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Profile / Scott Blankenship

Taking on the Big Guys

By Gene Barton

Most employment disputes are David and Goliath cases. Usually, a sole former employee finds himself or herself going up against the company or government agency, often a large one, that discharged him or her. The former employee doesn't have the resources to go toe-to-toe with the would-be defendant, which can afford to hire attorneys or already has them in-house. He or she needs to find someone who has the wherewithal, along with the mettle, to slug it out.

Scott Blankenship is just such a go-to guy. Blankenship, who runs his small, eponymous firm out of sub-leased offices in downtown Seattle, has built his practice and reputation by winning the tough cases. But it hasn't been by accident. Slam-dunk cases don't just walk in the door and they rarely exist in the employment arena.

"The key is case selection," says Blankenship, who turns away far more cases than he accepts, which equate to about 10 to 12 filings a year. "The benefit on the plaintiffs' side is to be able to screen the cases and not have to file them if they're not good cases. My litmus test is pretty tough. If I think it's a meritorious case, most of the jurors will think it is."

This has led to what Blankenship calls an "astounding success rate," although he admits that not every case is a winner. "I've represented Fortune 500 presidents and highly compensated physicians," he says. For the most part, however, the cases he takes on are of the David and Goliath type.

"These are people who individually have a tiny percentage of the resources [of the opponent]," Blankenship says.

"But the laws are powerful and there's fee shifting. Plus we have the talent and the resources to not be overwhelmed by almost any opponent, whether it's the Justice Department or the Navy. We can match the resources of the law firms we take on."

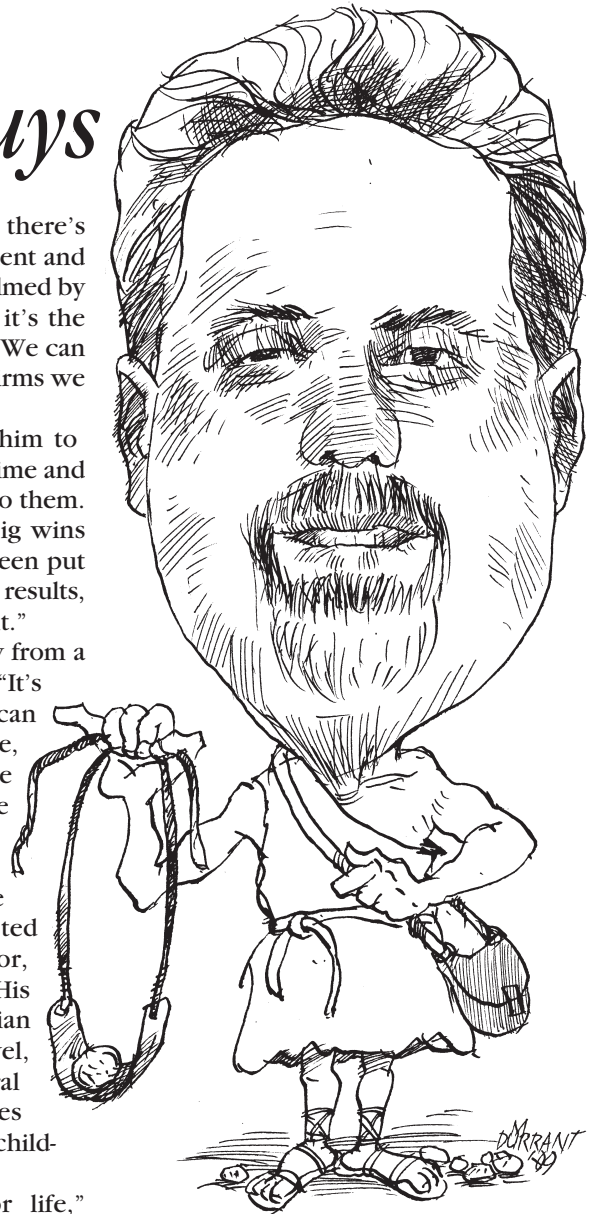
The small caseload allows him to focus on a select few cases at a time and pour the necessary resources into them. Blankenship has scored some big wins and much of his firm's fee has been put right back into the practice. This results, he says, in a "reasonably fair fight."

"I approach cases differently from a lot of people," Blankenship says. "It's not a volume perspective. I can invest the time and effort in a case, push the envelope, try to change the law. Then it's worth the effort, it's justifiable."

Blankenship is a native of Redlands, California, where his father was a respected scientist and defense contractor, who helped develop the MIRV. His mother is the daughter of Italian immigrants. International travel, combined with an agricultural upbringing among orange groves and mountains, meant an idyllic childhood.

"I had this ideal, outdoor life," Blankenship says. "My dog would meet me at the bus stop, I'd saddle up the horse and head into the canyon with a shotgun. I had a lot of time to think and reflect, to think about what was important to me and the world."

"Both of my parents encouraged compassion for others and fostered critical thinking, but from very different perspectives. I learned to love physics and



to quote Shakespeare, loving language, writing and logic. Being a lawyer lets me draw from all of that."

Blankenship attended UCLA, primarily because of his interest in debate. There, he got into writing, public speaking (naturally) and politics. His father was a "hard-core hawk" who imbued his son with conservative tendencies. "I was

incredibly political,” recalls Blankenship, who while in college attended the 1984 Republican convention as a youth delegate, albeit as a pro-choice moderate.”

