

# Making A CASE for Lawyers

- by Mary Challender

*Michael Bush '77 is a personal injury trial lawyer in Davenport, Iowa. The following story ran in The Des Moines Register in January 1996. The Register has graciously allowed The Amicus to feature the piece in this issue.*

Ladies and gentlemen of the jury, today we would like you to consider the case of one Michael Bush.

Thanks to the month he spent soul-searching at a secluded ranch in Wyoming last August, Mr. Bush would have you believe he sits here before you today a changed man.

He'll tell you he wears khakis and a sweater to the office most days now instead of a suit and tie.

He'll testify that he is more empathetic to his clients and works more closely with his associates.

He'll say that he seeks to teach now instead of argue; to address unpleasant truths rather than obscure them.

It may be true that Mr. Bush has undergone the transformation he claims; that he's truly a better father, a better spouse, a better servant to the public than he was five months ago.

But admirable as these qualities may be, none of them speak to the charge leveled against Mr. Bush today.

We submit that whatever his positive attributes, Mr. Bush is still a lawyer.

Even more troubling, he considers it a noble calling.

**We rest our case.**



*Bush is  
proud ...*

*Dogbert:*

"I can't decide if it would be better to conquer the world by building an army or starting a religion."

*Dilbert:*

"Which one would have the least loss of life?"

*Dogbert:*

"That's what I'm trying to calculate on this spreadsheet."

*Dilbert:*

"Why are you counting law students as two-tenths of a person?"

*Dogbert:*

"It doesn't drop to zero until they pass the bar."

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Recent "Dilbert" cartoon



Imagine you are a personal injury lawyer in the 1990s.

In your mind, you are all that stands between the American public and greedy corporations, cost-slashing insurance companies and over-zealous government officials.

You are the Defender of Justice, Saviour of the Innocent Injured, the courageous Border collie protect-

ing the helpless sheep from the hungry wolves howling at the barn door.

And what do you get for your troubles?

Hostile juries.

Tort reform.

And volumes and volumes of lawyer jokes.

No wonder Mike Bush entered 1995 seriously thinking about a change in profession.

It had nothing to do with his win-loss record. The hard-driving but affable 43-year-old Davenport attorney was near the top of his game as a personal injury lawyer. He had just won his first million-dollar verdict. He was a senior partner in the law firm of Carlin, Hellstrom and Bittner, with an office overlooking the Mississippi River.

But after 18 years practicing law, the pressures of his craft had begun to override his passion for it. "The more I won, the more pressure I felt," he said. "It wasn't as much fun. . . . It wasn't fun at all."

A Davenport native, Bush comes from a family of lawyers. His dad is a retired lawyer. Four of his five brothers are lawyers.

His love for the law hadn't changed, he said. What had changed was the way the American public viewed lawyers and lawsuits.

Lawyers have always been an easy target for politicians, philosophers, comedians, columnists, the public. But in the past few years, Bush felt the jabs had become steadily more venomous.

The fault, he believed, rested with advocates of tort reform; insurance companies and corporations who sought new laws to limit jury awards for punitive damages. To win support for their cause, tort reform advocates inflamed the public with tales of frivolous lawsuits and skyrocketing insurance costs, Bush said, trying to make us believe that if a crippled kid got \$8 million, it was coming straight out of our pockets.

*... of the  
changes he's  
made ...*

"What they're trying to do is make victims the bad guys. The victims are not the bad guys."

At this point, there is something you should know about Bush. He hasn't always been on the side of the sheep. Early in his career, he defended insurance companies. But then a guy walked into his office, a dirty, scraggly, mentally unstable drug user seeking damages for injuries he said he received while being thrown out of a bar for urinating in the sink.

Some might say lawsuits like these are the reason we need legal reform. But Bush took the case, plunging everything he had into it, including most of his family's savings, and won his client a judgment of close to \$300,000.

Understandably, this made Bush an immediate convert to plaintiff's work. But he swears it wasn't the money that swayed him but a telephone call from his client prior to the verdict. "He said, 'Mike, I don't care if we win or lose. I just needed somebody that believed me,'" Bush recalled. "In all the time I'd represented insurance companies, I'd never had anyone who needed me like that."

These days the clients who walk into Bush's office are generally hard-working middle-class people, most of whom have never urinated in a bar sink in their lives. Bush takes their cases on a contingency basis and pays for experts out of his own pocket. In medical negligence cases, he said, he can have as much as \$40,000 of his own money invested.

But it's usually his heart that takes the biggest beating. He invariably finds himself touched to the quick by his clients' suffering. It troubles him that jurors aren't as sympathetic. Bush said he's encountered jurors who are almost antagonistic toward plaintiffs.

