

Lifetime Achievement: 'I am Very Fortunate,' Scott Silverman Reflects on Key Career Moments

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Scott J. Silverman of Judicial Arbitration and Mediation Services in Miami.

Objectively, what key moments or accomplishments have defined your career?

I am very fortunate. At one time or another, everyone has negotiated forks in the proverbial road of life—making tough choices. These choices come up fast and frequently. Do I veer to the right or left? Some decisions are seemingly made on minor untraveled roads while others are made on busy thoroughfares leading to life-altering events. I am the sum of those countless decisions.

There have been several stages of my legal career, each of which defined my professional growth in some fashion. My first paying legal job was as a law clerk in the legal department of Getty Refining and Marketing Co. in Tulsa, Oklahoma. There I was exposed to many legal aspects of the oil and gas business and saw, firsthand, the inner workings of an in-house international legal department. It was a wonderful experience.

After taking and passing the Oklahoma Bar exam, my first job was as an assistant attorney general for Oklahoma. While there, I learned to author legal opinions, write and submit state and federal trial court and appellate briefs, both civil and criminal. My experience was broad, satisfying, and intellectually rewarding.

After Oklahoma's attorney general lost his election, I returned to Miami, where my family resided.

While waiting to take the Florida bar, I got a job clerking for Circuit Judge Fredricka G. Smith of the Eleventh Judicial Circuit in Miami. In those days, I was paid as a bailiff but performed the role of a court officer and a law clerk. I've often said it was the best worst-paying job I've ever held. Judge Smith was a judge's judge. She was smart and patient but had no time for nonsense or fools. I remember she constantly put notes on yellow stickies and then put the stickies on files and motions. I did the same while serving on the bench. Without reservation or hesitation, had I not worked with Judge Smith, I would never have been a judge. Daily, I saw great lawyers, not-so-great lawyers, and a superb judge. At some point, I became Judge Smith's colleague on the bench, but I could never call her by her first name. She was always "Judge Smith" to me. She was a fabulous mentor who not only set the gold standard for me but for her judicial colleagues.

After passing the Florida bar exam in 1983, for the next seven years, I worked for two insurance defense firms over a two-year period, and then



Courtesy photo

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I opened my own plaintiff's personal injury law practice for five years thereafter.

If I were to rank a singular accomplishment that defined my legal career, it would be my election to the Dade County Court bench on Sept. 4, 1990. For me, this was a monumental event. My first election occurred over 30 years ago, but it began my judicial career, which afforded me the opportunity to directly and significantly serve the people in my community. My first mentor on the county bench was Judge Roberto Pineiro—remarkably bright, efficient and respected—he passed away much too soon, and had so much to offer.

Eight years later, after serving two terms, I ran for and was elected to an open circuit court seat that Judge Stanley Goldstein (a founder and first judge of the Drug Court) had vacated due to his retirement. I was invested as a circuit court judge on Feb. 5, 1999, one day after marrying my wonderful wife, Adria. For the next 14 years, I served as the circuit court judge in Florida's Eleventh Judicial Circuit. I served in the civil, criminal and family divisions of the court. I also had the opportunity to serve on Florida's First and Third District Courts of Appeal as an associate judge.

Ascending to the bench was a dream come true. There wasn't a day that went by when I wasn't "wowed" at my good fortune. With only 124 state court judges in Miami-Dade County, I never lost sight that I was an anomaly in the legal community. I never thought I was special or better than anyone else because I am not, but I was going to make the best of my time of service and give back what I could. I was driven to use my position to improve the law, the legal system, the administration of justice, and to dispense justice in the fairest way possible.

My judicial duties were always my priority. However, I took advantage of and created opportunities beyond making rulings in court while wearing my black (sometimes blue) polyester robe. I served on the Florida Supreme Court's Judicial Ethics Advisory Committee (twice as the chair) for nine years; as the chair of the Florida Bar's Rules of Judicial Administration; as a member of the Florida Supreme Court's Technology Commission; and the Eleventh Judicial Circuit's court historian.

As an active judicial educator, I instructed judges at the County and Circuit Judges' Conferences, Florida's Advanced College of Judicial Studies; the American Judicature Society; and the American Bar's Central and Eastern European Law Initiative in Budapest, Hungary.

