

## Final Attraction

*John M. Alton*

If you never saw Jack Alton try a lawsuit, you missed the opportunity not only to see a genius, but an artist. To this day I have never seen anyone better. My favorite illustration is set forth below.

JRA was approaching his 64th birthday in 1989. I was Chair of a 25-lawyer trial department at Lane Alton & Horst. In addition, my personal case load was heavy. Many of Lane Alton's cases involved defending doctors in medical malpractice lawsuits. The Medical Protective Company was one of our biggest clients. Tom Dillon, Greg Rankin, Ted Munsell and I handled those cases.

JRA knocked on my door that winter asking if he could help shoulder some of my load. Although his skills as a trial lawyer had not diminished, he did not have a plethora of files. He asked if I had any trials on which I could utilize his assistance.

I thought of an interesting orthopedic surgery cancer case in Coshocton, Ohio involving a 73-year-old orthopedic surgeon named Alfred Magness. The plaintiff's lawyers were Bill Lamkin, a prominent Columbus lawyer, and Bill Donahue, a Houston lawyer in a big law firm. Donahue's mother died after surgery performed by Magness. Thus, it was a wrongful death medical malpractice case. I represented Dr. Magness.

I contacted Medical Protective and Dr. Magness recommending that JRA try the case. I stated that not only was he still a phenomenal trial lawyer, but that he was much closer in age to Dr. Magness which would blend well with both the Judge and jury in Coshocton. My recommendation on the surface was a risk because JRA knew and reviewed nothing about the case (his choice) before we drove separately to Coshocton on the Sunday night before the trial commenced the next morning. When we arrived at a cheap hotel in Coshocton at 6:00 p.m. that Sunday, he sat in a chair in the small hotel room while I summarized for less than an hour the key points, facts and deposition testimony of the case. I brought into that hotel room at least one banker's box of depositions, medical records and documents. JRA listened to me, took no notes and stated after 45 minutes, "That's enough." I said, "What do you mean that's enough?" He said, "I know enough about the case to pick a jury tomorrow." I asked him if he wanted me to stay and help him try the case. He said "No."

I knew he would be in bed by 9:00 and up by 4:00 a.m. - plenty of time for him to read what he thought was necessary to enable him to give an opening statement after picking the jury. He told me early in my career that as a defense lawyer he did not need to know everything the first day of trial, but could prepare for witnesses one day at a time.

Trials were JRA's nirvana. He could relate better with juries than any lawyer. His concentration, intensity, timing, and expertise were unparalleled. Yet, I was nervous when I drove from Coshocton to Columbus that Sunday night. Relationships with insurance companies are always tenuous. I knew JRA's mental faculties and skills were still at a very high level. However, the case was complex medically not only involving orthopedic surgery but also oncology. JRA had taken depositions of none of the expert witnesses nor had he met my expert witness (or Dr. Magness).

I checked with JRA periodically that week. He did not say much as always, but told me everything was fine. On the 5th day of trial (a Friday) at approximately 1:00 p.m. I received a call from Bill Lamkin on his cell phone in his two-seater Mercedes convertible. He said, "John, this is Bill Lamkin." I said, "Hi Bill, how's the trial going?" Lamkin replied in his high-pitched Southern accent, "Your dad just kicked my ass." I said, "Did the jury return a defense verdict?" Lamkin replied, "No. As soon as closing arguments were over, I left Donahue to wait on the jury verdict since your dad kicked my ass." I told Lamkin, "Bill, he has done that to a lot of lawyers for 40 years." Lamkin then stated, "John, at my law firm we always have a party regardless of whether we win or lose a trial. I should be back to Columbus in an hour. Come on over to my office this afternoon and celebrate your dad's victory." I felt slightly awkward and politely declined.

About 45 minutes later I received a call from JRA saying, "John, it's Dad. The jury returned a defense verdict." I said, "I know." He said, "How?" I said, "Lamkin called me an hour ago in a blizzard driving back from Coshocton and told me that you kicked his ass." He laughed. I told him to be careful on the drive back to Columbus.

To the best of my knowledge that was JRA's final significant solo trial. An artist I have admired for more than 40 years wrote a song in 2006 as he "was waiting in the wings for Willie Nelson to close a show one time." I first heard Kris' ode to Willie five years ago on a CD entitled *This Old Road* given to me at Christmas by my daughter Julie. Today I thought of JRA and slightly adapted those lyrics below as I "waited in the wings" (for five days) for JRA to close that show in Coshocton.

## **Final Attraction**

*by Kris Kristofferson*

Well here you are  
The final attraction  
Awaiting direction  
From somewhere above

Your finest performance  
Approaching perfection  
I know what you're making  
Is some kind of love

Somewhere in your lifetime  
You were dared into feeling  
So many emotions  
That tear you apart

But they (*juries*) love you so badly  
For sharing their sorrows  
So pick up that guitar (*his voice and visage*)  
And go break a heart

Come on son, get back up there on that stage  
You can do it one more time  
For (*all Lane Alton lawyers, 1957 - present*)  
Go break a heart  
For (*all Judges, opposing counsel and your Trial Practice students*)  
Go break a heart  
And maybe one (*more*) time for me  
Go break a heart

JRA's wisdom, guidance, and kindness will live with us forever.

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