Bush understands the jurors' wariness. He knows people are being laid off all over the country and that society is dividing between the have and have-nots and

no one wants to be on the side of the have-nots.

He knows the wolf can be very convincing when he stands at the barn door whispering that it's bad sheep causing all the problems, not the wolves, and if we just open the barn door and send out the bad sheep, all of us good sheep will be spared.

But understanding that doesn't make him feel any better when he loses a case, something that happens to him rarely. His hardest loss, he said, came in a 1994 case in which he represented a Coca-Cola deliveryman who slipped on some "goop" and fell in a supermarket, triggering a latent case of multiple sclerosis. On Bush's advice, the client rejected a settlement and went to trial. The jury ruled in favor of the store.

Bush had poured about a year and a half of his life and nearly \$15,000 of his savings into the case. But it was the thought of what losing meant to his client that was hardest for him to take.

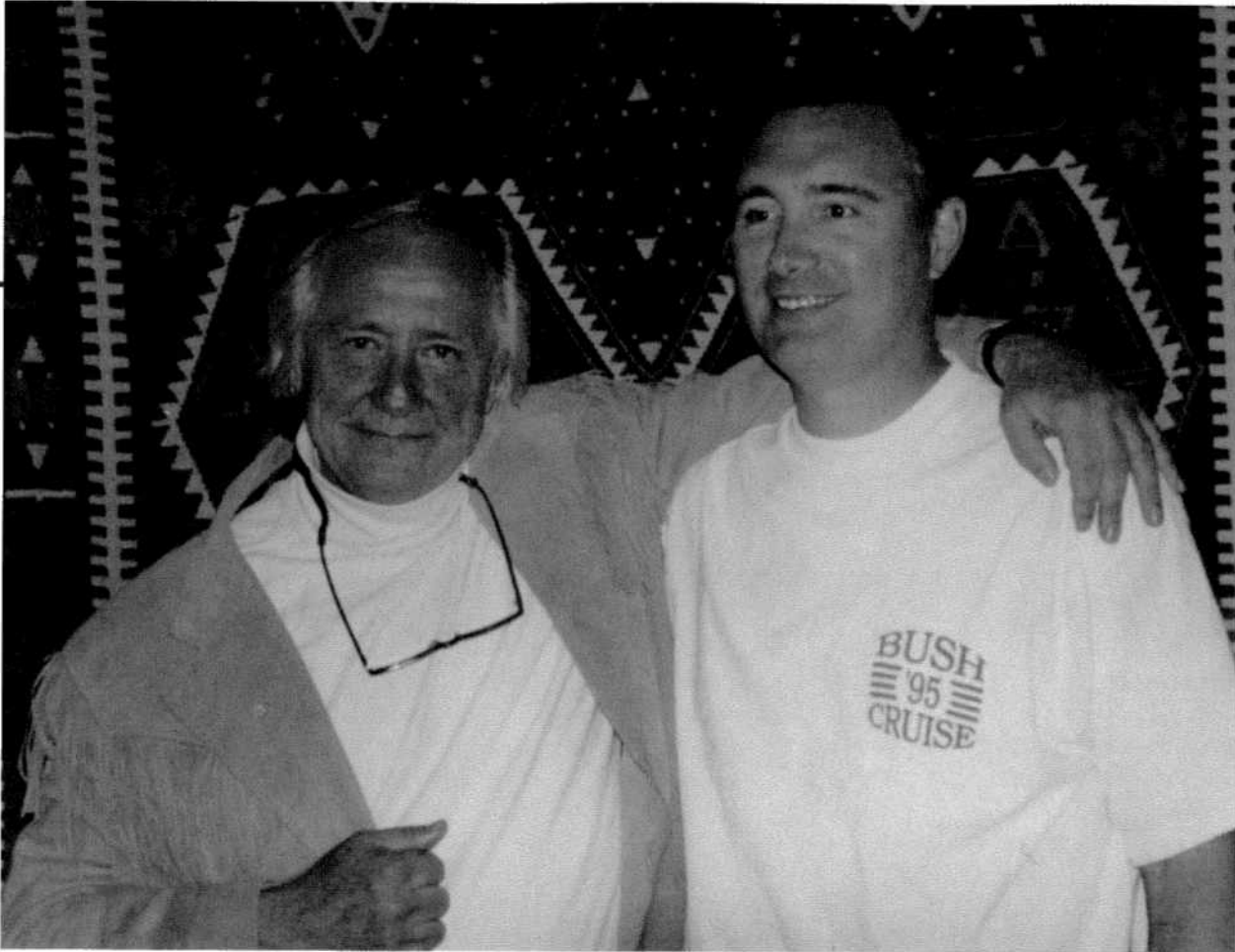
"I felt incredibly guilty and incredibly inadequate," Bush said. "I was going to go on and have other cases but that was his only shot at justice."

