



THE ADVOCATES' JOURNAL



The Journal conversation: Ronald Slaght

/// **Stephen Grant, LSM, ASM**

STEPHEN GRANT: Did you always want to be a lawyer?

RONALD SLAGHT: It's easy to say yes, but the answer is no. Partly because of my personal circumstances. I am a fourth-generation lawyer, which is pretty rare in this country. My great-grandfather was the Crown attorney in Simcoe, my grandfather was a very famous counsel in Ontario and my father was a lawyer. But my parents separated when I was young, and I had no exposure to lawyers over all those years, despite the history.

So, I didn't really gravitate toward it or think much about it until I finished political science and economics and took a year off to decide what to do.

SG: What did you do for the year off?

RS: Mostly travelled. As you know, in the late sixties it was a volatile time. The Democratic convention in '68; the Vietnam war. So, when I came back from a radical and liberating few months, I supply taught in the Toronto system for a couple of months to see what that would be like. That drove me to law school.

SG: Did you find it came naturally to you?

RS: Well, the parts of it that I thought I had a penchant for involved the expression of something orally. I didn't have any particular idea that I could do the analytical part. I didn't even know what that was. I remember walking into McCarthys on the first day of articling and realizing there was something called a client. I had no idea about that – even through law school.

SG: Did you enjoy law school?

RS: I did enjoy it.

SG: How did you end up at McCarthys?

RS: In September of my third year, I phoned three law firms and said I would like an articling job. I had heard of this guy named Doug Laidlaw. His fame had even filtered into the law school, and so McCarthys was where I wanted to go.

What is also startling is that they knew who I was because they phoned the law schools in those days and asked, you know, "Are there any good prospects in your ranks?"

So, I got an interview at the three places I phoned, and I got an offer and I accepted it.

SG: I had a similar experience with Ian Scott and Cameron, Brewin and Scott. That's where I wanted to go because I had heard and met Ian Scott. Funny how those events shape our lives.

RS: It is.

SG: He was quite a formidable guy, Doug Laidlaw.

RS: He was. Even though people don't think of him this way, he was quite formal, and it was "Mr. Laidlaw" for the first few years. At the same time, he was welcoming and a teacher, and awe-inspiring, too. You wanted to work hard to do his bidding, which is what we did.

SG: A formidable advocate, though?

RS: And he was probably better in the Court of Appeal and the Supreme Court of Canada than he was in the trial courts, although he's known for the latter. I've never seen anybody make as powerful, concise an argument as he could, and mostly because he prepared for those appeals, unlike the trials where it was one after the other from

September to June.

SG: You've had a pretty fulfilling career, no?

RS: I have.

SG: I was looking at your firm's website, and it's talking about "known for the stare that can stop you in your tracks." Was that natural or developed?

RS: It was natural and, to a certain extent, unconscious. But it also became a bit of a tool when I realized that this thing had an effect on people.

"You have to give it a shot, and you can lose – and you can learn a lot from losing."

SG: I had no idea it was a trademark.

RS: It's mostly a blank stare. I'm actually thinking while I'm staring, but people think I know the answer and that's why I'm staring.

SG: Nice trick.

RS: It was a powerful weapon over the years.

SG: Apart from the stare, what do you think accounts for that successful career?

RS: Well, if I had to say something, of all the things, opportunity is certainly one of them. A natural proclivity must have had some effect. And hard work, obviously.

But what I learned, and all the great advocates I've seen have this trait, is that it's the ability to make the case your own – to identify the one or maybe two issues that are the significant issues and make those issues what the case is about.

Leaving extraordinary talent aside, you have that penchant or that ability, or you can be taught it. And it was easy when the files were half an inch thick. It's not so easy anymore – but the skill is the same.

While you now have to learn more, there are only a couple of things that are important in any case, and I think I had that point drilled into me and watched it, observed it and tried to practise it.

SG: Distilling the case to its essence?

RS: Well, I think it's a little different from that. It's identifying something that you think is a winning strategy or focusing on an issue and then making the case.

SG: Finding the winning line of play?

RS: Yes. And it's something that can be learned, and it's difficult.

SG: And it can be taught?

RS: And it can be taught. It can be taught on the way through, and I was taught it and I observed it and I tried to do it. I can think of examples in my own cases where it's a stunning thing to be able to do. And you need a certain force of personality, usually at the beginning; but to me it's the real key to being successful. It's not being bogged down, to put it in colloquial terms.

SG: It's obviously something more than being intuitive. How did you acquire that skill?

RS: I saw it being practised, and I watched it. As a younger lawyer, I watched it happen in cases where I didn't even agree that that was the issue, or where I didn't see it as being the issue. And I just came to understand that you must have something. Rather than just A to Z, you know? K, somewhere in there, K is the answer.

It gives you focus. It gives you purpose. It gives you something the rest don't have. And you can build on it. And then, obviously, you have to do the work and convince somebody that you've got the right issue. But you can learn to do it, and that's been the successful feature of my practice.

SG: Did you ever feel that you had the winning line of argument and the ruling was against you?

