

## Reflections on National Criminal Defense College

I am grateful to The Twelve Angry Men of NYSACDL – MARTIN B. ADELMAN, WILLIAM I. ARONWALD, ROBERT FOGELNEST, LARRY GOLDMAN, JACK S. HOFFINGER, MICHAEL KENNEDY, GERALD LABUSH, JACK T. LITMAN, ROBERT G. MORVILLO, GUS NEWNAM, MURRAY RICHMAN, HONORABLE BURTON B. ROBERTS, and LUTHER C. WILLIAMRS, JR. for having the vision, foresight, and generosity to create the NCDC Trial Practice Institute Scholarship.

After arriving in Macon, Georgia we were warned by Dean Deryl Dantzler to watch out for OPC's -- Other People's Clients -- who might not be as kind and gentle as our misunderstood and wrongly accused clients. We then learned many other valuable lessons at NCDC. These include: How to "make chicken salad from chicken sh\*\*" from Juanita Brooks, how to "rock with our clients" from Cynthia Roseberry, how to "get it and spread it" from Tony Natale, how to "give a sister some love" from Herschella Conyers, how to "rock with it" from Judge Joe Johnson, and how to conduct a one word cross examination from Terry MacCarthy.

We were assigned to a small group, where we spent most of the day conducting intensive daily exercises with the focus on learning by doing. The skills that were emphasized were opening statements, cross examination, practical evidentiary issues, jury selection, and closing arguments. The rest of the time was spent in lectures or observing faculty members demonstrating the techniques that we were working on in our groups.

The NCDC experience is unique for several reasons. Most important is the faculty. I encourage anyone who is considering attending to view the website, <http://www.ncdc.net/faculty.html> to get an idea of the caliber of attorneys who serve as instructors. Unlike other CLE programs which boast famous keynote speakers, NCDC faculty actually work one on one with students in a small group setting where they can offer meaningful advice. The sense of camaraderie is also unique. During the 14 days and 13 nights, I stayed in Macon, Georgia's only five star motel with 89 of my colleagues who had

converged from all over the country for the singular purpose of becoming better criminal defense attorneys. Although it was a sacrifice to our families and clients to be unavailable for such a long period, it was this detachment that allowed us to focus solely on the task of becoming better lawyers without succumbing to the everyday distractions that inevitably arise while close to home.

Below are some of the most important lessons I took from NCDC. I highly recommend it for lawyers of all experience levels and am available to discuss my experience with anyone.

I.

### **IF YOU HAVEN'T SEEN YOURSELF ON CAMERA LATELY, GET READY FOR A SHOCK**

Individual exercises are videotaped so that students can see – for better or worse -- how others see you. As we all know, but perhaps need to be reminded, there is so much information that cannot be conveyed in a transcript. Although we agonize over what to say, it is clear that how we say something can be equally, if not more important. The art of storytelling is impressed upon students as the critical skill of effective advocacy. In an age of televised trials and increased media scrutiny, appearances, both in and out of court, have become especially important.

II.

### **THE IMPORTANCE OF MENTORS AT EVERY STAGE OF ONE'S CAREER**

It was indeed humbling and gratifying to be in the presence of attorneys who you had previously only heard about. The renowned NCDC faculty members made clear that they come with lifetime guarantees, and would be available to students long after the Institute was over, should we ever need their assistance.

III.

### **THE NEED TO TRY SOMETHING DIFFERENT**

Whether experimenting with a dramatic change in one's overall style during cross examination, or adopting a different perspective for a closing argument, students were encouraged to try new styles while there, in the comfort of a safe environment, often with surprising results.

IV.

### **YOU'RE NEVER TOO OLD TO GO BACK TO COLLEGE**

Although Americans surveyed preferred 9 to 1 to have root canal without anesthesia rather than spend two weeks with 89 lawyers, NCDC students proved that you're never too old to go back to college and have a good time.

## *The NCDC: An Experience of a Lifetime in Two Weeks*

As recipient of the 2010 Jack T. Litman Twelve Angry Men scholarship, it is with distinct honor and pleasure that I am afforded the opportunity to express my gratitude to the Twelve Angry Men committee of the New York State Association of Criminal Defense Lawyers. The Twelve Angry Men generously awards a scholarship each year to a member of the NYSACDL to attend the National Criminal Defense College's Trial Practice Institute, a two-week intensive trial advocacy program in Macon, Georgia.

