

Chapter 8 Humor

By J. SCOTT BOVITZ

Doodles from the Bench and BAP: The Cartoon Magic of Judge Marlar

Hon. **James M. Marlar** of the U.S. Bankruptcy Court of the District of Arizona (ret.) is blessed with a photographic memory, an oddball sense of humor and a quick wrist (*see* Illustration 1 on p. 59 for the judge's self-portrait). He has always loved Disney cartoons and comic books. Judge Marlar is the proud owner of a framed illustrator's "cel" from the original movie "Lady and the Tramp,"¹ which he bought at Disneyland's "Art Corner" in July 1955 (two weeks after the California theme park opened). As a kid, Marlar would copy cartoons and add his own captions. After all, "cartoonists live forever."

"Just call me Jim" never stopped doodling. One of Judge Marlar's early heroes was Mort Drucker, the illustrator from *Mad Magazine*.² Judge Marlar loved the pocketbooks, which are still sold on eBay.

In high school, Judge Marlar took art classes and created funny posters for the school bulletin board. He recalls creating a "flipbook" on the bottom of the pages of Robert Frost's collected poems, which his friends flipped through just to see an animated cartoon along the bottom.³

Judge Marlar studied architecture in college, but switched to history "so that he could find a job." As a law student at the University of Arizona, he found a cartoonist's wingman: Wayne Satz, who later became an investigative television reporter in Los Angeles.⁴ In law school, they were the co-authors of the "Marlo-Wayno Breakfast Cartoon." Normally, they would draw and caption alternative panels in their collective cartoon — without speaking to one other about the subject matter or illustration. The resulting cartoon strips were snapshots of student life (usually hilarious and often bizarre). Had the FBI found copies of the "Marlo-Wayno Breakfast Cartoon," Judge Marlar is not certain that he would have been appointed to the bench.

As a young lawyer, trial attorney Marlar continued with his illustrations, and his favorite tool at trial was a black Flair felt-tip pen. He might draw a cartoon during a ponderous direct examination, then before beginning his own cross-examination he would pass the cartoon to his opposing counsel, which would sometimes elicit a crooked smile or a chuckle from his opponent (*see* Illustration 2 on p. 59 of an effective cross-examination — with a brick).

Judge Marlar has had a long and distinguished judicial career. "My judicial career as a trial judge lasted 19 years, 34 days. Seven years of that was also as an appellate judge on the Ninth Circuit's Bankruptcy Appellate Panel.... Along the way ... some humor or humorous moments (or non-humorous moments made funny) leaked from the notes on my legal pad to the margins. These doodles represented the uncensored thoughts of a frustrated Disney cartoonist.... At the end of each trial trip or hearing, my staff would salvage the etchings, and at the end of the year, present[ed] them to me ... in an annual scrapbook."

After retirement, Judge Marlar passed along collections of these doodles to a "few friends and colleagues who knew me best." The ABI humor ombudsman has banned Judge Marlar's cartoons from the ABI bookstore; however, a sample of his cartoons are shown in this column. I asked Judge Marlar about the universal truths found in his illustrations. "The judges read your briefs so get to the point, be clear and don't be boring" (*see* Illustration 3 on p. 94 of a judge stabbing a lawyer with a pencil after a boring examination). "There is no excuse for putting any judge to sleep during a bench trial" (*see* Illustration 4 on p. 94 of a judge asleep on the bench as the clerk is forced to make key evidentiary rulings).

In preparation for a bench trial Judge Marlar will read your expert-witness reports, so there is no need to repeat the report during trial. Instead, he emphasizes the need for short — but interesting — oral testimony from accountants and appraisers. All too often, accountants and appraisers focus on lingo and methodology rather than the human aspect of their analysis.

On the other hand, true technical experts should work hard to distill their reports into plain English. After all, Judge Marlar was a history major, not a scientist (*see* Illustration 5 on p. 59 of Judge Marlar's recollection of a scientific presentation of a double helix). He suggests that "if you aren't making any progress with your cross examination, just sit down" (*see* Illustration 6 on p. 94 of the beating of a dead horse on the witness stand). On the other hand, you might be able to use cross-examination to elicit an untenable conclusion from an expert witness (*see* Illustration 7 on p. 59 of a radioactive farmer).



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1 "Lady and the Tramp" (1955), available at imdb.com/title/tt0048280.

