

ESSAYS

NEGOTIATING PATHS, CREEPY CRAWLY CREATURES AND THINGS THAT GO BUMP IN THE NIGHT: THE CAUTIONARY TALE OF A FOURTH-YEAR DEAN

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AS I fulfill my promise to write for this edition of the Dean's Law Symposium, I am on a plane headed to California for a few days to spend some time with my family and to care for an ailing parent before the marathon of my fourth year as Associate Provost and Dean begins in a week. Yesterday, I attended the ABA's Deans' Meeting in Chicago,¹ listening to the discussions on leadership, the economy, fundraising, and all the other side conversations taking place on the state of affairs vis-à-vis legal education today. I canvassed the faces of the new deans who were in attendance and witnessed their dual emotions of excitement and anxiety about what is to come.

Beginning the fourth year, I am mindful of how quickly the years have flown by. I am also grateful for the successes and the lessons learned. At the end of the Deans' Meeting, a request was made by the organizers for possible future topics of discussion. Dean Cynthia Nance of the University of Arkansas, Fayetteville, suggested that in the future we devote some time to talk about how to deal with stress. I hope it makes the list.

I now measure time in BD, WD and AD, meaning: Before Deaning, While Deaning, and After Deaning. Before becoming dean I had a variety of ways of managing my stress. I was engaged in musical activities, photography, played tennis, devoured good (especially foreign) movies, walked, and gardened. These days, I still manage to have a little time for gardening (which was the subject of my last article in this special edition),² and, for the sake of my sanity and all those who must come in contact with me, I walk.

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1. See Randy Hertz & Hulett H. Askew, *Informational Report to the ABA House of Delegates*, 2009 A.B.A. SEC. LEGAL EDUC. & ADMISSIONS TO THE BAR 6, available at <http://www.abanet.org/lcd/legaled/inforeport.pdf> (making reference to a deans' workshop to be held in Chicago in conjunction with the ABA annual meeting).

2. Linda L. Ammons, *The Art and Science of Deaning: Lessons from My Garden*, 39 U. TOL. L. REV. 209 (2008).

When I first moved to my new neighborhood more than three years ago, I marked off a path for my morning exercise that was primarily residential. I met many of my neighbors walking past their homes each morning. One day, a neighbor was returning from her walk with her son's dog and she told me about a new path within three minutes of my front door that had opened that would take me past the golf course and on a trail that would go on for miles. I tried it and it was glorious.³

When I awake in the morning, after expressions of gratefulness for one more day to try to get it right, I dress for my walk. I try to keep distractions to a minimum because the hardest part of my exercise routine is getting dressed and out the door. Depending on the time of year and weather, I may water the garden first, but it's generally up and out. When walking, I am usually plugged into music. The music I select is determined by what I am feeling that morning. I sing, conduct, glide, dance, or march to what is on the iPod. Two types of music predominate: classical and gospel. I know exactly where I should be, based on the track number and measure of the song that is being played. My pace can be marked by a Mozart adagio like his *Serenade in B flat*,⁴ K 361, or Beethoven's Piano Concerto No. 5 in E flat major (for warming up) or the cut time rhythm⁵ of a Donald Lawrence⁶ tune like "Giants," or to Kim Burrell⁷ belting out a Richard Smallwood hit called "Journey." These tunes really get the heart pumping. Burrell's ability to interpret a lyric or scat phrases would make both Sarah Vaughan⁸ and Ella Fitzgerald⁹ take notice. Then, there are some days when only

3. I walk in the Alapocas Run State Park. *See* Alapocas Run State Park, <http://www.destateparks.com/park/alapocas-run/index.asp> (last visited Jan. 4, 2010).

4. LUDWIG RITTER VON KÖCHEL, *KOECHEL ABC: CHRONOLOGICAL AND CLASSIFIED LISTING OF W.A. MOZART'S WORKS BY THEIR KOECHEL NUMBERS* 32 (Helmuth von Hase ed., 5th ed. 1965) (*Serenade in B flat* is number 361).

