## The Radical and the Republican: Frederick Douglass, Abraham Lincoln, and the Triumph of Antislavery Politics

By James Oakes
W.W. Norton & Co., New York, NY, 2007. 328 pages, $26.95.

REVIEWED BY HENRY COHEN

A key word in the title of this book is "politics." *The Radical and the Republican* is not a traditional history of the abolition of slavery in the United States but is an account of the political maneuverings of Abraham Lincoln and Frederick Douglass in the struggle for abolition. James Oakes, therefore, concentrates on the two men's words, relying primarily on what they said about slavery—both publicly and privately—and also on what they did *not* say.

Lincoln, more than Douglass, was sometimes less than forthright about what he believed, and this was because Lincoln was a politician. As Oakes puts it:

> Frederick Douglass was ... a reformer at heart. His principles led him in a straight line to the proper policies. If revolutionary violence advanced his positions more than political agitation, so be it. ... But Lincoln was a politician. He had his principles, but before they could become policies, they had to be filtered through the laws of the land and the will of the people.

Because he needed to satisfy the will of the people, Lincoln was often disingenuous about his hatred of slavery and his opposition to racial discrimination—he had to be if he hoped to abolish slavery. But Lincoln as a politician was not like today's typical politician, because Lincoln had goals other than advancing his career. Filtering his principles through the will of the people did not mean conforming his principles to the polls; it meant educating the people to see the wisdom of his principles.

Oakes presents the contrast between Douglass the reformer and Lincoln the politician by examining their statements on racism and on slavery. Douglass and Lincoln both believed that racism and slavery were wrong. But, whereas Douglass collapsed the two into a single problem, believing that slavery was the cause of racial discrimination, Lincoln viewed them as separate problems and concerned himself with slavery. To win the fight against slavery, Lincoln was willing to claim a commitment to racial discrimination, but Oakes notes that, when Lincoln did so, he often "resorted to verbal circumlocutions and suspiciously negative constructions." Lincoln said, for example, "I do not believe that blacks and whites should be treated as equals in all matters," and "Judge [Stephen] Douglas thinks that because I do not want a black woman as a slave I must necessarily have her as my wife." (Note Lincoln's use of "*all* matters" and "*necessarily*.") As Oakes perceptively concludes, "Lincoln proclaimed his commitment to racial discrimination not because it mattered to him but because it did not. He was using racism strategically, raising the issue because he wanted to eliminate it." By neutralizing white people's fear of racial equality, Lincoln had a better chance of lessening their opposition to the abolition of slavery.

We see the same pattern in Lincoln's willingness to accept slavery in the border states that had not seceded (while unsuccessfully urging them to agree to compensated emancipation). Oakes writes that "[t]he two hundred thousand border state whites who eventually joined the Union army might well have fought instead for the Confederacy. … Without them the North would probably have lost the Civil War, and the slaves would have lost their only real chance for freedom." Oakes finds that, on the question of the border states, Frederick Douglass was "at his most myopic. He reasoned that because Kentuckians defended slavery, they had no moral claim to the solicitude of the government. He thereby confused the moral worth of the border states' position with the strategic soundness of Lincoln's." Yet Douglass' position may have helped the cause of abolition because, as Oakes writes, "it suited Lincoln's purposes to have radicals like Douglass attacking him. It made the President appear more conservative than he actually was."

But even Frederick Douglass acknowledged that, to end slavery, Lincoln "must have the earnest sympathy and the powerful cooperation of his loyal fellow-countrymen." That sympathy would have been lost, Douglass added, had Lincoln "put the abolition of slavery before the salvation of the Union." After all, many soldiers who fought to save the Union would not have fought to emancipate the slaves.

