Guerrilla News Network

SPECIAL REPORT

Coca-Karma

The Very Secret Battle of Bob Kolody vs. Coca-Cola

Prologue: April 18, 2001

When the shareholders of Coca-Cola file into the Playhouse Theatre in Wilmington, Delaware this morning for their annual meeting you can bet that the last name they'll have on their minds is that of Bob Kolody. What with the recent resignation of President and COO Jack Stahl, Chairman Doug Daft's failed attempt to buy Quaker Oats, and the recent court ruling that close to $200 million dollars in damages to Johnny Cochran's racial discrimination suit, they've got enough names to worry about. Not to mention the fact that their stock is selling for $45, thirty percent off the 52 week high of $64. Right about where it was 5 years ago.

But if some of those shareholders knew the story that you are about to read, they would have good reason to question Coca-Cola Chairman Doug Daft about Bob Kolody. They would be fascinated to know that for the past four years Coke has employed one of the country's top intellectual property lawyers to defend a case that it has never identified in its annual SEC filings. What's more, the $4 billion lawsuit has gone totally unreported by a national media that has, of late, reveled in the prospect of major U.S. corporations involved in trials that could cost hundreds of millions of dollars in damages.

Today GNN begins its first installment of an exclusive Special Report that breaks wide open one of the most intriguing cases in corporate legal history.

The story begins with a major advertising agency stealing an independent consultant's story-boards and culminates with allegations that Coke filed fraudulent copyright applications and enacted a high-level form of espionage against their legal opponent. What's more, the federal judge in the case has been accused of having links to organized crime. Tantalizing? You bet. And we're only getting started…

Part One: Classic Coke, Classic Cars

The first time I hear about Bob Kolody, I'm sitting in the kitchen of a mansion owned by a renegade (Fortune 500) accountant down in Tennessee. I'm on assignment, shooting interviews for an upcoming Guerrilla NewsVideo and my subject has taken a break to fill his glass with more premium Scotch. Intermittently dragging on a Camel cigarette and taking bold gulps from his crystal snifter, he is breaking down the complex structure of Warren Buffett's stock operation. I sit at the table, mesmerized by the sheer complexity of this realm of corporate intelligence. Suddenly, he throws me a look that blurs the line between threat and curiosity.

"You want to know something that will really blow your mind?"

"Of course."

"You ever hear of Bob Kolody?"

"Who?"

"Bob Kolody vs. Coca-Cola. It's a case being tried on the 7th Circuit. Check it out. It's probably the best kept secret in the United States federal court system and, if exposed for what it is, could critically damage Coca-Cola's entire corporate stability."

Now hit the skip button. It's one month later. I'm grabbing my bags from the overhead compartment in a crowded American Trans Airways plane. Passengers are shuffling past, getting ready to disembark for the 2 hour layover between San Francisco and New York at Chicago's Midway Airport. Suddenly the speaker next to my ear crackles and announces that I am to report to the ATA desk at the arrival gate.

I've never heard my name announced on a plane before. It gives me the uncomfortable feeling of simultaneous exultation and dread; ephemeral omens that inaugurate my relationship with Bob Kolody.

Disembarking, I approach the gate and see a tall, gangly, white-haired man standing next to the flight attendant. He spies my dreads and immediately extends his hand to take my bag. If nothing else, Bob Kolody is polite to a fault and a very quick study.

"Steve, thanks for coming."

This airport meeting is the culmination of a series of extended phone calls initiated by my Tennessee source. Over the past month I have been thrown into the information maelstrom that is Bob Kolody and his tireless crusade to exact justice from the world's single most powerful brand commodity. Since my first discussion with Kolody from GNN's west coast bunker, my life has become saturated with the legal minutiae that confirms at every level the fact that this may just be the most potently disastrous legal entanglement that Coca-Cola has ever attracted. And to think it is all because of the

slightly rumpled individual leading me through the crowded terminal to Midway's confectionary…

To know the facts is almost to disbelieve them.

A Corporate Theft

Back in January 1989 an independent marketing consultant named Bob Kolody pitched Simon Marketing - the national ad agency for Coca-Cola - with a game concept that played off the company's new brand identity: Classic Coke. His idea was to revitalize the 60's era Coca-Cola can designs and create a nostalgic 'educational' gaming experience which he called *Name That Car*. Images of old cars would adorn the cans and they would do a tie in with Ford and McDonald's that linked the 35th anniversary of the Ford Thunderbird and the 30th anniversary of the original Coke can. Consumers could win prizes by correctly guessing the make, model and year of the car featured on the can.

Pretty innocuous stuff. But Simon Marketing liked it so much they asked Kolody to come back down to Los Angeles for further meetings with a full presentation of his game concept. For this second round pitch, Kolody created an extensive story-board elaboration of his idea which incorporated a graphic collusion of Coca-Cola and automobile memorabilia. Once again, the concept was met with enthusiastic response and Kolody was booked for a final meeting at Simon's Chicago office. After this presentation, Simon's executives asked if they could use his boards in their presentation to their superiors. Kolody was excited. He agreed to leave them with all of his original story-boards, returned home and waited to be contacted.

After a few months and minimal response, Kolody called Simon Marketing in an attempt to get his story-boards back. No one would return his messages. He then instructed his lawyer, Bob Ward, to initiate correspondence with Simon's attorneys. These efforts yielded minimal results. Simon claimed to have lost the boards and were completely inattentive to the distress Kolody felt about their abrupt about-face and lack of respect for his lost property.

Fast forward to September, 1989. Kolody is in a 7-11 when he spots a Cherry Coke can with a new design graphic: emblazoned on the can's cover is a '59 Cadillac convertible, just as it had appeared on his story-boards. Concerned that the design is an infringement of his game concept, Kolody instructs Ward to investigate Simon's breach of the confidentiality agreement. In a long trail of letters and phone calls, Simon totally denies any connection between the Cherry Coke campaign and Kolody's presentation. With little choice left but to press his case in court, Kolody approaches Ward with a proposal to represent him on contingency. Ward is sympathetic but his firm refuses to sanction the deal on the basis that they deem the case too risky (and potentially costly) of an undertaking.

Kolody is disappointed but not diverted. Never one to abandon a fight, he begins a meticulous pattern of correspondence with various Simon Marketing executives and

associated lawyers. And though no one will help him directly, several do confirm that there are certainly aspects of his claim that deserve independent scrutiny. At the least, he maintains, he wants his story-boards back. Finally, a year and a half after his *Classic Coke, Classic Cars* pitch , Kolody receives some of his original story-boards from Simon Marketing. The rest, Simon claims, are lost. Feeling cheated, Kolody begins his own campaign to reach Coca-Cola directly but to no avail. He has been shut out by the vast, inhuman corporate machine.

Now this is where it gets complicated… and nefarious. So stick with me:

Kolody's game concept was based on revitalizing the nostalgia for late 50's and early 60's soda pop and car culture. Coca-Cola's launch of New Coke had totally failed and he saw an opportunity to use their hasty re-introduction of Classic Coke as a vehicle for combining these aspects into a national campaign of collectible memorabilia. This is the reason that Simon Marketing was so attracted to the idea. By tapping into the historical depth of Coke's one hundred year-old brand, they could create an endless array of designs and products to capture the minds of children and baby boomers alike. And few images have the power to conjure memories like the original Coke can that Kolody had used so prominently in his pitch. Here's why:

Back in 1960, when Coke first introduced the revolutionary notion of canned soft drinks, they were faced with a serious problem. People had always consumed soda out of glass bottles and were skeptical of the new innovation and its unverifiable contents. Coca-Cola's marketing team, ever faithful in the power of suggestion, reasoned that the image of the bottle might be enough to re-assure them that the product was still the same, just in a new package. So they placed a graphic image of the old-fashioned 'contour bottle' on the new can and rolled out the product with a big campaign. It was a huge hit with consumers and cans became a regular form of drink packaging. This implementation, referred to as the 'contour bottle on the can', lasted only a few years before being replaced by Coke's trademark 'contour ribbon' of the 1970's.

That is, until Bob Kolody resuscitated it for his *Classic Coke, Classic Cars* pitch to Simon Marketing in 1989. His story-boards were covered with various re-incorporations (derivatives) of the old Coke can designs and, more importantly, the now forgotten image of the "contour bottle on the Coca-Cola can." And Bob Kolody, who had now become resigned to the fact that he had been the victim of an unrecoverable corporate theft, was about to realize just how valuable his ideas had become.

In January, 1994 Kolody was walking through Chicago's Midway Airport on his way to Boulder for a meeting with Schwinn Bicycle. As he was boarding the plane he spotted a woman holding a Classic Coke can. Suddenly he stopped and felt the blood rush from his face. Something about the label had caught him off guard. As the woman tilted the can to her mouth he saw what it was. There, on the side of the can, was a full-length detailed image of the contour bottle.

Kolody boarded the plane in shock. Immediately upon landing in Denver, he went to an airport bar and bought a can of Coke. The contour bottle image was just as he had seen it at Midway. Kolody contacted Ward and explained what he had discovered. Though Ward was still unable to devote the kind of time that a major suit against Coca-Cola would require, he agreed to donate administrative assistance to Kolody's case that Simon and Coca-Cola were potentially guilty of copyright infringement and the calculated dissemination of his intellectual property. At that moment Kolody decided to quit his private ad agency and devote the entirety of his efforts to attaining justice from one of the most successful corporate litigants of the 20th Century.

Part Two: The Plot Thickens

Bob Kolody is sitting across from me in the crowded and noisy bar at Chicago Midway. I have exactly one hour to complete our interview before my plane takes off and there is a lot of ground to cover. We both set to work immediately. As I prop the small digital camera up on our table, Bob begins to pull thick packets of documentation from his weathered leather briefcase. Turning on the camera, I pick up his image, pull the lens wide and stop to observe him for a moment.

Kolody is dressed in a conservative dress shirt and striped tie. His short white hair is combed over so that the most dominant characteristics of his face are the thick mustache that veils his lip and the wizened eyes that calculate unknown quantities of paper and fact. As he piles the documents in neat, systematically ordered rows, I cannot help but be taken by the sadness that penetrates the casual deliberation of his otherwise meticulous organizing. The feeling that arises within me is not one of pity but, rather, one of discreet compassion and solidarity.