5. Cut time rhythm is a measure written in 2/2, that is,

[It] looks identical to a [sic] measures written in 4/4 time. That is, four beats of quarter notes could also be interpreted as two beats of half notes. Cut time is often used to indicate an underlying half time feel, meaning the bassist will tend to play only two half notes per measure rather than four quarter notes, and the drummer will alter his [or her] part accordingly as well.

A Jazz Improvisation Almanac: Notating Rhythm, http://www.outsideshore.com/school/music/almanac/html/Music_Theory/Reading_Music/Note_Rhythm.htm (last visited Jan. 4, 2010).

6. *See* BlackGospel.com: Interviews—Donald Lawrence, <http://www.blackgospel.com/interviews/donaldlawrence/> (last visited Jan. 4, 2010) (noting that Lawrence's "prolific, profound and infinitely personal compositions have set him apart as a special talent").

7. *See* myspace.com: Kim Burrell, <http://www.myspace.com/kimburrellministries> (last visited Jan. 4, 2010) (characterizing Kim Burrell's voice as "dynamic, distinctive ... captivating ... [and] carr[ying the] power to sooth and encourage[] the heart[s] of people everywhere").

8. In the 1940s, Sarah Vaughan began her recording career as a part of the bebop movement and became one of its most celebrated vocalists. *All About Jazz: Sarah Vaughan*, <http://www.allaboutjazz.com/php/musician.php?id=11033> (last visited Jan. 4, 2010). "Her dynamic vocal range, sophisticated harmonic sense, and horn-like phrasing brought Vaughan million-selling numbers and a stage and recording career that spanned half a decade." *Id.*

9. Ella Fitzgerald began her recording career in 1936 and soon after, she incorporated scat singing into her repertoire, turning it into a form of art. *The Official Website of Ella Fitzgerald:*

Mozart's Requiem¹⁰ seems appropriate. Sometimes, although it is rare, I just listen for the sounds around me. In the spring and summer I see the geese huddle and then march lock-step across the hill before flying off in formation. I also see and hear the robins and other yet-to-be-identified beautiful birds engaged in their own songs of call and response.

My trail is profuse with seasonal growth. Wildflowers, loosestrife, honeysuckle, cattails, black-eyed susans, Queen Anne's lace, bushes abounding in red and blue berries attached to fuchsia-colored stems with chartreuse leaves, green and red variegated and golden wavy grasses line my path on the way to my destination—the forest—where brooks, beautiful diffused light, green deciduous and evergreen trees, gorgeous ferns and other shade-loving plants, man-made and fallen tree-made bridges, and my roughly hewed bench await me. Its hills, curves, and valleys are in my muscle memory. I love my trail. It provides me the sanctuary I need for an hour before facing all that is before me.

Last semester was particularly hard for me because I could not walk for a couple of months beginning in January at the AALS Meeting.¹¹ Overnight, I was struck with some mysterious condition that landed me in a wheelchair and on a cane for weeks. Once I recovered in early spring, I was desperate to get back to my routine.

One morning I set out on my path. My music was set and I was on my way. I passed the few houses, the golf course with the par-less players scurrying to the next hole, and rounded the turn which would take me well on my way to the forest. I normally do not look down when I am walking, I look ahead. This particular morning I happened to look down and saw something inching and slithering across my path about 150 feet from where I was walking. It only took a millisecond for my eyes to contact my brain to label what I saw and to tell me how I should feel about it. It was a snake. I froze.

I am not fond of creepy, crawly things. To be honest, I am terrified. My fear of snakes is well-honed. I do not know whether this dread is woven into my gene pool, but I do know it was passed down to me by my mother. She is afraid of them and I am also. It does not matter that I am perhaps 500 times the size of this monster. The idea that it was in my line of sight, crossing my path, sent chills up my spine and caused me to immediately back up, turn around, and go home. I forgot all about my mission. I did not care about my purpose in being on this path. Like nails across a chalkboard or a needle scratching a vinyl LP, the interruption to my routine was jarring.

