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Attorneys reflect on representing celebrity clients
by **Jane Pribek**

August 6, 2009

A decade ago, Robert G. Bernhoff's wife, Vicki, was cleaning houses for a living while he attended law school and worked part-time. The couple had perfected the art of coordinating their schedules so one of them could be home at the same time as their three elementary-school-aged daughters.

Fast-forward to the present, and the Bernhoffs now own two homes, in Wisconsin and California. Bernhoff has twice represented actor Wesley Snipes, and former presidential candidate and consumer advocate Ralph Nader, in addition to successfully trying several other high-profile cases across the nation. He's been interviewed by Greta Van Susteren on Fox News' *On the Record*, as well as spotlighted by *The Los Angeles Times* and *The Wall Street Journal*.

Representing the celebrity client can be "career-making or career-breaking," says Bernhoff. Fortunately for him, it's been the former, but it could've just as easily gone the other way. In Snipes' 2008 felony tax fraud and conspiracy trial, for example, he and his team opted not to call any witnesses — a move that generated much criticism from the national media legal pundits. It was a "penthouse or an outhouse" situation, recalls Bernhoff, but the strategy proved successful when Snipes was acquitted of all the felony charges pending against him in a Florida federal court.

When you're representing a celebrity, your job performance is indeed subject to heightened media and public scrutiny, agrees Milwaukee's Jonathan C. Smith. "But the spotlight fades pretty quickly," Smith says, "and in the end you just do the job for the client that you were hired to do."

Smith was part of the team representing former Green Bay Packers tight end Mark Chmura. Chmura faced, and ultimately was acquitted of, child enticement and third-degree sexual assault charges. Smith also represented former professional basketball player Latrell Sprewell when he was the subject of a widely-publicized assault allegation, for which charges were never issued.



Former Green Bay Packer Mark Chmura hugs one of his attorneys, Jonathan Smith, after being acquitted of sexual assault in this Feb. 3, 2001 file photo. Chmura was charged with sexually assaulting his children's former babysitter at a post-prom party. Smith teamed up with Gerald and Bridget Boyle to help represent Chmura.

AP Photo/Jack Orton, Pool



Wesley Snipes, left, walks with his attorney Robert Bernhoff, right, as they go to the federal courthouse in Ocala, Fla. on Jan. 31, 2008 to answer a question requested by the deliberating jury in his tax fraud trial. Through his conviction...

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Strategic associations

Smart associations were the cause of these two Wisconsin attorneys eventually coming to represent celebrities.

In Bernhoft's case, life changed rapidly when he completed his J.D. and hung his own shingle in 2000, because he had a handful of clients awaiting his admission to the bar, as well as mentors ready to offer him a co-counsel spot on lucrative cases. He'd made affiliations in third-party politics while he was still a student, mostly within the Constitution and Libertarian parties.

These connections led to his first high-profile case, the 2003 defense of Vernie Kuglin in Memphis, Tenn. Kuglin was a former FedEx pilot and vocal Libertarian who readily admitted neither filing a tax return, nor paying federal income taxes for six years, but a jury nonetheless found she hadn't formed criminal intent to commit felony tax evasion. Then his first celebrity client retained him in 2004. He successfully represented Ralph Nader before the Wisconsin Supreme Court in his quest to get on the presidential ballot.

As for Smith, he'd accepted an associate position working for Milwaukee attorney Gerald P. Boyle, of the Boyle Law Group SC, right after his 1995 Marquette University Law School graduation. Boyle was already considered one of the state's foremost criminal defense attorneys, before he gained national prominence for representing serial killer Jeffrey Dahmer. Given Boyle's stature in the legal profession, it wasn't entirely unexpected that at some point in the coming years, Smith would be involved in a matter involving a local or even national figure.

Dealing with the media

Smith, now with **Kohn & Smith LLP** in Milwaukee, says he's learned to expect reporters' calls at his home, and he isn't particularly bothered by that. Sometimes they are merely asking what's going to happen at the morning court appearance, or if any other noteworthy event in a case is scheduled.

