

# LITIGATION COMMENTARY & REVIEW

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## Interview



## 20 Questions with California Fellow

**John S. Gibson**

of Crowell & Moring LLP

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**1. Your success as a trial lawyer is renowned. How much of that success do you attribute to the competitiveness you experienced during your days as an All-American high school basketball player and then while playing at Harvard?**

First and foremost, I want to acknowledge that my success is a product of being grateful and faithful to my creator. Second, becoming a fierce competitor and a valuable member of competitive teams on the court played a significant role in shaping me to be an intense competitor and valuable team player in the courtroom.

Through my experience in competitive sports, I learned how satisfying it can be to give my all—to dig down deep beneath the pain and exhaustion for a burst of strength—and collaborate with teammates to outplay our opponent in the final minutes of a close game. I think that most competitive athletes play sports for those moments. I also learned that team victories and championships result only from team efforts—never solely from the efforts of one player. Finally, I came to appreciate that outworking opponents in practice and in games, playing smarter, and giving everything I had for the team made me a winner. That confidence fostered my belief that my teammates and I could win any game, no matter who opposed us. And every fierce competitor will testify that you never lose that winning attitude—on or off the court.

I bring that same winning attitude and experience to my work on trial and litigation teams. I am privileged to work with fantastic teams of attorneys that work hard and smart. We give our all for our clients and tackle their most challenging and complex problems. We come together—especially when the chips are down—to fight through adversity and find a way to win. Together, we are strong competitors. That is why I love what I do as a part of a successful legal team.

Also, it is no surprise to my former teammates and basketball coaches that many of my cases involve antitrust law—the law that seeks to preserve fierce competition.

**2. In high school, you had a teammate named Earvin Johnson. So let me ask you, do you believe in Magic? Seriously, share with us your favorite Magic story.**

I do believe in Magic. Earvin "Magic" Johnson is a winner—in basketball, in business, and in life—because he understands, values, and maximizes his teammates' strengths and contributions. Maya Angelou once said, "People will forget what you said, people will forget what you did, but people will never forget how you made them feel." Well, Magic makes the people around him feel special.

Most will agree that Magic Johnson is the greatest point guard ever to play the game of basketball. But in the first game that Magic and I played together, I was the point guard, while he played power forward. Once during that game, Magic tried to play point guard by dribbling the ball up the court to set up our offense. I quickly assured Magic that I would handle the point guard duties on the team, and that I would get him the ball if he got open in the low post. To his credit, Magic kindly nodded and let me continue as point guard. Then, when coach took me out of the game for a two-minute rest, I watched history in the making. Magic played point guard for a few possessions—and it was a thing of beauty.

By our second or third game together, I had learned that I could get all the open jump shots I wanted by simply waiting in the corner for a pass while Magic (playing point guard) drove to the hoop and drew all five defenders to him. When I hit those open shots, Magic didn't say, "I told you I should play point guard." Instead he said, "I've been watching you in practice; I knew you were a good shooter. Way to play!" We were only in high school, but I knew then that Magic was destined for greatness.

**3. Did you have a trial icon or mentor in your early years of practice who shared with you the wisdom of years of practice? If so, please tell us about them.**

I did not have one particular trial mentor in my early years. But I studied the work of the great trial lawyers, such as Abraham Lincoln, Clarence Darrow, and Thurgood Marshall.

Mostly, I have grown and developed as a trial attorney by observing others and through personal experience. I have learned a tremendous amount about what to do and what not to do by taking note of how colleagues succeed inside and outside the courtroom. I hone in on strategies and conduct that are effective and impress me; I consider how I might incorporate them into the way I practice. Similarly, I observe behaviors or approaches that can alienate others and reflect on that to make sure that I am not doing those things. In short, my goal is to learn and grow constantly from those around me, whether they are my family members, young people whom I mentor, judges, friends, or colleagues (both senior and junior to me). The key for me is to keep an open mind and to strive for continuous self-improvement.

**4. You have served as in-house counsel previously. How did that experience help you in your practice today?**

Early in my legal career, I spent four years as in-house counsel for a dynamic business enterprise. Those years opened my eyes to some of the unique issues and challenges facing in-house counsel and their clients. I learned that just winning a particular case does not necessarily promote the good of the enterprise. I learned also that the most valuable and trusted outside counsel were the ones who truly sought to understand and champion the goals of the company. The best ones argued my cases with the passion and knowledge I had about the facts and the client, guided by their years of experience litigating cases. Now, with my 25 years of experience litigating cases, I work hard to be that valued and trusted outside counsel to my clients.

**5. If you could have dinner with five people, other than immediate family, who would they be and why?**

- Munroe C. Long – My great grandfather, who was born a slave, circa. 1850, but died a trial justice and minister in South Carolina. (So he was the first attorney in our family, and I am the second.) I would like to know how and why he became a judge, learn about his most interesting cases, and thank him for blazing a trail that I, and others, followed.

- President Barack Obama – A brilliant, personable visionary whose election made history. I admire President Obama for his thorough and enthusiastic approach to problem-solving (not to mention his jump shot). While I have already met and conversed with the President, I would like to have dinner with him to explore more of his thoughts about how to overcome the challenges facing America and continue to build on our strengths.

- Justice Ruth Bader Ginsburg – One of the most brilliant legal scholars of our time. At dinner, I would like to learn what had the most impact on shaping Justice Ginsburg's approach to the law and what helped her maintain resolve when law firms would not hire her (as a woman attorney) even though she was the valedictorian of her class at a top law school. I would also like to explore how she and Justice Scalia succeed in maintaining a close friendship despite their widely divergent philosophical viewpoints.