I retired from the judiciary on May 1, 2012, to open the JAMS office in Miami. Leaving one of the best jobs in the world to work with an international ADR company that had no track record in Miami was nerve-racking. However, I made the move, and it proved to be very satisfying in both quality of work and in helping people. JAMS is an A-1 company that is focused on providing the best in ADR.

For over 10 years, I've mediated and arbitrated cases with JAMS with parties from all corners of the globe. My colleagues at JAMS are some of the finest neutrals in the world. To this day, there is no better feeling than assisting people in their efforts to resolve their disputes away from the court system; a system that often lacks efficiency, finality and agility.

During my ADR career, I've received acknowledgments and awards from various organizations. I've helped settle cases ranging from walk-aways to amounts in excess of \$50 million. The amounts vary greatly, and, of course, are dependent on the nature of the dispute, the parties, and their motivations.

I will end this answer where I began. I am very fortunate.

Subjectively, what are your proudest or most personally satisfying achievements?

Professionally, my proudest and personally satisfying achievements, aside of my work on the bench, involve my work as our court's historian, my chairmanship on the Judicial Ethics Advisory Committee, and my service as the chair of the Florida Bar's Rules of Judicial Administration.

Court historian:

1. Along with Robert Fiore and Joseph Serota, we spearheaded the restoration of courtroom 6-1 of the Dade County Courthouse to its original 1928 condition. The courtroom, once dank and dingy from years of neglect, is now a showcase for all those who visit the courthouse. It is a working courtroom, but notably it hosts judicial

investitures and retirements, chief judge elections, and other significant events in the judiciary. It's been featured in numerous news stories.

2. In 2011, along with many others, I helped to lead the 100-year anniversary and celebration of the Eleventh Judicial Circuit. The yearlong program included seminars on the court's history, an article on the birth of the Eleventh Judicial Circuit (which I authored, and which appeared in HistoryMiami's publication, Tequesta); a published history of the circuit authored by Dr. Paul George; and a gala.

3. In 2003, I created a 43-minute documentary about the history of the Eleventh Judicial Circuit that was played to each jury pool attendee in the civil and criminal courthouses.

Supreme Court Judicial Ethics Advisory Committee:

1. As chair of the committee, I changed the style of all forthcoming committee opinions so that they were consistent in format, which fostered the ability of judges and others to research those opinions.

2. Judge Charles Kahn and I created the judicial ethics forums for judicial candidates that every Florida judicial candidate must attend after qualifying to run for judicial office. The forums instruct judicial candidates about Canon 7 of the Code of Judicial Conduct and their respective obligations under the code. We were also instrumental in amending the law, through the Legislature, that required judicial candidates to acknowledge their reading and understanding of the Code of Judicial Conduct on qualifying. These actions have undoubtedly fostered ethical campaigning by judicial candidates throughout Florida, which is something that has and will continue to directly and appreciably benefit the public.

Rules of Judicial Administration:

1. As chair of the Florida Bar's Committee on the Rules of Judicial Administration, I proposed that the media be allowed to have no less than two cameras in the courtroom to permit the public to see different views of ongoing judicial procedures. Prior to my proposal, the media was limited to one video camera. This change further opened up Florida's courtrooms to the public.

How are the business and profession of law changing, and are Florida lawyers well positioned for the future?

Roughly three years of the pandemic have forever changed the way in which lawyers conduct business in Florida. Zoom led the way with this change. Prior to the pandemic, had a lawyer suggested doing a mediation video graphically online, that suggestion would have been met with a rapid and stern, "No. We do our mediations in person." With lockdowns and with lawyers and clients fearful of being exposed to COVID, Zoom quickly became our profession's No. 1 option to continue business with a semblance of normalcy.

For most, Zoom was their only option. Lawyers could not wait for the pandemic to end because no one knew when it would end. In the meantime, clients needed to be serviced, disputes needed to be resolved, and courts had to conduct hearings. Legal life had to go on, and the pandemic effectively thrust our profession some 25 years into the future and at an immense speed. Necessity, not choice, prompted this remarkable change in the way lawyers now perform everyday business.

