President Simmons, Chairman Herman, Chief Judge Acuff, friends and colleagues of the Bench and Bar, lawyer and members of the Northern District of New York Federal Bar Association.

I am most honored to receive the first James R. Duane Award, symbolized by this beautiful piece. It is especially gratifying to me that the Award comes at the hands of an Association comprised of the finest lawyers in the Second Circuit. I say "finest lawyers" without hesitation or reservation. Twenty years ago when I wrote the history of the Northern District, with the superlative assistance of my wife, I noted that the Northern District had the most exciting history, the most scenic location, the most colorful bench and bar, and the most significant cases in the Second Circuit. And now, after 22 years of combined service as a Northern District and Second Circuit judge, I am prepared to add that our Bar is the best. I miss the Northern District and sometimes regret that I even left Judge Foley said that I was being elevated to 7 of a judge and I was right.

During my years on the District Court, I found the Northern District lawyers who appeared before me co-operative and fully dedicated to their clients' causes. Some say that I may have worked the lawyers a little bit too hard as a district judge but I kept the calendar moving. I never still remember her
Early morning trips from Greenwich to Albany to meet my scheduling requirements. Although I tried to run a tight ship as a district judge, I also tried not to be a pain in the lawyers' backyards. As a Circuit judge, many Northern District lawyers have appeared before me over the years. Many in the time of conferences following oral argument that a colleague would raise a presentation and I would be proud to say: "That lawyer is from the Northern District. You shall not be surprised to hear that we often discuss the performance of counsel as well as the merits of a case when we confer.

A long-time myth in the Second Circuit is that the best lawyers are in the Southern District. The only thing that they do better than Northern District lawyers is charging fees. Tonight, I bring to you the myth that the myth is founded 20 years ago when the Southern District was the Mother Court. The Northern District is, of course, the successor to the real mother court — the United States District Court for the District of New York — that was convened by James Dunwoody following his appointment by President Washington and his unopposed confirmation by the Senate. You can read the history to discover why this is so. By the way, I am happy to hear that the history will be brought up to date by a Committee of this Association.

Your all are to be congratulated on your...
Membership in this Association. You already have accomplished much, and I am confident that you will accomplish much more. I congratulate you.

Before I sign off from here in Arizona, I would like to let you all in on a project that I have been working on for some years. The project involves the accumulation of selected portions of trial transcripts in cases that have come before me and before other courts and judges. I suppose that the point of it all is to demonstrate the problems that can arise when lawyers are unwise or unprepared. I will share just a few examples with you, noting that most include a honest but not lawyers.
MapQuest: Driving Directions: North America

West on Shea
Merge onto 42-51 S via ramp toward Los Angeles 15.8 mi
Take the 3rd exit onto E 40th Ave on the left 0.42 mi
Turn left onto N 3rd Ave 0.98 mi
Turn right onto E Washington 0.52 mi

14.28 miles
22 minutes

Ronnie Honey, Chief Dep Clerk
602-322-7102
401 West Washington St 85003
Clerk 602-322-7200
Richard Wier

12/3/2003 3:35 AM
Q. What happened then?
A. He told me, he says, "I have to kill you because you can identify me."
Q. Did he kill you?
A. No.

Q. Now I am going to show you what has been marked as plaintiff's Exhibit No. 2 and ask if you recognize the picture.
A. John Fletcher.
Q. That's you?
A. Yes, sir.
Q. And you were present when the picture was taken, right?

Q. Now, Mrs. Johnson, how was your first marriage terminated?
A. By death.
Q. And by whose death was it terminated?

Q. What is your name?
A. Ernestine McDowell.
Q. And what is your marital status?
A. Fair.

Q. Are you married?
A. No, I am divorced.
Q. What did your husband do before you divorced him?
A. A lot of things that I didn't know about.

Q. At the time you first saw Dr. McCarthy, had you ever seen him prior to that time?

Q. Mr. Jones, is your appearance this morning pursuant to a subpoena which was served upon you?
A. No. This is how I dress when I go to work.

Q. And lastly, Gary, all your responses must be oral. Okay? What school do you go to?
A. Oral.
Q. How old are you?
A. Oral.

Q. Do you have any sort of medical disability?
A. Legally blind.
Q. Does that create substantial problems with your eyesight as far as seeing things?

Q. Are you qualified to give a urine sample?
A. Yes, I have been since early childhood.
Q. Was there some event, Valerie, that occurred which kind of finally made you determine that you had to separate from your husband?
A. Yes.
Q. What did he do?
A. Well, uh, he tried to kill me.
Q. All right. And then you felt that that was the last straw, is that correct?

Q. As you were driving your car just before the accident, where was your right foot located?
A. It was located at the end of my right leg!