For all his maddening attention to detail and incessant regurgitation of legal terminology, Bob Kolody is truly a rare breed of human. His path is one that few people tread in a world that has forsaken individual justice for corporate domination. He is the victim without an Erin Brockovich, the whistleblower without a Lowell Bergman. And I can't help but feel the immensity of his journey as it piles up with unruly height on the table in front of me.

He pulls out the last articles from his case and, with one final scan of the material, looks up at me with calm determination.

"OK?"

"OK."

I begin to roll the video. Kolody immediately launches into an account of the most recent events in his case. It has to be one of the strangest occurrences to take place in a U.S. court since the acquittal of OJ Simpson. On August 22, 2000 nine U.S. Marshals swarmed into the courtroom after Kolody's lawyer filed a formal statement accusing Coca-Cola of espionage and Judge Blanche Manning of having ties to the Chicago

underworld. But to understand how it is that a simple copyright infringement suit evolved to this level of intrigue, we must look back at the history of Kolody's dealings with Coca-Cola and Simon Marketing and the entire culture of obfuscation that surrounds their approach to his claims. In fact, deception has been a key aspect of this case since Kolody discovered the original theft of his concept back in 1989.

Caught in a Lie

After seeing the Cherry Coke can that incorporated his *Classic Coke, Classic Cars* design, Kolody repeatedly tried to contact Simon Marketing through his lawyer Bob Ward, an attorney at a prestigious Chicago law firm.

They received no reply.

Finally, after harassing and pushing his case to lawyers and executives at McDonald's — another Simon client — Kolody began to receive some answers to his questions about Coca-Cola's blatant rip-off of his idea. He was told by Simon Marketing executive Dean Barrett that no presentation had ever been made to Coca-Cola regarding his *Classic Coke, Classic Cars* concept and that any similarities between the Cherry Coke campaign and his original pitch were mere coincidence. But since Simon had been so delinquent in returning his story-boards, Kolody felt that there was something they were not telling him. He kept the pressure on and slowly the true story began to unravel.

In June 1992, Kolody procured a meeting at Chicago's O'Hare Airport with another Simon executive, Bruce Bailey. At the O'Hare meeting, Bailey, after being informed that Kolody was taping all his conversations with Simon's executives, pulled a total reversal of Simon's position. Bailey admitted that Dean Barrett had brought Kolody's concept to Coke but that their client had not been interested. Kolody was elated to finally have caught them in a lie and felt the first taste of vindication for enduring what had now been over two years of ritual deception by Simon's top executives.

But the sensation was short-lived and bittersweet. For though the admission seemed like a major breakthrough in the case, Kolody was still without the financial means to take on one of the largest marketing firms in the country - a process that could cost millions. And Simon was not about to unforceably admit that his ideas had been used in designing the Cherry Coke can for Coca-Cola. In order to make them pay for their breach of trust, Kolody would need more substantial proof to convince an attorney of the validity of his case so that they would fight it on a contingency fee basis. This breakthrough came in 1994 when Kolody first saw the 'contour bottle' on the Coke can at Chicago's Midway airport. Once he confirmed that Coca-Cola had, in fact, incorporated the design that he had presented to Simon back in 1989, Kolody felt sure that he had conclusive evidence that Coca-Cola and Simon Marketing had stolen his ideas and conspired to keep him from knowing about it.

From his law offices at the Chicago firm of Hill, Steadman and Simpson, Bob Ward sent letters to Coca-Cola asking for clarification of their position on the matter. There was no

reply. In Ward's second letter to Coca-Cola, dated June 1995, he included records of Kolody's copyright registration of his storyboards for the Classic Coke, Classic Cars presentation. This drew immediate response from Dexter Brooks, Coke's chief attorney:

Our files clearly reflect that our efforts (i.e. conception, design, testing, and implementation) of the "Coca-Cola Can incorporating the Contour Bottle" were conducted entirely independent of any proposals submitted by Mr. Kolody. In fact, not only is our Company the owner of proprietary and trademark rights concerning the contour bottle design, but we also obtained a Certificate of Registration at the U.S. Copyright Office in 1993 covering the "Coca-Cola Can Incorporating the Contour Bottle."

At first glance it seemed like a pretty standard denial of Kolody's accusation. But, in fact, this letter held the key to Kolody's future $4 billion case against Coca-Cola and Simon Marketing. In order to understand this you must first grasp a few key aspects of copyright law. Check this out:

Date of Creation

Under the 1909 Copyright Act, a registered copyright for artwork must be renewed every 28 years. In the case of the "Coca-Cola can incorporating the Contour Bottle," the work had been created for a highly publicized campaign in 1961. This means that the date of renewal would have been somewhere in 1989, not 1993 as is stated in the letter from Coke's attorney Brooks. So what happened between 1989 and 1993? This is a very important question because if a work is not 'timely renewed' then that copyright slips into the public domain and becomes unrecoverable by the original author. Unless someone else attains ownership of the copyright. Here's where it gets a little tricky.

Kolody's copyright application registered the drawings he had produced of the "contour bottle on the Coca-Cola can". In his drawings, Kolody had integrated the pre-existing icon (the contour bottle) into a new design of their can. Under copyright law an applicant may register work that incorporates aspects of another person's work as a 'derivative'. Which Kolody did.

More importantly, the registration of a copyright commences on the 'date of creation'. For Kolody this was in 1989, the year that he pitched Simon Marketing and, coincidentally, the year that Coke lapsed on its renewal for the copyright on the "contour bottle" image. Though Kolody did not know it at the time, the reason for the massive cover-up that had begun with Simon Marketing and which had now extended to Coke's own attorneys was based in part on the fact that Coke had failed to renew their copyright on the "contour bottle" image in 1989 and had then filed a new copyright application in 1993 to cover it up. In so doing they committed an act of fraud which is a punishable offense that few corporations would have risked. But, as Kolody was about to discover, Coca-Cola was no ordinary corporation.

Now that Coke had formally entered the dispute vis-à-vis their correspondence with Ward, Kolody stepped up his search for an attorney with enough chutzpah to file his case against Coca-Cola and Simon Marketing. While Ward's firm would not formally commit to the case, they did give him the license to help Kolody craft letters of legal substance so that he could maintain a strong front and stay in the game. Meanwhile, Kolody spent hours at Indiana's Valporaiso Law Library researching any and every aspect of intellectual property law that might help him develop a better case. He also began hanging around a certain Chicago area bar to soak up the pain of his now seemingly endless battle for justice and retribution.

It was during one of those late nights that Kolody first met a powerful businessman who, through his own intricate past, had developed strong ties to the intelligence community. This person was our aforementioned Tennessee contact. As an accountant to Fortune 500 companies, he must remain nameless in order to protect his current business practice. For our purposes we'll call him Echelon.

Echelon

Echelon studied the facts of the case and, seeing the potential damage that a massive fraud and copyright infringement suit could pose to Coke's bottom line, decided to help Kolody get to the next level. He began by warning Kolody that he was not dealing with a regular corporation. Kolody begged for elaboration. In a long and detailed explanation Echelon broke down the facts of Coke's links to the CIA and its historical role as a global front for the U.S. intelligence community. It was this topic that had so fascinated me upon my first meeting with him and one that I will touch upon briefly before getting back to Kolody.

Throughout the late 1950's and early 60's the CIA began expanding its operations. In order to effectively fight the Cold War on a global scale, it needed to establish bases in every major country. This meant that agents would need a plausible cover in order to penetrate the borders of international frontiers. They couldn't just show up with CIA stamped on their passport and foreign governments were getting wise to the tricks the Company had been employing to get their agents across borders. As a solution to the problem the CIA was able to convince Coca-Cola, one of the first truly globalized companies with product distribution operations in virtually every corner of the world, to be used as a cover for the U.S. intelligence agency. It was a brilliant maneuver and one that rewarded Coke with benefits and opportunities that few corporations could ever dream possible.

It was for this reason that a lengthy battle with Coca-Cola over something as potentially costly as copyright infringement would need to be incredibly well planned. Echelon surmised that if Kolody was, indeed, going to take Coca-Cola to court then he would need a lawyer who fully understood the nature of Coca-Cola's power and the forces it could summon in order to protect itself from unwanted attack, from a solitary individual. Kolody agreed and Echelon initiated a series of conversations that would change the course of Kolody's life forever.

Through a contact who was a former Los Angeles FBI Station Chief, Echelon was able to set up a meeting for Kolody with John DeCamp, a federal attorney based in Nebraska. To Kolody, DeCamp seemed like the perfect choice. He was a former Nebraska state senator turned professional litigant with a good practice and, more importantly, he was no stranger to controversy. In the early 1990's DeCamp had been an attorney involved with a nefarious trial that had become known as the Franklin Cover-Up. A close friend of former (and now deceased) CIA director William Colby, DeCamp survived the trial unscathed and published a riveting novel about the events surrounding the case.

After hearing the substance of Kolody's case DeCamp agreed to file under a contingency basis but warned Kolody that he would only be able to devote a limited amount of resources to the battle. Kolody agreed and in January 1997 Civil Action Number 97 C 0190 Civil Action Number 97 C 0190: Robert Kolody vs. Simon Marketing and the Coca-Cola Company was filed in the District of Illinois. As their lawyer, Coca-Cola named Jerold Jacover, one of the top intellectual property lawyers in the United States.

But within months of filing, DeCamp was forced to abandon the case due to a series of crises at his firm. Kolody was left with only two options… drop the case and return to his normal life or take on the invincible corporate attorney Jacover and his behemoth client Coca-Cola as an unrepresented (*pro se*) litigant. Armed only with his binders of photocopied legal texts and an irrational belief in the due process of the United States legal system, Bob Kolody chose the latter. It would become, as you will see, one of the most brutal and fascinating David and Goliath stories of the modern judicial era.

Part Three: David and Goliath

The bar at Chicago Midway is filling with smoke and garrulous chatter. Next to our table are a couple of businessmen who have been drinking heavily and intermittently raising the volume of their conversation until I can barely hear what Bob Kolody is saying. Suddenly one of them interrupts our interview to ask for the time. Bob is in mid-sentence and looks over distractedly at the disheveled boozer.

"Excuse me?"

"You got the time, buddy?"

Kolody impatiently looks down at his watch,

"8:30"

As he turns back to me, Kolody hears the man mumble something under his breath. I look over to see them staring in glassy-eyed mockery at the spectacle of our makeshift interview and the unlikely nature of Kolody's improbable celebrity. The pair burst out into laughter. Kolody turns back to me with a look of pained annoyance. Clearly, this

isn't the first time he has been maligned and underestimated by the coarse hearts of the corporate world.