Thank you Martin B. Adelman, William Aronwald, Robert C. Fogelnest, Lawrence S. Goldman, Jack Hoffinger, Michael Kennedy, Gerald M. LaBush (deceased), Jack T. Litman (deceased), Gustave H. Newman, Murray Richman, and Luther C. Williams.

How do I describe what is the best professional training course I've ever attended? Though my colleagues humorously referred to the NCDC as "summer camp for criminal defense lawyers" this characterization misses the mark. As with all truly memorable experiences, you just had to be there.

Each of the 96 criminal defense attorneys in attendance – solo practitioners, public defense attorneys, and assistant federal defenders – brought their passion for the people they represent. As a body, we shared best practices, ideas, and war stories from nearly every state in the union including Alaska.

At the outset, Deryl Dantzler, Dean of the NCDC, encouraged us to work hard and play hard. The faculty separately pushed us to expand beyond our comfort zones and utilize the new techniques that we were learning.

Each of us was assigned a client and a case file. At first glance, the facts were daunting; victory beyond reach. However, at the end of the two weeks, each of us "graduated" with the courage, confidence, and assurance that we could achieve the best results for our clients.

Each morning we promptly arrived at Mercer Law School for large lectures, small group sections, and demonstrations. After school, we relaxed poolside, barbequed, explored Macon, and on the last evening, skits were performed by the students (almost all of which made fun of the faculty; yes, that part was a *bit* campy).

The lectures were conducted by high caliber attorneys – all of whom are exceptional and incredibly gifted. The small group sections were comprised of eight students each led by a member of the faculty. Our own exercises were recorded with a talented group of actors standing in as clients, witnesses, and jurors. I mused to myself – as an adjunct professor at Fordham University School of Law in which my students' exercises are recorded – "now I know how my students feel." I've already incorporated many of the teachings and exercises from the NCDC into my syllabus; they've been received with praise.

We built a case theory: "that combination of facts beyond dispute and law which, in a common sense and emotional way, leads the jury to conclude that a fellow person is wrongfully accused (or should not be severely punished)," and then set out to persuade using technical, substantive, and emotional components.

We revamped our mindset for voir dire from picking a jury to excluding people from the jury. As a corollary, we examined our presumptuous belief that jurors want to pay attention. It is our job to keep it interesting and keep the jury awake.

We reached beyond the jurors' minds and touched their hearts, treating each client as a person not as a case. While presenting our cases we remembered kiss: keep it simple, stupid.

On cross-examination, with "you don't have to be cross to do cross" as our mantra, we told each of our client's stories – though fragmented and interrupted – of innocence. This was done with no more than three words per question (subject, verb, noun; articles are free) and preferably one word per question. Long questions invite long answers; short questions invite short answers. The aim was to conduct the cross like a love affair: brief but intense.

We made mediocre sandwiches (with good stuff at the front and back, and bad stuff in the middle); we made eye connection instead of mere eye contact; and aimed to win by scoring points, not by knock out. We used the star system to impeach: show it; take it back; ask; repeat. After that we learned to syad: sit your ass down.

We also learned valuable lessons on the use of demonstrative evidence. Jurors retain 10-20% of what they hear, but can retain up to 80% of what they hear if combined with a visual aid. Of course, our passion is the best demonstrative evidence. Seeing truly is believing.

Warned that we are not the reason why the system doesn't work (we are *a part* of the reason), we bear the responsibility – among our many responsibilities – to counter the indoctrination of jury questionnaires, jury orientation DVDs and pamphlets, and judges' scripts to prospective jurors. When we feel tired, we aren't burnt out, we're just beaten down.

While leaving those two very intense, sleep-deprived, coffee-fueled, yet invigorating weeks that was the NCDC, the only question I asked myself was "when can we do it again?" Although my experience at the NCDC is ineffable, one thing I can express with certainty and clarity is my gratitude to the Twelve Angry Men Committee. Thank you for awarding me the scholarship and the experience of a lifetime.

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He keeps in touch with many of his new friends – students and faculty – from the NCDC. He can be reached via email at [Jared@KneitelLegal.com](mailto:Jared@KneitelLegal.com).