

## Energy Litigation Conference Pat Lochridge's Speech

Thank you, Jack. I didn't know who you were talking about up there for most of that time but I appreciate your keeping some of your remarks to yourself. I don't feel that constrained. But I've got to say that this award, when Wendy called me, I couldn't have been more surprised mainly because I was at home having had some metallurgy done to both of my knees and had gotten home from the hospital the day before. And so she calls me and I am completely stoned on hydrocodone and have no idea what this call was about except it was from Wendy and it seemed to be good news. I asked Candy, my wife who's sitting there insisting that I not mention her name so I won't, but I said, "Did you hear my end of that call?" and she said, "Well, yeah." I said, "Well, what was it all about?" She said, "Well, I don't know. It was like a prize or something," and I said, "Well, what was I saying?" and she said, "Well, you were just babbling as normal." And well then I didn't know what to do because I knew, I think it was good but I didn't like get a confirming e-mail or something. And so I said, well, I've got to find out what it is and when it is and what if it's like next week and here I'm hobbled up and so forth.

And so I thought about giving Jack Lewis a call and kind of triangulating a little bit and hinting around like maybe he would know, but I figured that these are good people at Chevron. They're going to think I'm a babbling nut, and so I didn't do anything but just sort of sit there suspenseful wondering if I'd missed it, or if it was really good, or if they were about to sue us for malpractice and I thought it was something else. But finally I got an e-mail saying, you know, this is what it's all about and I was shocked for the second time because it was the Lifetime Achievement Award.

Well, I've only been doing this for about 37 or 38 years and I mean that's just getting started in my family. This is a marathon and I'm not even to the thirteenth mile, and we've already introduced my father here and now that's a lifetime achievement. He got out of the war and the Navy in '45, moved to Mission, Texas, and he's been practicing law ever since. That's nearly 70 years. Thirty-seven, 38, come on, you're just a kid, and so I said this really can't be. We've had my father stand up once already

and I don't know, I'll bet he's got another one in him. But I'm a little bit worried about him now because and my managing partner Doug Dodds has pointed this out to me that he's still our law partner, but he don't come in on Sundays anymore. What's the deal, dad? I mean, you know, are you with us or not, you know, hanging out at home on a Sunday or something. And so I'm sure that Doug will take care of that when it comes time for compensation and so forth.

But he had a lifetime achievement that's for sure because this is the 30<sup>th</sup> anniversary of a case called *Guerra vs Manges* decided by the Supreme Court in 1984, and a lot of us know that case deals with executive rights, and that was my father's case. And he had I think a lifetime achievement because after about 14 years of chasing down, I think can you be sued by somebody who's dead for liable, no, liable, the truth of absolute defense. He was a villain. I think Clinton Manges was a villain and after about 14 years he finally ran him to ground all over south Texas, and the Supreme Court finally put an end to it after some help from 60 Minutes in "The Justice is for Sale." And some of you may remember that but there were some judges that seemed to be unusually close to our opponent; close enough to where in the final argument or the oral argument to the Supreme Court, one of these judges who seemed to be extremely close, if campaign contributions mean anything, to our opponent was peppering my father with questions. You know, you don't have much time when you're up there in front of the Supreme Court, and he was peppering him with questions. And the other judges, justices weren't allowed, weren't getting in, and so finally he said, and it kind of sends shivers down my spine, he says, "Justice, we'll call him Smith, Justice Smith, I will concede you to the other side. Now if you'll just be quiet and not ask me anymore questions because your brethren I'm sure have some things they want answered." And everybody went holy cow, man, that guy's going to jail. But the judge, who will remain nameless, unnamed, he just sat back kind of says all right, you know. I've done what I wanted to do.

Anyway that court eventually ruled in favor of the Guerra family and that's what I call a lifetime achievement. I mean I don't have anything that comes anywhere close to that, but that's fine.