Discouraged by the attacks on the legal profession and tormented by self-blame, Bush began to wonder if maybe he'd be happier as a teacher or judge.

Then he heard about the Trial Lawyer's College, a month-long school for personal injury and criminal defense lawyers held at the Wyoming ranch of prestigious lawyer Gerry Spence, best known for his successful defense of white separatist Randy Weaver against the United States government.

The goal of the program, created in 1984, is to train a new generation of trial lawyers to "ethically and nobly champion the cause of the injured, the forgotten and the damned." The staff consists of Spence and other top lawyers and judges, all of whom volunteer their time.

It sounded like just what Bush was looking for. He



Gerry Spence and Bush at the Trial Lawyer's College.

paid his \$2,900, put his practice on hold for a month, said goodbye to his wife and three children and left for Wyoming.



Bush arrived at Spence's ranch, located about 85 miles north of Jackson Hole, on July 31, one of 50 lawyers and the first Iowan enrolled. Lodgings were Spartan cell-like rooms furnished with a cot and little else. There was no television, no radio, no newspapers and only two pay phones.

The first three days of the month-long session were spent in group psychotherapy, Bush said, nine or 10 hours each day.

"I was sucking my thumb after the first couple of days," he said wryly. "I began to question who I was; my values, my motivations for doing things."

This was exactly what Spence wanted, Bush said.

Spence's goal was to force the attending attorneys to drop their professional fronts and look inside.

"A lot of being a lawyer is kind of being a phony," Bush explained. "Or at least some people feel that way. They want to put on a show, they want to wear fancy suits and they want to impress people. Spence's philosophy is that this is exactly the wrong way to be a good trial lawyer. He kept preaching that we had to be real, we had to be who we really were and to project that."

The emphasis of the program was on cooperation rather than competition. Casually dressed in shorts and T-shirts, the 50 lawyers shared the frustrations and hopes that had brought them to the college. "We had a bonfire every night," Bush said. "We'd sit and talk and drink."

While he was at the school, Bush said, he took a turn being a juror in a mock trial. It was the first time he had ever viewed a trial from that perspective. "I became incredibly frustrated because I wanted the lawyers to get to the point," he said. "I became incredibly bored, I really got upset at lawyers I felt weren't shooting straight

*... in his  
personal  
life.*

with me. I hated when lawyers objected. I felt they were trying to keep something from me.”

All month long, Bush said, Spence hammered home one theme: the obligation lawyers had to the court, the legal system and, most important, the clients.

Bush left the program eager to put Spence’s lessons into practice. But he was also scared. “You feel that you’ve made some fundamental changes, but . . . are they going to last now that you’re back in the real world,” he said.



When you look at the big picture, it doesn’t seem much has changed since Bush’s return from Wyoming. In December, tort reform advocates won a major battle when Congress voted to limit stockholders’ ability to sue for fraud. Lawyer jokes are still considered funny.

Bush, however, no longer feels defeated by these things. He is gradually reshaping himself and his practice to fit the “new generation” of lawyers of Gerry Spence’s vision, and he seems to have found a renewed zeal for defending his profession.

“We spend more money in this country on dog food than we spend on our entire legal system every year,” he said. “That’s including the money that goes to plaintiffs and defense attorneys.”

Bush said he spends a lot more time with his clients these days.

“I try to understand what fears they have now that they didn’t have before,” he said. “One guy who broke his wrist said the worst thing was that he couldn’t bowl anymore. So you ask, what’s the big deal? Well, he said, ‘the only thing that made me special was that I was a

good bowler.’ You come to find out, his whole social life revolved around bowling. He said he was trying to bowl left-handed but now, instead of being the star, he was a bum.”

Bush, who prefaces many statements with “this may sound corny, but . . .” is also proud of the changes he’s made in his personal life, including resigning from a couple of committees at church to free up time to help coach his son’s basketball team.

His wife, Kathy, agrees that Bush seems more relaxed, but she doubts that work is ever far from his mind. To her husband, she said, being a lawyer is a vocation, and vocations aren’t something you just leave behind at 5 p.m. each day.

If you’re looking for a visible sign of Bush’s transformation, you can find it in his clothing. He now dresses casually except in court, where he has no choice. He’s just not a suit-and-tie guy, Bush said. Before, he wore one anyway, because it was expected of a lawyer. These days, he’s not only willing but eager for people to see him as he really is.

“You know what’s funny? I don’t think the opposing attorneys know what to make of me,” he said with a smile. “I don’t think I’m as adversarial as I used to be with them. I’m not so much into competing anymore.”

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