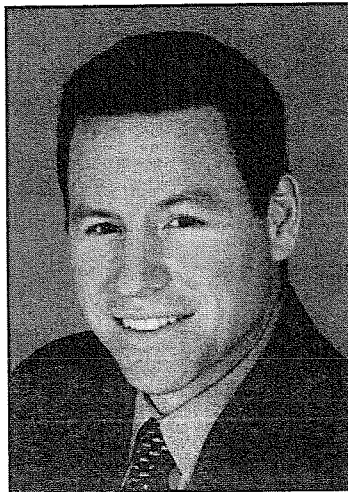


## Burning the Ships

By Spencer H. Silverglate



I was feeling unsettled as I sat down at the kitchen table of the modest house in rural Florida. Jimmy Mayne, whose wife had just died in a horrific car wreck, treated me with almost too much kindness, as though I had just dropped in for a chat instead of a deposition.

"More coffee, Mr. Silverglate?"

"No thanks, I'm good, Mr. Mayne. Now you say you have five children?"

"Yep, that's right. And Linda home-schooled all of 'em, God love her."

Looking up from my outline, I noticed family photos and children's artwork hanging on every surface around the house. A crayon rendering with the caption, "I love you mommy," seemed to reach out and punch me in the stomach. The magnitude of the family's loss was palpable. But as a defense lawyer, I knew that the settlement demand, inflated by an unwarranted desire to seek punitive damages, was three times what the case was worth. I returned to my outline and continued the deposition.

My experience that day, of course, is not unique. It's played out by defense lawyers around the state every day. Still, these experiences remind us that what we do is hard, and the rewards often don't seem to measure up. I suppose that's why we're not surprised when we see one of our own become a plaintiff's lawyer or leave the profession altogether. Sometimes we wonder if we're only a step behind them ourselves.

I didn't feel too chipper the evening of the Mayne deposition; something about the case seemed to hit home. Unable to sleep, I found the History Channel. There was a documentary about the Spanish Conquistador Hernando Cortez. In 1519, Cortez set out to conquer Mexico with 617 men aboard 10 ships. Shortly after arriving in Mexico, he did something shocking, if not suicidal—he burned his own ships. It turns out Cortez knew exactly what he was doing. He wanted to remove all thought of retreat from the minds of his

soldiers. They would succeed in their purpose, or they would die trying. Turning back no longer was an option.

I lay awake that night wondering what it would be like if we could apply that level of commitment to our own lives. A commitment where turning back is not an option. That sparked an eye-opening question: Is my career as a defense lawyer—the thing I'd been doing most of my adult life—worth that kind of commitment?

I didn't fully answer that question for myself until the Mayne case ended. Like most cases, it settled; but only after we defeated the plaintiff's motion for punitive damages and whittled the expansive claim down to what it should have been from the start. And when all was said and done, Mr. Mayne shook my hand and thanked me for respecting his loss . . . and for being fair. You see, ultimately, the result was fair. It was fair because there was not one but two sides, and both did their jobs.

I know it's hard being a defense lawyer and, yes, the rewards don't always match the effort. But our purpose is absolutely vital. To uncover truth. To reveal exaggeration. To expose greed when necessary. To defend the unpopular. To manage sympathy. To defuse hate. To arrive at a just and fair result. And above all, to do our jobs without losing our humanity in the process. To me, these ideals are worth fighting for.

At some point in my career, I guess I unconsciously became a defense lawyer. I mostly let time and events make the decision for me. But lately, I've been thinking that it really ought to be a conscious decision. So I hereby commit to burn the ships of doubt in my mind. I am a defense lawyer. I will explore the new lands that lie ahead. I will not retreat. I will not surrender.

Who's with me?