

1-1-2000

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**JAMES E. LEHAN:
FERTILE MIND + GENEROUS HEART + SUBTLE WIT =
A HARVEST OF LIFE (1929-1993)**

Born in Evanston, Illinois on June 10, 1929, the future judge was raised in Park Ridge, just a “chip shot” west of Chicago. His growing up years in a Mayberry-like setting must have been idyllic. Enjoying sports like baseball, working odd jobs in his neighborhood, were the stuff of life to him. His interest in reading books and writing grew, as he did his body, during his youthful years. From a record book with the winsome title *Grandfather Remembers* compiled for his first grandchild, Kathleen, we know that his superhero was General Douglas MacArthur; that the first money he earned bought flowers for his mother, and that his first car was a 1950 black Ford sedan purchased in 1953 with a \$500 down payment, a wedding present from his grandmother.



When the time came for college, he was faced with several choices. A studious young man burning with ambition and with an eye to tradition, he selected the fabled University of Virginia at Charlottesville. In 1951 he was awarded a BA degree in economics. By that time he had his mind and heart set on a career in law. Meanwhile he was commissioned an Ensign in the United States Navy, thus becoming obligated to yield a three year slice of his life in return. Serving as a deck officer in the North Atlantic and North Sea, an exhilarating experience which sparked a lifetime of interest in the sea and seamanship, kept him fully occupied until he was discharged. Then he was able to obtain benefits under the GI bill and enter law college at UVA.

The locale of probably the single most important event in Lehan's life was the Sigma Chi fraternity house (he was chapter president) on the grounds of the University. It was there that he encountered Miss Marie Gary Pearce of Mount Pleasant, South Carolina, meeting her during the Midwinter Dance Frolic, a major social function in Charlottesville. Gary, in Lehan's totally biased opinion, was “the most beautiful woman I had ever seen.” Not to be outdone, she later described her future mate as “tall, handsome and sophisticated.” After a two year courtship, the happy couple were married in Mount Pleasant on December 20, 1952. He cut a dashing figure in his naval uniform but he wore a black tuxedo for the ceremony. The Lehans remained an item until Jim's death more than

40 years later. They made a handsome pair: He, a ramrod straight, 6-foot-3, lean young man whose appearance and bearing somehow reminding this writer of a young Gregory Peck; She, some years younger, an auburn haired beauty, a genuine Southern belle... (See attached page)

After satisfying his obligation to the Navy, he entered the Law School as planned, where, as might have been expected, he excelled as a student and leader. He was Notes Editor of the Virginia Law Review and member of the Raven Society. Graduating in 1957 with his J.D. degree, he and his bride set out for Florida seeking a connection with a solid, established law firm. He found one at his first stop in Tampa – Shackleford, Farrison, Stallings, Glos and Evans. George (Pat) Shannon, a senior partner who was subsequently appointed a judge of the Second District Court of Appeals, serving prior to the Lehan Appointment, was a prominent alumnus of UVA, and that connection was useful in facilitating Jim's association with the firm.

One of Jim's friends at Shackleford, Farrison was Peter J. T. Taylor, who would later become a Tampa Circuit Judge. Taylor was a diligent, scholarly and conscientious jurist who has fond memories of get-togethers and social engagements with Jim Lehan, Bill Keen (also deceased) and others in the firm. Jim and Peter remained good friends notwithstanding a 1984 case, *State v. Larry Wayne Campbell*, when Judge Taylor was reversed (for the first time) by the Second District Court of Appeals. Author of the opinion? Hon. James E. Lehan. Reference by the latter in the initial paragraph of the opinion to the "able trial judge" was a clear signal that a reversal was coming. Trial judges become familiar with that panegyric.

Jim Lehan had an early interest in making lawyers aware of the importance of professionalism with its high standards of ethical conduct. For quite some time in the 60s, he gave generously of his time to instruct an ethics class at Gainesville. Peter Taylor not infrequently accompanied him for those sessions.

During his years with Shackleford, Farrison (1957-62), he worked with several of the senior members in the area of insurance defense, a dominant segment of the firm's practice. One extreme example took place on then Circuit Judge Charles Scruggs office in the Courthouse. Glos was tardy for an appointment with the judge when he arrived at the office of Judicial Assistant, Jan Bertoch. He sat down, took off his shoes and socks, pulled another presumably fresh pair of socks and out them on. Then he was advised that the judge had already gone to lunch and his matter would have to be rescheduled. At that, Glos got increasingly agitated, scribbled something on several sheets of paper, stapled them together, then tossed them on Mrs. Bertoch's desk. He then took out a 6 inch knife and threatened to slit her throat. The frightening confrontation was reported by Judge Scruggs but nothing came of it.

From 1962 until his appointment to the District Court, Lehan was associated with the smaller but no less prestigious firm, *Allen, Dell, Frank & Trinkle*. His work was for the most part anti-trust and product liability litigation. Ralph C. Dell is the only surviving

partner of that firm and is recognized as one of the premier trial lawyers in the Tampa Bay area. When asked about his association with Lehan over two decades, he said:

“Jim was what I'd call a real student of law. He was never quite satisfied that he had plumbed the depths of the legal issues presented to him. When he was not doing exhaustive legal research during the college season, he was a cheer-leading booster of the team at University of Virginia.”