RS: That happens. This is not a script that we write. This is a human drama, and one of the players is the judge.

You don't win all your cases. You and I weren't always successful at everything we did.

I've noticed, though, that young lawyers now are so used to success academically, in their extracurricular life, that they feel they must win. I never really felt that. You have to give it a shot, and you can lose – and you can learn a lot from losing.

Bring the fight to an end...
quickly and fairly



StevensonADR
MEDIATION + ARBITRATION

Civil
Commercial
Construction
Environmental
Estates
Product Liability

colin@stevensonADR.ca

647.847.3811
stevensonADR.ca

SG: I'm surprised to hear you say that because I always thought you were passionate about winning without being overbearing about it, full of the certitude of your position.

RS: I do believe that, and that's part of what I've been describing. You convince yourself first and, without being blinkered about it, you obviously have to take into account whatever else is going on in the case. But disappointment comes with what we do.

SG: Don't you find that it is so hard to absorb personally unless, maybe, you're more dispassionate about it?

RS: It's devastating because you also have to remember that one of the joys of what we do is that you're representing somebody. So, to lose means your client loses, and that's very difficult.

SG: I think the older I get, the harder I find it when I know that the wrong result happens.

RS: And there are more than enough of those.

SG: You had quite an amazing group of advocates around you when you started at McCarthys until you left to form Lenczner Slaght.

RS: You know, it really was, and I was lucky. And this is something people, again, would probably be astounded to know. I was the ninth lawyer in the litigation department at McCarthys.

SG: When I was there, there were around 90.

RS: Alan Lenczner and Michael Royce and I came into that litigation milieu just at the time the big firms were exploding in growth, and we had an incredible core group. And there was no shortage of things to do. So, we were always litigating. It was a great opportunity to learn.

SG: You've had huge successes. Did you ever have any failures?

RS: I absolutely did. I can think of a couple of cases that never got righted, and I believe in my core were wrongly decided and wrongly decided on appeal. But there are only a small number of those. The other side of it: I have many more where I have a lot of satisfaction from succeeding.

SG: Did you ever succeed in cases that surprised you? It's usually a binary system, win or lose. The draws are very, very slim.

RS: Yes, but I think, by and large, courts get it right.

SG: I do, too.

RS: Still, I'm an advocate, doing the best I can for a particular client. On the other side, when you succeed, it may not be for exactly the reason that you thought. But usually it's probably equally defensible.

SG: What I remember about your and to some extent my old days is how hard you guys would seem to work. You would work hard, then play squash and then work some more. Wasn't that what your days were like?

RS: It truly was.

SG: I'm describing it accurately?

RS: You are describing it. We never really thought about it much. We just worked. It wasn't as if it was easy, but that's what we did. And, as a result, we became pretty good lawyers.

SG: So, what did you do about work/life balance in those days?

RS: First of all, I never heard the term at the time. And I actually didn't think I didn't have work/life balance. Maybe the proportions were not as somebody might think them to be today. But for me it was a pretty good work/life balance. I look back on that and it's hard to be regretful.

SG: It is hard to be regretful. But going back a moment, what's the key change in our professional lives that you have seen?

RS: To me, it's the growth of the regulatory society that has made a huge difference in our lives.

I was startled when I was reading the new policing legislation, which brings in all kinds of new potential causes of action. It is 400 pages long. Think of the field of battle that this gives rise to.

So, I think regulatory litigation is rapidly overtaking what we would think of in broad terms as commercial litigation as the backbone of the litigator.

SG: Do you think it's a less rigorous form of litigation?

RS: No, I don't think that. First of all, you have to have a specialized knowledge. You can't just drop in on a particular tribunal anymore, something that has changed the nature of law firms that do litigation. The specialty practice is now much more necessary than it ever was in the previous, what, 25 years.

While we hold ourselves out at Lenczner Slaght as generalists, and, by and large, we still do everything, there's a big learning curve and you'd better be good at what you do to compete with the people who do that work everyday. Then there's the whole administrative law construct.

SG: I look at the standard of review jurisprudence and can't actually figure out how they decide whether the standard of

review is reasonableness, correctness or some *ex post facto* reasoning.

RS: I think the real trouble with it is that, at the end of the day, it's a bit of a movable feast. It's a blocker if the court wants to have a blocker. And that's the frustrating part. Then, when you look at deference, it's just not predictable.

SG: It seems to me to be calibrated to aid the court to find the just result.

RS: Yes. And because we're in a regulatory society and there are so many cases coming out of administrative law, that's a really important feature of our practice, which is new compared to when we used to go to the Court of Appeal and have at it again.

But that is the new reality, a regulatory litigation practice. And it's an opportunity. I say to our young people, you know, identify an interest. It's going to be hard to be a generalist, so find something and then be the best at that.

SG: There are a lot of terrific young lawyers out there. Your firm and elsewhere?

RS: Oh, for sure. They need the experience. They need, you know, a bit less work/life balance sometimes, maybe, but they have a lot of talent. And they have something we did not have: They are restless, and change comes from that.

