

New York Law Journal

MAGAZINE®

ALM

Volume 6, Number 4
September 2007

FIRST-YEAR ASSOCIATES

War Stories 2007

Salty sea dogs, flying bullets, a Man of Steel with an eye for the ladies, and a story with the greatest names in boxing: Muhammad Ali, Joe Frazier and Jake LaMotta. Have you just entered a parallel universe, stepped into a 1950s barbershop and picked up a copy of *Argosy*? No, you're reading the Seventh Annual War Stories!

Each year we ask top New York lawyers to share with us their favorite moments of triumph or despair. Together, these veterans of the bar have 149 years of experience. They know a truth you have yet to learn: Sometimes the road is bumpy. They survived these situations—some absurd, others tragic—and went on to have illustrious careers. You can do the same.

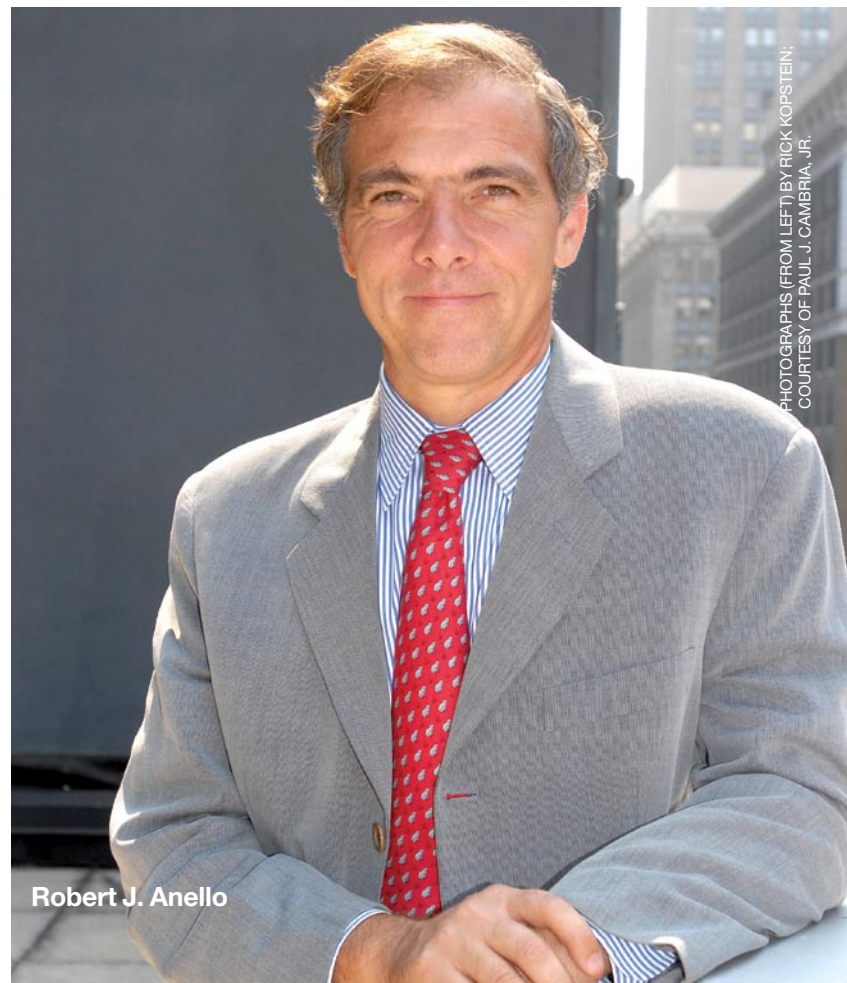
By **Carla T. Main**

Robert J. Anello

**Morvillo, Abramowitz, Grand,
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Partner, white-collar criminal defense;
financial, civil, regulatory representation

Years in Practice: **25**



Robert J. Anello

PHOTOGRAPHS (FROM LEFT) BY RICK KOPSTEIN;
COURTESY OF PAUL J. CAMBRIA, JR.

Bob Anello is a nice guy. Honestly. He certainly didn't want to see anyone wind up dead. After all, as a senior associate at Morvillo Abramowitz he wanted to make partner, "not kill people," Mr. Anello said. "I liked the guy."

Sure he did.

Mr. Anello's law firm represented a financial institution in the Northeast. The client had asked his firm to take over some cases involving investors' loans connected to low-income housing. The cases had gotten ugly. The complaints, involving civil fraud, were crisscrossed from New York to Rhode Island, with builders accusing financial institutions (and vice versa) of ruination and skullduggery. The lenders and vendors took turns being plaintiffs and defendants like dancers at a hoe-down.

Now when Mr. Anello stepped in to one of these cases in particular, he found that the deposition of a certain older gentleman—we'll call him Mr. Smith—had been dragging on for some eight days, but was still not completed. He read the deposition of Mr. Smith, who was claiming that Mr. Anello's client had put the kibosh on an important sale of business property to a group of New York investors. As he read, he learned that Mr. Smith's agony seemed to know no bounds: "He used to be proud, he used to have two Cadillacs, and... he's impotent!"

"When I saw that, I called the defendant's lawyer and I begged him to take that claim out," said Mr. Anello. "I knew that I would have to take discovery on it. I really didn't want to have to do that."

