

The Journal of the Section of Litigation

American Bar Association

# Litigation

Vol. 33 No. 4 Summer 2007



**People, Practice, Pitfalls**

# Sidebar



## Words

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Senior Editor

While in college nearly 40 years ago, I worked for the guys who wrote the editorials at the *New York Times*. That's right, no women. I started as a copyboy and my job was to take copy from one editor to another then to the composing room where union mugs would retype it on medieval machines, turning the type-written words into lead from which numerous galleys were printed. I would then hurry those galleys back to the editors, to Mr. Barzilay who was in charge of the page as it went to bed at night and to the proofreaders who had neat tiny desks on which sharpened pencils sat.

In an hour or two, I would return to the third floor and gather those galleys from the proofreaders, who were older, mostly men in white shirts and simple ties. Inevitably the galleys were filled with corrections of typos, style, tense, punctuation. And in meticulous handwriting, questions were posed as to meaning of words, sentences; alternative phrases suggested.

I worked at the *Times* not because I wanted to be a reporter or stuff like that but because I needed money for jeans, rock concerts, and gas for my tan Volkswagen Bug. Back then my generation knew it all. We would eradicate poverty, end racism, and spread peace and love over the globe. So I viewed the proofreaders with a certain disdain and pity since I couldn't imagine a more boring, unproductive job.

Mostly I worked weekends where the pace was slower and I had time to do

homework, thumb through the paper or a magazine. I even started to read the editorial galleys and would try to identify typos, fix punctuation. Since I attended Holy Name grammar school where we spent endless days diagramming sentences, memorizing the difference between a participle and a gerund and participating in continual spelling bees, I thought I was pretty good. Yet I was nowhere close to the precision and accuracy of the proofreaders.

If we were on deadline, my job would be to find the proofreader working on our editorials and gently tell him, hurry up. I would stand near the main desk until he came scurrying. Since it was a solitary job, the proofreaders would often explain corrections, discuss questions regarding the meaning of a word, and didn't I think this phrase was more exact. All of this was said with muted enthusiasm and a touch of awe.

I was always taught that work was, well, work. You weren't supposed to like it, just do it, stop complaining. But this group seemed to enjoy their jobs and it soon became obvious that it wasn't really the work they loved but words. All words.

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Gradually, my opinion of these individuals began to change. Sure it was still the era of "Don't trust anyone over 30" and all that garbage, but even I matured a bit and realized the remarkable devotion and passion these proofreaders had for words and their use. And much to my surprise I slowly grasped the beauty and majesty of words.

I had been aware of the power of words for I worked for the editorial department and I witnessed the steady stream of politicians coming as supplicants to the tenth floor of the *Times* building, off then-seedy Times Square. It would be storybook to add that this is why I became a lawyer, the natural progression of language from newspaper to courtroom. Well, not really. I became a lawyer essentially by accident, but my work and learning at the *Times* is probably of more benefit than all my schooling combined.

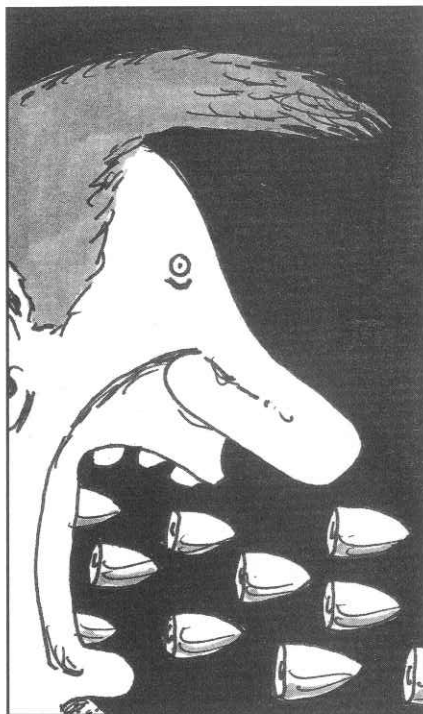
So those many years ago, I realized not only the significance of words, but their power and beauty. And words, of course, is all we do. We are advocates, dispensing wisdom, guidance through language, writing briefs, arguing motions, cross-examining witnesses, researching law. We are inundated with words—both comforting and threatening. With the Net and technology, communication is instantaneous and omnipresent, popping up on BlackBerrys at the beach or golf course. A far cry from the typewriters, Wite-Out, and carbon paper that was the norm when I began practicing.