I do want to say thank you to the institute for this award and to throw me in with the group that you've already named is humbling, of course, but it just makes me feel great to be on the same list with some of these people. You named some of them; I'm going to name just a few more. But one of the things that I found is people on that list are responsible for every job I've ever had and that just dawned on me. Frank Douglas hired me when I was 15 years old to do some heavy lifting for him in the law practice. Some of you might think well that's a little orderly. Not really, he was moving offices and needed a guy to move all of his boxes, and so I spent two days moving Frank Douglas' boxes. He was with the McGinnis Lochridge Firm at the time, and that guy had a lot of boxes.

And 10 years later, I got a temporary injunction hearing over in Guadalupe County -- I don't know who's going to show up on the other side -- and I look over there and it's Mr. Douglas. And he comes in and he's got some of those boxes with him; I swear he carries his own dolly. I don't know if you remember Frank, he carries his dolly. Becky Miller, where is Becky? She'd attest to all of this. There you are. He comes rolling in, you might have been with him, he comes rolling in with a stack of boxes, you know, for this temporary injunction hearing. I have one miserable little file and I'm going man, this is, I mean I took a knife to a gunfight here. This is not going to go well at all. Of course, he was completely gracious to me and I apologized for suing his client, and I left in one piece, and I think those boxes were the same ones I'd moved 10 years ago and he just brought them for the intimidation factor, and it worked. So that was my first job.

My second job, David Beck, who's not here to defend himself, he hired me to be a law clerk at Fulbright & Jaworski, and I didn't know about being law clerks. My father didn't bring the law practice home. All I knew about what he did is he got up at 7:00, he went to work, he came back at 8:00, and we didn't go on vacations. So that's what being a lawyer's about. But I didn't even know what happened while all that was going on. And so David calls me and I apparently had been on some list about getting on the (inaudible) grades or something, and he calls me and says, "Do you want to, you haven't signed up with us to interview." I said, "Interview for what?" "Well, to be a law

clerk." I said, "What's a law clerk?" He says, "What's wrong with you?" I said, "Nothing. You know, I hang sheetrock in the summers. I don't go work in law firms." He said, "Well, we want you to come work in our law firm." "What firm is that?" "Fulbright & Jaworski." I said, "Could you spell that?" And I said, "Well, you know, that sounds good but I mean do I pay for this experience or how does?" "No, \$250 a week." Two-hundred and fifty dollars a week, I'd never been paid that much for a month. I said, "I'm ready, just go." And so that was my first or my second job.

Then my next job was with the law firm that I'm with now, McGinnis Lochridge Kilgore firm, and I have Shannon Ratliff to thank for that, not my father, although he was instrumental in that law firm even being there but he only, in a very backward way, had anything to do with my being at the firm. But Shannon, who I'd hoped would be here today but he's arguing a case out in El Paso, he went to my father and said, "You know, we're thinking about maybe interviewing your son." He said, "A bad idea. I wouldn't go anywhere near that." So he kind of left it alone. And then Mr. Kilgore came to him because his son was a little bit ahead of me in law school and they thought he might come with the firm, and he asked my father I'm told, "Well, how would you feel about, you know, one of the sons of the senior partners being in the firm?" And he said, "I've got no problem at all with that, as long as it's not one of mine."

And so that was kind of the state of play and I went off to law school and did okay, and went out to California, worked for Judge Snead, and Shannon made another run at it and I'm glad he did. And he said, "Okay," he probably calls him Lloyd, he says, "Okay, Lloyd, we really want to see about hiring Pat. He did alright in law school and he might work out." And he says, "Well, no, that's just not a good thing." And then he knew what to do. He knew how my father felt about fiduciary duty and Guerra Manges hadn't been decided, but he says, "You got a fiduciary duty to your partners not to stand in the way if they want to do something." So I'm told he thought about it for a minute and said, "You're right. You got me there, Shannon. I won't veto it." And they said, "Fine. How can we get in touch with him?" "That's not my problem. If you want to get in touch with him, you want to hire him, you want to do that well you're responsible for it, you know, I don't know." So they called my old friend Tommy Barton, they tracked me

down, and I ended up getting a job there, and I've been there ever since and it's just been a fantastic experience for me.