Because Lincoln was constrained by the Constitution and by public opinion, whereas Douglass was free to speak his mind, Oakes' descriptions of Lincoln's role in the triumph of antislavery politics is generally more intriguing than his descriptions of Douglass' role. Oakes' book, however, prompted me to read the first of Douglass' three autobiographies, *Narrative of the Life of Frederick Douglass: An American Slave*, and I found every page of it gripping. Douglass' book ends with his escape from slavery in 1838, at the age of 20, but Oakes briefly outlines the rest of Douglass' life (he died in 1895), highlighting Douglass' meetings with Lincoln. The two men developed an affection for each other. At one meeting, Douglass complained to Lincoln that, although blacks were allowed to join the Union army after the Emancipation Proclamation, they were paid less than white soldiers were. As Douglass remembered the conversation 20 years later, Lincoln replied that the inequality "seemed a necessary concession to smooth the way to their employment at all as soldiers, but that ultimately they would receive the same." One man was a reformer and the other a politician, but their goals were the same. TFL

*Henry Cohen is the book review editor of* The Federal Lawyer.

## The Lincoln Lawyer

By Michael Connelly

Little, Brown and Co., New York, NY, 2005. 404 pages, $26.95 (cloth), $7.99 (paper).

REVIEWED BY ARTHUR L. RIZER III

*The Lincoln Lawyer* is a marvelous title for this novel, because it not only mocks its morally dubious protagonist by comparing him to honest Abe but also describes the protagonist's law practice, which is run from the back seat of a Lincoln town car with a vanity plate reading "NT GLTY." Michael Haller, or Mickey, as he is called, practices law as he is chauffeured around Los Angeles by an ex-client who is a crack addict and is working off his legal fees by serving as Mickey's driver.

What is remarkable about *The Lincoln Lawyer* is that it causes you to root for this sleazy character. But Mickey's flaws are what make him such an interesting personality. Divorced twice, he perpetually feels guilty about not spending enough time with his daughter. He advertises for clients with a half-page notice in the Los Angeles Yellow Pages and on 36 bus benches in high-crime areas. He also fills holiday nut cans with cash and at Christmastime gives them to bail bondsmen in exchange for client referrals (not exactly in conformity with the Model Rules of Professional Conduct). Mickey proudly defends prostitutes, members of biker gangs, and murderers, but, as a result of his years of practice, he has lost his law school notion that the adversarial system leads to the truth. The law is not about truth, says Mickey, but is about manipulation. He describes himself—as well as judges, juries, and prosecutors—as grease in the legal machine as it churns out its brand of "justice," with guilt or innocence beside the point. This cynical outlook explains why he hates his profession but also why he is so good at it.

Mickey's father was a famous attorney who wrote several books about the nobility of being a defense attorney, but Mickey is far from the lawyer his father was. He was only five when his father died and, apart from having inherited the famous last name and the legal bug, he appears to have little in common with his father. Yet, deep down Mickey is a decent man, who fears representing an innocent client because, if Mickey lost the case, he'd have the client's conviction on his conscience.

The author, Michael Connelly, is a former journalist who covered crime in Florida and Los Angeles. In *The Lincoln Lawyer* he creates a believable world that anybody familiar with Los Angeles will immediately recognize as authentic. Connelly also has a firm grasp of legal proceedings, and it is obvious that his "complete access" to a Los Angeles Superior Court has paid off. Indeed, nowhere in the novel would a lawyer reading it say, "Oh, come on," as lawyers often say when reading legal thrillers. The book's legal realities do not end with proper courtroom procedure and etiquette, however; they also include the impact of real-world cases on Mickey's fictional world. The chilling effect that Robert Blake's acquittal had on aggressive prosecutions is an example.

Mickey lives from payday to payday, continually looking for a "franchise case" that will solve his financial problems. As Connelly has Mickey explain, every defense attorney has two fee schedules: schedule A, which is what an attorney would like to get for services rendered, and schedule B, which is what he is willing to take, because that is all that the client can afford. The franchise client is the one-in-a-million defendant—the "most highly sought beast in the jungle," as Mickey describes him—who wants to go to trial and has the money to pay schedule A rates. Louis Roulet, the 32-year-old son of a millionaire who had started his own real estate company, was a schedule A franchise.

Roulet was arrested for the violent assault, attempted murder, and attempted rape of a 26-year-old prostitute named Regina Campo. When the police arrived at the scene they found Campo badly beaten on the left side of her face. Roulet had been detained in Campo's apartment by her neighbors, and there was blood on his left hand and a bloody knife with his initials in the apartment. What at first seems to be a straightforward case of assault then appears to be a sophisticated scam to wrestle money out of a wealthy aristocrat. However, as Mickey probes deeper into the case, he discovers that his representation of Roulet may itself perpetuate another evil, which this review will not reveal.

