

Interview 1

Interview with **Robert Driskell** at “Driskell & Gordon” (Law Firm)

Taken September 11, 2015

Session Begins

[Noise is made as Karla sets up the audio recorded device.]

Karla: So, for my senior project I’m going to be covering the topic of Civil Litigation.

Mr. Driskell: Okay.

Karla: And basically, its comprised of different components. And one of them is what I’ve been doing here (refers to place of interview—law firm) for my mentorship. And then there are other independent components those can be—those can vary for whatever reason you want to do whichever thing. If you’re a mechanic, for example, you can restore an entire car. If you’re a teacher, you can plan a lesson and teach a class and stuff. So, depending on your topic you get different things. And another component is the interview. So, we are going to do that today. My first question is, as I stated, I’m interested in studying—

Mr. Driskell: (clears throat) Actually, your first question is “Do you understand that I am recording what we say here today?”

Karla: Yea (laughs embarrassingly) Do you understand that I am recording?

Mr. Driskell: Yes, yes I do. And do you have my permission to record?

Karla: Do I have your permission to record?

Mr. Driskell: Yes you do and who are you talking to?

Karla: I am talking to Robert Driskell.

Mr. Driskell: Okay. In California, recording someone without their knowledge and permission is a felony. So you don't want to do that. So whenever you're record anybody, make sure that you put the very first thing on the recording is the fact that you are recording them, and that you have their permission.

Karla: Okay Alright, thank you. Alright. So, what can you tell me about Civil Litigation?

Mr. Driskell: Well, it's a very broad, open question. It covers a lot of areas. The most frequent civil litigation you get in California is personal injury cases—

Karla: Mhmmm

Mr. Driskell: —and I do some of those. But much less frequent, but much more involved, are business litigation, probate litigation, and just general litigation. I do more of those fields. And although litigation, of course, ends up in a trial, if it goes through to its ultimate conclusion, it ends up in a trial. Then unless most cases don't end up in a trial. Most cases are settled before they go to trial. And in the event that the attorneys understand the cases that they're handling and have a good comprehension of what the merits and the weaknesses are of their case, then a case should settle because you know cases are what they are and if you understand the weaknesses and the strengths, you know whether or not you can settle with a good settlement, a favorable settlement or one that's unfavorable, but inevitable.

Karla: Alright, thank you.

Mr. Driskell: You're welcome.

Karla: Form your perspective, what could I study that would be significant to other people?...in the topic.

Mr. Driskell: I have a hard time answering that question, the way you phrased it. And I don't think there really is an answer to that question because what would be significant to one person would be insignificant to another. So I think it just depends on upon who's the person on the other side. In terms of becoming a lawyer and succeeding in law school, which is necessary to succeed in before you become a lawyer, you should study English, and in particular critical writing—critical thinking, critical writing. When I was in law school, the only people who had any advantage over the rest of us, in the first year or so of law school, were those who had studied English. They had an experience in writing and, in particular, in critical thinking. English majors generally do think critically and they're taught to think critically and that's the big advantage of going to law school.

Karla: Alright. Who else do you recommend that I talk to, such as like my next interviews that I would have?

Mr. Driskell: Well, it's my understanding you've already spoken to a couple of judges and that you've...I don't know who else you've spoken to. You're particular field was going to be civil litigation, is that right?

Karla: Mhmm

Mr. Driskell: I suppose most lawyers in smaller firms tend to be involved in cases representing plaintiffs and claimants and people who feel themselves to have been wronged by some other—either company or individual. You might want to try to talk to somebody who represents mostly companies. The place you would find those would be primarily in insurance defense firms, which are firms that defend personal injury cases for the most part. And they defend a lot

of them and, so, there'll you'll find lawyers who have a point of view aligned toward the defense of the larger companies.

Karla: Alright, thank you. What kinds of places or activities do you recommend I do for the mentorship component of my project?

Mr. Driskell: The mentorship? What is the mentorship component?

Karla: The mentorship would probably be just, you know, the volunteering that I do here.

(Refers to law firm that she is mentoring at.)

Mr. Driskell: Ok. Someone else is mentoring you as opposed to you mentoring someone else.

Karla: Mhmm

Mr. Driskell: I really can't...I really can't recommend anything else other than what you are doing here. I think that you've been getting some mentorship from Jack Gordon. He has introduced you to a couple of judges and managed to get you some inside information and conversations with these judges. I think that's probably as good as you can get.

Karla: Alright, thank you. What materials should I read in this field? For part of our component, we'd have to do research. So are there any books that you would recommend I read?