And now, lo and behold, I find my old friend Jack Balagia who, as he said, we started working together, and he's sort of a little bit like my father. We do a lot of work for Exxon and so I'm still getting hired by old friends like Jack. But I think really what he is doing is some of the young men and women over there on his staff will hire me, and he's very good about not vetoing that. You know, I think the last person he called and said, "Pat, I got a real problem, you know, but do I have to pay for this advice?" And I said, "Well, you're darn right. You're general counsel." And I don't even want to say how much we would charge him for that, but anyway that's that.

Bob McGinnis was a senior partner in our firm and he had a real eye for talent. He went out to try a case for Exxon, this enormous arbitration out in Seattle, and he needed the brightest and best young lawyer that the firm had to go with him. So Jack talked to Mary and they got together and went out to Seattle with Mr. McGinnis, and I was there left to try the uncontested divorce docket and so forth in Austin, but I got a breakthrough there. I got sent to what we called the South Texas docket I guess from having lived there, and I'm not going to drone on till much past 4:00 so don't worry about it.

And so in a way this begins is there was, he's passed away, a curmudgeonly lawyer from Laredo named John Mann, and Mike Silva's here and Mike knows John well or knew John well. And John Mann, and some others here may have known him, the royalty owner lawyer, and he was as tough as they come. John Mann was sort of John Wayne with a law license, and he was a vigorous advocate of his clients, for his clients, and he calls, he had some friends there at the law firm. He calls them one day and his gravelly voice says, "Well, Dan, Joe or Lloyd," or whoever he'd called up there, "Send me a trial lawyer. I've got a case down here that needs some help, and I'm afraid if I go to trial with somebody I'd likely kill him. So just send me a trial lawyer on down here." So they asked me and I was on vacation in Port Aransas with my family, "A guy named John Mann needs a trial lawyer. We need you to just go over there." I said, "Well, alright." So I fly over, actually someone had a private plane. I flew over to

Laredo and got off to a little bit of a rocky start with John Mann. I'm getting off the airplane, of course, I'd been at Port Aransas for a couple of days, I'm sunburned, I probably needed a haircut. I hadn't been cleaned up all nice like this -- Candy, thank you for getting me dressed this morning -- sandals, tee shirt, you know, Dewey Weber kind of thing, and get off the airplane, and I learned this later, he mutters to his partner, "I asked for a lawyer and they sent me a damn surfer."

Well, anyway, so I went to work for John Mann for a number of years down there and, you know, when you look at a lawyer's achievements, no one does it by themselves and, boy, that's certainly true in my case. So I go down to South Texas and I immediately start to learn lessons, and one of the first lessons I learned, Donato Ramos, could you stand up, please? Just stand up, Donato, don't be afraid. Everyone here's pretty friendly. Donato Ramos, first lesson I learned, and the lesson that I learned was this -- you can sit down now -- the lesson I learned was this is if you're going to go south of the Mesquite curtain, which more or less runs along the Nueces River, you need good local counsel, someone who knows the ropes and someone who can try the case. Well, one of John's first cases for me was against my nemesis then and now one of my very closest friends, Donato, and so we're trying and picking a jury down in Zapata and I'm feeling pretty good. I've got the local landowner he's got an oil company, we're in Zapata, life should be good. So we're picking the jury and all these people come up and every one of them are either related to or worked for my opponent, this oil company there, and I'm going man, this is a little rough. And so we go down and we're exercising our strikes and it's just hopeless, and then I walk by the room and I look in there and there's Donato in there with his partner Charlie Borchers and the sheriff of Zapata County, and the sheriff's in there helping Donato pick the jury. And I go, "Donato, what's the deal? You got the sheriff helping you pick the jury." He says, "Hey, he's a public servant. I'm part of the public. He'll help you when we're finished with him." And I said, "Oh, I'll bet he'll be a good help!" "No, I'm sure it'll be fine. I'm sure it'll be fine."