Throughout the book, Connelly injects what at first appear to be random characters. The reader expects them to be minor players, whose purpose is simply to add some depth to Mickey's law practice and to show his sketchy legal morals. Yet by the end of the book, each of these seemingly trivial personalities has turned into an important player, adding to the complexity of the world that Connelly has built for Mickey. A delicious inside joke is that T*he Lincoln Lawyer* intersects with Connelly's other successful books, which revolve around Mickey's brother, detective Bosch. This connection is a treat for Connelly's loyal readers but does not leave new readers feeling that they have missed something.

T*he Lincoln Lawyer* takes a while to build up suspense, but it is worth the wait, because it allows Connelly to create a convincing world in which his characters act. Once the background is complete, the story takes off like a bullet, never looking back. My one criticism of the book is that a few of the characters are too clichéd; a pair of detectives who investigate Mickey for a murder are examples: one is brawny and too dim to see an obvious setup, whereas the other is sensible and pulls back on the reins of the Cro-Magnon man. Nevertheless, the clichés are minor and forgivable. *The Lincoln Lawyer* is a book with intelligent twists, artful dialogue, and terrific storytelling—a true page-turner. **TFL**

*Arthur Rizer is an attorney with the U.S. Department of Justice. The views expressed in this review do not necessarily represent the views of the Department of Justice.*

**REVIEWS** *continued on page 60*

## Business and Commercial Litigation in Federal Courts: Second Edition

Edited by Robert L. Haig
Thomson/West, Eagan, MN, 2005. 9 volumes with pocket parts and CD-ROM, $1,008.00.

REVIEWED BY THOMAS R. SCHUCK

When retired federal District Judge Prentice H. Marshall reviewed the first edition of *Business and Commercial Litigation in Federal Courts* in *The Federal Lawyer* (February 1999), the treatise was the first comprehensive practice guide to litigating commercial disputes in federal court. As Judge Marshall wrote, "this work should be at the hand of every lawyer who engages in litigation in the state and federal courts, every federal trial judge, and every mediator or arbitrator of complex commercial disputes." Edited by Robert L. Haig, an experienced commercial litigator with Kelley Drye & Warren LLP, the second edition of *Business and Commercial Litigation in Federal Courts* brings this valuable treatise up to date by describing the significant developments in litigation that have occurred over the past eight years.

The first edition included 80 chapters that covered all aspects of commercial litigation and related issues, such as employment discrimination, intellectual property, products liability, antitrust law, and RICO. The second edition revisits these areas and includes 16 new chapters on case evaluation, discovery of electronic information, litigation avoidance and prevention, techniques for expediting and streamlining litigation, litigation technology, litigation management by law firms, litigation management by corporations, civility, directors' and officers' liability, mergers and acquisitions, broker-dealer arbitration, partnerships, commercial defamation and disparagement, commercial real estate, government entity litigation, and e-commerce.

When the treatise was first published, some of these new topics were just emerging. For example, *The Federal Lawyer* featured an introductory article on e-mail discovery by Timothy Q. Delaney of Brinks Hofer Gilson & Lione the month before Judge Marshall's review of *Business and Commercial Litigation in Federal Courts* appeared. E-discovery is now the subject of the hour. The management of litigation—in-house, intra-firm, and by insurers—has become increasingly important as the cost of litigation escalates. We have all witnessed the transformation of civility and professionalism from aspirational goals to mandated standards of behavior and subjects of professional discipline.