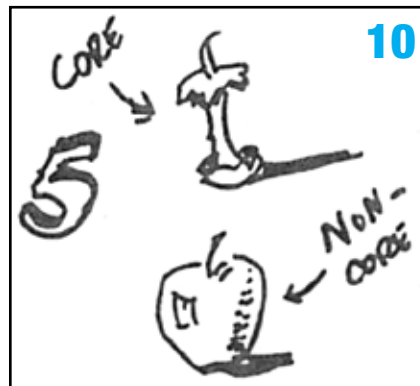
2 *Mad Magazine*, available at en.wikipedia.org/wiki/Mort_Drucker.

3 Adventuresome readers are encouraged to make their own flipbook at instantflipbook.com.

4 [See en.wikipedia.org/wiki/Wayne_Thomas_Satz](http://en.wikipedia.org/wiki/Wayne_Thomas_Satz).

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Judge Marlar enjoys hotly contested matters, but lawyers should always be civil in the courtroom and to each other. Don't forget that bankruptcy judges have control over conduct in their courtroom (*see* Illustration 8 on p. 59 of Judge Marlar calling upon a higher power in lieu of traditional sanctions). In addition, Judge Marlar acknowledges that mediation can be effective at the right time, but not in every case (*see* Illustration 9 on p. 94 of a mediation cat fight).

Like all judges, Judge Marlar has attended innumerable seminars and educational sessions during his career, which were a fruitful source of inspiration for illustrations and doodles. He thanks the many educators who have patiently tried to explain the jurisdictional limitations of the bankruptcy court (*see* Illustration 10 on p. 94 of a core and non-core distinction and Illustration 11 on p. 59 of the Anna Nicole Smith litigation). At one educational seminar, he suddenly understood the real meaning of the "Absolut [Vodka] priority rule" (*see* Illustration 12 on p. 59).

While serving at the BAP, Judge Marlar continued with his wicked pen. Some appeals are doomed from the start, like a voyage on the Titanic. In other cases, the "BAP Man," a superhero for the masses, can sometimes make a difference (*see* Illustration 13 on p. 59).

At one Ninth Circuit Judicial Conference, Judge Marlar recalls a session regarding disaster preparedness. Earthquakes, fire, floods, tornadoes and asteroids were a part of this broad-reaching program; of course, the asteroid reference generated a few cartoon panels (*see* Illustration 14 on p. 94 of a three-cartoon panel, wherein the Earth is saved by the BAPCPA shield and the "all means [test] necessary"). Judge Marlar also recalls a conference when every other development was alleged evidence of a "new paradigm." He has a vague recollection of viewing a paradigm in a museum, but he is not sure (*see* Illustration 15 on p. 94 of a paradigm on display).

Do the other judges appreciate his illustrations? "Most do," such as a caricature of Hon. **Dennis Montali** of the U.S. Bankruptcy Court for the Northern District of

California (*see* Illustration 16 on p. 59). "A few judges are a little more serious."⁵

Judge Marlar emphasizes that a judge has the best seat in the courtroom and one very important job: "Ladling out hot steaming bowls of creamy justice." (*See* Illustration 17 on p. 59 of a pot of creamy justice on the stove.) Does Judge Marlar undertake commission work? "I can't do drawings on request."

Judge Marlar prefers to be inspired, tired or bored. "A cartoon needs to be spontaneous and internally inspired to be good. You need the personal creative spark." However, he recalls collaborating with Hon. **Linda B. Riegle** of the U.S. Bankruptcy Court for the District of Nevada on a cartoon about "breakfast cereal filers" (*see* Illustration 18 on p. 94).

Does Judge Marlar have any other hobbies? "I like and collect cowboy-related items," he says, and recently spent seven days retracing a Wyatt Earp⁶ ride in the Arizona desert. I realize now that I should have asked Judge Marlar for more details of his Earp ride. After all, "Earp was at different times in his life a city policeman, county sheriff, teamster, buffalo hunter, bouncer, saloon-keeper, gambler, brothel owner, pimp, miner, and boxing referee."⁷ Which seven-day ride did Judge Marlar take, exactly?

Judge Marlar is also a Scuba diver. He recalls a wild shark dive in Tahiti where — you know the punch line — the sharks did not bother him as a matter of professional courtesy. In addition, he is enjoying semi-retirement on the California coast. No doubt he is wearing his felt-tip pen down to the nub as you read this column. By "nub," I mean the stub of a writing instrument and not "one who sucks at a particular video game."⁸

Judge Marlar is, theoretically, on recall status, so you can still reach him at james_marlar@azb.uscourts.gov. He also wants you to know that the statute of limitations for libel starts running from the date of publication of this issue of the *ABI Journal*. **abi**

⁵ The author is paraphrasing here to avoid any First Amendment issues.

⁶ *See* en.wikipedia.org/wiki/Wyatt_Earp.

⁷ *Id.*

⁸ *See* urbandictionary.com/define.php?term=nub.

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