Q. Doctor, did you say he was shot in the woods?
A. No, I said he was shot in the lumbar region.

Q. Do you recall approximately the time that you examined the body of Mr. Edgington at the mortuary?
A. It was in the evening. The autopsy started about 8:30 P.M.
Q. And Mr. Edgington was dead at that time, is that correct?

Q. James stood back and shot Tommy Lee?
A. Yes.
Q. And then Tommy Lee pulled out his gun and shot James in the fracas?
A. No sir, just above it.

Q. Do you know how far pregnant you are right now?
A. I will be three months November 8th.
Q. Apparently then, the date of conception was August 8th?
A. Yes.
Q. What were you and your husband doing at that time?

Q. What doctor treated you for the injures you sustained while at work?
A. Dr. J (name omitted).
Q. And what kind of physician is Dr. J.?
A. Well, I'm not sure, but I remember you said he was a good plaintiff's doctor.

Q. Is there somebody in the gang called "Insane"?
A. Yeah.
Q. Is there a Big Insane?
A. Yeah.
Q. Is there a Little Insane?
A. Yeah.
Q. You don't happen to know their Christian names by any chance, do you?
A. Their Christian names?
Q. Yeah, like Bill, Charlie, you know Fred?
A. Perfectly honest, I never knew they was Christian.
These are things people actually said in court, word for word, taken down and now published by court reporters who had the torment of staying calm while these exchanges were actually taking place.

Q: What is your date of birth?
A: July fifteenth.
Q: What year?
A: Every year.
Q: What gear were you in at the moment of the impact?
A: Gucci sweats and Reeboks.
Q: This myasthenia gravis, does it affect your memory at all?
A: Yes.
Q: And in what ways does it affect your memory?
A: I forget.
Q: You forget. Can you give us an example of something that you’ve forgotten?
Q: How old is your son, the one living with you?
A: Thirty-eight or thirty-five. I can’t remember which.
Q: How long has he lived with you?
A: Forty-five years.
Q: What was the first thing your husband said to you when he woke that morning?
A: He said, “Where am I Cathy?”
Q: And why did that upset you?
A: My name is Susan.
Q: And where was the location of the accident?
A: Approximately milepost 499.
Q: And where is milepost 499?
A: Probably between milepost 498 and 500.
Q: Sir, what is your IQ?
A: Well, I can see pretty well.

Thank you to Opononi Resort Hotel for the sponsorship of the holiday newsletter and to Hokianga Historical Society for the use of their copier.
Q. Now, doctor, isn't it true that when a person dies in his sleep, in most cases he just passes quietly away and doesn't know anything about it until the next morning?
A. Yes.

Q. Doctor, did you say he was shot in the woods?
A. No, I said he was shot in the lumbar region.

Q. Doctor, what is the meaning of sperm being present?
A. It indicates intercourse.
Q. Male sperm?
A. That is the only kind I know.

Q. Doctor, how many autopsies have you performed on dead people?
A. All my autopsies are performed on dead people.

Q. Do you recall the time that you examined the body?
A. The autopsy started around 8:30 pm.
Q. And Mr. Dennington was dead at the time?
A. No, he was sitting on the table wondering why I was doing an autopsy.
Q. I understand that you want a new lawyer because your present lawyer is not interested in your case, is that right?
A. Yes, Your Honor.
Q. Counselor, what do you have to say?
A. Could you repeat that, Your Honor? I wasn't listening.

VOIR DIRE

Q. Can you participate in an endeavor in which the ultimate result might be death by lethal injection?
A. They do that up in Huntsville, don't they? Yeah, I guess I could do it if it was on the weekend.

Q. Can you tell us that you would follow the court's instructions regardless of what else happened during the course of the trial?
A. Cognitively, yes. Rationally, yes. Emotionally, effectively, I don't know. Or perhaps effectively, yes, and rationally, no.

Q. Property holder?
A. Yes, I am, Your Honor.
Q. Married or single?
A. Married for twenty years, Your Honor.
Q. Formed or express an opinion?
A. Not in twenty years, Your Honor.

EXPERT WITNESS

Q. Doctor, what is the meaning of sperm being present?
A. It indicates intercourse.
Q. Male sperm?
A. That is the only kind I know.
In a murder trial, the defense attorney was cross-examining a pathologist. Here's what happened:

Attorney: Before you signed the death certificate, had you taken the pulse?

Coroner: No.

Attorney: Did you listen to the heart?

Coroner: No.

Attorney: Did you check for breathing?

Coroner: No.

Attorney: So, when you signed the death certificate, you weren't sure the man was dead, were you?

Coroner: Well, let me put it this way. The man's brain was sitting in a jar on my desk. But I guess it's possible he could be out there practicing law somewhere.

Testimony from an Expert Witness

Lawyer: Doctor, as a result of your examination of the plaintiff, is the young lady pregnant?

Witness: The young lady is pregnant, but not as a result of my examination.