Now Mr. Anello is not one to shy away from controversy or run from a tough situation. He is, after all, one of the city's leading lights in the arena of white-collar criminal defense and corporate governance. Securities fraud, embezzlement, cooking the books: You name it and Mr. Anello can investigate or defend it. But the thought of grilling an older man (Mr. Smith was about 70), on the details of his essential male plumbing—and on the record before a roomful of co-defendants and attorneys—left Mr. Anello queasy.

"Because I really liked the guy." Of course he did.

Keep in mind, this was in the mid-1980s, eons before Bob Dole mellowed out and went on TV to talk about "ED," thus paving the way for the ubiquitous ads for Viagra and similar male elixirs that now bombard us daily. Not only was it taboo to talk about ED back then, but Mr. Anello was not a personal injury lawyer. It was not, shall we say, in his deposition repertoire. He had to figure out how to ask the witness about this delicate subject.

"There are books that show you how to do it!" he said, marveling at the thought of it. "They show

you what questions to ask."

Thus armed, he traveled to Rhode Island for the deposition.

"I asked him about everything else first," recalled Mr. Anello. He left the ED part of the deposition for last, delaying the inevitable. Besides, there was plenty on the civil conspiracy side to go over in this complex case involving Mr. Smith's company. Oh, did we mention the company's name? Smith's Steel Erections. (No, we're not making this stuff up.)

Mr. Anello was putting off the ED line of questions because he had done more than just study a book to prepare for this awkward moment. What the defense counsel didn't know was that Mr. Anello's firm had hired a private investigator to look into Mr. Smith's life. Lo and behold, the allegedly impotent president of Smith's Steel Erections was having a hot and heavy affair with his secretary. And it had been going on for quite some time.

Mr. Anello plunged in. "First I asked him the series of questions that the book described," said Mr. Anello. Mr. Smith started giving answers that were inconsistent and made no sense. "It was obvious he wasn't properly prepared for this part of the deposition, which was surprising because his lawyers were personal injury lawyers."

Mr. Anello's pity for Mr. Smith was growing by the minute. But he suppressed his normal human emotions, a superpower every lawyer possesses, and soldiered on in defense of his client. And then he dropped the bombshell.

"I asked whether it was true that he'd been having an affair with his secretary for the last two years," said Mr. Anello.

At that moment, one of the co-defendants, seated nearby, jumped up out of his seat and shouted at Mr. Smith: "Don't say anything! Take the Fifth Amendment!"

Low-level pandemonium ensued. Mr. Smith didn't know what to do. He looked at his lawyers. His lawyers started caucusing. The co-defendant repeated: "Take the Fifth!" Mr. Anello thought to himself, "This is great. If he takes the Fifth, I can use it against him."

Mr. Anello played possum. The defendants' lawyers made a decision: Mr. Smith would invoke his constitutional right against self incrimination. He would not testify about his tootsie; he would not prevaricate about his peccadilloes. Mr. Anello inwardly rejoiced; the case was shaping up well and he was spared the trauma of having to ask any more questions about ED.

But the trauma of this case was not over. Perhaps it was the stress of the lawsuit, of being found out, or simply coincidence, but Mr. Smith—the

Man of Steel—died one week after testifying at the deposition.

"I felt terrible because..." said Mr. Anello. Yes, we know. You really liked the guy. Mr. Anello, of course, believed that a respectable period of time should pass before reconvening the depositions in this endless round-robin of lawsuits. But the defendants' lawyers insisted, most strangely, on recommencing depositions just a couple of weeks after Mr. Smith kicked the bucket.

So back up to Rhode Island Mr. Anello trudged. He was expecting just another round in the endless cycle of depositions when something extraordinary happened. In walked Mr. Smith's widow, fully decked out in black widow's weeds.

"She was staring at me," said Mr. Anello.

Was it just a stare? One could say that Mrs. Smith was giving Mr. Anello the evil eye. You see, the defense counsel had shown the deposition transcript to the grieving widow. What could possess sentient beings to do something so cruel? It helps in decoding this situation if one thinks not like a lawyer, but rather like a character from "The Sopranos." Perhaps the defense counsel gave Mrs. Smith the transcript to finger Anello, while at the same time diverting attention away from their less-than-diligent selves: "Anello did it!" (No need to point out to the poor lady that Mr. Anello had begged them to drop the ED claim... this was no time to be splitting legal hairs.)

The evil eye had no effect; Mr. Anello made partner soon afterward and has prospered ever since. The late Mr. Smith, we recall, had taken the Fifth. Thus he took the truth, his secretary's honor, and his wife's eternal loyalty, to the grave with him. Roll credits.

MORAL NO. 1: The complexities of ED are best kept out of civil fraud cases and left to experts—like Bob Dole.

MORAL NO. 2: Strive to be courteous and decent like Bob Anello, because sometimes litigation is a killer. And when it is, you'll want to look back, as Bob can, and say: "I didn't do it!"

Carla T. Main, who writes often on law and society, is the author of the forthcoming "Bulldozed: 'Kelo,' Eminent Domain and the American Lust for Land" (Encounter 2007).

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