The second edition of *Business and Commercial Litigation in Federal Courts* is also an important contribution, because it deals with the cultural and ethical issues that commercial litigation presents today. For instance, the chapter on ethical issues in commercial cases, written by Harry M. Reasoner, Allan Van Fleet, and Edward A. Carr of Vinson & Elkins LLP, is a soup-to-nuts discussion, beginning with the ethical issues that should be discussed with the client from the outset of a case through the litigation process, including lawyer disqualification and withdrawal. The authors provide a helpful checklist of professional responsibility considerations that every commercial litigator, no matter how experienced, would do well to review periodically. The new chapter on civility, by Michael B. Keating of Foley Hoag LLP, takes a practical approach to this issue. Not a preachy piece, it focuses on the practical effects of uncivil behavior on the litigation process, including the economics of litigating, and the choices that an attorney has to make in responding to uncivil behavior. The chapter provides a checklist that focuses on the importance of making rational, nonemotional decisions when responding to uncivil behavior and on considerations such as whether the forum has tolerated rude behavior in the past and would be receptive to a formal motion, avoiding casting the judge in the role of babysitter, and considering the impact of responding to uncivil behavior on the balance of the case and the client.

The new chapter on case evaluation, contributed by Louis M. Solomon and Bruce E. Fader of Proskauer Rose LLP, provides a helpful discussion of the different roles that the client, in-house counsel, and litigation counsel play in evaluating the strengths and weaknesses of a commercial lawsuit. As all experienced litigators know, unrealistic expectations can disrupt the litigation process and affect the result of a lawsuit. The case evaluation tools that the authors present will not only help litigators evaluate a case but also assist them in working with their clients, in-house counsel, and risk managers to make important decisions in evaluating settlement opportunities and options. This chapter also includes a timely discussion of the Sarbanes-Oxley Act as it relates to internal investigations and compromised privileges and the role of case evaluation in assuring that clients comply with their disclosure requirements.

The new chapter on electronic discovery is written by federal District Judge Shira A. Scheindlin and Jonathan M. Redgrave of Jones Day. Although the chapter does not address the proposed rules on electronic discovery under consideration by the Judicial Conference of the United States, it contains a comprehensive discussion of existing law on the subject. The discussion covers not only the issues that arise during commercial litigation but also the (perhaps more important) issues of prelitigation planning, records and information management policies, the preservation of data, and other practical considerations that, if not identified and addressed in a timely manner, can have devastating consequences later. The chapter also includes a section on claims for the spoliation of evidence that is relevant to traditional record retention and discovery as well as to electronic data storage. The checklist that accompanies the chapter provides a good introduction to the technical issues involved in electronic data storage and retrieval; the list will prove useful not only to the commercial litigator but also to the client and his or her employees who

are responsible for responding to requests for electronic discovery.

As one would expect of a work of this breadth and depth, the tables and index (volume 9) are comprehensive and helpful. Volume 9 includes tables of proposed jury instructions; forms of pleadings, orders, and other important documents; and extensive statutory, case authority, and subject indexes. Equally important is the accompanying disk that provides electronic access to all forms, jury instructions, and checklists included in the book.

If I had to choose one word that best describes this edition of *Business and Commercial Litigation in Federal Courts*, it would be "practical." This treatise not only discusses the law but offers the wisdom and advice of its 199 principal authors, including 17 federal judges and a cross-section of the best commercial litigators in the United States. Every business litigator—no matter how seasoned—will benefit from consulting this work not only for the technical information that it provides but also for its advice on the intangible aspects of litigation, such as client relations, professional obligations, and effective relationships with colleagues and judges. This treatise belongs in the library of every lawyer and law firm that engages in any significant amount of commercial litigation in the United States. **TFL**

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## Dean Acheson: A Life in the Cold War

By Robert L. Beisner
Oxford University Press, New York, NY, 2006.
800 pages, $35.00.

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REVIEWED BY HENRY S. COHN

Robert Beisner's masterful book, *Dean Acheson: A Life in the Cold War*, relates Acheson's life story but focuses on Acheson's service as secretary of state after Truman's surprising victory in the 1948 presidential election. Born in Middletown, Conn., Acheson was a scamp at his prep school, Groton, and also during his undergraduate school years at Yale. He buckled down, however, at Harvard Law School, where he was Professor Felix Frankfurter's protégé. On Frankfurter's recommendation, Louis Brandeis selected Acheson as his law clerk, and, while working at the Supreme Court, Acheson met Oliver Wendell Holmes, who became his lifelong hero.

