

# HISTORICAL COMMITTEE

presents

## I Remember John E. Menig, Founder of the Firm

by Stan Sager

**J**ohn Menig was my partner for a nearly a quarter of a century. I remember John in his role as firm manager, as dedicated to saving pennies as was the ghost of Marley. I remember him, too, as a negotiator with an imagination as wild as that of the Brothers Grimm and with an ability to read character that rivalled the skill of Sigmund Freud. Bigger than life, John had the derring-do to put it all together. The proof? It lies in these stories, my favorite recollections of the "Founder of the Firm."



John Menig, 1982

### Portly lawyers don't skip

A shaking and trembling rose from the floor, traveling through the soles of my shoes and up my legs. A shadow blotted out the light from the hallway. I looked up from the papers spread on the desk in front of me. Had the senior partner just passed? The founder of the firm? Was he skipping? Couldn't be. Portly lawyers don't skip. Portly lawyers pushing 60 who haven't exercised in a couple of decades don't skip.

The rhythm of the footfalls faded down the hall then neared again. John did a left-legged double

hop, another on his right leg up to the front of my desk, skipping like a portly lawyer out of practice because he hadn't skipped since he was eight years old.

No surprise. John was never deterred by convention from expressing his love of life in any way that seemed appropriate to him at the moment.

John braked, jerked himself back from taking a dive onto my desktop, and with a flick of his wrist, spun the firm's blue bank deposit bag onto my desk. It hit among the papers, and a few fluttered to the floor.

"I've found the answer," John boasted, throwing back his head and shoulders, panting. He dropped into a side chair, tilted it back and clasped his hands across his bulging stomach, his eyes twinkling.

"The answer to what?" I asked, as I bent to pick up the papers from the floor. I wouldn't let him know, but John's performance made me wonder what it was that stirred him out of his usual gait. Since he gave up golf a quarter of a century earlier, John's idea of exercise was to wave his arms while jawboning about the way things used to be.

"Look inside, Stanley." John whirled his hand and pointed to the bank bag.

"Stan," I said. Not only could the senior partner not remember to use the shortened version of the name my mother had hung on me, but there was another thing about the firm's manager. The guy always felt good, and the better he felt, the wilder the waves, twists and swooshes of his arms and hands.

I picked up the bag and unzipped it. There was no money inside, only a single bank deposit slip and a couple hundred paper clips.

"Know where I got those? I made the bank run today. You know Doris was out sick," he said.

Why was John confessing? He knew that neither our other partners, Ed Curran and Joe Sturges, nor I would be happy to hear he'd made the bank run. At the bank there were too many friends and strangers willing to talk to make a quick turn-around possible for John. His banking expeditions were an hour to two-hour jaunts for a 15-minute task, justified by John's lectures about how he worked the firm name into every conversation with everyone he could get to listen and that we should be doing the same. Ed and I had fought for months to get John, the firm's efficiency expert, to let the receptionist make the deposits so he could pull his billable hours up to half what Ed, Joe and I thought they should have been.

"I found out something at the bank today. That's where I got those paper clips." John gestured toward the bank bag again as his smile stretched across his face.

"These clips cost us zero. Nada. Nichts. Nothing," he said, forming a circle with the thumb and forefinger of his right hand.

"Yep. When I made the deposit, the teller took the paper clip off the bills and checks I gave her and put it in a drawer under her counter. I asked for it back."

No surprise there. John's hobby was prospecting in parking lots and on floors for paper clips, like nuggets, to pocket for later deposit in the firm storeroom. He spent hours calculating how much he'd saved his partners, though factoring his time into the profit and loss formula was a suggestion he wouldn't buy.

"She opened the drawer and took out a clip and handed it to me." John's eyes sparkled. He waited for an effect that never came.

"Then she asked me if I'd like to have any more clips." John smashed his right fist into his left palm as he bounced up and down in his chair.

"She filled up my bank bag — all the way to the top. Then — get this —," his voice soared and the bounces grew higher. "She said that any time I wanted more paper clips, just ask when I make the bank deposit. She said the tellers take clips off just about every deposit and put them in the drawer under the counter until it fills up, then they throw them away. She said we could have them. Isn't that great?"