Lehan's most strenuous and protracted trial (his first appearance before a civil jury, he told his co-counsel, an able and still active trial lawyer in Tampa, Andy O'Friel) was *Schlitz Brewing Company v. Burke Pest Control, and Superior Fertilizer*. He was lead attorney in the 6-7 weeks trial, the longest civil jury case in circuit history at that time. The late Morton Hanlon, a highly respected and popular judge presided. Schlitz sought damages on multiple theories for the contamination of empty beer cans stored waiting to be filled with the amber, bubbly malt beverage. Jim's client carried the day, and the jury came in with a verdict for plaintiff in the approximate amount of \$1.5 million Dollars. On appeal the Second District reversed and remanded, finding that as there was an unintentional invasion of the cans by a deleterious substance and thus no violation of the relevant Food & Drug relations, the trial court erred in giving what amounted to a peremptory instruction to the jury on the issue of duty. The opinion setting aside the substantial verdict came down after Lehan became a member of the Court but, of course, without his participation. It may be found in 438 So.2d 95 (2 Dist. 1983). There was no retrial inasmuch as a settlement came about while Schlitz' operation in Tampa was in process of being acquired by Stroh's Brewing Co.

One of Lehan's adversaries on the Schlitz case was Bob Banker, senior partner in *Fowler, White*, another old Tampa legal house. Banker is recognized as a capable, tenacious and aggressive trial lawyer. When asked what he thought about Jim Lehan's capabilities, Banker replied:

“You really got to know a lawyer when you take depositions with him all over the country and end up sitting in the same courtroom with him for six weeks. The words that come to my mind when I think of him in that trial are persevering, hard working, dedicated, and resilient. He had to be resilient since Ed Atkins (now deceased) and I represented the two co-defendants. Jim was like a Timex watch. Every time we knocked him down he got up and kept ticking. In the end, he won the case. Above all else, he was a true gentleman throughout the entire discovery process and the trial.”

Lehan's most passionate and enthusiastic off-duty activity was sailing any of a series of boats he owned. According to his friend, Andy O'Friel, the prudence which Jim Lehan demonstrated in his regard for ethics, before and after he became a judge, did not carry over into his judgment about sailing. With regard to his aquatic adventures, O' Friel comments:

“Jim was one of the “J” boys, i.e. Job and Jonah. The number of mishaps that befell Jim while sailing are as numerous as the tribulations of Job (most notably being rescued by a fishing boat from a tropical storm/hurricane which Jim knew was imminent) and as symbolically portentous as that of Jonah (a shark bit through and broke the center board of Jim’s sailboat, occasioning yet another tow by a fishing boat).”

Writing, Lincoln once said, “is the greatest invention in the world, great in the astounding range of analysis and combination of it, great, very great in enabling us to converse with the dead, the absent and the unborn, at all distances of time and space...” Lincoln still converses with us through his writing. Judge Lehan was perhaps the most prolific opinion writer ever to serve on the District Court level in Florida. After his death, the editors and staff of Stetson Law Review dedicated to him Volume XXIII, No. 3 (Summer 1994). Prefacing that special issue is an Introduction by Thomas C. Marks, Jr. Professor of Law at Stetson and at one time associated with the Gibbons law firm in Tampa. In addition to lauding Jim’s record of judicial service, Marks made an in-depth and scholarly analysis of Judge Lehan’s opinion in *Schultz v. Florida-Ohio Realty Ltd.* (553 So.2d 1203). It was later quashed by the Supreme Court in 577 So.2d 573 to Professor Marks dismay. But he said it was a favorite example of elegant style and organization. The dedicatory issue also contained expressions of collegial praise from Judges Richard Frank, Jerry Parker, Chris Altenbernd and John M. Scheb (Ret.).

Golf was another of Jim’s favorite pastimes. Golf is not a game, it is an addiction. Yogi Berra is credited with saying that 90% of the same is half mental. Actually, he was referring to baseball, but could just as easily had golf in mind. Once again from Bob Banker, who, along with Lehan and many other judges and lawyers participated in what was called the Glenn Waddell Open at various courses. Lehan, according to Banker, was the most methodical golfer he’d ever known. One round at Bay Hill near Orlando, he recalls, saw Jim lying totally prone on the green lining up a putt. He missed it.

Native American treasure Will Rogers and Calvin Coolidge, our 30th President, had a first-name friendship. Unlike aristocrats of that era like Henry Cabot Lodge, who scornfully described Coolidge as the “type of man who lives in a two-story house,” Rogers thought Coolidge a man of sound judgment “who knew when to say or do anything and who realized that over half the things just needed leaving alone.” Jim Lehan was possessed of that quality of quiet effectiveness.

In the northwest there is an old axiom of woodsmen – “A tree can best be measured after it has fallen.” Like the premature downing of a tall, stately tree, Jim Lehan fell, as we all must, but his accomplishments will be measured favorably with the best of his kind. From whence will come another like him anytime soon?

Morison Buck

LAST WORD:

We are just here for a spell and then pass on. So get a few laughs, and do the best you can. Live your life so that whenever you lose, you are ahead.

Will Rogers

(1879-1935)

The Lehans had two daughters, Alison Lehan Allman and Kary Lehan Pekkala, and a son, James Frederick Lehan. At the time of Jim's death, they had three grandchildren.