Realizing that my plane is boarding in a few minutes, I tell Kolody that we need to wrap it up. He begins handing me packets of documentation, explaining the contents of each as I shove them into my shoulder bag. By the time we are done I am carting a small forest of recycled paper through the scanners and security check.

As I rush toward the departure gate Kolody continues to feed me information about the case. My head is swirling with data and I am verifiably drunk from the information. When we arrive at the gate I slip into line behind a gaggle of cheap-seat travelers and try to remember something I was going to say. There is a question I have been meaning to ask him since the very beginning. Suddenly it materializes:

"Bob, why do you think that Coke would take such a big risk to cover up a stupid, little mistake? I mean... they could have just paid you off."

Kolody reaches for my arm and holds me back for a moment. He looks at me with the kind of intensity that a football coach reserves for his quarterback on the last play of the game.

"Because, it isn't just a stupid little mistake, ok? You have to understand Coke's business. How does Coke make money?

"They sell syrup to bottlers."

"Right. And…"

"And?"

"And they license the rights to print their corporate art on the cans and bottles to those bottlers. So what are those bottlers going to say after finding out they've been paying twelve years worth of licensing fees for a fraudulent copyright?"

"Shit."

"These guys are global. They have bottlers all over the world. And Coke hasn't exactly been the best master to them, if you know what I mean."

The ATA stewardess announces the final boarding call for my flight. Kolody doesn't let go of my arm.

"And to answer your question about the risk they took."

"Yeah?"

"They didn't think they were taking a risk by messing with me."

"Why? You had all the evidence -"

"Doesn't matter. You have to understand how it works at that level. Coke did a profile on me. They looked at my financial situation and my total lack of legal knowledge and they figured I would never have the intelligence or resources to pursue this case. And that's why they perpetrated the fraud. Because as long as I could not press them in court, they would be able to protect themselves from investigation. And no one would ever find out about what happened."

Kolody lets go of my arm and slips his hand down to mine. Gripping it firmly, he shakes it goodbye.

"Just remember, Stephen, the cover-up is always worse than the crime."

Intellectual Property

Intellectual property law is one of the more complicated and prohibitive realms of the legal domain. It is loaded with technical nuances and formal minutiae that few laymen can navigate successfully without the help of a lawyer. But since John DeCamp had dropped out as his federal attorney, Bob Kolody knew that he had no choice but to learn aspects of the law if he was going to make any progress toward the resolution of his claims against Simon Marketing and Coca-Cola. And so, as is his nature, Bob Kolody spent endless hours on the phone coaxing advice from lawyers and legal experts.

One of the people that Kolody turned to for advice was Tom Field, a professor at Franklin Pierce Law School. Consistently listed as one of the top intellectual property schools in the country, Kolody cold-called the faculty and got one of its founding members, Professor Field, on the line.

I recently spoke to Professor Field about that initial encounter and his opinion of Kolody's maverick approach to the law. Like me, Field was at first amused by his tenacity and obsession with details but when it came to Kolody's ability to absorb and interpret technical legal issues, his opinion is unequivocal:

"I have huge admiration for Bob for all the law that he has learned, cumulatively and substantively."

But when I asked him about how he regarded Bob's chances of successfully convincing a judge to accept his arguments as a *pro se* litigant against a massive corporate entity like Coke, Professor Field likened it to shopping for canned soup on a rainy day.

"It's almost like a branding issue when you've got the judge and you've got a respectable company and a respectable law firm in front of the judge — somebody she knows and has come to rely on — and they've got their name on the line. And then they've got someone they've never heard of who's on the other side. In a close case, she's going to go with the name that she's come to rely on."

Yet, despite the obvious perils of his situation, Kolody felt sure enough about the facts of his case to fight it *pro se* against Jerold Jacover, the well-respected litigator from

Chicago's prestigious law firm Brinks, Hofer, Gilson, and Lione. He also had the added assurance that as a *pro se* litigant he would be guaranteed certain latitude by the court in order to gain equal access to justice without representation by a qualified attorney. But, as Kolody would soon discover, justice is no longer the blind matriarch it once was. Especially when it comes in the form of a judge by the name of Blanche Manning, one of the most controversial members of the Chicago bench.

Appointed in 1994 by President Clinton, Manning has gained a reputation for being unable to handle the full extent of her duties as a federal judge. In the Almanac of the Federal Judiciary, a publication that lists and evaluates members of the various national benches, Manning was given the following critiques by lawyers that have dealt with her in the courtroom.

"Her level of ability is fair. If she could concentrate on just one case, she would be absolutely fine, but she can't handle a docket of 300 cases. Her decisions are extremely delayed and belated. She often overlooks crucial points because she is in such a rush."

"She really is in over her head. I don't think she grasps the law. She doesn't really comprehend what's going on, and she's not able to make decisions."

"She's a disaster as a federal judge."

Yet Judge Manning consistently draws to her docket some of the most high-profile cases on the 7th Circuit, from the infamous 1998 Archer Daniels Midland price fixing scandal to the recent trial of a high-level Chicago police officer for drug trafficking. Kolody's case was no exception as Coca-Cola was facing one of the most potentially damaging legal battles in the history of the corporation. And so, as he entered the courtroom to begin the adjudication of his copyright infringement suit against one of the country's top intellectual property lawyers, Bob Kolody walked into a scene that had all the surrealism of Alice in Wonderland.

And more…

Part Four: Alice in Wonderland

Kolody's case against Coca-Cola is a complicated series of claims and counter-claims, motions and dismissals, orders and responses that, if fully documented, would exhaust the patience of even the most attentive reader. In order to best understand the tactics that Coke deployed to protect themselves from a proper level of judicial enquiry into their fraudulent application of a copyright and the cover-up of that crime, we need only elaborate on a few aspects of the court proceedings. As they unfold you will see how Coke's attorneys were able not only to manipulate and deceive the court into accepting false arguments but also to manufacture an irrefutable level of collusion between the judge and their interests.

Once again, I must warn readers that this recounting of the legal battle between Bob Kolody and Coca-Cola's lawyers requires some concentration and patience. But understanding these aspects of the case will give you a powerful insight into how justice has been so blatantly denied in a lawsuit that is potentially worth billions of dollars. Please try to stick with me…

Coca-Cola's Defense

Jerold Jacover's initial response to Kolody's copyright infringement suit was to file a counter-claim and motion for summary judgment. What this means, in essence, is that Coke was seeking a favorable ruling from the Court that would move against Kolody and pre-empt the possibility of a trial. In order to attain a summary judgment the party must prove through documentation and argument that the suit has no basis in fact and that it should be dismissed. Jacover's strategy for accomplishing this was to prove the invalidity of Kolody's copyright. This argument can be summarized in three key points:

1. Lack of Originality

The foundation of Coca-Cola's refutation of Kolody's claim was to prove that his copyright was invalid and thus inadmissible as proof that they had infringed on his property. In his defense of Coca-Cola's use of the contour bottle on their can, Jacover argued that Kolody's copyright application, which was based on his story-board drawings of the contour bottle, lacked the requisite level of originality to be a legitimate copyright. Therefore Kolody could not legally claim that Coke had stolen his property.

Now, on the surface, this sounded very convincing. If, in fact, Kolody's drawings lacked originality and were thus not sufficient for a copyright then his argument that Coke stole his property would be null and void. But instead of pin-pointing a crucial Achilles Heel in his opponent's case, Jacover gave Kolody ammunition with which to question the validity of Coca-Cola's own application for a copyright. Check this out:

You may recall that in his initial letter to Kolody, Dexter Brooks, Coke's corporate lawyer, defended their alleged ownership of the contour bottle design by asserting that they had registered a copyright for the image in 1993. One of the reasons Kolody felt so confident about his case against Coke was that, by virtue of the 1989 'date of creation' on his drawings of the contour bottle, he had legally beaten them to it. That is why they needed to come up with a way to discredit his application. Hence the argument that his copyright was invalid.

But, as Kolody soon realized, Coca-Cola wasn't that smart in their connivance.

By asserting that Coke had registered a new copyright on the contour bottle image in 1993, Dexter Brooks admitted that they had submitted derivative art for the application. Yet, it only takes one glance at the contour bottle Coca-Cola uses on their can to see how strikingly similar it is to the story-boards Kolody presented to Simon Marketing as part of his original pitch. And so the question begged, if Kolody's derivative drawings of the

contour bottle and the original Coca-Cola can designs were lacking in significant originality for them to warrant a copyright, then how could Coke's revisions of the can, which were nearly identical to Kolody's, be sufficient?

They cannot.

But Judge Manning did not take the time to investigate Kolody's side of the issue. In fact, she was so blinded by Jacover's high-profile status that he was able to further mislead her in the hearings by misconstruing an entire facet of Copyright Law and confusing it with that of Trademarks, two very different aspects of intellectual property law.

2. Non-Copyrightability of Trademarks

Beyond his assertion that Kolody's drawings were not sufficiently original, Jacover also made the argument that Kolody's copyrighted drawings contained elements that could not legally be copyrighted. Namely Coke's trademarked image of the contour bottle.

Once the world-famous [Coca-Cola] trademarks that Kolody copied from [Coca-Cola] are excluded from Kolody's copyrighted drawings, as the law demands, those drawings contain only common, trite, and familiar words and symbols which do not warrant copyright protection.

In other words, Jacover was trying to claim that trademarks cannot be copyrighted and that, therefore, Kolody's incorporation of Coca-Cola's trademarked images into his copyright application was somehow against the law. But that is simply not true. In fact, the very nature of commercial design, and the creation of derivative works that allow for its evolution, depends on the legal right of individuals and corporations (even those who own the trademark) to create new, copyrightable art of those trademarks. That is how independent designers like Kolody are supposed to be protected from corporations stealing their concepts for new trademark designs. But maybe this point would be better elucidated with a brief explanation of the difference between a trademark and a copyright.

A trademark is basically the registered logo or distinctive mark of a business. It is representative of the goodwill of the corporation. An example of this would be the Nike swoosh. It is trademarked as their brand's unique symbol and identifies Nike products for consumers.