"Great, John," I said, wondering how many hours it would take to figure up the savings. At least I'd learned why he'd skipped down the hall.

"John," I asked as I turned to my dictating machine, "are you going to tell Doris about this pot at the end of the rainbow when she gets back?" I didn't want to lose the ground Ed and I had gained when we'd broken John's habit of making the daily bank trip.

"You bet. I'll do that." John leaped from his chair and dashed out to stash the paper clips in the barrel he kept in the storeroom.

## Buying supplies — ONE of JOHN'S perks

We were a small firm, even by Albuquerque standards, but we were looking for another lawyer, maybe two. Our staff was growing, too, but John wouldn't let go of the job as buyer of supplies. It was one of his perks as managing partner, just because he liked doing it so much. His second hobby, after his paper clip obsession, was searching the newspapers for bargains. A couple of months earlier, John had strolled into my office to report another coup that was driving Ed and Joe up the wall.

"Stanley, I've found a real deal on tablets," he crowed.

"Stan," I said.

He handed me a Big Chief Tablet complete with red cover and the likeness of the Chief himself. It was just like the ones my kids used for their first grade work.

"We can tear this off," John demonstrated as he ripped off the red cover and laid it aside to use later as scratch paper.

"There. No need to pay yellow legal pad prices. We can use these babies. They're 24 percent cheaper than yellow pads, page for page. I've counted. Actually, it's 24.23 percent. So I bought a case and got another 20 percent off."

"Yes, but should we lawyers really use these things?" I pointed to the Chief, speaking for myself. "These 'babies' don't fit into Ed's objective of building a BTLE." I took a fountain pen from my shirt pocket and tested a sheet. The pulp sucked out the ink in a great blob that soaked through two other sheets.

*continued on page 50*

"BTLF?" John raised his eyebrows as though he'd never heard Ed use the term.

"Big Time Law Firm. You remember?"

"Oh, yeah."

When Doris returned the next day, John instructed her in the art of paper clip acquisition.

A week later, Doris sidled into my office with a tissue held to her nose. "May I come in and close the door?" she whispered.

She dabbed at her eyes and sniffed. "It's the senior partner." She pulled another tissue from her purse.

"Tell me about it," I said.

"Mr. Sager, you have a real nice law firm. People respect you. All of you. I know. They say so when I tell them where I work.

"And Ed is always talking about building a Big Time Law Firm. But I just don't think BTLF's should beg for paper clips." She rubbed her eyes and bent her head as my eyebrows lifted. "Part of my job description now is that I have to go to the bank and beg for paper clips," she sobbed. "Mr. Menig said I had to. He's the boss. I just can't do it any more. I'm resigning."

I leaned forward. Doris was a valuable employee, good-natured and loyal. She handled the phone like a dream and she made the bank run in ten minutes flat, rain or shine.

Should I cut the ground out from under our managing partner? What were free paper clips costing us? They'd never taught me stuff like this in law school, but it was decision time.

"Doris, you don't have to do that any more," I said. "We'll buy our paper clips. We'll talk about it in the next partners' meeting."

Later, I told John of my promise to Doris. "Well, I guess the over-

head will just go up." He pulled his mouth into a grim line.

"Oh, it'll go up on the cost of tablets, too," John continued. He waved a sheet of figures under my nose to prove he'd calculated what his spendthrift partners had flushed down the drain.

"Ed, Joe and Brad talked to me, too. They'll be using yellow pads instead of the Big Chiefs." He straightened the alignment of the thermometer and barometer on his desk. There was nothing else on the surface.

"I'll personally use the rest we have in inventory." He paused to stare at me with disappointment. "Better than a kick in the teeth," he added, his lips again a thin line. I knew there'd been a school supply clearance and we now had three cases of Big Chiefs in the storeroom. The way John carefully filled both sides of every sheet, they'd last him 120 years.

"But I'll tell you what else I'll do." His face brightened.

"I can work my schedule so I can make the bank run once a week. That way, we can keep a good supply of paper clips. I'll take two bank deposit bags."

He leaped up and skipped out the door.

## **SOME BACKGROUND**

John brought two principal talents to Menig and Sager, later Menig, Sager, Curran and Sturges, now Sager, Curran, Sturges and Tepper, P.C. Not only was he always figuring out new and innovative ways to save money, he loved to talk settlement and compromise. As a result, John was our managing partner and chief negotiator.