After his clerkship, Acheson became a partner at Covington and Burling. When Franklin D. Roosevelt won the presidency in 1932, Frankfurter tried to get Acheson appointed to the post of solicitor general, but Roosevelt, much to Acheson's dismay, did not offer it to him. Acheson said that he later learned that this was because Attorney General Homer Cummings, his potential supervisor at the Justice Department, had opposed his appointment. According to Acheson, Cummings, a resident of Greenwich, Conn., and an Episcopalian, was irritated that Acheson's father, then the Episcopal bishop of Connecticut, had refused to give religious sanction to Cummings' second marriage. Roosevelt did appoint Acheson to serve in the Treasury and State Departments, but Acheson was uncomfortable with Roosevelt. Beisner relates that Roosevelt and Acheson had a vocal argument over the administration's inflation policies.

The Truman years were the pinnacle of Acheson's career. Only with Truman, whom he called "my president," did Acheson feel completely at home. Under Truman, the world took note of Acheson's British-toned voice, his perfectly set moustache, and his fashionable clothing. No one would have suspected that the blunt Truman and the stylish Acheson would achieve such a successful relationship. As Truman pursued his forceful foreign policy, Acheson provided thoughtful rationales for the President's actions.

Acheson, to quote the title of his book about his years at the State Department, was "present at the creation" of America's postwar foreign policy. Immediately after World War II, Acheson, unlike other Truman advisers, took a most moderate stance toward the Soviet Union. Within a year, however, in light of Stalin's moves in Europe, Acheson changed his outlook and helped develop the Truman Doctrine, which opposed Soviet maneuvers in Greece and Turkey. Acheson delivered important speeches in support of the Marshall Plan, and he formulated policies for postwar Germany, newly created Israel, and Japan, which by then was friendly toward the United States. His policies were not always successful, however; for example, he urged France to become involved in Vietnam, and this began the slide toward the United States' involvement in the 1960s.

Korea was Acheson's greatest test. At first, Acheson did not even consider South Korea a significant part of the U.S. sphere of influence, but, after North Korea's invasion of South Korea, he declared that American forces would put the "pedal to the metal." Under the leadership of Gen. Douglas MacArthur, the Army moved above the 38th parallel into North Korea, as Truman and Acheson—who had been charmed by MacArthur—made the mistake of not ending the hostilities once the United States had driven the North Koreans out of South Korea. Feeling threatened by U.S. troops approaching their border, the Chinese then entered the war. The Americans were driven back below the 38th parallel and the war stalled. Truman and Acheson grew tired of MacArthur's provocative statements and risky actions, and, with Acheson's support, Truman relieved MacArthur of his command.

Even though Acheson has come to be known as a pre-eminent Cold Warrior, he was no darling of the American right wing. Desperate for issues, these politicians blasted Acheson, claiming that, while he was enforcing the Truman Doctrine in Europe, he was a Henry Wallace-like pacifist in the Far East. Sen. Joseph McCarthy accused Acheson of having Communists in the State Department. The right wing also attacked Acheson for saying that he would never turn his back on

**REVIEWS** *continued on page 62*

Alger Hiss.

After MacArthur was fired, things became even hotter for Acheson. Congress held hearings on the dismissal, and Acheson endured several days of testifying in an attempt to justify his and Truman's position. MacArthur's testimony at the hearings was less convincing than his speeches were on the airwaves, and the public rallied to Acheson's defense. The political fallout continued, however, and, in 1952, the Republicans made Acheson the centerpiece of their assault on the Truman administration. When Dwight D. Eisenhower won the election, he replaced Acheson with Acheson's old adversary, John Foster Dulles. Later, however, Acheson returned to government as an elder statesman in the Kennedy and Johnson administrations. Even Richard Nixon, who had lashed out against Acheson during the 1952 presidential campaign, adopted a more favorable attitude toward him in 1968 and even sought his advice. When Acheson died in 1971, President Nixon arranged for several public tributes to be given.

In his book, Beisner presents a careful compilation of Acheson's achievements and setbacks, skillfully interweaving reports of intriguing incidents and amusing stories. For example, even though the entire cabinet would traditionally greet a President returning to Washington after an election, Acheson was the only cabinet member who met Truman at Union Station upon the President's return from Kansas City following the disastrous congressional elections of 1946; the warm bond between the two men began at that time.