However, a run for student body president as a junior versus a fifth-year senior (Dean Flores, who is now the California Senate majority leader) soured Blankenship on politics. “People have strong opinions and are talking about you, but they don’t know you,” he says.

After UCLA, where he graduated in 1987 with a degree in international relations and political science, Blankenship faced a choice between divinity school and law school. “It was important to me to do something that made a difference to the world and I’m sure I made the right choice,” he says.

Blankenship chose law school at Tulane — “to see another part of the country.” But before heading to New Orleans, he spent a few months clerking in the U.S. Senate. He started in California Sen. Pete Wilson’s office, working in the press office. But he soon learned, surprisingly, that his politics didn’t square with Wilson’s. “Although I respected him, it wasn’t a fit politically,” Blankenship says. “That was the first indication I had that I was quite probably a Democrat.”

Blankenship moved over to Sen. Joe Biden’s office, where he did some eye-opening work with the Senate Judiciary Committee that he found “pivotal [in] changing my heart politically.” At the time, a federal prosecutor with the committee was investigating the FBI for racially discriminating hiring practices. It was the late 1980s and “there wasn’t a single Hispanic or African American that had a position in the FBI above entry level — special agents,” he says. “The Bureau’s excuse was that they weren’t promoted because they were so good in the field.”

Upon graduating from Tulane in 1991, Blankenship made a bee-line for Seattle, where he had decided to make his legal career. “I picked Seattle because it is the most beautiful city in the country and I fell in love with the culture,” he says.

He landed with the Gaitan & Cusack firm, which produced such attorneys as Mike McKay and Mark Sidran. Blankenship had a “whatever you want me to do” approach. “I told them, ‘I’ll argue the motions in limine you’re too embarrassed to do,’” he says. “I got a reasonable amount of experience and responsibility pretty much right off the bat.”

Less than three years later, he had started building a “decent” book of business and entered a partnership with Ted Rogowski and another attorney to pursue his passion at the time: environmental law. He also handled insurance coverage and defense work, and some employment work. The partnership only lasted about a year before the three decided to go their separate ways. They drew straws for various parts of the business. “I ended up keeping the phone number and the office space,” Blankenship says.

It wasn’t long before his new firm took on an employment law focus. “As much as I enjoyed environmental law,” he says, “it was difficult to make it lucrative and not be representing companies who were looking for guidance on how to comply with regulations. Rather than working on the status quo, I wanted to change views and force change in companies.

“Plus, somewhere along the road I discovered I was good at evaluating cases, working them up and getting them resolved quickly, which was a pretty good approach for a plaintiffs’ lawyer, but not necessarily a defense lawyer.”

Blankenship also found out that “I’m not all that comfortable charging people by the hour,” he says. “It’s much better to take the money from the opponent and split it with the client. It’s more like a partnership.”

Among his major accomplishments, Blankenship counts a case he took on behalf of Wei Zhang, a former professor in China and Tiananmen Square protestor, who was terminated by American Gem Seafoods where he was president of his division. Blankenship’s firm sued for race and national origin discrimination, and obtained a near \$4 million result in the case. The jury’s verdict was upheld by the Ninth Circuit Court of Appeals in 2003 (339 F.3d 1020), most significantly with respect to an award for \$2.6 million in punitive damages in an intentional discrimination case. The Supreme Court denied certiorari.

“My argument was, ‘How egregious does intentional discrimination have to be to be egregious?’” Blankenship says. “Intentional discrimination is egregious and malicious by definition.”

In 2005, the National Employment Lawyers Association chose the Zhang case as one of the five most important cases nationally for employee rights in the last 20 years. The FBI case that Blankenship assisted on during his time

working for the Senate Judiciary Committee was another.

Although Blankenship gets the press, he gives credit where credit is due. He lives by something Ronald Reagan once told his brother: “To be successful, you need to share credit with others.” And while Blankenship and Reagan eventually parted ways politically, Blankenship still greatly admires him.

“Part of his wisdom was that he tried to surround himself with bright people,” says Blankenship, who also draws inspiration from the Rev. Dr. Martin Luther King, Jr., and Gandhi. “I follow that [philosophy]. I hire people who are bright, capable and able to make decisions and allow them to have ownership of projects and cases.” He credits a “gifted, gifted staff” and a string of talented associates who have come through his office two or three at a time over the years.

His wife of 13 years, Juli, was with him in the beginning, working as a paralegal, after they met through a client. Today, she takes care of their two children, Sophia, 7, and Victor, 6. A third child is due in March.

A self-confessed “law geek,” Blankenship says he is “totally hooked” to the point that he reads legal opinions for fun. “I get antsy after a couple of weeks of vacation.”

“I really love what I do,” he says. “It’s such an honor and privilege to do what I do. Being here [in the office], working on a great case, working with a great client with a great cause — that’s quality of life. That’s almost as good as it gets to me.”

In exchange, Blankenship gives quality for quality. He puts everything he has into a case, whether it’s time, energy or money. “I always tell my clients that it’s like a boxing match,” he says. “You can only have one person in the ring at a time. That’s what makes our justice system fair.”

And when one of Blankenship’s “David” clients is facing a “Goliath” in single combat, Blankenship is the smooth stone in the sling. ■

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