When I met John Menig, I was clerking for McAtee, Toulouse,

Marchiondo, Ruud & Gallagher, waiting to take the spring 1960 bar exam after moving to Albuquerque from Kansas. Shortly after Jim Toulouse introduced us, John quit his job as a claims attorney for Fireman's Fund Insurance Company to move into the empty office next to mine at the McAtee firm. He was hired, he told me, to bring in some insurance business, but also to put into effect the management skills he'd learned getting a degree in hotel administration from Cornell, years before he went to law school nights and off-hours while working as an insurance claims man in Portland.

The two of us hit it off, though John was probably 15 years older than I. After a few months John left Peter McAtee and his partners to start a private practice. I followed him a little later.

Close to six feet tall, John's build was portly but he didn't run to fat, and he stood with his shoulders squared and his stomach thrust out in a gentle convex curve. His hair was fine and thinning by the time Ed Curran and Joe Sturges joined the firm, and he wore a gray-ing goatee on the chin of a face that was surprisingly thin for the rest of him. His tenor voice was always strained, as though he'd swallowed a sieve and was pushing his words through it. John's arms and feet seemed to be activated by his jaw. Whenever he talked, he opened his arms and soft-shoed around the floor, eyes open wide, smiling, like an old-time vaudeville trouper searching for an audience who would return his affection.

Managing Menig, Sager, Curran and Sturges was an act of love for John. He tended it meticulously. He bought the supplies, over-

saw the bookkeeping, kept track of the accounts payable and receivable, pinched pennies and made the runs to the bank. He supervised the secretaries, arranged for the work of outside process servers and investigators and the filing of courthouse documents — and told tales about how great the law firm was every chance he got. Then he went back to pinching pennies.

As the firm's chief negotiator, he reasoned with, blustered and intimidated other lawyers and insurance adjusters in the way he'd learned in the insurance business.

It was the chance to bluster, intimidate and let that wild imagination run loose that brought John into my office one day carrying a new file referred to him by a lawyer in a downtown firm who didn't want to undertake a plaintiff's medical malpractice case. In those days, in the early and mid-1960s, our firm was one of the few in the state that would handle a suit against a doctor, though later we undertook their defense.

John and I didn't subscribe to the general feeling in the bar about plaintiffs' medical malpractice cases. Most lawyers felt that if they were to represent a client against a member of the medical profession, there would be immediate retaliation of some kind. The plaintiff's attorney would never get cooperation from any physician in any other kind of case, according to the gossip at the Lawyers' Club lunches at the Alvarado Hotel, or maybe the intrepid lawyer would find himself standing outside the hospitals in town looking in but denied entry if he were to get sick. Another scare circulating among the lawyers was that any doctor who acted as a witness for the plaintiff might find

himself ostracized, unable to get insurance.

John and I scoffed at the prevalent theory, though we were both glad we didn't have to test it by seeking medical treatment for ourselves. We accepted a few plaintiff's cases while keeping our fingers crossed, and as a result, other lawyers from around the state were soon sending us referrals. John negotiated the cases and, when bargaining failed, I tried them.

**"I FIGURED OUT THIS GUY A LONG TIME AGO."**

The day the new case came in, John sauntered into my office, laid his Big Chief tablet on my desk top and sat down in a client chair.

"His arrogance did him in," John speculated, speaking of the surgeon who had treated our client, Mrs. Rodriguez (not her real name). "I know the guy. I've known him for years. Used to send him cases to evaluate for the insurance company.

"The fellow always runs true to form. The internist told him the gall bladder ought to come out pronto. It's right there in his file. I'll bet you a nickel I could almost tell you what this world-class egotist had to say. This guy always has to know more than anybody else. He decided he'd wait, and he did, until gangrene nearly killed her."

After we'd received a confirming expert medical opinion, it was time to draft a letter of demand.

A week after the demand was mailed, John bounded into my office and dropped into a side chair.

"I had a call from the doctor," John said, breathless.

"You mean, he called you personally — the call didn't come from a claims rep?"

"Yeah. He remembered me from the old days back when I was adjusting insurance claims and sending him the big checks for his evaluations." John was always pleased to be remembered.