Zoom (or its successor or competitor) is here to stay. It is one of the few silver linings from an otherwise dreadful pandemic. A side benefit to Zoom is that lawyers are more productive. They don't burn three hours of time traveling to and from a courthouse for a five-minute hearing. Clients save money, lawyers make better use of their time, and there is less traffic on the streets—lots of wins for everyone.

Email is both a blessing and a curse. We wait with great anticipation or trepidation for the next one to show up in our inbox. Messages are sent and received almost instantaneously. Unfortunately, everyone wants and expects a response to it once it is sent. Email usurps countless hours in a lawyer's day. It affects family life. Phones are pulled out during dinner to check for the latest message. People prefer to email or text rather than talk. The art of quiet and respectful conversation is its prey. This does not bode well for our profession.

One-on-one oral communications are more effective than a cold emotionless email, even one with a happy face emoticon. Lawyers need to talk to one another on their phones. They need to have lunch with

each other and talk. Nothing, even Zoom, is an adequate substitute for personal oral communication. Maintaining personal relationships with one's colleagues in the bar will likely be an ongoing challenge.

It will take strong-willed attorneys to break free of the chains, pun intended, of email, to prioritize oral discussions with their colleagues and counterparts. I fear that without fostering these basic relationships, there will be more acrimony between counsel due to misunderstandings that are bound to happen through the cold written word.

What advice would you give to someone contemplating a career in law, or someone whose career in law has not been satisfying so far?

Effective and respectful communication with others is the key to being an accomplished lawyer. So many undergraduates prepare for law school by majoring in political science, business, and other worthy disciplines. In my experience, the most effective lawyers are those who speak and write well, show empathy for others, and are willing to adapt to their surroundings. Listening should not be discounted. Sometimes, it is more important and enlightening to listen than it is to speak. Those who excelled in writing, speech, and even acting (public speaking and thinking on one's feet) have major advantages over those who are deficient in those areas.

Most students enter law school with "academic smarts" and achievements that exceed the norm. However, these qualifications alone do not necessarily translate into or even serve as predictors of professional success. Success does not come about as a fluke or happenstance; it is earned through hard work and dedication to clients and the profession. Ask any trial lawyer.

Lawyers need to adapt to their surroundings and audiences. Judges and juries will not moderate their personalities to meet the lawyer's style or method of presentation. If a lawyer is before a judge who likes PowerPoint presentations and, in the past, has been convinced through them, a good lawyer, even one who is not technically savvy, will move heaven and earth to create a powerful

presentation. This is an example of a lawyer who is able and willing to adapt. Some lawyers are naturally combative—we've all seen them—but if the judge or members of the jury simply don't like fighting or demonstrations of disrespect, how successful will that lawyer be going forward without modifying his/her behavior? It will be a challenge.

For lawyers who are dissatisfied with their careers in law, there are options. Some lawyers get caught up in the drudgery of living their lives in six-minute increments. There are difficult clients, overbearing partners, unreasonable judicial deadlines, working evenings and weekends, not enough hours in the day to complete one's assignments, and little leftover time to carry on some semblance of a normal life. Burnout can lead to dissatisfaction in any career, and the legal field is no exception.

For a lawyer who has reached a state of professional unhappiness that proves so severe as to cause a lawyer to question their current career choice, my advice is "Go save a river." That's right. Find a public wrong that needs to be fixed and use your smarts and license to improve the world, albeit a bit at a time. Take up a cause celebre and use your license for the greater public good. There is no better feeling than doing something good that changes your community for the better.

Another option is to donate legal time to a non-profit group that aligns with the lawyer's interests. A law license can open doors that will afford a lawyer the opportunity to do positive things for the greater good. There is immense satisfaction to be gained by improving current conditions or righting a wrong.

Finally, if a lawyer is dissatisfied with the choice of law as a profession, I would recommend that the lawyer talk to someone in the profession that he or she trusts and can confide in. If the issue is deeper than just professional dissatisfaction, I would encourage the lawyer to speak to a mental health professional to see if there are other issues affecting the lawyer that should be addressed. Asking for help is a strength. No one of us is so tough that we can't benefit from a professional to help us see more clearly.