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The Super Lawyers of 50 Years Ago



By James J. Brosnahan



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When I first walked into the calendar department in Federal Court in San Francisco in the early months of 1963, I found, as I had hoped, a group of some of the best-known trial lawyers that San Francisco has ever produced. My wife and I had moved from Phoenix, where I was a federal prosecutor, to take a similar position in the San Francisco

U.S. Attorney's office.

The men and women of the trial bar that I saw, negotiated with, tried cases against, and in later years socialized with, were a resplendent bunch of trial lawyers. They moved around the courtroom like Arnold Palmer and Jack Nicklaus moved around a green, the way

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McCovey and Mays moved around a ball field.

They could be seen in federal or state court on any given day. Their names suggested gravitas: Jake Erlich, Melvin Belli, Vincent Hallinan, Dorsey Redland, Joseph Alioto, and

catures who had made their living and their reputations by being in trial more often than they were not. They had come through the '40s and '50s and were like the Sondheim song: "I'm Still Here." Their faces had the worn plausibility of an affidavit. I have chosen these six for this article although there were many others worthy of attention. These six are, in a sense, representative of others who made up a vibrant trial bar.

— Jake Erlich —

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That saying has
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Dapper is the only word that could be used to describe Jake Erlich's physical appearance. Expensive suits, handkerchiefs in his suit pocket, perhaps a matching tie. In the days before lawyers advertised, his clothes assured the viewer, "This is the man." He was a legend, not only in his own mind, but in the minds of his biographers.

Jake had an entertainment practice that gave him a bit of Hollywood aura. His clients included the leading jazz drummer in the '40s and '50s, Gene Krupa. Mr. Krupa was a repeat Erlich client. To achieve his high level of drumdom, Gene was fond of marijuana. In the days before television presented images of scantily-clad humans, Sally Rand was a national figure famous for her disrobing dance. Her fans (the things she hid behind) slipped and she was prosecuted. Dolly Fine, was a notorious madam. Waxy Gordon was a mobster. Billie Holliday was a famous blues singer. All of them were represented by Jake Ehrlich.

James Martin McGuinness. Some had authored books with immodest titles like *Never Plead Guilty* (Erlich) and *Lion in Court* (Hallinan). To say "They were colorful" doesn't express it properly or completely.

As I think back on those early days, those men and women were phantasmagorical cari-

My favorite of Erlich's trials was his defense of the Ginsberg poem "Howl," a gay, tortured, poetic vision of America. His cross-examination of the prosecution's literature professor was a classic. The takeaway for young lawyers is Jake's book on cross-examination. His own exams used short, leading, logical questions based on solid information.

Jake Erlich could be seen having lunch in Jack's Restaurant on Clay Street with Lou

Louri, who was a famous businessman at the time. They sat at the same table many days, and when they were gone, there was a plaque that memorialized their spot.

In what turned out to be his last trial, a federal criminal tax case in San Francisco, with the jury in the box, he apologized to the court because he would have to miss a day in the following week as he had to go to Texas and accept a "man of the year" award.

— Melvin Belli —

Another who could be seen at Jack's on any given day was Melvin Belli, who achieved a sort of world fame, which was not enough for him. In his later years, he became addicted in the clinical psychological sense to his own publicity. But in the '50s, he pioneered The Adequate Award. As the '50s went by, Belli increased the amount to be awarded to plaintiffs. These years would be his best years. He also published a six-volume work on trials that is still worth reading.

Belli also pioneered modern demonstrative evidence. As society accommodated itself to the new visions brought by television, Belli, in the courtroom, always asked, "What can I show them?" When a woman lost a leg in a boating accident in Tahoe, Belli brought into the courtroom a wrapped object as though it might be the leg itself. It wasn't, but the point was made. The use of demonstrative evidence is the takeaway here. Ask, "What can I show them?"

In a federal case in Phoenix involving evidence about a phone booth, Belli, without asking federal Judge Davis whether it was permissible, had a carpenter build a replica of a telephone booth in the courtroom. Upon being told that there was a telephone booth in his courtroom, Judge Davis, perhaps overawed by the event, decided he had a conflict and removed the case from his calendar. But the first million-dollar verdict in the United

States for an individual did not happen until 1962.