A copyright is essentially defined as the right to publish an artistic expression and/or rendition of a work, including trademarked images. For example, the Campbell Soup can is a trademark owned by the Campbell Soup Company (CPB). Andy Warhol was able to copyright his famed paintings of the Campbell Soup can, which were derivative works of Campbell Soup's trademark. This is why Kolody's derivative drawings of the contour bottle were granted copyrights by the Copyright Office

Therein lies the difference between the two. Trademarks are the exclusive property of a company as long as they renew them as their emblem. Copyrights evolve through derivative creations, they share owners through licensing arrangements and, to Coke's major chagrin, they expire.

So, by claiming that Kolody could not, as a fact of law, copyright Coke's trademarked image of the contour bottle, Jacover misled the Judge. And Judge Manning never questioned the fact that his presentation of the law was completely fallacious. Even worse, she did not see the most striking inconsistency of his argument: that, in filing for their own copyright on the contour bottle in 1993, Coke admitted that the trademark was copyrightable, an admission that directly contradicted their argument against Kolody.

Now this may sound a little trifling but, in the realm of federal judicial practice, it is a crucial point. It is called admissions against interest and constitutes a major breach in the procedural law of the Court; one that calls for the Judge to issue an estoppel upon the offending side, essentially blocking their use of the contradictory arguments. But again, Judge Manning either did not understand that aspect of the law or was simply ruling in favor of the establishment attorney and his gargantuan client. Kolody, acting as a *pro se* litigant had no recourse but to accept the Judge's decision and continue to press his case on other fronts.

In any event, this wasn't the worst of her transgressions. Perhaps the most staggering miscarriage of justice in the Kolody hearings occurred when Coke refused to submit documents substantiating another aspect of their argument against the validity of Kolody's copyright.

3. Exclusivity

In Coke's reply to the suit, Jacover asserted that it was Kolody and not Coca-Cola who was guilty of submitting a fraudulent copyright application. It was his argument that "Coke is the author and sole and lawful owner of any copyright on the Work". In other words, that Coca-Cola had the exclusive right to a copyright on the contour bottle on the Coca-Cola can.

Again, on the surface it sounded like an excellent defense and one that, even Kolody admits, should have been enough to close the door on his claim. Except for the fact that when he asked for the documents to prove their certification of the copyright in discovery, Coke refused to submit them. In fact, they did everything in their power to subvert Kolody's legal right of due process governed by the professional rules of conduct which stipulate that Coke must provide all relevant documents and cannot conceal them from either Kolody or the Court. Each time Kolody would request the documents, Jacover would respond with a new and more ridiculous objection.

First it was that Kolody's request sought documents "not reasonably calculated to lead to the discovery of admissible evidence". Then, after Kolody filed a request for the original 1961 copyright registration, Jacover responded saying that "Coca-Cola objects on

grounds that it is irrelevant and cannot possibly lead to any relevant information". How could these requests be considered irrelevant and unreasonably calculated if their intention was purely to substantiate Coca-Cola's own argument for the dismissal of Kolody's claim? And if Coke was, indeed, the exclusive owner of the copyright, why not just produce the documents and be done with it?

Kolody pleaded with Judge Manning to sanction Coke for failing to provide him with adequate information in order to press his case. But Manning would not compel Jacover to produce their copyright registration for the contour bottle. And, what is worse, she never investigated Coca-Cola's claims that they had a legitimate copyright on the contour bottle.

Frustrated, Kolody filed another motion claiming that Coke "has resisted discovery, denying Kolody the opportunity to fully explore the issues of infringement". Again, Jacover responded to Kolody's complaint with condescension and blatant lies:

[Coca-Cola's] counsel voluntarily stated that it would be willing to respond to Kolody's discovery "to the extent that it's relevant to the summary judgment motion." Thereafter, [Coca-Cola] made a good faith effort to respond to Kolody's written discovery, even though [Coca-Cola] believed it to be largely incoherent and objectionable. Documents were produced and interrogatories were answered in accordance with Federal Rules. In summary, Kolody was given a full opportunity to pursue whatever discovery he wanted…

Fearing that he would never see justice on this issue, Kolody humbled his attack and submitted a request for the judge's reconsideration:

Coke offers that 'it made a good faith effort' to respond to the written discovery. Yet, Coke, alone, sat in judgment as to what it felt was irrelevant and what was not. Necessarily, these documents were relevant.

But Judge Manning had seen enough of Bob Kolody and his unique brand of *pro se* litigation. On September 2, 1998 she awarded Coke Summary Judgment against his claim stating, in essence, that Kolody's copyright was invalid.

Kolody was crushed. On each one of Jacover's arguments against the validity of his claim, he had uncovered major barriers of credibility. But instead of listening to him, the judge had sided with Coca-Cola and shut Kolody out of a fair and reasonable hearing of his arguments. Never one to quit and now possessed by an Quixotic surety of his democratic right to a fair trial, Kolody began preparing an Amended Complaint to contest the Judge's decision. Little did he know that he was about to stumble on the most powerful evidence of Coca-Cola's verifiable fraud and cover-up of that crime.

Original Sin

Working on a hunch and the advice of Steve Kelber, a Washington, DC based attorney who was contributing to his *pro se* effort, Kolody contacted the U.S. Copyright Office to see if he could get a copy of Coca-Cola's Copyright Registration. Though the Copyright Office does not habitually disseminate the files of other registrants, Kolody discovered a provision that allowed for individuals involved in litigation over a copyright to gain access to the documents in question. So Kolody filled out a formal request and, within days, was analyzing Coke's 1993 Registration for Copyright of the Contour Bottle on the Coca-Cola Can. Attached to the document was a letter from the Copyright Office that made it clear why Jacover had been so vigilant in his denial of Kolody's access to the Copyright Registration.

In the letter, Copyright Examiner John Ashley warns Coke:

> Certainly, we will issue copyright registration for the interpretive drawing of a bottle that has been added to this label, but only if this is new art. Of course, if it is pre-existing art that has been borrowed from some other source and then merely formatted into a new layout for this particular label, then there is no basis for issuing a registration based on this label. The first-published edition of a work must be used to request copyright registration.

What this letter represents is a warning to Coke that they can only file for a copyright on a work that is "new art". Furthermore, that the 'first-published' edition of the work must be used in the application. This presented a huge dilemma for Coca-Cola. Not only were they unable to present the contour bottle as 'new art' (since it had first been published in 1961), but they could not use the first-published edition' of the contour bottle in their 1993 application because then it would have become clear to the Copyright Office that they had allowed the 1961 copyright registration to lapse. Remember, the law governing copyright renewal states that: in order for a party to maintain exclusive control over a copyright they must renew that registration every twenty-eight years. So let's do the math. Take the date of creation for the original image of the contour bottle and add twenty-eight years.

1961 + 28 years = 1989.

What happened between 1989 and 1993? Even by Coke's own admission, the registration lapsed. And when a registration lapses, the copyright either goes into the public domain or becomes the property of a new applicant who registers it. In the case of the contour bottle, Bob Kolody's copyright registration commenced at the date of creation or, in other words, around the time of his pitch to Simon Marketing.

1989. Making him the legal owner of the copyright of the contour bottle.

Did Coke discover that Kolody had become the de facto owner of their most famous copyrighted image due to their failure to renew it after 28 years? We'll never know. But it is interesting to note that Coke filed their second, amended application to the copyright office on April 14, 1994, just three days after Kolody's attorney Bob Ward's second conversation with Coca-Cola's attorneys.

In that amended application, Coke filed for a copyright on a derivative of the contour bottle despite the Copyright Office's warning about the limitations governing its legal registration. And in order to avoid scrutiny on the issues raised by the letter of warning, Coke committed a fraud upon the U.S. Copyright Office by intentionally omitting the original date of the design. What's more, in filing for copyright on a derivative design of the contour bottle, they used the very same argument that Kolody had used in justifying the validity of his copyright in court. This is the essence of estoppel and why Jacover would never allow Kolody or Judge Manning to see the application, because it was the smoking gun that proved Coke's manipulation of the Court and the Copyright Office; arguing one side to the Judge in order to invalidate Kolody's copyright after pressing the other side to the Copyright Office in order to justify theirs.

Now the question may arise: Why didn't the Copyright Office investigate Coke's second application? The answer is: that it is not within the realm of their mandate to verify copyrights. They are only expected to forewarn applicants about the validity of their registrations. The rest is left up to the courts. Coke's lawyers knew this and were willing to take a gamble that Kolody would never have the money or intellect to challenge them in court. But, as Kolody met their lies head-on at each stage of the game, they were forced to dig themselves deeper and deeper into the cover-up and deception. Hence the impeccable truth of Kolody's favorite expression concerning the relative evils of the cover-up and the crime.

Looking back, one really can't fault Coke on their logic. What were they to do? Accept the fact that they had lost one of their most sacred images to a freelance designer who got his story-boards ripped off by a couple of advertising hacks at Simon Marketing?

This was not in the cards for a company as powerful as Coca-Cola.

And consider this, by the time Kolody got them to trial they had already been licensing the image to their worldwide network of bottlers for five years. We are talking about damages that run into the hundreds of millions of dollars — not only from Kolody but also from the bottlers who had been paying for the rights to use a fraudulent copyright. In order to protect themselves from that humiliation, Coke had taken the ultimate risk and lost. After years of concealment, humiliation and blatant lies, Kolody now held the key to their destruction in his hands.

The Red Queen

Excited by his discovery and confident that he finally had all the evidence necessary to demonstrate that Coca-Cola had not only defrauded him but also the U.S. Copyright Office - a crime equal to perjury in a courtroom - Kolody submitted his Amended Complaint to the 7th Circuit and secured a new date in court with Judge Manning. In the Amended Complaint he introduced the new evidence and outlined the various aspects of Coke's contradictory arguments, calling on the Judge to 'estop' Coke from using those claims as a basis for their argument against the validity of his copyright. Furthermore, he

asserted that Jacover had unlawfully concealed evidence which proved that Coke had infringed on his property.

As Kolody prepared for what he expected to be his last day in court as a *pro se* litigant, he
permitted a ray of optimism to penetrate the otherwise darkened gloom that the prolonged legal battle had cast onto his world. I imagine him treading lightly on his weathered soles as he made his way up the steps of the Chicago courthouse. Whistling even.

He never saw it coming.

