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Was I a better lawyer in law school?

Greg Brown / Special to NLJ.com
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The courtroom was tense. The dashing trial lawyer cross-examined the witness with consummate skill. The questions, seemingly simple, incisively cut through the witness' direct testimony, revealing to the packed courtroom the liar that the witness was....

Moot court was so much fun! After I started practicing, however, I began to realize that things are rarely as they were in law school. Rules of law applicable to real cases are not as well defined as they were in the research assignments we were given. Clients are not always as angelic as the citizens of the National Institute for Trial Advocacy. And on those all too rare occasions when we actually examine a witness in a courtroom, there is rarely any real drama. Several years into my career, I could not help but wonder, were my best days as a trial lawyer in moot court?

A few months ago, though, I had a day in the midst of a bench trial in southern Virginia that gave me reason to hope. The case involved an ousted proprietor of commercial property who had purportedly given himself a lease for a portion of the property and, with his accountant as a witness, waived his own obligation to pay rent. We were seeking possession of the premises on behalf of a receiver appointed by the court. The hearings were spread over several weeks, so I traveled back and forth repeatedly from Washington. I drove twice, which took three to five hours each way, depending on traffic. I went by airline twice, but that was not any faster with the attendant security, parking, and ticket delays.

On this particular day, with the trial half over, the judge had ordered us back at 1 p.m. so the opposing party could finish putting on his case. A private pilot, I decided to fly myself down to court rather than drive or go by airline. From an airport north of Washington, I took off and flew east, then south along the western shore of the Chesapeake Bay. It was overcast, but sunlight shone through in the distance. With music from my iPod streaming into my headset, the miles sped by. Threading my way between two restricted areas used by the Navy for fighter pilot training, I crossed the Potomac and Patuxent rivers toward Newport News International Airport. I landed an hour after takeoff, picked up the rental car, and met our client and co-counsel a half hour later.

Then the unexpected happened when we got to court: it was even better than moot court! The defendant's witnesses were blatant liars who could not keep their stories straight. In response to my questions, they got all tangled up and confused trying to make their testimonies fit together with any semblance of truth — it was great! Their testimonies contradicted each other, themselves, and the documents I put in front of them. It was like that scene in the movie *Rosencrantz and Guildenstern Are Dead* where every coin toss turned up heads. It seemed that every question I asked, no matter how innocuous, resulted in a ridiculous answer that strengthened our case. The "accountant" (a.k.a. the bartender) could not define what an account was, and told the court she thought an "account receivable" was a credit card receipt. The judge shook his head in response. Another witness essentially admitted to insurance fraud and interfering with the U.S. postal service. The judge shook his head again. Opposing counsel seemed oblivious to the carnage, but none of it was lost on the judge, who concluded the day by indicating that he was "troubled" by the testimony.

After dropping off the rental car, I talked to the control tower and took off into the twilight over the Chesapeake Bay. The sun had set, but in the fading light I could see a fleet of Navy ships at anchor in Norfolk Harbor. The sky was completely clear, with not a cloud in sight. It was so clear that I could see the entire moon, though only a sliver was illuminated. I leveled off and set the autopilot.

The lights of houses, businesses, and cars winked below as I sped north, reflecting upon the day. At night the ground appears much closer than it is, and it felt like I was skimming the tops of trees and buildings. I smiled to myself as I thought of the testimony and the judge's response to it. It felt like it had gone just right. As I approached Annapolis, descended, and turned west toward home, I concluded that there is indeed reason to hope that real life as a lawyer will be even better than law school.

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