

Litigation Fellow unexpected

By Ralph Schaefer TB&LN correspondent | Posted: Tuesday, October 27, 2015 12:00 am

Craig A. Fitzgerald didn't give the Litigation Counsel of America organization a second thought as he went about his work at the GableGotwals Law Firm.

That changed when he received an email from Dean Luthey advising him that he had been selected as a Fellow in the organization. He did not know he had been nominated or was being considered for membership.

Luthey and John Russell, both members of the GableGotwals Law Firm, are Litigation Counsel of America Fellows.

Fitzgerald doesn't know exactly how active he will be as a fellow, but he plans to take advantage of the opportunities to learn from others in the organization and the opportunity to publish his own works on litigation.

Being a fellow means an attorney working in litigation is recognized for his ability to get cases settled or winning a summary judgement if possible instead of going to trial where the matter is heard by a judge or jury, he said.

Fitzgerald's practice is in general civil litigation where he does a lot of energy law cases. He joined GableGotwals in 2007 but started in private practice in 1992 after earning his law degree from Vanderbilt University.

Fitzgerald was drawn to the legal profession while in high school at Ripley.

"I had a government class and got to be a lawyer as part of the class work involving the courts," he said. "I thought it was both interesting and fun."



Fitzgerald

Craig A. Fitzgerald, GableGotwals attorney, has been accepted as a Fellow in the Litigation Counsel of America. Ralph Schaefer/for TB&LN

Later Fitzgerald had an opportunity to participate on a mock trial team where again, as a lawyer, got to present arguments on a case and cross examine witnesses.

Mock trial cases are scripted, but Fitzgerald still had to prepare, spending time putting materials together for the case.

That did it for the high school student. He knew he wanted to be a lawyer and a litigator, not realizing at that time his goal in that future role was to keep clients from going to court.

Now as an attorney, Fitzgerald continues to expand upon what he learned as a lawyer on a mock trial team. He spends time assembling materials and documents, learning all he can about the client's issues in a case. The difference is there is more on the line and the client's future can depend upon victory or defeat in court.

"I am extremely competitive and I hate to lose," Fitzgerald said.

That desire to win begins with the initial meeting with the client and Fitzgerald learns about the details involved in the litigation.

One responsibility is helping the client understand the reality of the case and manage expectations accordingly.

"The bottom line is I want to do a good job for the client," he said.

The most challenging part is the preparation when he first meets with the client.

Close attention is paid to the discovery and development of facts because Fitzgerald does not want to waste his client's time and resources if he is not prepared to present the case.

"I want to understand the facts that have unfolded over months and perhaps even years," Fitzgerald said. "I need to understand the case very early on and whether it should be heard before a judge or jury or be settled by mediation."

If the case is to go before a jury, then it is necessary to review what the judge will say in his final instructions and have closing arguments in mind that will sway the jury in a client's favor.

Similar arguments must be made to influence a favorable decision if the issue is decided by a judge.

Mediation can be the best resolution if a client understands that is the best route, a decision made on the strengths and weakness of the issues.

The client makes the decision as to the route they want to take and it is their choice at the end of the day, Fitzgerald said. It is part of the job to lead the client so they can make the best possible choice.

Fitzgerald has experienced changes in the legal practice since he started in 1992 and knows there will be even more in the future.

Technology has made one of the biggest differences.

Fitzgerald recalled an incident shortly after he started practicing law when some papers needed to be filed in a Texas federal court by 4:30 p.m.

It was 3:30 p.m. when the documents were emailed to a Texas law firm. From that point, local counsel printed the papers and filed them ahead of the deadline.

Now it is possible to file cases in district courts in other states from his GableGotwals Tulsa office.

Fitzgerald recently filed papers in a Nevada court for a client he is representing. Now he can argue a case in the 10th Circuit Court of Appeals in Denver carrying a tablet with data that is organized and ready for presentation.

Gone are the multiple heavy multiple briefcases carrying perhaps 15 or more pounds of paper. Technology and the legal practice will continue to change, he said. "My goal is to be as well prepared as possible.

"Membership as a Fellow in the Litigation Counsel of America will make that possible."