Biography, <http://www.ellafitzgerald.com/about/biography.html> (last visited Jan. 4, 2010). She remained the most popular female jazz singer in the United States for more than fifty years—her lifetime achievements included the sale of more than 40 million albums and the recognition associated with thirteen Grammy awards. *Id.* Fitzgerald's "voice was flexible, wide-ranging, accurate and ageless. She could sing sultry ballads, sweet jazz and imitate every instrument in an orchestra." *Id.*

10. VON KÖCHEL, *supra* note 4, at 51 (Requiem is number 626).

11. Association of American Law Schools: AALS 2009 Annual Meeting—San Diego, Cal., *Statement Adopted by AALS Executive Committee, August 15, 2008*, http://www.aals.org/events_am2009.php.

I was not prepared for what I saw. I had walked this way so many times before and I had seen the rabbits, squirrels, chipmunks along the way. Sometimes a neighbor's dog on the loose would decide that I needed company. Butterflies would use part of their short life span to greet me before heading off to their next source of nectar. So why was I so unnerved about the reptile? I would have been less shocked if I had seen it in the forest where the asphalt path ends and the dirt and gravel continue deep into the wooded areas. In fact, I was very alert once my feet left the asphalt. Seeing the snake in what I considered safe territory, in the broad open daylight, was unsettling.

Fear is a powerful emotion. It can be rational or irrational. We are created with it for protection. Just like pain, it serves a useful purpose. However, when fear takes control, retreat or paralysis is likely to occur.

There seems to be more and more for deans to be fearful about these days. The economy and its U, V, W, or L shape¹² has us all nervous about what our budgetary bottom lines are and what our fiscal legacies will be. More and more accountability is being required from accrediting agencies, national and regional. We are learning new languages to stay current with the millennials.¹³ The social networks can be our friends and enemies at the same time. Law schools are being asked to reach back and project forward through pipeline programs, remedial programs, and preparing-for-the-profession projects, which train our young people in ways law firms have abdicated. Escalating tuitions and student debt, if left unchecked, are threatening to tip over our already leaning towers. The calculation by *U.S. News* and its heavy emphasis on inputs instead of outcomes is dictating to us who will become members of the legal profession. The ever-increasing pressure by central administrations to either do more with less and less, or for the law unit to provide more and more, is mind-bending. The fundraising expectations, even in a recession, are not for the faint of heart.

No one ever promised that being a dean would be a cakewalk. However, as I begin this fourth year at the helm, this road has considerably more curves, bumps, and obstructions than when I started. It is certainly not the same job of a decade ago. All the signs tell us that the legal profession is in transition and that law schools must do more to accommodate those changes. There are moments when the enormity of the job can take your breath away.

12. The economic cycles associated with periods of recession are often described by the shape of their respective curves. See Nouriel Roubini, *When Will the Recession Be Over?: The L Curve*, N.Y. TIMES, Mar. 1, 2009, at WK12, available at <http://www.nytimes.com/2009/03/01/opinion/01roubini.html>. Four types of curves are typically recognized by economists: V curves represent a sharp economic decline immediately followed by a reciprocal recovery; U curves also describe a steep decline, but are followed by a period of stagnation before recovery begins; W curves represent a steep decline, followed by an immediate recovery, only to quickly lapse back into recession; and L curves represent a steep decline, followed by a "protracted period of economic stagnation" with a gradual and possibly prolonged period of recovery. See Nouriel Roubini, *The US Recession: V or U or W or L-Shaped?*, RGE MONITOR, Apr. 7, 2008, http://www.roubini.com/roubini-monitor/252460/the_us_recession_v_or_u_or_w_or_l-shaped_.

13. For a discussion on workplace relationships between members of Generation X and Generation Y, see Harvard Business Review: Blogs—Gen Y in the Workforce, <http://blogs.harvardbusiness.org/ics/2009/01/gen-y-in-the-workforce.html>.