In one incident, a newsman from Communist Poland took offense when Acheson mistook him for a reporter from the Soviet news agency, TASS. "I stand corrected," Acheson shot back, "Demi-TASS." On another occasion, Acheson explained that he had received a difficult assignment when he was asked to represent the United States at the funeral of Great Britain's King George VII in 1952, explaining that he not only had to endure the cold weather and but also had to stand for hours during the ceremony.

Beisner also reports witty statements made by people other than Acheson. He relates the clever proverb quoted by a Soviet diplomat that one must not count fleas while camels slip through one's fingers. In addition, Beisner reproduces a wonderful fictional press release issued at the time of MacArthur's appearance before Congress, featuring a 21-atomic bomb salute and a public lynching of Acheson.

*Dean Acheson: A Life in the Cold War* shows the debt that the country owes to this architect of American postwar foreign policy. Acheson was able to resolve, or at least cool down, major confrontations with the USSR and with China, while committing the U.S. government to stay within constitutional bounds. And he did all this with grace and a touch of humor. As Acheson told a reporter for the *New York Times* in 1949, "This is me, whether you like it or not." **TFL**

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*Henry S. Cohn is a judge of the Connecticut Superior Court.*

## Copyright Litigation Handbook

By Raymond J. Dowd

Thomson/West, Eagan, MN, 2006. 821 pages, $175.00.

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REVIEWED BY JOSEPH PETERSEN

It is late at night and you are facing a significant milestone in a copyright dispute that you are handling for a major client. Perhaps your task has to do with drafting a cease-and-desist letter, a complaint, a dispositive motion, or proposed jury instructions. And the deadline—either self-, client-, or court-imposed—is just hours away. How good it would be to have a handy, concise overview of the significant issues that one typically comes across when handling copyright litigation. It would be better still if that overview contained the type of helpful pointers and practice tips so often omitted from many of the weightier tomes about copyright law.

Raymond J. Dowd, an experienced trial lawyer and partner with Dunnington, Bartholow & Miller LLP, has written just this sort of work, which is long overdue. His *Copyright Litigation Handbook* provides a straightforward overview of the subject and is chock-ablock full of insightful and practical information. Dowd is liberal in his inclusion of excerpts from relevant statutes, including not only the Copyright Act but also the Federal Rules of Civil Procedure and the Federal Rules of Evidence, and his book provides numerous sample forms.

The book includes a helpful overview of all the various stages of copyright litigation. Dowd begins with a summary of the sources of copyright law and then discusses, among numerous other topics, initial client interview and intake procedures, communications with the U.S. Copyright Office, the duration of copyright, the preparation of cease-and-desist letters and the risks associated with them, ways to draft and respond to complaints and dispositive motions, injunctive relief, discovery, evidence and experts, jury instructions, damages and profits, and finally an overview of awards of costs and attorneys' fees.

One of the many useful items in Dowd's book is its thorough Copyright Client Intake Checklist, which reminds the copyright practitioner to obtain information, such as past litigation history, that copyright practitioners all too often obtain only after they agree to represent the client. The checklist also suggests questions aimed at exploring possible weaknesses in the potential client's case and ends with a helpful form letter confirming in writing that the lawyer does not agree to accept representation, if that decision is made.

Dowd begins his treatment of the strategies underlying effective cease-and-desist letters by noting that "[d]ifferent clients have different objectives and risk parameters." Dowd then fully explores the risk that a cease-and-desist letter may prompt the recipient to commence a declaratory judgment action. Dowd adds that, when a client seeks to minimize the chances of be-

ing forced to proceed in a jurisdiction not of his or her choosing, the attorney should proceed with caution. In particular, in such instances the cease-and-desist letter should give clear notice to the recipient that the copyright holder intends to proceed in a particular jurisdiction if the infringer does not heed the demand to cease and desist from its infringing activity.

Similarly illuminating is Dowd's treatment of the particular benefits in a copyright case of the too often overlooked offer of judgment, which, he notes, provides a defendant's counsel with a powerful weapon in curtailing a copyright plaintiff's entitlement to an award of attorneys' fees. "If you receive an offer of judgment," Dowd writes, "advise your client in writing that a failure to accept may result in a liability for attorney's fees if the recovery does not exceed the offer."