We were fortunate when we started Lenczner Slaght because we were experienced barristers, so we got our work because we had won cases – we had reputations. That's how the work came to us. It's a lot harder to do that now because of the specialty practice and because there just isn't the volume of cases and, of course, everybody is out there chasing the same clients.

SG: But it's proved to be another fulfilling chapter, right?

RS: Yes, and it didn't take that long before we realized we were getting enough work that we needed people to help us do the work, and they needed people to help them do their work. That's how the firm grew quickly.

SG: Looking back over it all, do you have any regrets?

RS: Well, leaving aside work/life balance, at one point I thought I might try politics. It's not really a regret, but it could have

been a different path. But I quickly decided I'm better at what I'm now doing than I think I'd ever be at that.

Anyway, this is a common story. I think as I'm sort of at some point going to come to the end of this, then what next? I am taking more time off. I always intended never to die with my boots on. I'm going to quit at some point, and I've been directing myself over the last two or three years so I'll be able to do that.

SG: I think it's a bad strategy to retire and then die.

RS: Yes, it is.

SG: Am I right that you have segued a bit into ADR stuff?

RS: Yes, I do arbitrations and mediations.

SG: As I also do ADR in family law, what's interesting is that you see from an adjudicative point of view what resonates and what doesn't when counsel are asserting propositions.

RS: And would it have made you a better counsel then if you'd had the insights?

SG: Must be, right?

RS: Yes. But coming back to the original point, sitting there as an arbitrator particularly, but also you see it in mediations, is, principle number one, what's the issue? Do these lawyers have their finger on the issue? Am I being persuaded by one or the other of them that they have the kernel of this case? That's what I look for.

SG: The right path, the right path to the right solution?

RS: To persuade the person up there is to give that person a way to find for you and get rid of all the other issues.

SG: So, do you actually ever intend to call it a day? Do you have a plan?

RS: Yes, I absolutely do. I'm going to be out of this job in, you know, a reasonable time from today.

SG: It's a nice stage of life, don't you think?

RS: It's lovely. Whether you've earned it or not, that's where I am and I'm enjoying it.

First you forced us to move to a bigger space.
Now you've forced us to knock down walls.

We have just one thing to say:

Thank you.

We had a vision of bringing court reporting, transcription and captioning into the modern era. It turns out many of you share our vision, because we've had to expand (again). Thank you for making Neesons your court reporters, transcriptionists and captioners of choice.

Court reporting, transcription, captioning & more | neesonsreporting.com | 1.888.525.6666

neesons

SG: What do you think about the state of the world today?

RS: Well, I guess that's the other thing. I would like in the next life, the life after the one now – not in the hereafter – to make some contribution to the shoring up of our democratic institutions and in a public policy sense.

SG: Are you worried about your own particular carbon footprint?

RS: Well, my wife is an environmentalist, so I'm making very small contributions to that world.

SG: Don't we have to?

RS: It's dropped down a little bit in importance because of what's going on otherwise in the world.

SG: The Doomsday clock has moved up a couple of minutes to two minutes to twelve. This hasn't been that worrisome since you and I were young in the Cold War/nuclear age, I don't think.

RS: It's so true. So maybe it's over to them?

SG: I'm not sure we've done them any favours.

So, final question: What do young lawyers do to become the next you?

RS: Well, they have to be them – that's the first answer to that question. With that as a given, they have to find cases and try

them. And then, I think, they have to take to heart what I took to heart from watching the great lawyers I watched, including your partner Ian Scott, with whom, as a young lawyer, I had an appeal on a great case. I knew a hell of a lot more about it than he knew about his side of it.

SG: No doubt.

RS: And he came into the Court of Appeal and persuaded them that his side of the case was right, and my side of the case was wrong – even though my side of the case was right and his was wrong. And he did it by convincing them that he had this one issue that was the answer, and they bought it.

An unforgettable lesson for me. And that's what I tried to do. And that's what people should try to do. Because if you do that, it means you know everything else, too.

Because we deal with such a volume of material now, you'll be unhappy if you don't prioritize and find something that you can be persuasive with. And judges and courts look for that. They want help. They want somebody to say, "Okay, I'm going to tell you what this case is about," and then you only say one thing.

SG: And how to get there?

RS: And "I'll tell you how to get there." It's the key.

SG: Thank you for doing this. It's very gracious of you.

RS: Very happy to be here. 🍷

Heu-ris-tic – (pronounced hyu-RIS-tik and from the Greek "heuriskein" meaning "to discover") pertaining to a process of gaining knowledge or a desired result through learning, problem solving, and intelligent analysis drawn from experience.

Heu-ris-tic-a – (pronounced hyu-RIS-tik-ah) a Canadian law firm dedicated to performing intelligent, proportionate and cost-efficient discovery projects using advanced analytical techniques and technology.

Heuristica is not a typical law firm. Our legal team is leading the transformation of electronic evidence review by example. Our practice is focused on advising litigation counsel and their clients in the management and use of information in all phases of civil discovery, regulatory proceedings, and investigations.



Canada's National eDiscovery Law firm

647-347-9350

info@discoverycounsel.ca

heuristica.ca