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***Why are all these doctors peeling off their whites and picking up briefs?***

By Samuel Greengard

When Santiago and Zoila Cruz brought their newborn son, José, home from the hospital in December 1980, they knew he would never lead a normal life. Doctors said the boy was severely retarded. And, indeed, there was plenty of evidence to support that contention. When he was three years old, José still couldn't walk, talk or dress himself. And if someone didn't put food directly into his mouth, José couldn't eat, either. Yet when the Cruzes began to ask doctors why and how their son received this brain damage at birth, they didn't get any answers.

Frustrated and upset, the Cruzes decided to seek legal help. They turned to Bruce Fagel, a 38-year-old Beverly Hills attorney who specializes in plaintiff medical-malpractice cases. Fagel took one look at the evidence and knew he had a powerful case against the hospital. Not only had the child's birthdate been miscalculated and repeatedly changed, but the doctor in charge of the birth had failed to take corrective steps when a fetal monitor had shown abnormalities during a cesarean operation. And, as if all this weren't enough, the hospital had even turned Mrs. Cruz away—the day before the birth—after she had complained of vaginal bleeding.

Fagel told the Cruzes that there were grounds for a medical-malpractice lawsuit. And two years later the Cruzes walked away with a \$10-million out-of-court settlement. But this was no ordinary malpractice case.

You see, it wasn't Fagel's expertise as an attorney that allowed him to build a winning case—though that certainly helped.

It was his knowledge as a medical doctor. After 10 years of working in the emergency rooms of several Los Angeles-area hospitals, Fagel knows what should and shouldn't happen in the delivery room.

Bruce Fagel is not the only one to lay down his stethoscope and pick up a lawyer's briefcase. A growing number of doctors are peeling off their white coats and taking the law into their own hands, so to speak. They are going back to school to become attorneys.

As many as 1,000 Americans now hold degrees in *both* law and medicine; about 30 of them live in Los Angeles. It's hardly a new phenomenon. Men who have successfully sought the two degrees have been around for at least the last 50 years. But what was once a trickle is now turning into a steady stream of newcomers. And unlike their predecessors—men who used their medical training only to help defend the medical establishment—this new group, more often than not, isn't afraid to make waves.

These doctors-turned-lawyers have been called everything from ambitious trailblazers to mercenaries. And they are often disdained equally by members of both the medical and legal fields. Doctors think they've sold out and are to be feared, and that they're looking only to cut doctors' throats; attorneys believe a doctor can't possibly be any good at law. Thus, these doctors-turned-lawyers are people who often live in a netherworld between the two professions. As one of them puts it, "A lot of our colleagues don't know where we're coming from; they simply don't trust us."

Fagel's medical background has proved to be a tremendous asset in the courtroom—something defendant physicians, and some attorneys, don't particularly like. Besides being able to better analyze the merits of cases, understand medical reports and introduce himself to other physicians as Dr. Fagel rather than attorney Fagel (a ploy that helps put associates he doesn't know at ease), there's also one major advantage: When Fagel has an expert doctor witness on the stand, he can understand better than most other attorneys the medical testimony. By knowing when the witness is trying to confuse the issue, "it creates an impression for the jury that I know more than the doctor," says Fagel.

And that, say the experts, is what it takes to be successful in the vicious arena of medical malpractice. Cases are usually won or lost on the basis of how well the jury understands expert testimony and what the alleged mistakes of a doctor were. (Interestingly, Fagel—as well as other doctors-turned-lawyers—chooses not to tell juries about his medical background. Doing so, he says, could cause a mistrial.)

Yet even with these clear-cut advantages, a malpractice case isn't easy pickin's. Experts estimate that only 10 to 20 percent of all malpractice suits ever go to trial. Of these, only about 20 percent are decided in favor of the plaintiff. The reason plaintiffs win so few of these lawsuits is simple, says Fagel: "It's much easier for the defense to get expert witnesses and better experts than the plaintiff can. If you approach 10 doctors and ask them which way they would rather testify in court, nine of them would say they'd rather testify for other doctors because someday they may want to have somebody testify for them."

Despite having the cards stacked against him, though, Fagel boasts a 1983 malpractice-suit track record that was pretty good when it came to prosecuting his fellow physicians. He won three of five cases; a sixth was settled before the jury could render a verdict. "He's got the killer instinct; he knows how to go for the jugular," says one defense attorney who has faced Fagel in court.

Do all doctor-lawyers strike fear in the hearts of their courtroom adversaries? Well, yes and no, depending on the individual and the circumstances involved. "Like any other profession, there are good ones and there are bad ones," confides one superior-court judge who has seen a number of them come through his courtroom. "Frankly, I haven't been impressed with that many."

Says Joe McNeil, of Bonne, Jones, Bridges, Mueller and O'Keefe (the city's largest malpractice-defense law firm), "Some of them have a tendency to go off on esoteric tangents that don't have a lot to do with the case; they lose everybody because they can't communicate in plain English." Adds defense attorney George McDonald, "The general consensus is that just because a lawyer has a medical degree doesn't mean he's at an advantage. One's skill as a lawyer is far more important in the courtroom. What's more, too many of them don't have a killer instinct."

Oh, yes, a killer instinct. Hardly what you'd expect from someone who has graduated from medical school. After all, the general idea is for a doctor to help make people feel better. But for an attorney, the goal is to squash the opposition mercilessly—to win at any cost. Adjusting to this new value system isn't easy for someone making the transition from medicine to law. Perhaps that's why most doctor-lawyers continue to work predominantly in the medical field, even after they earn their law degree. And why less than 10 percent ever make the jump to trial law.