- Coach John Wooden – Widely regarded as the greatest college basketball coach of all time, Coach Wooden also taught competition and life principles. I would like to have an in-depth discussion with Coach about his "Pyramid of Success" principles.

- Malala Yousafzai – A 16-year-old education activist who exposed the Taliban's intermittent efforts to ban girls from attending school. When she was only 11, she wrote a blog for the BBC that discussed her life under Taliban rule, and she was nominated for the 2013 Nobel Peace Prize. At 15, she survived an assassination attempt. I would like to speak with her to learn more about her life, particularly the source of her strength and her thoughts about justice.

**6. Litigators tend to travel a great deal. What are some of your favorite cities or places, and what fascinates you about them?**

- Brussels – Virtually everyone there seems to speak at least three languages. The city has old world charm, great food, warm people, and it is the gateway to Europe (especially from the standpoint of competition law).

- Washington, D.C. – My home away from home—and the happening place for an antitrust attorney and a patriot, like me.

- Denver – Friendly and so beautiful—especially when you don't have to shovel the snow!

- San Francisco – I like the buzz of the city, the slight chill in the air, and the delicious, healthy food choices.

- New York – Although it is pretty much the opposite of Southern California, I love the Big Apple's vibe, diversity, and resilience, among many other things.

## **7. What intrigues you about prior generations of trial lawyers?**

The great prior generations of trial lawyers, from Abraham Lincoln to Thurgood Marshall, realized that their work could help change America for future generations. And that's exactly what they did.

## **8. What is your greatest extravagance?**

Regulation basketball rims and backboards in my backyard court.

## **9. Diversity, along with excellence and integrity, is central to the LCA's mission and plays a fundamental role in our selection of Fellows, growth, and goals. We want to quote you on diversity in the next issue of *Litigation Commentary & Review*, as well as the Diversity Law Institute's new website. So in a word, sentence, or paragraph, what, in your opinion, is the significance or importance of furthering diversity within the profession of law and throughout our system of justice?**

I appreciate that our country and our system of justice were founded upon the important principles of equality under the law and diversity (of thought and religion, among other things). Two hundred years later, a racially-diverse group of Americans participated in a movement that resulted in laws diversifying our schools and requiring equal treatment of all citizens. From my perspective, diversity has proven itself to promote American ingenuity and equality of opportunity time and again. By enforcing the laws of the land, attorneys have played a pivotal role in improving diversity. And I am proud of that.

Now, the nation is watching to see what choice we attorneys will make in our own profession regarding diversity. By choosing to embrace and champion diversity in our profession (in both theory and practice), I believe we can endorse the fundamental American ideal of equality of opportunity in all aspects of American life. At the same time, we can help improve the way law firms and other institutions function and serve their clients and constituents.

## **10. What is the greatest threat facing the American judicial system?**

At least for civil litigation, the greatest threat facing our judicial system is escalating costs. As civil litigation proliferates, there seems to be less and less money in the system to pay judges and court staff appropriately. Meanwhile, litigants' legal expenses (including e-discovery costs) continue to escalate. One idea that I think should be discussed (particularly regarding business litigation) is modifying the American rule that each side bears its own legal expenses absent a contract or statutory exception to the contrary. Adopting a modified version of the English rule—where the loser pays the winner's legal expenses (and perhaps the court's expenses)—could deter some questionable litigation and help solve our courts' financial crisis.

## **11. Do you set professional goals each year? If so, what is your goal for 2014?**

I set new personal and professional goals for myself annually and assess my progress during each year. The primary objectives of my professional goals involve continuing my evolution as an advocate. They also involve cultivating stronger relationships with clients by understanding their business and serving their needs and goals better.

## **12. What is the civic cause with which you most identify?**

I think it is important to support our next generations through sponsorship. Sponsorship goes beyond mentoring and giving advice. Sponsorship means using my experience, contacts, skills, and time for the benefit of those I sponsor. In other words, I treat my protégés like family. Professionally, I am active in Crowell & Moring's sponsorship initiative. Privately, I also sponsor protégés whom I have met outside the firm. I believe sponsorship is a key way to make a difference for future generations and to effect meaningful change.

## **13. What are you excited about?**

I am always excited about my family because they never cease to amaze me. I am also fascinated by the increasing connectivity of people around the world through the use of technology. This is helping to break down barriers and make the world a smaller, better-acquainted place. I find it all quite extraordinary. I'm also excited about the bright future of my client and favorite basketball team, the Los Angeles Clippers.

## **14. What object in your office serves to re-energize you when your mood needs an adjustment?**

In my office, I have photos of special moments with my family. Remembering those times keeps me grounded and happy about what is most important in my life.

## **15. What trait do you most value in your friends?**

Integrity.

## **16. How is it different living in Southern California than other places you have called home?**

I have lived in Ann Arbor, Michigan; Cambridge, Massachusetts; Philadelphia, PA; and Irving, Texas. Each of them had their high points. But the weather in Southern California is fantastic. You can spend a lot of enjoyable time outdoors every month of the year—and there is no shoveling snow.

## **17. What do you like to do in your leisure time?**

In my leisure time, I like to swim, play tennis with my family, and (of course) play, coach, and watch basketball.

## **18. If you were not a lawyer, what would you like to be?**

An NBA or NCAA head basketball coach. But I love what I do; winning cases also provides the fierce competition, teamwork, challenges, and thrill of victory that drive me.

**19. What is your motto?**

My motto is, "Leave it all on the floor."

**20. How would you like to be remembered?**

I hope to be remembered as a good servant who gave my all and made a positive difference to my family, my community, my country, and the world.

*By G. Steven Henry*

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