So I learned right then that I want Donato on my side which brings me to another quick story. Jack told me that I could tell a couple of war stories. I said, "Jack, none of

them -- I can't do that." He said, "Well just make them up," so I'm making these up, and none of what I'm telling you now is true. But so the next lie is this. Frank Douglas is against us in a case and he taught me something; that is you can't choose your fact witnesses but you can choose your expert witnesses. So Tim George and I, Tim's sitting right here, Railroad Commission, one of the best in the world. We take on their expert, a guy named Rick Garza. Well, I mean I worked and worked and worked to get ready for Rick's deposition and went. It was the longest day of my life. He absolutely skewered me. At the end of the day, you know how it is, man, you thought you were on the offensive, you've just been just hammered, and I said, "Tim, I mean I laid a glove on him a couple of time, didn't I?" "No, no. No, you didn't come anywhere near laying a glove on Rick Garza." And I said, "Okay, okay, that's it. Next case, we get Rick," and, Rick, would you stand up, please?

So if you need an expert and here's the beauty of Rick Garza is you remember Mr. Wizard, the guy who did all the experiments and everything? He, when it comes to in-court experiments, is the best, the best I've ever seen. But he doesn't know what he's going to do until he gets down there. He gets there and he studies the jury. Huh, I got a carpenter, I got a plumber and so forth, and he starts thinking. Then one night during trial he'll go to Home Depot and he'll buy some PVC or some marbles or, you know, whatever it is, something that has to do with some of the peoples on the jury's work, and then we'll get up there and we'll do this in-court experiment. I mean we have replicated water floods, we've replicated water drive reservoirs, we've replicated down hole casing problems, and he puts all this stuff together and does these experiments the night before he goes on. But the thing that's maddening is he won't do a dress rehearsal on them, so I go over there and Rick is going to do this experiment. I don't know if it's going to work. He's got motor oil and water and anti-freeze to show all these different marbles and a sand box, and he comes in with a wheel barrow full of stuff and I'm seeing it for the first time. That's not a good feeling, but Rick never let me down. But he'll get out there and he's in front of the jury and before it's all over with he's looking back and says, "Well and Mr. Jones, you know how it is when you're framing up a house?" The guy goes yeah. "And you got to get those things lined up just right in

order for the bolt to thread perfectly?" Well, yeah. "Well what happens when that thing moves? Well, you hit the top of the circle there and you can't get through. That's what happens when the casing is cut and shifts, and it, right, Mr.?" And they're up there, the guys on the jury they're going yeah, that's the way it works. Yeah, he got it just right, you know. And so finally almost all the lawyers down there have a stock motion enmity that says no in-trial experiments by Rick Garza unless they've been done outside the presence of the jury first and so forth and so on.

So that's fun and the point of these stories is it's having people like that with you that allows you to have some success. Until you go down to a court like Beaumont, and you think you have friends down there, and then you run into your old college roommate. He's on the other side. I mean you would think friends would have some loyalty, but I went down there and ran into a guy that it had been his last year of law school and my last year of college. In your last year, sometimes you're on a little bit of a slide, as some of you may remember, and he certainly was. And then we got him to play rugby and I mean he nearly slid off the earth, and he says that we single-handedly caused his law school average to drop 10 points in two semesters. Do the math on that. I mean I don't buy it.

But anyhow, so that was who I knew in law school, and then I show up in Beaumont and there's Dick Watt on the other side. Dick, why don't you stand up? Just say hello. Just stand up, there we go. There's Dick Watt. It's alright, you can sit down now, please. And so I said, "Dick, compadre and viga aroso(?) and all this, you come to watch?" "No, I'm on the other side." I said, "Well perfect." You know, I lived with him for a year; he never hit a law book. This is going to be a piece of cake. And so we're voir diring the jury and we're plaintiff, we get to go through our little deal, and then his co-counsel, a guy named M.C. Carrington from over in Beaumont, I'm sure some of you know M.C., and he's never ever going to mislead a jury in voir dire knowing M.C., of course. And he introduces the guy that I knew as Dick Watt aka derelict third-year law student/rugby player, and it's my pleasure to be trying this case with the dean of Texas Oil & Gas Lawyers. I'm looking out there expecting Ernest Smith to walk in, you know, and then he says, "Dick Watt." And I said, "Your Honor, I object. I've known Dick Watt



