

Comp Family Dynasty Spans 3 Generations

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IT'S BEEN YEARS since Victor Yannacone railed against the "soulless, stateless multinationals" that manufactured Agent Orange. And with the conclusion of the massive class action over injuries allegedly sustained by exposure to the controversial Vietnam War defoliant came the outspoken Long Island lawyer's slight retreat from the spotlight.

But Yannacone courtroom histrionics are still entertaining judges and opposing counsel, although for the most part in a somewhat minor league venue. For, although he is an active environmental lawyer, Mr. Yannacone's bread and butter comes from his representation of worker compensation claimants for the family firm, Yannacone & Yannacone P.C. of Patchogue, N.Y. The specialty was inherited from his father and passed on to his son, making the Yannacone worker-comp dynasty one that includes two lawyers and spans three generations.

"Unfortunately, we make our living on all the things that nobody ever believes could happen," the 55-year-old lawyer says in a tone of resignation over coffee in the cafeteria of the state office building in Hauppauge. He had just argued the case of a Polish deaf mute who claimed his ulcer was caused by fellow printing press operators who had told Polish jokes in sign language.

It is a high-volume, low-fee practice that Mr. Yannacone handles with a five-member support staff that includes a full-time computer specialist. His office handles between 2,000 and 2,500 cases a year, which works out to as many as 30 court appearances a day.

"A lot of people who put down what we do here in comp court don't realize that a lot of my success in big-league litigation is based on the fact that I've been forced to accommodate changing situations in these kinds of situations for 30 years," Mr. Yannacone says. "It's the world's greatest training ground. I cross-examine more doctors in a year than the average personal-injury lawyer sees in a lifetime."

Trials take as little as 30 minutes. Mr. Yannacone figures he has to win 90 percent to 95 percent of his cases to make a living. Fees are often as little as \$50 per claim. Mr. Yannacone's firm currently has some 3,000 active cases. Between 200,000 and 500,000 cases are heard each year in the downstate region of New York.



PREPARED: Opponents and friends of Victor Yannacone Jr. say that he reads voraciously.

Workers' compensation originated in Germany in the late 1800s and made its way onto the books in New York in the mid-1920s. Before its advent it was not uncommon for a foreman to douse an injured construction worker with whiskey and insist he got hurt as a result of being drunk. The "drunken trespasser" would be dumped at Bellevue, the likelihood of litigation against the employer greatly diminished. Many a poor immigrant laborer involved in a worksite accident was "left in the cement," prompting one veteran comp lawyer to quip that "Italians are quite literally the foundation of lower Manhattan."

Pietro Di Donato's best-selling novel of the 1930s, "Christ in Concrete," described the atmosphere of the Workman's Compensation Bureau in Manhattan as having "the discouraging semblance of an institution." He wrote of the "ghostly army of maimed shabby humans with seeking faces ... the battered poor crippled and bandaged and blind workers who can not speak and understand nothing."

It is into this world that Victor Yannacone Sr. stepped at the beginning of the Great Depression.

A first-generation American who dug ditches and put himself through law school at night, Mr. Yannacone Sr. started out as a claims investigator for London Guarantee and Accident. He developed a reputation as a meticulous investigator who mastered the intricacies of whatever trade the comp claimant had been working in and had no tolerance for fakers and frauds. He then moved to a job with the Lumber Mutual Insurance Co. and eventually managed its comp claims division.

In December 1954 he was earning \$95 a week and asked for a \$5 raise, which was refused.

"You'll get a raise when I'm damn good and ready to give you one," his boss barked;

Although it would be another 30 years before Johnny Paycheck recorded the ditty "Take This Job and Shove It," Victor Yannacone Sr. already knew the words to the chorus. He promptly exited Lumber Mutual's Union Square headquarters and proceeded downtown to the Workman's Compensation Bureau on Center Street. In a couple of hours Mr. Yannacone was again gainfully employed. He signed on with Bart J. O'Rourke, who specialized in the comp claims of Irish construction workers and Jewish furriers.

It was while with Mr. O'Rourke that Mr. Yannacone successfully represented George Metesky, the infamous "Mad Bomber" of the 1940s and '50s who terrorized New

York after initially losing a comp claim against a local utility. Mr. Yannacone Sr. never toiled for the Insurance companies again.