*Copyright Litigation Handbook* is a valuable resource that will be squeezed into the trial bags of copyright litigators for years to come. **TFL**

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## Seven Seconds or Less: My Season on the Bench with the Runnin' and Gunnin' Phoenix Suns

By Jack McCallum
Simon & Schuster, Inc., New York, NY 2006.
315 pages, $24.00.

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REVIEWED BY JON M. SANDS

Basketball has made little metaphoric impact on law. Aside from "no harm, no foul" and the quip that the highest court in the land is where Supreme Court clerks play their noontime basketball games, what else is there? Baseball and football terms, such as "home run" and "touchdown," permeate our language—legal and otherwise—but basketball has sat on the bench, and not the judicial one. This is a pity.[1]

*Seven Seconds or Less* is about the Phoenix Suns, a National Basketball Association team, and their 2005–2006 season. The Suns did not win the championship that season (the Miami Heat did), but they established themselves as a rising team, and they instituted a revolution, one hopes, in how NBA basketball is played. Written by Jack McCallum, a *Sports Illustrated* writer who was given access to the team throughout the season, the book reads like an extended magazine article. But this is not a criticism—one can get through the book in the time it takes for a game to be played. Still, the account, which focuses on the high-tension best-of-seven playoff series, with flashbacks to the interminable regular 82-game season, is yesterday's news. Enjoying the book requires an interest in the NBA or, even better, a passion for the Suns. Given the odds that the reader is more likely to have the former rather than the latter, reading the book will at least be a great substitute for watching ESPN's *SportsCenter* for the umpteenth time on the road to yet another deposition.

For me, though, the book offered more, because I am a Phoenix Suns fan. Sure, I know that the players are multimillionaires running around in shorts and that their efforts to throw a ball through a hoop might not be a notably meaningful act in the totality of human existence, yet there are worse things to do in the dead of winter than to watch a three-point shot arc beautifully, hitting nothing but the net, or to see a player catch the ball in stride, jump up, and jam it through the hoop. These are superb athletes, creating physical poetry out of sheer exuberance. How can one not be a basketball fan?[2]

NBA basketball has been badmouthed. According to McCallum,

> [T]he casual fan perceives the NBA as a bunch of listless underachievers running around aimlessly, tossing up bad shots, ignoring the rudiments of dribbling and passing, and treating defense as if it were to be avoided like the chipped beef special at Denny's. In point of fact, quite the opposite was going on—too little running, too much stodgy offense, too many defensive schemes, an overcoached product that had removed much of the spontaneity of the game and put a premium on isolation alignments designed to give one player the ball and turn his four teammates into statues.

The Suns changed this perception. They returned to a lightning style of running, fast-break basketball, with a premium on hustle and flow, and shots that went up fast. To maintain the speed, the game needed deadeye shooters, players willing to pass the ball, and a point guard to distribute. In Steve Nash, the NBA's two-time Most Valuable Player, the Suns have, by all accounts, the best point guard in the game today.

Mike D'Antoni, the current coach of the Phoenix Suns, fashioned this new style of basketball. Unable to crack the NBA and destined for a career as a journeyman, D'Antoni instead went to Italy, where he became a star for the best Italian team. Playing European ball for years, D'Antoni developed a coaching philosophy that focused on spacing, with players ringing the basket and with ball movement to allow for quick shots. D'Antoni's philosophy is to have his players increase the tempo and attack the basket with a rapid succession of shots. He tells his players not to wait until the defense can set up or until they can isolate one player against another, but to get the ball down the court quickly and take the best shot possible as soon as possible. After his team gets the ball, D'Antoni wants a shot in seven seconds or fewer. There is no milking the 24-second shot clock for the Suns. Derided as "run and gun," this style actually brings back the flow and the quickness and openness of the game. D'Antoni is quick-witted and sure of his opinions, and his philosophy is wholly unlike the triangle offense of the Lakers' Zen-inspired Phil Jackson, the run-through-the-post philosophy of Pat Riley's big

**REVIEWS** *continued on page 64*

## Need Extra Money for Your Chapter's Public Service or Pro Bono Project?

Each year, the Younger Lawyers Division awards a grant in the amount of $2,500 to a local chapter. The grant is made possible by the generous contributions of Ilene and Michael Shaw and is awarded for the purpose of funding chapter public service projects and pro bono law-related services.

