



“IN G-D WE TRUST”

[OR, THINKING OUTSIDE OF THE BOX]

Sometimes, when you are looking for a good story to use in a column, the story finds you. I was in court this month, and a much older, well-seasoned attorney sat down right next to me and began regaling me with war stories about his legal exploits from his youth. Staring at the big sign in the front of the courtroom emblazoned “In G-d

We Trust,” I thought one story in particular would be perfect for this column, and he graciously agreed to let me use it. He did ask, however, that I change some details to protect the guilty. It goes a little something like this:

About 35 years ago, Joe Banker was a successful bank president, whose bank was acquired by a large, well-known chain

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based in the Midwest. After the acquisition, Banker was unhappy and wanted to get out of his contract. He consulted with one white shoe law firm after another, and each lawyer sadly informed him that Banker's contract was ironclad. Ultimately, Banker was willing to pay a substantial sum of money to have the bank let him out of his contract, and he thought this was his only option.

Before he did so, Banker decided to try just one more lawyer, and called his old friend (and my new friend!). For the sake of this story, let's call him Clarence Darrow. Darrow's practice was primarily criminal law, and not litigation or transactional work. Darrow readily agreed to take the case, and he and Banker flew to the Midwest to meet with the bank's officials.

Banker and Darrow arrived at the meeting, hardly having discussed Darrow's plan for getting him out of a contract that several \$1000-per-hour lawyers unanimously agreed was airtight. As Banker's hand reached for the doorknob to enter the conference room, Darrow held him back and reached into his left suit pocket, removing two small circular pieces of fabric. He handed one to Banker, then each man placed one on his head, and entered the conference room.

Dually (and duly) adorned with their kippahs perched atop their heads, the men faced a room full of senior bank officials and their counsel. Darrow explained that his client had newly come to embrace his religious Jewish heritage. As such, Banker would be closing the bank early for Shabbat on Friday afternoons, closing it on all Jewish festivals, and instituting numerous changes in the way the branch



conducted its business. The bank officials uncertainly shifted in their seats, and the meeting was over shortly after it began.

Banker and Darrow had scarcely made it back to their hotel room, when the bank officials contacted them to say they were interested in buying Banker out of his contract. In the end, Darrow helped his client make a substantial profit getting out of a contract whose termination Banker had been willing to pay for.

Sacrilege? Divine intervention getting this dynamic duo out of a tight spot? Who knows? This entertaining story certainly raises theological issues beyond the scope of this column, and potential ethical issues as well. Beyond that, it highlights tools in the enterprising lawyer's toolbox, which are readily applicable to everyday life: good old-fashioned ingenuity and thinking out of the box to resolve problems.

An "out" is a term used in poker. According to Wikipedia, "in a poker game with more than one betting round, an out is any unseen card that, if drawn, will improve a player's hand to one that is likely to win." For example, it is possible that a poker player might have a winning hand only if he draws the king of hearts. Similarly, in dispute resolution, I regularly get called upon to address problems that may

appear to have few or no positive outs.

Luckily, in poker (as well as in life and law), it doesn't necessarily follow that if the player fails to draw that king he is hoping for, he will lose his money. For example, he could bluff, and the other players could fold. (He could also grab his money, flip the table, and run out, though I wouldn't recommend it!) Limiting your options in poker solely to the number of cards left in the deck is closing yourself off from other options which might yield success. Similarly, in law, I try to look at problems from new angles whenever possible, and to use creative problem solving to come up with other ways my client can win, or sometimes, where both sides can win.

This type of outside-of-the box thinking has broad applications in our everyday lives- in the way that we deal with people in business, with our friends, spouses, and even with our children. Rather than attacking a problem head-on, take a step back, and view it from all angles. Maybe it is not a problem at all, but an opportunity for you (and others) to succeed!

It's all a matter of perspective. I hope you don't mind, but while you were reading this, I peeked at your cards. You just may be holding a royal flush after all. **fyi**

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