or the Pit Bull.”

Ha ha – that made me smile. I have heard that I have a reputation as being aggressive. In my defense, I’ve never had a client complain about it, and say that I was “too aggressive.” In fact, most people want us to fight for them and juries expect the lawyers to fight for justice for their clients. My approach is to know the facts, the records, and the literature very well, and to use those things against the other side’s experts. I read everything. I gather as much information as I can. I recently had an expert tell me that I “surgically dissect the other side’s case.”

All of that said, I am not one dimensional; there is more to me than a barking dog. So many of these cases involve very sad and devastating outcomes. I always treat the plaintiff with respect. I have to ask the hard questions, but I try to do so delicately and with compassion. As they say in the military, I strive for good “situational awareness” and I proceed according to the situation. I do invest myself emotionally in these cases. How can you not? I think it makes me a better lawyer for my clients.

5. How do you handle judges that have a predisposition opposite to your case? Or perhaps more simply, judges that simply tend to philosophically be favorable to your opponent?

We have a lot of good judges on the state and federal court benches in Minnesota. There have been a few cases, however, where it is clear that the judge does not like my case, my client, or me. I always treat them with respect, but I don’t let go of my position. I make sure the record is clean and clear on what I’m asking for. And I reassure my client that this is why we have juries– because 7 heads or 12 heads are better than one.

6. Not that you would know, but how should a trial lawyer handle defeat?

“With beauty and grace,” as my personal trainer would say. I do know defeat, and I lost a case recently. I called and emailed the other side immediately, to say congratulations, and to tell him he did a great job for his client. It’s the right thing to do. Everyone understands that if you don’t lose a case, you’re not trying enough cases. My mentor told me we should not spend too much time on wins or losses. So, I congratulate the other side, and I take what I have learned from the case, and work harder on my next cases. One of my partners said, “I feel sorry for the next person you have a trial against.”

7. What book should every trial lawyer read?

Something that has nothing to do with law! One of my favorite books is *The Alchemist* by Paulo Coelho. It is a wonderful story of living one’s dream. There are beautiful quotes in the book -- “It’s the possibility of having a dream come true that makes life interesting,” and “When you want something, all the universe conspires in helping you to achieve it.”

You know the other book that I always recommend – *Lean In* by Sheryl Sandberg.

8. What advice about practicing in the medical malpractice or health care law arena would you give the younger you?

Try to worry a little bit less, try to relax a little bit more, and it will be ok.

9. How should a lawyer face his or her fears?

That is a tough one. I know fear. I know it well. A client and dear friend recently told me that “courage is bravery in the face of fear.” The best approach for me has always been to prepare. It does not eliminate fear, but preparation helps to control fear. And I always remind myself of this powerful quote:

The Man in the Arena by Theodore Roosevelt:

“It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, who comes short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat.”

10. Of all the accomplishments in your career, what do you consider your greatest achievement?

Conquering fear. I had to do that this year when I tried the largest case of my career, involving a claim of birth injury. The case was in litigation for three years, involved 50 witnesses, 33 of them experts, with a future life care plan of \$33,000,000. My partner and I, Kelly Putney, obtained a defense verdict in less than 90 minutes, after a four week trial.

11. To what destination do you go to find your own version of solace?

My cabin, two hours north of the Twin Cities. It is very quiet and peaceful.

12. What is your greatest extravagance?

Fast German cars, wine, expensive moisturizer, and designer shoes.

13. If you could meet anyone from history, who would it be, and why?

I know this is recent history, but I have always admired Condoleezza Rice. She is a real trailblazer and an incredible human being.

14. Lawyers tend to travel a great deal. What are some of your favorite cities or places and what fascinates you about them?

Napa Valley and southern California are two of my favorite destinations. We also recently took a vacation in Banff. It was spectacular. I enjoy getting away to quiet places, and drinking wine.

15. What has been the biggest change in the way law, particularly trial law, is practiced between the time you first began until now?

Technology. I'm not a huge fan of change, particularly when it comes to technology. But technology has made the presentation of evidence to a jury very smooth. We used to use blow-ups to highlight portions of medical records. Who can read that? Technology allows us to highlight the evidence in a way everyone can see and understand.

16. Diversity, along with excellence and integrity, is central to the LCA's mission and plays a fundamental role in our selection of Fellows, growth, and goals. We want to quote you on diversity in the next issue of *Litigation Commentary & Review*, as well as in the Diversity Law Institute's website. In a word, sentence, or paragraph, what, in your opinion, is the significance or importance of furthering diversity within the profession of law and throughout our system of justice?

Diversity of culture brings diversity of thought. Diversity of gender brings diversity of thought. We all look at the world differently. We should embrace our differences, because diversity helps everyone achieve their full potential – organizationally, and individually. “When we include, we find ourselves. When we exclude, we betray ourselves.” This quote is from the President of USC, C.L. Max Nikias. USC has the most diverse student body of any campus in the U.S. And, it is ranked number 15 out of all colleges and universities.

17. I once practiced with a fantastic, though legendarily difficult trial lawyer named Olin Zeanah. One of my partners at that firm, beginning when we were associates, kept a list of "Zeanahisms." They were little gems of knowledge that Zeanah would occasionally impart. Did you have a trial icon or mentor in your early years of practice who shared with you the wisdom of years of practice? If so, please tell us about them.

My mentor was Dick Bland. Dick tried over 250 cases to a jury. Dick was always very prepared. He reminded me from time to time, when we had bad facts, “you didn’t do it.” And if you don’t lose, “you’re not trying enough cases.” And if you do lose, “it’s not your money.” Dick was also very inclusive, at an early point in my career. He wanted me to meet clients and interact with them early in my career.

18. What object in your office serves to re-energize you when your mood needs an adjustment?

Pictures of my husband and son; and thank you notes from clients.

19. How would you like to be remembered in life?

As a good Mom and a good Wife.

20. What is your motto?

Don't wait.

Interviewed by G. Steven Henry
Litigation Counsel of America

Cecilie Loidolt is a shareholder at Bassford Remele in Minneapolis, Minnesota, with more than 24 years of experience defending medical providers. She has tried numerous cases to a jury and has handled many high-exposure medical malpractice cases. Recently, Ms. Loidolt successfully defended medical providers involved in a \$15 million negligent management of preterm rupture of membranes case resulting in infection, neurological injury, and ultimately cerebral palsy.

In recognition of her successful practice, Ms. Loidolt is regularly named a Super Lawyer by *Minnesota Super Lawyers* in the category of medical malpractice defense. The same publication lists her as one of the Top 100 Super Lawyers; and as one of the Top 50 Women Super Lawyers. In 2013, *Minnesota Super Lawyers* featured her in the article, “The Gunslinger, the Bulldog or the Pit Bull,” which highlighted Ms. Loidolt’s dedication, tenacity, and determination in winning cases for her clients. In 2012, she was named an Attorney of the Year by *Minnesota Lawyer*. She is also named among The Best Lawyers in America in the area of medical malpractice.

Successful defense of a medical malpractice case often depends on the presentation of complex medical science in a way that is easily understood by jurors. Because of her experience in this area, Ms. Loidolt has previously addressed the LCA Fellowship on the electronic presentation of evidence to a jury. She is a frequent speaker on the subject of healthcare professional liability - to lawyers as well as clients.

Ms. Loidolt received her J.D., cum laude, from Hamline University School of Law in 1992 and her B.A. from the University of Minnesota in 1985.

Ms. Loidolt is a Fellow of the Litigation Counsel of America, a co-founder of the LCA’s American Association for Medical Malpractice Lawyers, and is a member of the Trial Law Institute and the Diversity Law Institute.