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Why can't we be friends?

By **ROBERT L. BRENN A JR.**
Daily Record Columnist

Recently I had lunch with my friend Ed Hourihan, who was nice enough to mention that he reads my columns.

Even better, he said, "You know, Bob, you ought to do a column about the collegiality of members of the bar."

It made me remember that, while I certainly had heard of Ed beforehand, we never really got to know each other until I had the opportunity to do battle against him and several other attorneys.

We've been friends ever since.

I smiled when I recently watched Supreme Court Judge Joanne Winslow being sworn into office. Several years ago, I had the pleasure of meeting her much in the same way — preparing for battle in court. She was young, and I still thought I was young, and it was one of those situations in which my client claimed absolute innocence and his career depended on the trial's outcome.

Sometimes, as a trial attorney, I have a binary on-off switch. I have to balance my duties to find the best possible negotiated resolution in any given case but there always are cases, such as the one I just mentioned, when there is absolutely nothing to discuss.

A plea to any lesser offense likely would have ended my client's career, so the binary switch that regulates settlement negotiations versus trial preparation in my brain immediately turned to trial preparation. Simultaneously, the part of the brain next to the reticular formation — known as the "settlement negotiation" lobe — was turned off.

Getting back to my point, I asked then-Joanne — now Justice — Winslow if she would take a walk with me to discuss the upcoming trial. I told her the story of my interactions with my two best friends during my senior year of law school. I was in an honors moot court competition against one of them, and pitted against the other in our trial practice course. After arguing the appeal in moot court, the first friend walked out, looked at me and asked, "How can you make the analogy that the suspect was being overwhelmed during his interrogation as if a police club was being held over his head?"

I looked back at him and said: "Wasn't that something you should have asked the panel of judges?"

My other friend and I tried a case against each other, and before we could get out of the courtroom he turned to me and said, "Boy, did you try a terrific case. That was a great job."

"Are you kidding? You absolutely killed me!"

"No, your summation was wonderful," he insisted.

"Your cross examination was brilliant," I demurred.

To this day, the friend against whom I tried the case still e-mails and writes me continuously and is one of my best friends in the world.

The one who argued needlessly with me after the moot court competition and I drifted apart soon after law school.

So, I told Joanne that I didn't realize it while I was in law school, but those examples truly were representative of the real world. With a guy like Ed Hourihan or a woman like Joanne Winslow, you can do battle and ferociously advocate on your client's behalf, and walk out of the courtroom with tremendous admiration and respect for your opponent.

On the other hand, of course, there are those among us who fall under the category of my first law school friend, for whom the heat of the battle is too overwhelming, and with whom efforts at collegiality are unsuccessful.

We are extremely lucky in our area because there are still people who can zealously represent their clients' interests and go out for a beer afterwards, retaining all of the respect and admiration they deserve. Most of the members of the bar in our region are gracious, honorable and exhibit professional courtesies. We are far more fortunate here than in most other areas of the state, and the country.

Let's not only keep it that way, but also encourage our fellow attorneys and clients to remember that, after the battle is over, friendships remain.

Thanks, Ed.

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