After reading the substance of his Amended Complaint, Judge Manning refused Kolody's request for admission of new evidence. She would not even hear his arguments. When he recalls that day in the courtroom, Kolody says that he did not feel as if he was in America. And if that is not true geographically, then it is philosophically. The American Constitution guarantees the right of any litigant to produce new evidence that may alter the Court's determination of their fate. If you need a more local reference, just look at Timothy McVeigh. The U.S. government delayed the execution of a person they consider to be the worst domestic terrorist in the history of the United States because of the submission of new discovery documents. Furthermore, Judge Manning, as an officer of the U.S. government, has a judicial obligation to investigate any evidence of fraud committed on another branch of the government.

Namely, the U.S. Copyright Office.

With this one stroke of her judicial wand Judge Blanche Manning decimated Kolody's perfectly crafted argument for the overturning of her Summary Judgment against his claim against Coca-Cola. But, in her blatant disregard for Kolody's due process rights and her duty as a federal judge, she also broke the law and set into motion a series of events that drew in a cast of players so intriguing, nefarious and divergent that even John Grisham will envy our approach to the dramatic conclusion of Coca-Karma.

Part Five: The Beginning of the End

I'm lying on the floor of the GNN bunker going through tapes of the various interviews that I have conducted over the past month in order to learn more about Kolody's case. Scattered around me in a semi-circular matrix are hundreds of pages of faxes and random dictation that I have compiled since beginning my research. I have notes scratched onto everything from sticky pads to take-out bags and even the blank surfaces of record sleeves. Ever since we began this odyssey together, Bob Kolody's phone line has been the source of an unending flow of judicial and corporate intelligence. Either in the form of Kolody's daily faxes, consisting of relevant newspaper clippings and legal documents or, as phone calls that inspired cryptic scribblings inked with the rapid-fire annotation derived from attempting to capture the exact combination of Kolody's legal terminology.

In short, I feel like a prisoner trapped in the chamber of Kolody's casefile, surrounded by a moat of unending legalese. One step too far and I'll drown...

Meanwhile, the DAT player lies on the ground beside me, transforming a steady stream of 1 and 0's into the sonic manifestation of a uniquely cantankerous vocal signature. I can't help chuckling as I listen to the impatient voice of Sherman Skolnick, the legendary judicial activist and founder of the Citizen's Committee to Clean Up the Courts, as he intermittently admonishes and ridicules me for my gaping lack of legal expertise. But when it comes to stating the facts about Kolody's case, he does not mince words about why it is worthy of even my unschooled analysis:

"I would say that it is one of the more important cases I have come across because it involves a major enterprise that is generally not criticized in the media because of their advertising budget. And, secondly, because they have done favors for the American CIA in every corner of the world. So, you can see the importance of that. In other words, they've been given a pass."

Given a pass. Interesting terminology. Almost makes you think that he is intimating some form of collusion between the Court and Coca-Cola. I stop the tape and reach over to pull out a copy of Skolnick's Declaration to the Court, the substance of which was so threatening to Judge Manning that he was nearly thrown out of her courtroom by six US Marshals on August 22, 2000. Surely one of the wildest hearings the old Chicago courthouse has endured, it involved testimony and allegations that Coke had used espionage as a means of derailing Kolody's case and that Judge Manning had been bought off by the Chicago Mafia. But I am getting ahead of my self…

The Attorney from Arkansas

After Judge Manning shut down Kolody's attempt to bring new evidence into the courtroom, he turned back to the one person who had never failed him and asked for help. Echelon, our Tennessee contact, was not surprised by the turn of events that had left Kolody without justice on his case. He also realized that if Kolody was going to effectively drive his Appeal through the 7th Circuit, the romantic ideal of his *pro se* litigation would no longer suffice. So he flipped open the pages of his little black book and came up with the name of a federal prosecutor whose brushes with the Arkansas political elite had made him a legend in the eyes of some of Echelon's sources. Tearing open his newly emptied box of Marlboro Reds, Echelon copied the name and number of Daniel Ivy inside the pack and handed it to Kolody.

"If this guy won't take it, then no one will."

Dan Ivy's practice is based on fighting the toughest and highest-profile cases that he can find. Among a select group of the most successful prosecutors in Arkansas, Ivy once had offices throughout the state and his own private airplane. But, after a series of dramatic cases in which he became intimately acquainted with the drug smuggling operation at Mena Airport, Ivy decided to run for Attorney General as a Republican nominee. His platform was based on the destruction and arrest of then Governor Bill Clinton. Suffice it

to say that he ran into a political juggernaut that eventually destroyed his practice and left him nearly penniless after a messy divorce from his former wife, the daughter of a highly placed Democratic judge.

Kolody immediately called Ivy at his law offices in Fayetteville, Arkansas and launched into an explanation of his lawsuit against Coca-Cola. Ivy listened carefully to Bob's recounting of his case and the events that had led to the recent denial of his attempts to introduce evidence of Coke's fraudulent copyright. His first reaction was one of incredulity and doubt.

"See, I get a lot of people who call that really don't have cases. [Kolody's] case sounded so unbelievable that I had real questions about if he was telling me the truth because of what he told me about what had happened in the courtroom and so forth and so on. And because he said he was having difficulty finding an attorney to represent him. See, if you've got a high dollar case against Coca-Cola, some attorney is going to jump in there and sue them because you are talking about a case that could be worth, potentially, a very large sum of money. Possibly billions of dollars."

Never one to look a gift horse in the mouth, Ivy had Kolody send down the documentation on his case. After carefully reviewing the substance of Kolody's exhibits, court transcripts and legal correspondence, Ivy determined that the claim was valid and that Kolody had been terribly wronged. This was all he needed to know. On February 12, 1999, less than two months after their initial conversation, Dan Ivy agreed to represent Bob Kolody in his fight against Judge Manning and Coca-Cola's superstar attorney, Jerold Jacover.

One of the first actions Ivy took was to surgically examine the court records and begin drafting a second Amended Complaint to Manning's Summary Judgment. But as soon as Ivy came on the scene he began to notice severe irregularities surrounding Kolody's case.

The Missing File

First and foremost was the disappearance from the court record of Kolody's first Amended Complaint which had been filed as a response to Judge Manning's Summary Judgment. You will remember that this is the document that Kolody filed articulating the various aspects of Jacover's fraud upon the court and Kolody's evidentiary findings that proved the validity of his copyright. As Ivy explained to me, every document submitted to the Court is stored in the courthouse and made available for public scrutiny. This protects the judicial process from fraud by making transparent its proceedings for the media and objective observers. But when Ivy sent Kolody to look for the Amended Complaint in the file room, it was gone. Even more suspicious was the fact that when Kolody went to check the log (which must be signed by any person who examines the file) there was no other signature other than his own.

Where did the file go?

Kolody asked the clerk who guards and releases documents if he could remember anyone suspicious asking about his file. But he could not. In fact, the guard told him, no one can access the file without first signing it out. Even Judge Manning would have had to sign the log if she wanted to access the document. So the file had been removed by someone who had direct access to the court records. And they had done so in order to remove the possibility of any third party learning about the frauds committed by Jacover in his defense of Coca-Cola's fraudulent copyright application.

Ivy asked Manning for an extension to reconstruct Kolody's Amended Complaint. She agreed, but, just as they were completing their work, the file mysteriously re-appeared in the court docket. Kolody and Ivy were mystified. Clearly there were clandestine forces working from within the court system to aid Coca-Cola's fight against Kolody and his new lawyer. And if having files stolen from the court wasn't bad enough, Kolody and Ivy were further sabotaged by their opponent's use of dirty tricks.

Failure to Notify

On April 30, 1999 Kolody's local counsel received a FEDEX package containing a notice to appear at an important hearing regarding his case. As it was a hearing called by his opponents, the responsibility fell on their lawyers to notify Kolody of the date and time that his presence was required in the Chicago courthouse. The only problem was that Kolody received the notification of the hearing a few hours after it had already taken place.

Outraged, Dan Ivy contacted the Court and discovered that Judge Manning had, indeed, proceeded without either Kolody or his counsel present. Furthermore, she had ruled against his second Amended Complaint and terminated the case. As far as she was concerned, it was over. Kolody was done.

To compound the blatant unfairness of the situation, when the Minute Order issued by Judge Manning as a summary of her decision was faxed out to his lawyer on May 10, 1999, Kolody saw that the Judge had erroneously referred to his case as a "federal trademark claim." This was proof once again that she had totally misrepresented and/or misunderstood the basis of his case. Kolody's lawsuit against Coke was pertaining to copyright infringement, not trademark. As explained earlier, the difference between copyright and trademark is significant to a major degree. Here was a federal judge deciding the fate of a $4 billion lawsuit on the basis of a falsely conceived interpretation while Kolody's attorney had been given no opportunity to rebut the arguments presented therein.

And it only gets nuttier.

Judicial Error

Now that Kolody's case was officially terminated with Judge Manning, it was up to Dan Ivy to begin the process of 'appealing' her decision. You see, the way it works in the federal court system is that once the 'lower' court has decided on a case, the plaintiff can take it up to the 'higher' court of appeals and ask that they review that decision. In order for this to occur the contested aspects of the Judge's decision must be summarized in complete detail and submitted as a brief to the Appeals court. And so, once Ivy was ready to bring Kolody's case through the appeal process, he prepared a notice of filing and submitted it to the 7th Circuit Court of Appeals. The judge in the Appellate court reviewed the documents and, on June 11, 1999, sent down a reply stating that Kolody's case had been prematurely submitted. His reasoning went as follows:

Generally, an appeal may not be taken in a civil case until a final judgment disposing of all claims against all parties is entered on the district court's civil docket. Coca-Cola filed a counterclaim against Robert Kolody on March 13, 1997. It does not appear, however, that the district court disposed of the counterclaim. As such, this appeal appears premature.

Incredibly, Judge Manning had neglected to rule on an entire aspect of Kolody's case, specifically Coke's counter-claim. Could she have just forgotten or was this, as Kolody and Ivy were beginning to suspect, an aspect of her now undeniably questionable collusion with the interests of Jerold Jacover and Coca-Cola? To answer that we must re-examine the contents of Coke's counter-claim and how its exclusion from judgment directly benefited Coke's strategy of protecting their fraudulent copyright application from examination.

