



And So It Goes!

A Quarterly Newsletter from David M. Zacks, Esq.

On September 13, 2019, I had the honor of interviewing Judge Edwin Cameron, Justice of the Constitutional Court of South Africa. I was on a trip to South Africa sponsored by the Society of International Business Fellows and this group spent one hour in their supreme court building, which is worth describing. It was built from the bricks that housed Nelson Mandela in his jail cell. There are glass windows all around this building but they only show the feet and ankles of people walking by. This is symbolic, as it demonstrates that justices are not looking at who is well-dressed and put together, but only at the feet of the people which are basically all alike.

Justice Cameron was appointed to the court by Nelson Mandela during the country's transition from a system of apartheid to one of majority rule. The court's cases range from dealing with racial discrimination to freedom of speech and beyond. I found it fascinating to read some of these cases and to learn about this justice who is a white man and an AIDS survivor and who is vocal about coming out to the people about this disease. He is one of the most respected individuals in their legal system. He is stepping down from the court to take over as director of their penal system, which he feels is in desperate need of repair.

After spending time in South Africa, it is clear to most citizens that having a constitutional court may be their brightest hope for the future.

On the "QT"

If you knew the elevator was only going to take you down from the 30th floor safely 80% of the time (like your lawyer assesses the odds of you winning at trial), I'll bet you would take the stairs!

Sometimes even if you think the odds are with you, the safer bet may be the better alternative.

Worth Reading

If you are old enough to remember Atlanta hosting the 1996 Olympic Summer Games, you should buy "Suspect," a new book by Kent Alexander and Kevin Salwen. If you do not remember Atlanta hosting the 1996 Olympic Summer Games, you also should buy this book. It is the story of how security guard Richard Jewel found a knapsack with a bomb inside and became a hero by notifying law enforcement officials.

The book focuses on how he quickly became the principal suspect until authorities eventually caught the real Olympic Park Bomber, Eric Rudolph. Kent Alexander was the U.S. Attorney in Atlanta at the time. Kevin Salwen was the Southeast Editor of the *Wall Street Journal*. They come at

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it from unique perspectives. It is such a page turner that Clint Eastwood is directing a film based on the book, “Eric Rudolph,” which will be in theaters this December.

It is a masterful true-crime account of the 1996 Centennial Olympic Park bombing—and the man caught in the nightmare.

Going from Better to Best

In a mediation, do you start by getting all the issues out on the table? Often I have seen in an opening session one lawyer will say we need to put everything out on the table; these are the eight issues we have to resolve to get this matter settled. Often a mediator will go along with this approach. I think there are better ways attorneys and neutrals can handle the problem.

If the goal is to create all the impediments to getting it settled, that would be the right approach. If the goal is to reach a fair resolution, you are better off focusing on one key issue—usually money—first, and leave the other issues for later. I would focus on one issue, advise the parties that the other issues on the term sheet will be dealt with as progress is made during the road to resolution. Through this approach, the process builds momentum, not impediments.

The Last Word

“We don’t see things the way they are. We see the things the way we are.”

Enjoy your holidays!