"Then he offered something that surprised me."

"A settlement?" I asked, knowing that a settlement offer at this stage was unheard of.

"No, no. Nothing like that. But he did say he'd talked to his insurance company and convinced them to let him talk to us alone. No adjuster to be with us. He said the adjuster — another guy I knew in the old days — told him we were reasonable people. The doc said we'd see it his way once we heard him explain, so the insurer decided not to have anyone there.

"That arrogant so-and-so, thinking he's smarter than everyone else on the planet and that he's the world's peerless knife-man. He talked that adjuster into it against the fellow's better judgment, I bet." John shook his head.

I smiled. The case was going to start with negotiations. Negotiation was talking, and talking was John's specialty, so maybe I could get by without wetting my feet in this case.

"You know the guy and I don't. So what do you think about 'Dr. Peerless's' suggestion?" I asked.

John smiled at the name I'd coined. "I say, let's go. Nothing to lose except a little time."

"What about just you going?" I suggested.

"I have an idea I'd like to try." John ignored my question and outlined his idea.

"But John, what you're suggesting sounds unethical. Maybe it's even illegal. We don't have one of

*continued on page 32*

those new little tape recorders we've read about. Not only that, but we can't tape our conversation without his permission. I won't let you do it. No dice," I said.

"Don't worry. We don't need a recorder. We don't need anything except you and me and my briefcase. I figured out this guy a long time ago. Long on image, short on guts. And we've got a client this guy hurt." John's smile was tight.

"Next Wednesday afternoon. Two o'clock. His office. He's cancelled his tee time so we can talk."

It would be negotiation, but I would be in the thick of it.

### JOHN KNEW HIS MAN AND I DIDN'T

We drove to Dr. Peerless's office the next Wednesday afternoon and walked in promptly at two.

As the door closed and clicked itself locked behind us, the doctor walked up behind the acre of Formica at the reception center, leaned over the barrier and stretched out his hand. He introduced himself, acknowledging that he'd been fond of John back when John's insurance company had been paying him the big fees, before John strayed and went into the practice of law. His try at humor brought no smile from John.

The doctor was a tall, handsome fellow with a confident gaze. He looked us both in the eye and smiled patronizingly as he invited us to follow him.

The doctor led us through a door and past a series of examining rooms to a cramped office, where he sat down behind a desk piled high with files. We took the only two side chairs.

I didn't like this guy any better than John did. We moved on to the business at hand.

John opened his briefcase. He propped the lid open and positioned the case on his knees, the lid between himself and the doctor so that it shielded the contents from the doctor's view. John reached inside the case. There was a dull clunk, and John withdrew his hand barely moving and scarcely breathing.

I didn't look, but I knew there was nothing in the case except Mrs. Rodriguez's skinny file and a heavy stapler which gave a solid thud as it struck the inside of the briefcase when moved.

The doctor's eyes glanced toward John. His look dropped to the briefcase for a moment then returned to mine, and he spoke again through a supercilious smile.

"I'm glad for the chance to talk to you fellows about this little matter," the doctor said. "I'll be frank. I'm sure you'll understand after you've heard what I have to say. I don't have anything to hide."

He toyed with a file on his desk, opening and closing it with strong fingers he admired as they moved. He peeked inside to read the secrets he wouldn't share, teasing the supplicants across his desk.

"Of course, if push comes to shove," he said, elbowing the file away so as not to soil his fingers any further, "I may have to deny what I've told you in our little meeting here, but I don't think it'll ever get to that."

He looked us over and laughed gently, his upper lip curling. If the matter ever got to a swearing match over what was said in his sanctum, it would be his word against that of two lawyers, and those were no odds at all.

"Unfortunate incident." The doctor shook his head. "Too bad for the lady, but these things do happen."

Having handled a few medical malpractice matters, the refrain was familiar, though he then added a new twist: "Even to the best of us."

His lips turned up at his immodesty, certain of understanding. I nodded my head sympathetically while John was silent, his briefcase carefully balanced on his lap.

"Maybe you could tell us what happened," I suggested.

The doctor opened his hands on the desk top before him, fingers laced together as he studied his palms as though they were plated with gold.