But then there are the times, most of the time, when the joy pushes aside the fear and pain and you remember why you said “yes” to this path. Just as the body creates endorphins that provide a sense of pleasure and release after a good work-out, there is great satisfaction in accomplishing the goals set each academic year. It feels good when you can check off another item on the strategic plan, when gifts expected or not anticipated appear, when that faculty member makes a great placement for his or her article, when the first class of students who came in the door with you and the subsequent classes march across that stage with diploma in hand, when the building or renovation projects have been completed, when the staff goes that extra mile again to make miraculous things happen, when the alumni, bench and bar support “the vision,” and when that difficult faculty member finally realizes that we are all in this together. Blazing a trail to transform or add your contribution to the legacy of a law school is a much worthy exercise.

For days after seeing the snake, maybe even for a couple of weeks, I would not return to my trail. I looked and experimented with alternate routes. These footpaths were lovely, but the fit was not the same. I saw some interesting foliage and a nice creek, but my rhythm was off, the music didn’t fit, my stride was strained. Then, one day, I decided that it was ridiculous to abandon what I knew to be the perfect direction for me. I summed up my courage and headed out to my familiar path.

That morning the golfers were still chasing balls, the runners and bicyclists were making their usual rounds. I probably held my breath as I rounded that corner where my nemesis had been seen. No snake. I finished the first half of the walk in my beautiful woodlands and turned around to head back home.

Then, it happened. About five hundred feet from the entrance to the forest, on the savannah, to my left, I heard a noise. I stopped. Coming across my path this time, with grace and beauty, was a deer. It was magnificent. In my years on this path I had never seen a deer. I was awestruck and I probably smiled all the way back home. It was as though nature provided me a welcome back.

I have learned the following lessons from this experience.

1. No matter how familiar you are with the territory, if you are walking in their neighborhood, snakes may cross your path. In other words, no matter how long you have been dean, there are situations that sometimes come out of nowhere that will be beyond your control, that may strike at your inner core, and that are unsettling.
2. Fear is not necessarily an inappropriate reaction to situations that have the potential to harm. If the response is based on good data and rational, it can be a life-saver. However, if fear is irrational and becomes the basis for subsequent actions that are out of proportion to what is being responded to, then there is a problem. I did not know what kind of snake it was, whether it was really harmful or harmless. I was not hanging around long enough to find out. I am not sure that my initial reaction to the snake would have been any different if I had been privy to more information about its lethal potential. Fear often trumps critical analysis, especially when making quick decisions. However, had I known to

begin with that this creature really could not harm me, I would have perhaps returned to the trail much sooner.

3. We are generally bigger than the problem and certainly equipped to handle it.¹⁴
4. Scary situations and bad times generally pass. Sometimes just waiting will resolve the problem. I am sure that the snake never saw me, much less cared about me, and was on its way to complete its mission. I gave up my mission. Had I just waited a few seconds, it would have been in the grass, and I could have been on my way.
5. When you see trouble in the distance, there is often time to adjust your stride. Reacting is necessary, but it is important to neither over- nor under-react.
6. Sometimes, it is necessary to take an alternate route until things settle down. However, if you know that direction is only a detour, do not get comfortable there.
7. Timing can sometimes serve as a motivator in either prolonging or conquering fear. I saw the snake early in my walk that morning and I had not arrived at the half-way point. Had I seen the snake while I was heading home, I would have had to quickly get over my terror and continue since there was no alternative route.
8. Finally, when you are carrying out your purpose and on your right path, there will be the occasional moments of sheer delight that come to you, sometimes out of nowhere.

As I finish this essay, I am now back in Delaware. The first week of school has begun. It is morning, and it is time for my walk.

14. While visiting my mother in California, I told her about my experience with the snake. Her first response was one that I expected. She said, "You know, I am scared of snakes." I responded, "Yes, I know, so am I." Then she said something I was not expecting to hear. She said to me, "Had I seen the snake, I would have killed it." No fright and flight for her, but fright and fight. What a difference in instruction one letter in a word can make. I guess I missed this part of the lesson at her knee.