Smith has also learned to "set the parameters" early on in a case involving a celebrity, by telling reporters which subjects he'll address, and which are off limits. He also tends to clarify whether his client will take questions, or whether all inquiries are to be directed to him — usually it's the latter. And, if he does not know his client's position on a matter, he might tell a reporter, "I don't know, I'll ask him about that, I cannot guarantee he'll want to speak about that, but I'll ask and get back to you."

Sometimes his requests are honored; sometimes they are not. For example, in Chmura's case, off-camera, he made it clear that he wasn't going to discuss whatever his client might have told him about what happened in the hours leading up to Chmura's arrest. Sure enough, once the cameras were rolling, a reporter asked him, "Did your client have sex with that girl in the hot tub?"

The media is just doing their jobs, as is he — so Smith doesn't get ruffled by such incidents. But he does make mental notes of the reporters and news outlets who act responsibly and who report the news accurately. It's a two-way street, and there are times when the client and attorney are going to want to sit down with the media. On those occasions, he'll reward the deserving.

For his part, Bernhoft says he was hired just 20 days before Snipes' tax trial was set to begin. Realizing the magnitude of the public's interest in the case, one of his first tasks was to hire a media coordinator. Often, the celebrity client has a close following of trusted individuals, and sometimes that brings "entourage issues," he says. They might be good people who do their jobs well, but they may also have conflicting agendas. The media coordinator can step in to serve as the central contact point between the media and the defense team, and can also provide daily updates summarizing the various media reports, and what, if anything needs to be clarified for the press.

Privacy is a heightened concern for the celebrity client, adds Bernhoft. His Los Angeles office is purposely inconspicuous, so it's easy for clients to come and go discreetly. Moreover, when he and his team go to an out-of-state locale to try a case, they rent "trial homes," rather than hotel rooms or other commercial space, for additional privacy.

A fair trial

The public almost always has preconceived notions about the celebrity client, and therefore finding unbiased fact finders to sit as jurors can be a sizeable challenge.

Because many of his trials have involved criminal tax, Bernhoft says he relies heavily upon the use of focus groups to survey juror attitudes. It can be very hard to find fair jurors in criminal tax cases, because, "If there's one thing that is drilled into Americans, it's the obligation to file returns and pay their taxes, and people resent the fact that other people don't," says Bernhoft.

tax-trava trial. Through his practice, Bernhoft's has had the opportunity to represent high-profile clients, such as Snipes and former presidential candidate and consumer advocate Ralph Nader.

AP Photo/Phil Sandlin

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Moreover, he’s not necessarily looking for blank-slate jurors, but rather, smart jurors, who are capable of analytical thought and who may have considered the various news reports with a critical eye, in addition to diversity in gender, race and ethnicity.

It would’ve been close to impossible to find a juror who had no opinion of Chmura, either positive or negative, given how deeply ingrained Packers lore is in Wisconsin, says Smith. Chmura was a part of a Super Bowl-winning team, and popularly known as one of the “Three Amigos.”

But his reputation took a major hit due to the salacious nature of the accusations. Even those who were favorably inclined questioned whether Chmura had used wise judgment just by being present at a party involving minors.

Smith estimates they started with a pool of over 200 individuals for potential jurors in Chmura’s case. They used a lengthy written questionnaire to help narrow the field. In addition, the venire came from a southern county where the TV news originates from an Illinois market, rather than Wisconsin, so the sports coverage typically focuses on the Bears rather than the Packers. It wasn’t a jury that had never heard of Chmura, but was one that he was convinced could be fair and clearly his instincts were correct.

Once the trial was underway, and once the media and the public saw the evidence against Chmura, as well as the demeanor of the accuser and other witnesses, the tide turned and the press became friendlier toward Chmura once again.

Even with the presumption of innocence, and even when acquittals are attained, there are peripheral concerns for the celebrity client that the average client doesn’t face — whether being unfortunate enough to have a brush with the criminal justice system can put an end to the client’s current career, other business interests or future endorsements.

A spokesperson for the city

An unanticipated bonus of representing celebrities has been serving as a “cheerleader” for his hometown of Milwaukee, says Bernhoft. In Snipes’ case, for example, he says the actor remarked about how pleasantly surprised he was at the quality of life, fine dining and cultural opportunities the Brew City has to offer. Snipes is one of many who he has helped change their misperceptions about the city.

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