"Well, it was just too bad. There's no doubt this lady was hurt, but it was just one of those things. The internist who referred her thought she had gall bladder problems, but I didn't believe it. I didn't think the symptoms verified his diagnosis." He smiled languidly. He knew that no one could challenge his judgment. Not his.

John's right hand stole silently into the briefcase again, then as silently it slid out to his lap. The doctor seemed to pay no attention, though he glanced John's way.

"Of course I'd have to deny it if this thing goes any further, but your client did have right upper quadrant pain. In retrospect I probably should have known, though I certainly intended no harm." His lips formed a pencilled line, underscoring his imitation of sympathy. Another professional would have to understand that if by any warped judgment he might be thought to have erred, he surely could not be penalized since his intentions were so pure.

"Well, maybe I did err — there may have been some fault, but of course we'll defend vigorously; and that's just between you and me. That woman — well...."

He looked at us, first one then the other. What was he suggesting? That as fellow Anglo-Saxons, we'd understand that he could scarcely be criticized for deferring the use of all his skills for a patient who wasn't? The set of his mouth and the toss of his head told his message and assumed we were blood-brothers, at least until we walked out the door.

I looked at John, urging him with my eyes to nail this disgrace to the medical profession, but his eyes were fixed on the doctor's.

"And of course, you fellows know we doctors aren't judged based on hindsight, but on what was seen there at the time, and that depends on my testimony. Just mine. Only I know what I saw."

He studied his fingernails again, finding them faultless.

"You and I know that all this case has is nuisance value. Nuisance value, that's all."

"No doctor in the state is going to testify against me on a case like this. I think you fellows know that." He looked at John, favoring him with a self-congratulatory smile. As he waited for John's confirmation, the smile slipped down his cheeks and his face paled as his stare moved to John's briefcase.

Both of John's hands were in the case. His forearms were moving behind the lid as though he was twisting his wrists in some kind of frantic adjustment to who knows what might be inside. John stared at the doctor, eye to eye, until John's wide-open gaze flicked momentarily to a spot inside the briefcase, then just as quickly returned. John's lips

bore a guileless smile of complete innocence.

Dr. Peerless's eyes fixed on the brass lock on the lid as though it were a talisman swinging from a hypnotist's hand.

"Maybe the nausea when she ate greasy food should have been a tip-off." He swallowed. His upper lip was damp, and a pale green tint spread upwards from his shirt collar.

"But I doubt that she was hurt. Much." The last word was a croak. His speech seemed to have found a life of its own, generated by the mesmerizing briefcase.

John's wrists were twisting furiously. A hint of a whistle escaped from the area of the briefcase, though if the doctor had been able to focus, he'd have seen that John's lips had parted to expose his teeth, and that the breath blowing through them was the source of the tone.

I knew that any minute the doctor would recover and leap across the desk to rip the case off John's knees and slam it over his head, but I was wrong. *John knew his man and I didn't.* The white-coated figure couldn't move, any more than he could stop his confession.

"I guess the internist's diagnosis should have alerted me. I should have acted more promptly."

The sweat migrated from his lip to his brow. He pushed himself to his feet and leaned against his desk as his eyes darted from John's to mine and back again. He grabbed one hand with the other to stop the trembling, thighs bracing him against the desktop, keeping him upright. John slammed the briefcase lid closed and snapped its latch with a click like the hammer of a revolver falling on an empty chamber. As it echoed through the quiet, John slapped the top of the briefcase twice, signalling that its contents were everything he'd come for.

I reached for my crutches and heaved myself out of my chair. We ignored the doctor's limp hand, and we strode out of his office to the front door, followed only by a quivering, "These things happen," in an imitation of Dr. Peerless's voice.

The next morning, Dr. Peerless's insurer called John with an offer Mrs. Rodriguez couldn't refuse.

And those are my fondest memories of the "Founder of the Firm."

---

*Stan Sager, co-founder of Sager, Curran, Sturges and Tepper, retired in March 1993, and now serves as "of counsel" to the firm. He is a former member of the Board of Bar Commissioners and numerous bar committees. His legal career has spanned almost four decades.*

Thinking about writing a historical article? Call Eric Scott Jeffries, chair, Historical Committee, 243-3900.