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Personal Reflections About Working with Dennis, The Best Trusts and Estates Lawyer in Virginia

*Howard M. Zaritsky**

Dennis was an extraordinary lawyer and an equally extraordinary individual. He was exceptional in both capacities for the same reason. He listened, observed, analyzed and understood every situation better than anyone else I have ever met.

I know other lawyers who know more law than Dennis did, but none who could see and feel the heart of a problem like he could.

Two illustrations.

Dennis spent his entire legal career at McGuireWoods — a large firm. I first worked for a small agency of the federal government and then I became a partner in a firm of two closely-related lawyers. I never worked for a large firm.

Some years ago, Dennis and I worked on a large writing project together. It was large enough that Dennis had to spend several days working with me in the conference room of my firm. Our conference room had a glass wall and from that room you could see everyone who came in or left.

A few weeks later Dennis asked me if I knew how to tell the difference between a large law firm and a small one. I probably said something about compensation, library size, or office size, but Dennis said that was not it. It wasn't anything physical or tangible.

He said that you can tell a large firm from a small firm by how the lawyers react when the mail arrives.

In a large firm, no one wants to know when the mail arrives. They ignore it entirely. If there is anything in the post for an attorney in a large firm, it is rarely good news. It is either a new set of problems or a set of questions about work that they have done. Checks do not go to the attorneys — they go to the firm's bookkeepers; the attorneys rarely see them.

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At my firm, however, everything stopped when the mail arrived. My partner and I — unless we were with clients — immediately went to our secretary's desk to see who had paid their bills, as Dennis observed from behind that glass conference room wall.

In a large firm, the attorneys' compensation has only an indirect relationship to any client's specific payment. In a small firm, every check belongs partly to each lawyer. No checks: no compensation. Many checks: a good month.

That analysis was typical Dennis. He immediately recognized that the relationship of each attorney and each client in a small firm practice is inherently closer financially; one might argue that the partners in a small firm have a more entrepreneurial experience. He distinguished it from the more institutional nature of a large firm practice. Dennis was not being judgmental. He did not say that one was better than the other; he just observed, analyzed, and spotted details that others missed. Then, he expressed it in a way that one would be unlikely ever to forget.

The second illustration involves the only time that Dennis and I were on the opposite sides of a case. Dennis — typically — represented the estate of a very wealthy, well-known individual. I was hired as an expert witness on behalf of the surviving spouse, who wanted to set aside a premarital agreement and claim a statutory share of the estate.

As with many such families, there was no love lost between the widow and the decedent's other family members. The widow was not a U.S. citizen, so her receipt of several hundred million dollars as a statutory share would also create serious estate tax problems for the estate and its beneficiaries.

This case had everything that I look for as an expert witness — famous wealthy people, huge amounts of money, talented litigators, and facts that were always interesting and sometimes lurid. It was the kind of case that made you want to get out of bed and go to work in the morning.

For me it had another more special appeal. Dennis would have to depose me. To me, this would be the pinnacle of my career as an expert witness. The deposition would be in a city where neither of us lived, so I planned to ask Dennis to drive to the deposition together. There was no reason to let work get in the way of friendship.

About a week before the deposition was scheduled, I was notified that the case had settled.

I was stunned. The parties hated each other, and any solution that involved holding part of the estate in trust for the widow would create continuing inevitable fights over the trust investments, because the widow's goals of large current distributions would be diametrically op-

posed to those of the remainder beneficiaries. I could not see where there was a possibility for a practical settlement.

Dennis could.

He had the parties agree to hold part of the estate in a charitable remainder unitrust for the widow's lifetime benefit, with the remainder passing to the decedent's private foundation, which his family ran. There would be no argument over the trust investments, because both parties would share the common goal of a higher total return. Dennis then convinced the IRS to rule that the trust was a qualified domestic trust, saving an enormous amount of estate tax, and in the eyes of his clients, making the government pay most of the cost of the settlement. It was elegant in its simplicity and a perfect solution to a seemingly insoluble problem.

It was also vintage Dennis.

While I was preparing to be a compelling witness and to force rejection of the premarital agreement, Dennis figured out what both sides needed and how to get it.

These were the skills that led me to make Dennis my default referral for large or difficult matters. I always gave his name when asked who was the best trusts and estates attorney in Virginia. That is not insignificant, when you consider how many exceptional trusts and estates attorneys practice in the Commonwealth.

As I said at the start, what made Dennis a truly extraordinary lawyer was his ability to listen and observe, and then to understand what he had heard or seen and to appreciate its significance. Then, he always managed to find the clearest, simplest solution to whatever problems there were.

These were also the skills that made him a truly extraordinary person and friend. Sadly, you cannot really teach them. They represent a talent that comes with how one sees the world and how one is raised.

I miss Dennis more than I miss anyone else whose death I have had the sadness to experience. I suspect that many others feel the same.