To recap… the essence of the argument in Coke's counter-claim to Kolody's infringement suit was that Kolody's copyright registration was invalid and thus unenforceable. As part of the motion, Coke maintained that if Judge Manning ruled in their favor, Kolody's copyright should be ordered cancelled by the Court. Furthermore, they contended, he should be liable for all costs he had incurred on Coca-Cola (and their shareholders) for his case. But since she neglected to rule on the counter-claim, the Appellate Court remanded the case back to the lower court saying, in essence, that the case was, as yet, unfinished. She would have to hear out the arguments from both sides regarding the counter-claim. Then Kolody's case would be ready for Appeal.

At first this seemed like a major blow to Kolody's case. If he returned to the lower court, where Judge Manning would most likely order the Copyright Office to cancel his registration on the contour bottle, he would have no basis for suing Coke for infringement. And, even more troubling, convincing the Court of Appeals to overturn Manning's judgment as well as re-instating a cancelled copyright registration was pushing the bounds of rational speculation. Or so it appeared. Through his own judicial kaleidoscope, Dan Ivy saw a very different scenario and one that posed very serious problems for Coca-Cola.

Check it out…

An Ironic Disposition

Ivy realized that if Manning was going to hear arguments on the counter-claim, then Coke's lawyers would be forced to submit to an entirely new hearing and, thus, a new process of discovery. This was disastrous news for Coca-Cola for it offered Kolody a new opportunity to expose what Jacover had plotted so deviously to protect; the fraudulent 1993 Copyright Application. And Ivy knew it.

And Coca-Cola's lawyers knew that Ivy knew it.

So it came as no surprise to them when Jacover's office received a motion from Ivy asking Judge Manning to reopen discovery and set a date for the counterclaim to be heard in front of a jury. In other words, Ivy was now fighting to have Judge Manning hold hearings to rule:

> **1**.on the cancellation of his client's copyright, and
> **2**.to make him accountable for any and all expenses incurred by Coke's lawyers.

To an outside observer this would have seemed tantamount to judicial suicide and malpractice by Kolody's lawyer; Ivy was enacting the ultimate gamble with his client's fate.

But was he really?

No. Because Coke's lawyers, with no choice but to avoid a new round of discovery by any means, filed their own motion two weeks later asking Manning for the voluntary dismissal of their counterclaim. In other words, not only were they dismissing their motion for the cancellation of Kolody's copyright, the most tangible implication of their victory in the lower court, but also that he be responsible for paying the considerable expenses incurred by their attorneys in fighting his 'fraudulent' case. One can only wonder at how Coca-Cola's shareholders would have reacted knowing they had been left on the hook for the hundreds of thousands of dollars spent on invalidating a copyright that would now remain in good standing at the Copyright Office. It boggles the mind.

Regardless, three days after Coke's lawyers filed the motion, Judge Manning issued an Order of the Court granting their wish. Once again, Kolody's strategy for attaining a fair trial before the federal court had been defeated. But his legal advisory, which now included Echelon and some of his own intelligence contacts, were devising a plan that would test Coke's legal resolve and attempt to beat them at their own game.

Ebay

There is a specific aspect of martial arts combat in which a warrior uses the force of his opponent's aggression as a means to their defeat. After Judge Manning allowed Coca-Cola to dismiss their counterclaim against Kolody, Echelon's team came up with a plan

that deployed this very logic. If Coke did not seek the legal cancellation of Kolody's copyright on the contour bottle, they surmised, then perhaps they were not willing to contest his ownership of it either. There was only one way to find out.

On July 19, 2000 a new item was posted for sale on Ebay, the internet-based auction service. Described as "one of the world's most famous trademarks and icons being offered for sale for the first time," the item listed was none other than the copyrighted image of Coca-Cola's contour bottle. In order to make sure that Coke was made aware of the precarious status of the copyright, Echelon's team sent an email to Ben Deutsch, Coke's Director of Media Relations, notifying him of the auction. Deutsch responded immediately, asking for clarification on the post and how he could access the site. Kolody's team sent back instructions and waited for a reaction. Nothing came. After three days of public auction and a solitary anonymous bid of $100,000, far below Kolody's minimum price, the sale ended.

Just as Kolody's legal team had projected, Coke's lawyer never filed an injunction ordering Kolody to cease and desist from his sale of the copyright. Dan Ivy believed this could be construed as an admission by Coke that Kolody's copyright registration was valid, an assertion he used to justify another hearing with Judge Manning.

New Evidence

On July 31, 2000 Dan Ivy filed a motion for Judge Manning to consider new evidence that would reverse her decision on the invalidity of Kolody's copyright. In the motion he asserted that in lieu of Coke's failure to block Kolody's sale of the copyright on Ebay, that they did not challenge its enforceability. This was a huge point and one that Jerold Jacover responded to with uncharacteristic flair. In his reply to Ivy's motion, Coke's lawyer made the following statements, some of which bore a remarkable similarity to charges Kolody had made of Jacover's own presentations to the Court:

Kolody draws the outrageous conclusion that Coca-Cola has somehow conceded that Kolody's copyright is now valid. Such nonsensical arguments have no place in this Court. There has been no admission by Coca-Cola, explicit or implicit, that Kolody's copyright is valid. Kolody is simply trying to manufacture evidence and confuse the issues before the Court.

Kolody's litany of motions is making a mockery of the court system. He seeks the sympathy of the Court by claiming that he is the "underdog." That however is no excuse for filing baseless motions which take up the time and resources of the defendants and the Court.

But it was too late. A new hearing was scheduled for August 22, 2000 and, for one last time, Coke would need to defend itself from the maverick plaintiff and his crusading attorney from Arkansas. Nothing could prepare Coca-Cola's attorneys for the final showdown in which Ivy would expose Coke's use of judicial espionage and links between

Judge Manning and a major figure in the Chicago underworld, the key testimony of which would come from one of the most controversial court reformers of all time...

Part Six: Enter Skolnick...

Throughout this Report we have visited some of the more glaring examples of injustice that Bob Kolody has endured as a solitary individual suing a major corporation. Not only was he blocked from accessing documents in discovery that, under his right of due process, were vital to the substantiation of his claim but he was also seriously prejudiced by the Judge who seemed to do everything in her power to aid Coca-Cola's defense.

If nothing else, these pages clearly elaborate a story of justice miscarried.

But what you are about to read, in these final installments of our story on Bob Kolody and Coca-Cola, is the darker machinations that Coke engineered in order to protect itself and secure a favorable outcome in the case. While for some they may paint a picture of the modern judicial system too praetorian to believe, for others these revelations will give validation to their deep sense of knowing that something is profoundly wrong with the federal justice system in the United States.

Local Counsel

Long before Kolody began entertaining the idea of suing Coca-Cola for copyright infringement, he would hang out and throw darts at a local Irish pub called Shannon's Landing. On many of those nights he met up with a Chicago attorney named Dan Hanley who had some business with the bar and was a regular fixture at the beer tap. Hanley was a patient and considerate listener to Kolody's tale and seemed to enjoy the intrigue of his case. So, over the course of Kolody's fight against Coke, the two became friends.

When Dan Ivy officially registered as Kolody's lawyer, Judge Manning requested that they bring on a Chicago attorney to act as local counsel. This was not an unusual request since Ivy had his main practice in Arkansas and Kolody would need someone to take care of the more mundane, day-to-day legal affairs. The obvious choice was Hanley and when Kolody sought him out, he agreed. It was during this more professional and sustained contact with the lawyer that Kolody first began noticing strange aspects of his personality.

In his early forties, Hanley lived with mother, his office was in constant shambles, and he was more than a little absent-minded. Also conspicuous was the fact that Hanley never sought to negotiate any form of participation in the settlement should Kolody win, something few lawyers would neglect when working for a litigant who’s case was potentially worth billions of dollars. But, other than the odd misplacement of a file or delayed submission of a motion, Dan Hanley became a valued and integral part of

Kolody's team, sharing in all aspects of the planning and execution of legal strategy against Coca-Cola.

It was around the time of Hanley's entry that Kolody first made the acquaintance of Sherman Skolnick, the legendary court reformer and judicial activist. A familiar face around the Chicago courthouse, Skolnick had gotten wind of Kolody's fight against Coca-Cola and began studying the way that Judge Manning was handling the case. It made him very suspicious.

Very suspicious, indeed.

As America's foremost expert on judicial perjury and fraud upon the court, Skolnick represents the most potent threat to judges and lawyers who engage in breaches of judicial conduct in order to facilitate certain outcomes for their cases. In other words, Skolnick strikes fear into the hearts of crooked judges and lawyers who take bribes and manufacture evidence in order to steal justice from unassuming litigants.

And they should be scared. Skolnick's confrontation of the Illinois Supreme Court in 1969 set off the biggest judicial bribery scandal in US history. He single-handedly ruined the quorum (the required number of Judges to make a ruling) of the Court and made national headlines when Time Magazine published a picture of police officers lifting his wheelchair up into an armored car after one of the accused Judges held him in contempt for not revealing his sources. In the 1980's, his work triggered the arrest of 20 judges and 40 lawyers in Operation Greylord, a massive government investigation into judicial bribery. In a recent interview Skolnick reminded me that he also has the distinction of being responsible for exposing Otto Kerner Jr., the highest level federal judge ever sent to prison. Another benchmark in U.S. legal history. But one need only spend a few minutes on the phone with Sherman Skolnick to learn that he is one of the truly unique voices of reform in the United States.

And so it was, that after studying the facts of Kolody's case and doing some of his own independent research on Judge Manning, Sherman Skolnick began plotting his own campaign to expose the criminal acts perpetrated against the citizen Kolody by Coca-Cola and Judge Manning. As his first target he chose to ferret out a spy.

A Wolf in Sheep's Clothing

Throughout the course of Kolody's fight against Coke and Simon Marketing there had been subtle signs of an uncanny foreknowing on the part of their legal teams. Whether it was in the form of a pre-meditated response or a strategically placed motion, the growing suspicion of foul play eventually left Dan Ivy to question whether Kolody's phone was tapped. Skolnick had other ideas.

One day, after a hearing in Manning's court, Skolnick approached Kolody and his two attorneys while they were eating at the courthouse cafeteria. Skolnick had been considering Kolody as a guest on his weekly cable-access television show, Broadsides,

and wanted to discuss it further. After a short conversation, Kolody stood up to make a telephone call. It was at that time that Skolnick turned his attention to Hanley and engaged in the following dialogue (as recorded in his court documents):

Skolnick: What sort of law work do you do, Mr. Hanley?

Hanley: General.