The deadline for nominations is June 13, 2007. Applications can be downloaded from the YLD Web site at www.fba-yld.org. Please send your completed application forms to the Federal Bar Association, Attn: YLD Shaw Grant, 2011 Crystal Drive, Suite 400, Arlington, VA 22202.

Don't miss this excellent opportunity to obtain much needed extra funding for your worthy public programs. Apply now!

**REVIEWS** *continued from page 63*

men, or the defense-oriented teams of the recent past.

*Seven Seconds or Less* is not a sociocultural exploration of the sport, such as the one baseball has been blessed with in Roger Kahn's *The Boys of Summer*, Jules Tygiel's *Baseball's Great Experiment: Jackie Robinson and his Legacy*, and David Maraniss' *Clemente: The Passion and Grace of Baseball's Last Hero*.[3] Basketball is still awaiting its poet laureate—perhaps one is working on the battle between the Lakers and the Celtics in the 1980s. *Seven Seconds or Less* is, however, an engaging portrait of young men who have athletic gifts that we can only dream about. It describes the Suns' foreign players, such as Leandro Barbosa, a guard from Brazil, who is learning basketball even as he plays, and Boris Diaw, a guard from France, who became a reclamation project. Thrown into a trade from the Atlanta Hawks for a player whom the Suns had to trade or lose, Diaw moved from the back court to the front court and won the Most Improved Player Award with his combination of passing and rebounding. And Steve Nash, a Canadian (born in South Africa), who was selected only 15th in the 1996 NBA draft, possesses a quickness and coordination that elevate him to the ranks of Magic Johnson and Oscar Robertson when it comes to court leadership.

The portrait of Nash is especially engaging. Nash has become the team leader by being the consummate team player. He is the antithesis of the false stereotype of the spoiled NBA player. Literate, socially conscious, self-deprecating, yet driven to compete, Nash emerges as a person not solely defined by the game but as someone for whom basketball is a passion, although not an all-consuming one. What other NBA star would be seen reading Marx's *Communist Manifesto* because he is interested in philosophy, and what player would have definite views of the current administration (he's not a fan of Bush)? When you read about how, after the final game of the 2005–2006 season—a bitter loss to the Dallas Mavericks—Nash rallied his team and started to prepare for the next season, you'll want to lace up your shoes too.

Perhaps a few readers can afford courtside seats close enough to hear the coach as he barks instructions and the players' chatter from the bench. For the rest of us, this book will be a more-than-adequate substitute, as McCallum conveys a sense of the players as people as well as athletes—their trash talk, their rage, their lackadaisical attitude. If you like basketball, you will want to read *Seven Seconds or Less*. **TFL**

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### Endnotes

[1]As with most things, there are exceptions. *See generally* Jim Stallard, "No Justice, No Foul," in CREATED IN DARKNESS BY TROUBLED AMERICANS: THE BEST OF MCSWEENEY'S, HUMOR CATEGORY, 109–-121 (comparing Supreme Court jurisprudence to basketball and rating the justices as players). For a judicial technical foul shot, see *Hayward v. National Basketball Assn.*, 401 U.S. 1204 (1971), in which Justice Douglas reinstated an injunction in an antitrust action against the NBA, thereby allowing the plaintiff to continue the playoff run with his team. "To dissolve the stay," Justice Douglas wrote, "would preserve the interest and integrity of the playoff system." For an appreciation of all aspects of the game, see John Edgar Wideman, HOOP ROOTS (2001).

[2]For an appreciation of the virtues of rooting for a team, although in the context of baseball, *see* A. Bartlett Giamatti's classic reflection on the Boston Red Sox, *The Green Fields of the Mind*, YALE ALUMNI MAGAZINE (Nov. 1977); the chapter is widely anthologized.

[3]I reviewed CLEMENTE in the Nov./Dec. 2006 issue of THE FEDERAL LAWYER. David Maraniss explored the cultural side of football in WHEN PRIDE STILL MATTERED: A LIFE OF VINCE LOMBARDI (1999).