30 years. He's not the dean of nothing." But I didn't feel I should do that because I was just kind of, watched with amazement. And Dick got up and lo and behold he turns out he knew a bunch of oil and gas law, not always getting it right when he's against me. But now at least when we pick a jury, when y'all pick a jury down there against us in Tilden in February, if they do this Dean Dick story, I'm going to be ready for it this time. No more surprises there.

So, the point of all these stories I suppose is just that I've had a ball practicing law with the people in this room, as colleagues, adversaries, then adversaries, then colleagues, then clients, then expert witnesses. I mean it's all mixed up and it's because there are so many great people and this industry is filled with so many great people, in-house, out-house, and around the house. And so I was wondering, other than getting up and lying for about 20 or 30 minutes, which I've now done, if I could pass on anything that might help someone down the road. And I look at some of the younger lawyers here, Don David Ramos sitting there behind Tim George, Jonathan Bahman(?), others because we got a great group of young lawyers who are going to be standing up here 20 years from now accepting this award. What can I tell them that would help them?

So I just have this story and it's when you're on the plaintiff side and you're telling them how much money you want, be very specific about that because you don't want any mistakes, and here's how I learned that lesson. We were trying a case and where's Matt Sjoberg? He was trying the case with me, as well as my father, down in Laredo. And we had a claim and the damage was \$5,320,000 and that was very specific amount. And so the jury comes back, the jury foreman, a gentleman by the name of Socrates Garza, and that's true, that was his name. Socrates Garza gives the verdict form to the baliff; the baliff gives it to Judge Salinas Ender. She opens it, and you know how you feel when that jury comes in? Your stomach is just, heart's in your mouth. Opens it up and reads off the first question, the liability question, yes, yes, I'm like okay. And then damages, remember we wanted \$5,320,000? It was \$5,320 and we just went oh my god. The jury hated us so bad. They're going to call the other side thieves, but they're going to mock us. They're just going to give us, that wasn't even our hotel bill

for the month we'd been down there. And so just the blood rushed out of our face and then I look over in the jury box and there's a commotion over there, and one of the jurors, a lady named Belya Ruiz, who's the wife of a local deer processor there in Laredo, and she's got a newspaper out and she's swatting Mr. Garza on the back of the neck going "Socrates, Socrates, you forgot the zeroes!" And I'm kind of, you know, I don't know what's going on. I'm just in shock and the judge says, "Well, would the jury care to retire and finish their verdict?" Yes, yes, so they walk out, and about three or four of them were beating Socrates as they go in there and he's trying to explain. And sure enough they come back five minutes later and they put those zeroes in and that's a big difference between \$5,320 and \$5 million, and it was just all up and downhill from there on. So if anybody came here looking for a lesson, and I don't think you did, but that's the best one I can give you is tell the jury not to forget the zeroes.

Well, my time is more than used up but I again want to thank the institute and I want to thank really everybody in this room for allowing us all to practice in an arena that is so interesting. But the legal issues or facts or whatever they are, but what makes it fun and rewarding are the people. The clients, I mean what a great group of clients that are here in this room that I've had the pleasure to work for time to time. But even the people I see on the other side when I'm on the other side, to be just wonderful people. The lawyers, one day they're your co-counsel, the next day they're your hated or not hated adversary, but you can turn your back on them. As I said about Ed Janell(?) who I tried a case with, Doug Dodson I tried a case with and I haven't seen him here today and hope he's doing well, but you could flip a coin with him over the telephone. And I feel that way about a lot of the lawyers that work in this area of the law, and we're mighty lucky to do that. But, again, thank you to the institute for putting my name on this roster of legal lions. I wonder how long it'll take them to realize that you've planted a hyena in there with them? But thank you so much.

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