Skolnick: As you know I do for many years now a Cable TV Show each week.

Hanley: Yes, I know.

Skolnick: Does Coca-Cola and their attorneys know the legal strategy of Robert Kolody and his attorney Dan Ivy here?

Hanley: Yes.

Skolnick: Really? How could they know?

Hanley: My sister is the media buyer for Coca-Cola.

Skolnick: What does she do?

Hanley: She has been with a New York firm and now is in Chicago.

Skolnick: What firm is she with?

Hanley: (looked at Skolnick but did not answer).

Skolnick: Do you think putting Bob here on my TV program about Coca-Cola would do any good?

Hanley: No.

Skolnick: So your sister understands all about this case?

Hanley: Yes.

By midway through the conversation, Kolody had returned from his call and was standing next to Hanley. Kolody's face registered a look of total shock. Ivy was equally blown away. As Hanley excused himself and walked off Skolnick turned his attention to Kolody's chief attorney.

Skolnick: Did you hear what Hanley volunteered as a statement?

Dan Ivy: Yes, and we were shocked.

Skolnick: Well, this needs further investigation, now that he volunteered this statement.

Skolnick began his investigation of Hanley's admission by tracking down his sister, Mary Hanley. As it turned out, Mary Hanley was indeed a well-placed executive (Associate Media Director) at Chicago DDB, an advertising company whose client roster includes Coca-Cola. Further inquiries led him to confirm Hanley's statement that one of her responsibilities was to buy media space for Coke advertisements.

I asked Kolody why they would not have immediately excommunicated Hanley after finding out that he was a spy. As it turns out, Ivy and Skolnick were preparing their arguments for a final showdown with Coca-Cola and Judge Manning and wanted to keep Hanley "chained to the situation." Furthermore, as an officer of the court, his complicity in spying for Coke would aid them in their assertions of judicial perjury and fraud upon the court, some of the most serious accusations that can be made against a judge or lawyer of the bar. But before that could happen Skolnick had a more nefarious conspiracy to crack.

Judge Manning and the Chicago Mafia

Another aspect of Coke's behavior that Skolnick found suspicious was the absolute certainty and arrogance with which they treated Kolody's case. Here was a major blue-chip company defending itself against a plaintiff who had evidence proving their participation in a fraud that could be worth billions of dollars, and they never even considered a settlement. Instead they repeatedly committed fraud upon the court to protect themselves, a risk far greater than that of a few million dollars in hush money. Did Coke have another insurance premium outside of their double-agent Hanley? Skolnick endeavored to find out.

One of the points that was most consistently iterated by the lawyers I interviewed for this story was the unfortunate geographic location of Kolody's case. Naïve to the distinctions between the nine judicial circuits, I inevitably pressed them for more elaboration. Of the three, Ivy was the least reluctant:

"Well I just want to say this correct because I definitely do not want to be disrespectful to the courts. But the courts in Chicago tend to favor the moneyed interests…"

When I asked Skolnick he offered a slightly more direct terminology:

"[The] corporate scoundrels of this country know that, in Chicago, the courts are for sale. So whenever there is a big commotion they want it to be in Chicago because here the judges are cheap whores. They can bribe their way in Chicago the cheapest. I hate to put it in terms that crude but that’s where it’s at."

And if you need to be reminded, Sherman Skolnick has been responsible (directly and indirectly) for imprisoning more judges than any one else in U.S. history. All of them in Chicago.

So when he began to suspect Judge Manning of impropriety in the Kolody case, Skolnick dug deep and came up with some startling revelations. As he told me in his interview:

"For every judge that sits in the district court of Chicago, some interest bought the Chair. You don't become a federal judge in Chicago unless – and I believe this to be true elsewhere in the United States – you have to buy the position."

According to Skolnick, the money is paid on behalf of the Judge to a high-ranking government official who then filters the nomination to the White House for the awarding of a Judgeship. That Judge now occupies a position of great influence and monetary value for the group or individual who sponsored them. They become, in essence, the 'bitch' for that interest who can then run cases through their courtroom for damage control, political gain, or profit. Makes sense. Especially when you think about the role money plays in modern politics. It also made me think of a similar case of 'seat buying' that parallels Skolnick's finding.

Some time ago it was discovered that Mexican border guards were 'buying their badges' through an elaborate system of pyramid economics. The estimated cost of a high-traffic border posting was USD$1 million, far more than a lowly Mexican police officer could muster. And thus, it was concluded, these positions were being bought by the drug cartels to ensure either that their drug mules got through or those of rival gangs did not. Or, as another theorist surmised, well-connected opportunists were cornering the market on bribes and making cash as gate-keepers to the U.S. narco-market.

When I asked Skolnick how he came to believe that Manning was corrupt, he explained that his group has a very systematic approach to investigating judges.

"[A] principal form of corruption is the assignment of cases… that it's not assigned from a fishbowl, like Blind Man's Bluff. One of the first things we investigate if we suspect a case is corrupt [is] 'how did this particular judge, of twenty-five judges, get this case.' And so on. And once we determine how that particular judge corruptly got the case to cover up, then we go from there."

One has only to look back at Manning's court docket to see that she has presided over some of the biggest trials to come through the 7th Circuit in recent history. Most relevant according to Skolnick's analysis, and because of the irregularities surrounding them, are the Archer Daniels Midland ('ADM') price-fixing case, the Miedzianowski narco-cop case and the Kolody case.

In the Archer Daniels Midland case there was controversy over Judge Manning's leniency in sentencing two highly placed officials of the company. While she originally refused the government prosecutor's motion for longer sentences, the Appeals Court ruled that the Judge had erred in her judgment and ordered her to re-sentence both men to longer jail terms. Even more suspicious was the fact that her sentencing of Mark Whitacre, the government's witness and whistleblower in the case, was so disproportionately higher than that of the two main conspirators, Michael Andreas and Terrance Wilson, that many questioned the rationale of her ruling.

Joseph Miedzianowski is a former Chicago police officer who was busted for running a drug smuggling pipeline directly into the inner city gang network. Manning presided over the trial which included several closed door hearings. What's more, many of the court documents including transcripts of testimony were sealed from public view. These are circumstances, Skolnick insists, that are most commonly associated with cases in which U.S. national security is at risk. However, this case hardly qualified for the justification of national security and only set off alarm bells that it was a cover-up of CIA drug operations. Regardless of its true nature, Manning's handling of the case raised serious questions about the propriety of her use of judicial power. So much so that the Chicago Tribune petitioned to fight her redaction of documents and holding secret proceedings without notice. But they were rebuffed and never printed a word about the secret hearings despite the fact that the trial was a major story for the entirety of its duration.

And then there is Kolody's case, the irregularities and improprieties of which anyone reading this far into this Report should be intimately familiar with. But what makes Kolody's case so unique is the degree to which Manning has gone to subvert justice. In her denial of Kolody's right to discovery and apparent cover-up of Coke's fraud on the Copyright Office, not to mention the court, she has risked her own professional standing. If not her own freedom from prosecution. Why would she do this? Is it that her hatred of Bob Kolody runs so deep that she would risk her career and reputation in order to deny him victory? Or, as Skolnick believes, is a more powerful force guiding her decisions?

One theory is that Coke's historical links to the CIA have given them a certain level of license on matters of judicial bearing. This is an allegation that may be difficult for some to fathom without substantiation in fact. During my research of this story I interviewed Kolody's initial federal attorney, John DeCamp, and asked him about the verifiability of the theory. In answering my question, DeCamp recalled one of the discussions he had with his close friend, former CIA Director William Colby:

"I remember, he was describing the great, incredible difficulty the Company (the CIA) had in establishing operatives overseas, or outside the borders of this country, who could be relied on to provide effective intelligence. And he said that one of their great difficulties, of course, was that the Congress kept banning who they could have contracts with… or relationships with… to provide information. And he mentioned that [the] most successful ones [were] the international companies and the key operatives of those companies. And, of course, the single most worldwide company of them all is Coca-Cola."

And so it follows that Coca-Cola's links to the U.S. intelligence community have given them access to a wide range of advantages that other corporations live without. One must only study a minor aspect of the CIA's history to know that it has long been involved with organized crime as a part of its funding of key covert operations. What Skolnick believes he found in his investigation of the Kolody case was a perfect intersection of those forces, all acting in concert to protect Coca-Cola from exposure to a multi-billion dollar lawsuit.

During a recent interview, Skolnick related the facts of his findings to me in elaborate detail. While he will not divulge sources, a practice that he has maintained for over forty years and after orchestrating dozens of high-profile arrests on counts of judicial bribery, Skolnick claims to have primary sources who have given him evidence of Judge Manning's relationship to a major figure in the Chicago underworld. His name is William F. Cellini, a Chicago-based powerbroker and head of Argosy Corp., a major U.S. casino operator. Furthermore, he contends, Manning's bench was bought for approximately one million dollars by Cellini through a transaction conducted by former U.S. Senator Carol Moseley-Braun.

Returning to Ivy and Kolody with the results of his investigation into Dan Hanley and Judge Manning, Skolnick was ready to bring the charges to light in a federal courtroom. Even at the risk of exposing himself to charges of libel. Together with Dan Ivy and Bob Kolody, the three began crafting a series of motions that would set the stage for the final showdown between Coca-Cola and Bob Kolody in the court of Judge Blanche Manning. It was to be one of the most dramatic court hearings in Skolnick's forty-year crusade to clean up the courts.

Part Seven: The Bravest Lawyer (I)

While Sherman Skolnick was preparing his case against Judge Manning and Daniel Hanley in Chicago, Dan Ivy was down in Arkansas brushing up on his legal terminology, specifically Rule 60(b)(6) in the Federal Rules of Civil Procedure that deals with judicial fraud. In filing the last series of motions on behalf of Kolody's case in the lower court, Ivy would be invoking several 60(b)(6)'s against Coca-Cola, Simon Marketing, and Judge Manning. Incredibly, this would be the first time in Sherman Skolnick's forty year career that a lawyer filed a charge of judicial perjury in the courtroom of a sitting judge.

And for good reason.

As Skolnick explained, few lawyers are ever taught the full parameters of judicial perjury at law school. The whole notion of a judge committing fraud upon the court is unthinkable to those who have chosen to direct the entirety of their life's work to achieving a seat on the velvet bench. Thus, Skolnick tells me, it should not be surprising that in all of the cases in which he brought down a judge for bribery and fraud upon the court, never once did he receive aid from a lawyer.