These doctors-turned-lawyers certainly don't make the switch for money. "It didn't enter into *my* decision to go back to school to become an attorney," says a smiling 57-year-old Don

Harper Mills, the second man in Los Angeles to earn degrees in law and medicine and one of the nation's most respected medicolegal authorities. "If I had to do it all over again, I might not go to law school."

What Mills—who works as a consultant, evaluating evidence for defense cases—means is that attorneys, overall, don't make anywhere near the same money that physicians do: about \$20,000 to \$40,000 less per year on the average. What's more, more doctor-lawyers earn no more than their colleagues who hold only one degree.

A notable exception is the successful trial attorney. For example, Bruce Fagel's legal fees for the Cruz case *alone* amounted to a hefty \$250,000—about three years' wages for the average general practitioner. Other successful trial attorneys can earn even more. Fagel defends his income, however. "I work on a contingency basis; nothing is guaranteed," he says. "And I don't get paid on a regular basis like a doctor does. I mean, how many \$10-million cases are there?"

Yet if these highly motivated men have one major complaint, it's not the money. It's that the two degrees haven't necessarily given them the power and prestige they thought they would obtain. Fagel, for example, found that leaving medicine to practice law was more difficult emotionally than intellectually. "I was amazed by the attitudes of other physicians when they found out I was in law school," he recalls. "Without knowing anything more about it, they were immediately suspicious and turned off. It began getting me more and more concerned."

Another doctor-turned-lawyer, **[text omitted from original]** has also experienced suspicion from other doctors. What makes it even tougher for him is that he enjoys his job helping outpatients in the surgery department of a large San Fernando Valley hospital as much as he likes a good confrontation in the courtroom. "I like both professions, and I don't plan to stop doing either," he says **[text omitted from original]** a tall, bearded man who speaks in a deliberate manner, spends about two-thirds of his time with his practice. He handles both plaintiff- and defendant-malpractice cases.

It is the prospect of a doctor suing another doctor that has made some of his colleagues wary of him. "I don't think I've lost any respect, but many of the doctors don't know. Obviously, I don't go around advertising the fact."

How does he decide which cases to take? "If a doctor contacts me with a defense case I will most likely handle it. I'm not going to turn him down even if it is a weak case." On the other hand, **[text omitted from original]** says he takes on plaintiff cases only if "I feel the victim has been wronged, if they have a valid claim against a doctor or a hospital."

**[text omitted from original]** doesn't find that having to defend some physicians and sue others, all while still practicing medicine, is a conflict of interest. "I occasionally have to turn a case down, especially if it involves the hospital I work for or someone I know. But a lawyer is *supposed* to be able to argue either side of a case; you just have to believe the rightness of what you are doing."

**[text omitted from original]** earned his medical degree from Northwestern University in 1964. He received his law degree from USC in 1972—after attending the school full-time for three years. "I never lost interest in medicine," he says. "I went to law school simply because it interested me."

In fact, that, say most doctor-lawyers, is the very reason they, too, went back to school. For instance, Beverly Hills attorney **[text omitted from original]** "thought it would be interesting, and I was right. It turned out to be the most stimulating few years of my life."

**[text omitted from original]** a former emergency-room physician and producer and director of programs at KCET, is probably best known as the attorney who last year represented quadriplegic Elizabeth Bouvia in her well-publicized, often bizarre attempt to starve herself to death while in Riverside County General Hospital.

For **[text omitted from original]** moving from medicine to law seemed like a natural transition. “My contact with lawyers had become frequent and my interest in shaping public policy had sharpened. So I decided to go to law school.” He enrolled at UCLA, receiving his degree in 1973.

Like most doctors who pursue a law degree, **[text omitted from original]** found the curriculum much less difficult than he had at first imagined. “Attending law school after medical school is really quite easy,” he boasts. “And it is certainly less difficult than any three-year residency for specializing in medicine.”

Statistics tend to support **[text omitted from original]** contention, and other doctors echo his sentiments. A study conducted by Harvard Law School found that 75 percent of those with dual degrees earned the medical degree first. The reason? Opportunities for using a law degree in the medical field are much greater than those for using a medical degree in law. Moreover, one can obtain a law degree by attending school part-time and at night; a medical degree almost always requires full-time study.

Regardless of the sacrifices involved for these doctors-turned-lawyers, almost all report that they have gained a feeling of fulfillment from their dual careers.

**[text omitted from original]** a Torrance-based chest and heart surgeon, who earned his medical degree from the University of Pittsburgh in 1949 and a law degree from the West Los Angeles School of Law in 1969, enjoys the challenge of putting his law degree to work. “In both fields you’re trying to help the individual,” he says. “You’re trying to find the most effective and least costly solution to a problem.”

Says **[text omitted from original]** “Some of the time, I am able to help people, and some of the time, I’m involved in something that may make a difference in terms of public policy or perception. If I can be useful to society, I will consider my life well lived. So far, it’s been very rewarding.”

Adds Bruce Fagel, “In medicine I was often battling the unknown forces of nature or circumstances I could not do anything about. In law, I can’t bring anyone back to life, but I can get compensation for a person or their heirs. My talents and abilities are much more useful in the legal aspects of medical negligence than they ever could be in medicine.”

Of course, one has to wonder whether Fagel and his colleagues will feel the same way a few years down the road, when—for some of them at least—the novelty of the new career is bound to wear off. Whether they can distinguish themselves as important policy makers, or whether they will remain just people who have earned degrees in two separate professional fields, remains to be seen.

As one superior-court judge puts it, “They are intelligent and motivated people. But it’s one thing to become a doctor-lawyer and another to be an effective and respected attorney. It’s really not that easy.”