There is a saying that if a trial lawyer can try one type of case, they can try any type of case. That saying has its limits. Belli came a cropper when he represented Jack Ruby for

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killings Lee Harvey Oswald in Dallas, Texas. In seeking a change of venue, Belli attacked Dallas as a place of prejudice but then, upon denial of the motion, he was required to try the case there.

It was a historical trial involving the death of the president and rumors about the police

department and the fact that Jack Ruby, the client, because of his connection to the police department, was able to stand directly in front of Oswald when he was being moved by the sheriffs on Sunday morning. The killing by Ruby was televised nationally. There was never any showing that the great plaintiff's civil lawyer Belli could accommodate himself to the complexities of criminal practice. This was especially true in his mishandling of a mental defense for Ruby.

But his notoriety expanded and it seemed at times as though no television talk show was complete unless Mel was there giving opinions. To make sure that he was being viewed at all times, his office on Montgomery Street was on the first floor with much glass, allowing passersby to see him in his element. The room was an amazing tribute to an interesting trial lawyer.

— **Vincent Hallinan** —

One of the greats of the time would not be seen at Jack's on Clay Street. Vincent Hallinan might have been one of the most aggressive trial lawyers the country has produced. He had the skills of a great trial lawyer: cross-examination, final argument, and an intense focused determination. He seemed at times to be at war with the world and there were stories about physical combat with adversaries that added to his aggressive aura. In one civil case, he sent interrogatories to the Catholic Church asking where God was located, perhaps so that a deposition could be taken. It was a scandal. The newspapers, still in existence at the time, blared coverage of the incident, to the horror of the Irish community. As they might say in the bars of Dublin, Ireland, that tied the can to it.

The San Francisco government and the community were dominated by Irish Americans. Each office holder in the early 1960s was Irish, starting with Mayor Shelley. But

Hallinan was the consummate outsider, running for Vice President in 1948 on the socialist ticket. He was a brilliant advocate, with a willingness, and even a need, to fight that seemed to reflect Irish history and its 800 years of English domination of Ireland. Here the takeaway is the use of trial for political ends.

— **Dorsey Redland** —

Among all of these men was Dorsey Redland, a pioneer plaintiff's lawyer with a robust legal practice that included many injured stevedores who worked on the busy ships and docks of San Francisco. As I found out on several occasions, she was a terrific trial lawyer.

The second most frequent injuries in American industry in the '50s and '60s were suffered by stevedores. Ropes, metal, boxes on wheels, all moving over the docks and ships, created a great many injuries, some of them horrific. Dorsey would go onto ships at a time when few women did. She always tried to bring out some justice for her clients. Not well known like Belli, Hallinan, and Erlich, she was nonetheless of their caliber in terms of courtroom abilities.

She defied the rigidly enforced stereotypes of the times that if you were a woman and insisted on practicing law, you should be confined to a type of law sufficiently "feminine." Family law was thought to be suitable. Dorsey Redland's work seems to tell us, "Do not let others define your law practice."

There are and have been trial lawyers who escape the public gaze of notoriety and deserve much better. Dorsey Redland was one of those trial lawyers.

— **Joseph Alioto** —

The first time I saw Joseph Alioto, later Mayor Alioto, he spoke on a panel at the Bar Association discussing antitrust law. He was one of the first to establish a plaintiff's

antitrust practice after the Second World War. As the '40s, '50s, and '60s progressed, the public interest in the control of corporate size and the elimination of price-fixing brought his practice to a very successful point. At the panel, the members sat behind a table and talked about economics, and horizontal and vertical corporate structures. Joe Alioto got up from the table and walked out front and spoke about economic justice. As a young lawyer in the auditorium, I thought to myself, "He is the man." His practice succeeded so much that he had a number of younger lawyers working with him who later became stars in their own right.

