

Moment in Time Valley Pro Bono Team Wins Jury Trial



LISA MILLER, SMALL FIRM & SOLO PRACTITIONER SECTION CHAIR

The facts didn't look good; the trial lasted eight days, twice as long as it should have; and the lawyer had just passed the bar. But none of this stopped local Valley law firm Marcin Lambirth from winning a complete defense victory for an indigent college student.

In 2003, Jorge M., then a 15-year-old honor student with a 4.0 grade point average, and his schoolmate Julio L. were involved in a schoolyard fight over a girl they both liked. After landing several blows on each other, Julio tripped and fell. Thinking Julio was going for his pocket-knife, with which he had threatened Jorge in the past, Jorge kicked Julio once in the head and then went on to class. Julio was knocked unconscious, suffered a seizure and went to the hospital, where he spent two nights. His medical bills exceeded \$40,000.

Fast forward to 2008: Jorge is 18 years old, a freshman in college. Julio has just graduated from Marine boot camp, and they are now parties to a law suit in a Los Angeles Superior Court case in Chatsworth before Judge Holly E. Kendig. Julio is suing for hundreds of thousands of dollars, and Jorge's future is on the line. If Jorge loses, the jury's award will be non-dischargeable in bankruptcy and will bear interest at 10 percent per annum.

At trial, Jorge argued that Julio had consented to the fight and that Jorge had acted in self-defense. Julio alleged numerous acts of tortuous conduct, including assault and battery.

"This case had problems from the start. My client admitted kicking the plaintiff while he was down and getting up," trial counsel Mark Murad says. "Plaintiff's medicals were up there."

Marcin Lambirth never had misconceptions about the uphill battle it faced in the matter. The firm was clear on the impression the defendant's actions might make on a jury.

"It was not a great-looking case when I first got the file," Mr. Murad, a UCLA Law School graduate says. "These were some scary facts."

But this didn't stop Marcin Lambirth from giving their all to the matter, despite its pro bono status. The

firm provided senior counsel Timothy A. Lambirth, who sat behind the bar, and Mr. Murad, who was trying both his first trial and his first jury trial. Lambirth, a Board Certified Civil Trial Advocate, provided advice on

trial strategy and an extra pair of eyes for his associate, Mr. Murad. Mr. Lambirth is a long-time San Fernando Valley Bar Association member, a Super Lawyer for 2004 - 2008, and a contributor to Bar Notes.

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"We specialize in tough cases," Mr. Lambirth says. "We don't give up just because things looked bleak."

The firm worked for more than two years defending the case and getting ready for trial. Witnesses for both sides numbered more than 20.

"We just couldn't let this kid get run over at trial," Mr. Lambirth says. "Everyone deserves a vigorous defense."

As in many trials, the facts took on a different importance as the proceedings unfolded. Once counsel got into the heart of the case, they located some key witnesses, and the matter took on a more positive appeal.

"We were able to exclude the plaintiff's future medical damages expert before he testified to a single relevant fact," Mr. Murad says. "And we excluded the plaintiff's emotional distress witness before he ever spoke a single word."

But this alone didn't change the course of the trial. Mr. Murad, with advice from Mr. Lambirth, continued to bear down on opposing counsel's case.

"The plaintiff put the responding sheriff's deputy on the stand and tried to get evidence in about the plaintiff's injuries that way," Mr. Murad says. "But on cross-examination, his memory about almost everything turned out to have almost completely faded."

One of the highlights of the trial was when the defendant came out of the witness box to re-enact the fight, including the kick, as well as a prior incident between the two boys where the defendant says the plaintiff brandished a knife.

"Our best witness was definitely our retired Marine Corps drill instructor," Mr. Murad says. "The Sergeant Major testified about what the plaintiff had to do to graduate from boot camp. You could hear a pin drop."


After eight days of trial, the jury buzzed in with a decision. After what felt like endless waiting, the Clerk of the Court finally read the jury's decision. The jurors found that the plaintiff had consented to the fight. Based on existing law, no liability attached.

Jorge won a complete victory, just days before he was scheduled to return to school to resume his studies towards a degree in accounting. Opposing counsel has indicated she will be filing an appeal.

"The relief on Jorge's face was priceless" Mr. Lambirth says. "I got choked up when he said I gave him his life back."

John Marcin, the firm's managing partner and a Super Lawyer, is pleased that his law firm was able to contribute to this significant pro bono project.

"Mark did a great job," Mr. Marcin says. "And a new associate got invaluable jury trial experience so that our firm can better serve clients in the future."

Marcin Lambirth, with five attorneys, has recently opened new offices in Encino. The firm specializes in business, commercial, real estate, school, employment and other types of litigation. The firm can be reached at (310) 286-1050 or visit www.Marcin.com. 

The Small Firm Section will be presenting **Mr. Murad** and **Mr. Lambirth** with its *Pro Bono Award* at 12:00 noon on Wednesday, March 12, at the bar association headquarters in Woodland Hills. A catered lunch will be served, and the Section will be offering a one-hour ethics credit MCLE lecture "Protecting Client Confidences in the Context of Mobile Technology." All are welcome.