

## "I'm Still Walking, So I'm Sure I Can Dance"

By *Kate Neiswender*

I have always suspected that civil lawyers and criminal lawyers are different species. On Friday, June 19th, my suspicions were confirmed when I – a civil lawyer, a land-use-business-litigation sort of lawyer – crashed the party for the annual Ventura County Criminal Defense Bar Association awards banquet.

I had to go, as **Jay Leiderman** was getting the Joyce Yoshioka award for "Outstanding Contributions to the Criminal Justice System." Jay wasn't to be the only award recipient that night, but I know Jay because he and others at the Public Defender's Office have, on occasion, contributed to my delinquency, hanging out in (formerly smoke-filled) bars, hunched over Jack Daniels and telling stories of murder trials and the tragedies of being born poor, left uneducated, and running with the wrong crowd. Jay once told me a heart-breaking story of an 18 year-old convicted of murder, when Jay tried desperately for a manslaughter verdict. He was a good kid, said Jay, just in a bad situation. Jay described the chlorinated halls of prison, places reeking of chemicals and pain, using the words of a poet and the voice of a prophet lost in the wilderness.

So when Jay very belatedly sent out an email asking his friends to come to the awards dinner, I had to go to show my support, to buy him a drink. He wrote, "The RSVP date has passed, but we are criminal attorneys and we love deadlines – especially the whooshing sound they make as they zoom by." Based on that sage advice, I sent in my money and showed up on Friday night.

I expected a bar dinner, a civil dinner, the kind where people talk politely and quietly and a burst of laughter over the hum of voices is the exception, not the rule.

Wow. Was I wrong. This was a party, a cacophony of voices in which the primary topics of conversation were "Who has extra drink tickets?" and "Can we keep Jay sober for his speech?"

Criminal lawyers live larger than civil lawyers. While land use lawyers speak in whispers over salmon croquettes, devising legal machinations and positioning clients for things that won't happen for a decade or more, these are lawyers who live one jury trial to the next, gathering in the Victoria Pub to swear at some violation

of rights by the District Attorney's office. And swear they do, and did, often and consistently at the awards dinner.

Public Defender **Rebekah Mathis**, less than three years out of law school, was given a special recognition for her outrageous schedule defending misdemeanors, a schedule which would kill a civil lawyer. In one week, Rebekah started a jury trial Monday and finished Tuesday, started another trial Wednesday and finished Thursday, and started a third trial on Friday. She won two of the three.

Rebekah stood up to accept the award by first apologizing. She warned everyone that she wasn't very good at not swearing. She then delivered a stand-up routine concerning a couple of her cases that had everyone laughing out loud.

She is obviously more than a comedian. She has, in her short time with the PD's office, completed dozens of cases, and has won about two-thirds of them. If you know anything

about criminal law, this is a statistic that beats Kobe Bryant, Babe Ruth and Wayne Gretzky put together.

The next award went to veteran PD **Rod Kodman**, who was given the Richard Erwin Award for Excellence. Rod filed dozens of motions in the past three years, and has completed numerous felony jury trials. He was described as a machine who gobbles up staff time, interns and other lawyers in a relentless drive to protect his clients. While Rod himself was the most quiet and most brief speaker of the night, his introduction included a power point presentation by Chief Deputy PD **Howard Asher**. Apparently, Rod is so charismatic that almost all of the young lawyers who intern at the PD's office wrote later to thank Rod – Rod, no one else, just Rod – for being able to work for him. As Howard explained, technically the interns worked for the PD's office, not just Rod. But the interns didn't know that. They thanked Rod for his guidance, his teaching skills, and his generosity. While Howard didn't say so, I got the feeling

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he was a little hurt that he didn't get these kinds of emails.

Finally, there was Jay. And no, they couldn't keep him sober for his speech. But it was a wonderful, rambling dissertation on life and punishment, justice and honor, love and joy.

"When people ask me how I'm doing, I tell them, 'I'm still walking.' That's a line from a Grateful Dead song. What I don't tell them is the next line: 'I'm still walking, so I know I can dance.' And that's what this is all about." Criminal law, he said, was all about the dance. You keep going, even when the chance of winning is low, because sometimes it is the battle that is important, not the war.

Jay spoke of battles won and lost. He won the Joyce Yoshioka Award for winning a long battle against the City of Ventura, helping keep the homeless out of jail for meaningless offenses. But he talked of another he lost just two days before, and telling the exuberant and not completely sober crowd that he loved the other members of his firm for going into battle with him. He went on for a very long time, finally—and I think accidentally—saying "thank you," thus prompting his ladylove to whisk him off to much applause.

It's a different world in the criminal courts. The defense bar is concerned with Constitutional rights, life and death. In other areas of the law, our canvas may be more intricate but not so breathtakingly large, so tied to the foundations of democracy. And those who paint that canvas are also more colorful, more eccentric, more electric at times than their civil brethren. And I can't even imagine a bunch of civil lawyers having that much fun.

This was a celebration of who they are and what they do, and the grandness and spectacle of life. As Jay Leiderman said, "This is not what I do, it's who I am."

Congratulations to the award recipients, and to the VCCDBA for its extraordinary work. I'll see you at the Pub.



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