The elder Mr. Yannacone died in 1981. Mr. Yannacone Jr. and his son, Victor Yannacone III, don't represent insurance carriers as well as Claimants, a practice that most comp specialists engage in.

“My father told me ‘You can't carry water with both shoulders,’ ” explains Mr. Yannacone Jr.



Among the work habits that seem to be in the family genes are the tenacity of representation and a yeoman's preparation.

In the course of winning a series of landmark comp rulings in the areas of asbestos illness, fright death, dermatitis and complicated heart ailments, the eldest Mr. Yannacone got in the habit of reading just about everything on a given subject. Everything. To prepare for the trial of a worker who developed leukemia after being exposed to the solvent methyl ethyl ketone, MEK, he read scores of scientific papers and textbooks on leukemia, as well as “anything he could get his hands on” having to do with MEK.

“He was so well-prepared, it was awesome,” recalls his son. During the cross-examination, Mr. Yannacone Sr. managed to get a prominent hematologist who was testifying on behalf of the carrier, to concede that, yes there might be an association between MEK exposure and blood dyscrasia, the precursor to leukemia. The lawyer won the comp case. It was the first time benefits were awarded for work-related leukemia.

Mr. Yannacone Jr., who is often seen in the Hauppauge cafeteria tearing apart medical journals and computer magazines, clearly takes after the old man. Consider the following bit of handiwork .during the DDT litigation in 1969:

As counsel for the Environmental Defense Fund, which he and his wife Carol helped found, Mr. Yannacone argued against the pesticide in an administrative hearing before the Wisconsin Department of Natural Resources. To help prove that DDT was harmful, he called on Robert van den Bosch, a University of California at Berkeley biologist, to describe his research in the area. The scientist sent Mr.

Yannacone a list of some 160 scientific papers on the entomophagous wasp, and on the eve of his testimony he inquired which of the papers Mr. Yannacone had read.

“I read them all,” the lawyer replied.

“You read them all?” a stunned Professor van den Bosch asked. “My department chairman hasn’t read them all.”

The lawyer’s aptitude for science was evident in law school. The middle Mr. Yannacone was known to cut his contracts and property courses at Brooklyn Law School so he could sit in on semiconductor physics classes offered by Brooklyn Polytechnic in the same building.

“His depth of knowledge in medicine and science make him an unusual adversary,” notes Robert Saminsky, a veteran comp sole practitioner based in New York. “In many areas he knows more than the doctors he’s cross-examining.”



All three generations of Yannacones seem to embrace a “Damn the torpedoes, full speed ahead” brand of legal advocacy, although Mr. Yannacone III is thought of as a much lower-profile comp practitioner than his father or grandfather. Old-timers who’ve known both Jr. and Sr. invariably use the word “tiger” to describe them.

“When I broke into this business 30 years ago, Yannacone Sr. was a terror; a tiger” recalls Allen Corn, dean of the appellate bar for the carriers.

Of Mr. Yannacone Jr., “He’s a tiger, and he loves doing battle,” says Raymond Clancy Jr., a Huntington, N.Y., sole practitioner who’s battled him in the courtroom for 20 years.

“On occasion Victor’s zeal works against a client,” offers Administrative Law Judge Carl Saks, who sits in Hauppauge and lunches with the comp lawyers there. He doesn’t always know when to give and take. Sometimes he’s too demanding and engenders resentment.”

In assessing the style of Victor Yannacone III, Travelers Insurance Co. lawyer Reginald Zane says: “The kid does a helluva job. He’s low-key. He knows that sometimes you can get a lot more with honey than salt.” The “kid” is now 31 and a licensed comp rep. Mr. Yannacone III has not been to law school and, in fact, although he attended eight or so universities, he hasn’t finished his undergraduate education.

The son has great respect for his father (“He’s the most righteous man I know.”) but acknowledges that their styles are antithetical.

“We’re just different people. My father intimidates the hell out of people. I can’t remember the last time I got mad.”

A former semipro basketball player, bricklayer and clammer, the youngest Mr. Yannacone concedes that working in the family comp practice hasn't exactly been a lifelong ambition.

“My father needed help, and I guess I was in the wrong place at the wrong time.”