THE RECORDER

128TH YEAR NO. 175 www.therecorder.com THURSDAY, SEPTEMBER 9, 2004 ALM

Mock Martha: Lawyers stage Stewart trial

PLAYING HOUSE: Attorney Elizabeth Frohlich assumed the identity of the domestic doyenne in the BASF-sponsored event.

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By Jeff Chorney
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Martha Stewart may be a good cook, but going up against Cristina Arguedas in court? She's not so hot.

The match-up played out Wednesday at an educational seminar sponsored by the Bar Association of San Francisco. Set up as a mini-mock trial, the event, which lawyers could attend for continuing education credit, was designed to showcase the legendary cross-examination talents of Arguedas in the context of a familiar case.

Arguedas, considered one of the best defense attorneys in the country, took on the role of a federal prosecutor trying to prove that Stewart obstructed justice during the investigation into her suspicious sale of 4,000 shares of ImClone stock. In another role reversal, Assistant U.S. Attorney Matthew Jacobs played Stewart's lawyer. U.S. Magistrate Judge Joseph Spero presided, and Stewart was played by Elizabeth Frohlich of Steefel, Levitt & Weiss.

"It was very important to you, to your company, to your wealth to make sure that no one thought you were tipped off?" Arguedas asked near the beginning of her cross-examination.

"Yes, because it was a lie," Frohlich replied.

"Whether it was true or a lie, it would be bad whether it was true or false," said the Arguedas, Cassman & Headley attorney.

"Yes," Frohlich conceded.

And so it went. Arguedas did not try to coddle or trick Frohlich, keeping her questions straightforward, if pointed. Arguedas didn't waste time trying to get Frohlich (as Stewart) to admit to her crimes.

Rather, using a series of questions and careful declaratives, Arguedas showed that Stewart had a strong motive to lie and mislead investigators. Arguedas ended by having Stewart discuss how precisely the home-entertaining diva controls her image.

"It's true, isn't it, that you will say whatever you need to say to protect your image?" Arguedas asked in a final onslaught of questions.

Jacobs objected a couple of times, but was overruled, much to the delight of the 130 people who attended the lunch program.

Afterward, during a question-and-answer session, Arguedas held up notes she used during questioning and said it's important to not shoot from the hip.

That was a good lesson for young lawyers, said Jodi Linker, a former law clerk for U.S. District Judge Charles Breyer who will begin a career as a criminal defense attorney this fall.

"It showed the value of preparation and the value of having a tight and thorough questioning of a witness," Linker said.

Linker said it was also valuable to see how Arguedas tried to portray Stewart. Near the beginning of her questioning, Arguedas hauled out a huge blow-up of Stewart's certification as a stockbroker to show that she's not just a normal investor. The certificate remained behind Frohlich for several minutes while she answered questions, which Arguedas said afterward was by design.

Arguedas also brought out a mock-up of the computer phone records Stewart is alleged to have altered. She had Frohlich mark the poster-sized records with a red pen to illustrate how she allegedly changed a computer file before speaking to federal investigators.

Frohlich wore a wig to emulate Stewart's sensible, short cut, tied a sweater around her shoulders, and clasped a string of pearls around her neck. To complete the look, Frohlich brought a vase of red flowers up to the witness stand and handed out chocolate chip cookies to the audience.

Wednesday's event was an encore for the performers, who staged the interrogation earlier this year for the Edward J. McFetridge American Inn of Court.

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