Yet this mostly wonderful technology has greatly impacted words, their meaning, spelling (just read any of my daughters' e-mails), and especially their power with immediate worldwide dissemination. In the past, to read and copy a court document you had to run to the courthouse, request the file, and hope the copier machine wasn't broken. Today you can do it all from your office and forward it to innumerable recipients with a push of a button. The world can read or hear or view whatever is said either in our profession or among those who are in the public domain, say Paris's or Britney's many sad escapades.

Of course many will argue, including me, that it is not merely technology which has caused change in language but our value system itself, the "dumbing down" of our culture, as Sen. Pat Moynihan preached. Behavior once thought abhorrent is now accepted as normal. Words that were curses when I was young—suck, pissed, bastard, bitch—are now vernacular. Words of ridicule that were rarely used since their meaning was so telling, so powerful, so devastating are thrown about without thought or consideration—whore, slut, racist, moron. Words that ridicule racial, ethnic, or religious groups are fodder for wannabe shock-jocks.

Even in our world, a heated telephone conversation used to remain private, no transcript of the regrettable anger. With e-mail, the invective, said on a bad day at a bad time, cannot be eradicated and can be sent to many, prolonging and increasing the vitriol. So the combination of technology and cultural deviancy has coarsened our profession. Instead of being used for praise and reward, words are used to batter and bludgeon and destroy, like so many movies and video games we allow our children to view.

We have become free and loose with powerful and harmful words, using them for the slightest reason or with no reason at all. Exaggeration has replaced precision. Not only in rap music or on the Bay Ridge street corners where I live but in our arguments, our briefs, hurling charges of "deliberately ignoring this Court's order," "intentionally hiding documents," "near criminal activity." Sanctions are sought, disqualification of counsel urged. Even in simple discovery disputes, the venom flows. Fees, costs, and your firstborn, I



demand. And I plead guilty, guilty, guilty, for I was taught in church to turn the other cheek, but if you did so in the schoolyard, you'd get your butt whipped.

So let's not pretend to blame Imus with his nappy headed ho's or some rapper like 50 Cent with his bitches and n-words for the deterioration of language and the hyperbole that has infected our behavior. Lawyers are part of the problem and, quite frankly, more responsible than the Brooklyn kids who walk past my home to Ft. Hamilton High School with their tattoos, belly rings, and four-letter words dripping from glossed lips. We are educated, trained, highly paid professionals, yet our words and actions are often no better than ignorant street punks with the music blasting and the gum clacking. A D.C. administrative judge suing a dry cleaner owned by immigrants for \$65 million over a pair of missing pants. Or the attorney defending a lawyer accused of raping two teens pimped by their mother: "My client made \$500,000 a year. He had the wherewithal to pay for any piece of tuchus on the planet. And he paid that skank?"

Exhibit A is the Duke lacrosse case and the hatred spewed toward three innocent young men. District Attorney Mike Nifong was desperate to be reelected and pursued indictments against the players without basis or justification. But first he used words, hys-

terical and false, to inflame the community and curry voter favor. The lacrosse boys were "hooligans" and "reprehensible," and he falsely stated that they refused to cooperate with his investigation. Pathetically, he convicted these students before an investigation was completed and continued the prosecution when he should have known they were innocent.

His language, which should have been measured and cautious, inflamed passions and increased the divide between white and black, north and south, privileged and poor, and decimated the lives of three fine families. This, of course, is an extreme example, but we have adopted the rhetoric of politicians, cheap comedians, and TV commentators whose loud, aggressive rhetoric is a means for attention and rating—and who cares the result. Thoughtful discussion, quiet debate has been replaced by name calling and accusations of all sorts.

The song and splendor of words is gradually fading amid the harsh screeches that saturate our work. The combination of music and language that pervades Joyce and other great writers is no longer evident in almost all of our culture and profession. It is difficult enough for our briefs and letters, often so formal and dense, to display grace or elegance. But, sadly, most no longer even try. Our preference is to attack and wound. Pick up any document on your overloaded desk and you will read "blatant misconduct," "improperly obtained information," "misuse," "clear breach of ethical standards," "intentionally sought to hide. . . ." And I sit, staring out my window on this warm spring day and wonder how my adversary, a nice enough guy I once thought, could allow such statements, both false and boorish, to be memorialized on crisp white paper.

Do not underestimate the power of words said or written so easily in this era of such incredible technology. They may be ignored or forgotten but cannot be erased. And sure it feels good to voice frustration or displeasure, but civility and professionalism must triumph. We must acknowledge the harm that hateful words do not only to our adversary but also to ourselves. We must refrain from their use; avoid temptation to muddy our opposition and our reputation. For it is only then that we will realize the splendor of our words. □