(long pause)

Mr. Driskell: In the law, much of what guides lawyers are the opinions that judges and the justices have written in the past. Some of those people were very smart and very good writers. So, I would suggest that, to get an idea of the best of legal thinking, you get a list of five to ten cases that are written by the best, by the people who are considered to be the best of the legal thinkers who have been on our appeal courts and our supreme courts in the past, and read those and get an idea of their thinking—the way they think.

Karla: Alright, thank you. And...alright. So, now I'm going to delve into my essential question. Each topic that you pick for your senior project, you have to answer this main question and it's the essential question of your project. And I haven't decided yet, on which I want to do. I have three in mind. One would be the environment of a law firm and how that would help clients feel more welcome or how that kind of affects a case. Another thing would be the relationship between a lawyer and his or her client and how would they have to cooperate with each other—what factors would go into that? And then, my third question would have to deal with the relationship between an attorney and his or her opposing counsel, and if the relationship between them, if it were good, would it somehow make the cases easier. Would it—Would a bad relationship cause a case to be more difficult to deal with? Or...That kind of thing. So my first question for that would have to be: In your opinion, how should attorneys act towards their clients?

(long pause)

Mr. Driskell: One thing that is stressed in law school, stressed in the BAR exam, and every lawyer should know it, but a lot of young lawyers don't seem to know it, is that it's absolutely necessary to be scrupulously honest and scrupulously loyal to your client. And the client got to know that and the community has got to know that's the way you are. Every client needs to understand that every secret that they tell you is absolutely secret. You can't reveal...they need to know that at all times, you're thinking in their best interests and not just the interest of making money from them—although, that's important in business too. They really have to have a sense that you're being scrupulously honest with them. They also need to have a sense that you have good judgement and experience. If the client has—If you treat the client in a way that leads them

to think you know what you're talking about and have experience in the field. You can tell them, an answer to the question, you can tell them, "I don't know. I'd have to look it up." They don't mind that you don't know the answer, as long as they think that overall you have experience and have good judgement. It helps to have grey hair.

Karla: (laughs)

Mr. Driskell: But, even younger attorneys can develop that relationship with their clients, but it does help to have grey hair and an air of experience about you. It also helps, I think, for the client to understand from the beginning that you don't have to take their case. If you have to impress upon them the fact that they have obligations too and one of their obligations is to answer your phone calls when you call them and give you honest information. They need to know that they're—that they have obligations, but if you—they—don't fulfill their obligations you have the power to terminate their relationship. So you have to impress that on them at the very beginning, but you don't have to take their case, and you won't take their case unless they fulfill your expectations as well. It also helps to have a good front office with a beautiful entryway and a good secretary and not acting too frivolous or chatting and laughing too much, all those things are fine, but your client's going to have the impression that the whole office is, who work for you, are going to be efficient and it's what they're going to be a part of. And you know that winning their case is important. And so it's an overall, it's a large and a broad spectrum and it's definitely hard. (laughs)

Karla: What do you believe to be the most important factor to maintaining a good relationship with your clients?

Mr. Driskell: I think...I think that I basically just answered that. (laughs)

Karla: Yea...I guess.

Mr. Driskell: It's just a reputation for scrupulous honesty and for scrupulous loyalty.

Karla: Alright. What in your opinion, would lead to a fast and easy decision on a case?

Mr. Driskell: Well, you have to investigate the facts and you have to—There's a joke that says, it's not a joke it's true, "A case never looks as good as it does on the day that it walks into the office." Your client is going to walk into the office and tell you all the facts that give him a good solid claim, but he won't tell you all the facts that maybe don't make him look so good. So you have to investigate and discover the strong points in your case and the big points in your case. So that's the key: to learn about the good and the bad in your case early on is what will help you out.

Karla: And, my last question: Would you say that a good relationship with the opposing council would be better for your case? And why?

Mr. Driskell: Absolutely. You have to recognize with every lawyer and they have to recognize that the two of you do not have coinciding interests. You have diametrically opposed interests. You want to achieve something good for your client, which is usually bad for his client. But you also have to realize that you and he will meet again and that they're going to—he's going to carry away from you, and you're going to carry away from him, an impression about whether or not you can believe him and whether or not you can trust his word and whether or not he's likely to pull dirty tricks. And that'll affect your relationship throughout the—throughout your career. Other attorneys in the community need to know whether or not that you got a reputation, that you can be trusted and believed. And so, you don't want to employ tactics that are not consistent with the truth—that are not consistent with fairness—because you're going to need some courtesy or help or to continuance on a certain extension. You're going to need something like that during

the course of your case and if you've formed a good relationship with the opposing attorney, you'll get it and if you haven't, you won't. And so it's very much make your life easier if you try to be courteous and fair with the opposing council.

Karla: Well, that's it for the interview and thank you for answering my questions.

Mr. Driskell: You're very welcome.

[Noises made as Karla turns off recording device.]

Session Ends.