I might dare to say that Joe Alioto was at least as articulate, and in some cases more articulate, than any of the other trial lawyers working during his time. Like Teddy Roosevelt, he had a vision of America with open markets where all could compete. I am sure he thought that smaller was better, price-fixing was a mortal sin, and he would not have tolerated the phrase, "Too big to fail." Joe Alioto found his niche in the law. So should we.

With deep ties in the city, the Alioto family helped to elect Joe Alioto as Mayor, marking one of the few times a great trial lawyer has been successful in entering the political world.

— James Martin McGuinness —

I have saved my favorite for last. James Martin McGuinness looked and sounded a little bit like a Roman senator with his robust physique, his flowery articulation, his excessive politeness, and his expressive sense of humor. He was held in contempt by Federal Judge Harris in the '50s. Later he purchased Judge Harris' dais. He placed that furniture in his office as a reminder of a dark day.

A graduate of Stanford, Jim saw the law as a game to be enjoyed. He could be extremely funny in a courtroom. Once in a trial where

the defendant was accused of violating federal security regulations by sending electron beam lithography equipment to the Russians, McGuinness was cross-examining a technical expert who could compute how many people would be killed by the use of certain equipment.

The government expert was a humorless man befitting his calling. McGuinness asked him a long, rambling, interesting, funny question that had nothing to do with his testimony, and then another and another and another. Judge Burke looked down benignly, enjoying McGuinness' entertainment value. Frustrated, the death expert stood and blurted out, "You haven't asked me a single question in my area of expertise." To which McGuinness replied, "You don't think I am fool enough to ask you a question about that, do you?" The jury exploded.

It may be unsettling to criminal theorists that someone might be acquitted because their lawyer is explosively funny, but that was McGuinness. The takeaway equals: "Try to enjoy your practice."

In another criminal trial he attempted *Twos the Night before Christmas*, inserting words about the alleged extortion. Eleven jurors found it hilarious; one, who would hang up the jury, did not. McGuinness once told me that only one jury didn't appreciate his humor. It was a murder jury in Yolo County.

You can still find people around San Francisco — Judge Newsom is one — who are happy to tell stories about Jim McGuinness. He could light up a courtroom like very few have ever done. In one trial, he suddenly and without warning lay down on the floor and when the judge peered over and asked him what he was doing, he said he was trying to get lower than his opponent.

— The Passing of an Era —

On November 22, 1963, Federal Judge

Harris called us all into his court to say the court would recess for the day. It was in the morning. The president had been shot in Dallas.

We did not know it that day, but the real '60s had begun. These men and women helped to fashion my idea of a trial lawyer: Someone who is not afraid to stand in public and dispute, and, when needed, to question the most powerful people and to prove, to the satisfaction of judge and jury, scientific principles occasionally contrary to common belief.

trial lawyers of impressive stature. Space allows only a few of my favorites: Joseph Cotchett, who is fond of looking at juries and saying, "This is America"; John Kecker, who can scowl at improper government activity as well as anyone who ever trod the boards of a California courtroom; Cris Arguedes, so long a leader of the trial bar, whose challenge of authority is coupled with a disarming quiet tone; Tom Girardi of Los Angeles, one of the best cross-examiners the state has ever produced; Alan Ruby, who has dominated with his logic and common sense for many years;



Trial lawyers can trace their professional history to Cicero (106–43 B.C.E.), a great trial lawyer (among all of his other accomplishments) who, at the age of 27, in his first trial, accused the second most powerful leader in Rome of committing the murder of which his client had been accused. He won. The takeaway point here is that trial work takes courage.

In our own time, it seems to be assumed that trials are somehow less central to our important social activities. I do not believe that to be true. The type of men and women that I first saw in San Francisco are endemic to a strong democracy. They are not hesitant to attack the central assumptions of the day. They are the doubters who convince, persuade, and move the people.

In fact, as we look around the legal landscape of California, we quickly see many

and my partner, Arturo Gonzales, who often returns to the Central Valley of California, where he worked in the fields as a boy, to impose a sense of justice on the police.

The men and women I saw 50 years ago are represented on the shelves of my library. They have faded from public consciousness, which is the fate of any trial lawyer. But while they paced the courtroom floors of San Francisco, they were a memorable presence.

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