Not a once.

Thus, it goes without saying that Skolnick has come to respect Daniel Ivy in the highest regard. As he told me during the opening minutes of our first phone interview:

"Dan Ivy is the bravest lawyer I have come across in forty-four years."

This is a rare compliment from Skolnick, who is more accustomed to throwing stones at attorneys than giving them roses. But he has good reason for his praise. In tempting the outrage of a federal judge, Ivy could be held in contempt of court and sentenced, without trial or bail, to six months in prison.

No questions asked.

And, even if the judge allowed the motion and stepped aside in order for another member of the judiciary to consider her guilt, regardless of the outcome, the hallowed halls of the federal bar could close ranks and excommunicate the prodigal son for his unspeakable treachery. With full knowledge of the potential disaster he faced, Dan Ivy put away his law books and caught a plane to Chicago.

Kangaroo Court

If Judge Manning was unaware of the investigation Kolody's team had been conducting into her judicial misconduct and alleged connections to underworld puppet-master William F. Cellini, then she must have been shocked when the courier delivered Ivy's final submission to her courthouse office on August 8, 2000. Enclosed in the package was a series of nine motions, among them several 60(b)(6)'s, accusing Coke's lawyers of committing fraud upon the court and Manning, herself, of judicial perjury in the cover-up of Coke's fraud. Also in that file was what may come to be regarded as one of the single most damaging affidavits filed since Watergate, the Declaration of Sherman Skolnick. It alleged, among other things: Coca-Cola's CIA connection, Daniel and Mary Hanley's espionage on behalf of Coca-Cola and Judge Manning's relationship with William F. Cellini and the 'buying' of her Judgeship. Not to mention the fingering of former U.S. Senator Carole Moseley-Braun for aiding in the corrupt assignment of a judicial post.

One can safely presume that, had the public been privy to the substance of that file, the courtroom would have been packed to the walls with judicial observers. But, as he has for the entirety of this case, Bob Kolody opened the doors to an empty courtroom, void of public interest into what may go down as the biggest single cover-up in the history of the Chicago courts.

It is almost hard to imagine the spectacle that Kolody's team must have made as they walked into the courtroom on August 22, 2000. First came Ivy, the slightly rotund Irish-Arkansanian with dyed red hair, snakeskin cowboy boots and a new Stetson under his arm. Following him, the 6'7" wire-frame of Bob Kolody in a rumpled suit and freshly combed mustache walking hunched over, pushing the wheelchair of Ivy's star witness, Sherman Skolnick. And then behind them, the sulking figure of Kolody's local counsel and Coke's would-be spy, Daniel Hanley.

Standing across the aisle from them were the lawyers for Coca-Cola and Simon Marketing. Not surprisingly, Coke's chief attorney Jerold Jacover had chosen to skip the hearing, leaving the work up to Laura Beth Miller, another lawyer from Brinks Hofer,

Gilson and Lione. As Judge Manning called the Hearing to order, Hanley was the first of Kolody's legal team to speak. He approached the bench with Ivy and made the following plea to the Judge regarding the evidence of his espionage for Coca-Cola that had been submitted with Ivy's motion:

Mr. Hanley: Your honor I am kind of in an unusual position. My name is Dan Hanley, I was local counsel when Mr. Ivy came in; however, considering the motion before you, I believe that I'm in a floating position here. I would like to make an oral motion to withdraw.

But before Manning could reply, Ivy rushed in with an objection:

Mr. Ivy: We would object to that withdrawal. We will not withdraw our declarations. We had a spy in our camp that was discovered. We are objecting to his withdrawal.

Judge Manning addressed Hanley, asking him merely to submit a formal written motion to withdraw. Ivy felt her manner to be exceedingly complacent in the face of such a damning accusation, so he pushed the point:

Mr. Ivy: In the last few years, he has had inside information as to everything going on in this case, and he has failed to bring to [our] attention that it is his sister that is a media buyer for Coca-Cola, the people we're going up against. We've got a spy in our midst. And I ask your honor, as this is an obstruction of justice, what does your honor intend to do about this? It's outrageous.

Again, Manning completely ignored Ivy's plea and proceeded to ask him what motion he was bringing before the Court. Ivy was speechless. Either the Judge did not see the importance of his assertion or she was simply trying to avoid making any statement for the Court Record. So Ivy collected himself and began to present the substance of the 60(b)(6) motions he had prepared.

Judicial Fraud

As Ivy read over the motions in his slow Southern drawl, the tension in the courtroom became so thick that Kolody began to feel a palpable sense of fear. Judge Manning seemed to become more agitated the longer Ivy spoke. Suddenly Manning interrupted him and, after muttering something about time constraints, took a short recess. Ivy stopped and looked over at his client, his expression one of nervous confusion. Skolnick snickered under his breath.

"She's making a phone call to her bosses to see what move to make next."

When Manning returned to the bench, she began peppering Ivy with questions regarding his motions, almost as if she was trying to confuse him. Three times she asked if he was presenting a motion with respect to judicial perjury and three times Ivy answered affirmatively:

Judge: I have a motion for relief because of fraud upon the court.

Mr. Ivy: Yes, Your Honor.

Judge: A motion for relief from judicial fraud.

Mr. Ivy: Yes.

Judge: A motion for relief from judicial fraud. There are two of those, is that correct?

Mr. Ivy: Yes, Your Honor.

Kolody looked over at Skolnick who was grinning mischievously at the Judge's discomfort. It seemed that she was trying to bait Ivy into making a direct charge against her. He did not. Manning then asked if he was bringing 60(b)(6) motions against Coca-Cola for fraud and, again, he answered affirmatively. Laura Miller, the lawyer for Coca-Cola, then objected and Ivy weathered a series of exchanges regarding those motions. At this point the Judge returned to the issue of Daniel Hanley. This is where things started to get interesting…

[Don't forget, Ivy and Hanley are both lawyers for Kolody!]

Judge: Mr. Hanley, you're seeking leave to withdraw? You're making an oral motion to withdraw?

Mr. Hanley: I'm making an oral motion to withdraw.

Judge: Let me ask you this, Mr. Ivy. You've indicated that you object to him withdrawing. Are you objecting on the basis that it's not a written motion or to the substance of his motion?

Mr. Ivy: To the substance of his motion.

Judge: Okay.

Mr. Ivy: Your Honor, before he withdraws, we want him under oath, and we want the two witnesses under oath. We also have an incriminating tape recording that was legally tape recorded when he called my client in Indiana, and under Indiana law --

Mr. Hanley: Your Honor, I have no objection to the introduction of the contents of the tape recording. I would like to have a copy of it, however.

Judge: Do you have a copy for him?

Mr. Ivy: We can provide that to the Court, Your Honor.

Judge: Well, I'm not sure of --

Mr. Hanley: Your Honor, with regards to this, there are statements that are made that also implicate my sister in these matters now. I asked her if she was going to be available today. She's not because she's leaving town tomorrow and had meetings all day for business. She will be back

in town in approximately a week and a half. So if we're going to deal with statements being made and resolving this issue, I'd like to have her here as well.

One can only surmise that with an issue as contentious as legal espionage by an officer of a major advertising company, Mary Hanley had made sure she was unavailable. But, to the renewed astonishment of Dan Ivy, Judge Manning did not press the issue. Instead, the Judge turned her attention back to Ivy, asking him what 'relief' he was seeking for Hanley's transgression. Ivy tried to tell her that Hanley had withheld crucial information when he came onto Kolody's team and that it had tainted the entire proceedings. But Manning cut him off again. She did not want to hear his arguments about Hanley's espionage. So Ivy, careful not to anger the Judge, came at it from a different angle, in essence asking that the substance of Coke's defense against Kolody and all of the Judge's rulings in favor of the defense be erased from the record. He was essentially asking for a retrial:

Mr. Ivy: What relief? We are seeking relief in the form of having the entire record expunged because we had a fox in the hen house. We had someone from Coca-Cola in our camp for many years before I was involved in this case getting information for Coca-Cola, and we want that proved in a courtroom before he is allowed to withdraw.

Judge: Any response to that Mr. Hanley?

Instead of refuting the charges, Hanley made the first of several extremely odd statements concerning his admission to Skolnick.

Mr. Hanley: Your honor, the call that I made was when I received their motion with the attached statements that accused me of basically malfeasance in office. I said: 'I can't believe that you're doing this. I thought that you knew me better.' I called up my sister and said: 'What's going on with this?'

Once again, Manning refused to make any ruling or to press the issue. What makes this all the more suspicious is that she totally ignored the fraud Hanley committed in filing his 'appearance record' with the Court. This is the document that any incoming attorney must submit before representing a client. It is mandatory that they include reference to any potential conflicts of interest that may prevent them from following professional codes of conduct. Clearly Hanley's sister, as an executive at one of Coke's major advertising firms, was a conflict of interest. As an officer of the court and representative of the U.S. government, Judge Manning has an obligation and duty to investigate any fraud perpetrated on a government institution. But she did not. Instead, with the tension mounting once again, Judge Manning asked to take her second recess from the hearing.

Show of Force

Just as the small door to her chamber shut, the main doors to the courtroom opened and six armed U.S. Marshals walked in. Scanning Kolody's legal team with grave expressions, the Marshals strategically positioned themselves on the side flanks of courtroom. One of them walked up to Manning's bench, did a cursory search of the area

and then seated himself directly across the aisle from Skolnick. For Ivy, who was just about to begin introducing his star witness for testimony, their presence was incredibly intimidating. As Skolnick explains, that was just the point.

"The only time you see the goons come in like that is if the Judge expects trouble, or if she's nervous. They are there to intimidate the ones that the Judge is scared of. Or to arrest them. Because, you know, at any time that judge could have lifted her finger and thrown Ivy into jail. Without trial! Without bail! For six months! All he had to do was cross the line and she would have held him in contempt."

So, with Kolody's team now surrounded by armed officers, the Judge returned to her bench and began running through the remaining aspects of Ivy's motions. The two went back and forth for a few minutes before Manning noticed that Skolnick had wheeled his chair up to within Ivy's earshot and began feeding Ivy information. Manning wasted no time in pouncing on the wily court veteran.

Judge: Sir, what is your name?

Mr. Skolnick: Sherman Skolnick.

Judge: Are you an attorney?

Mr. Skolnick: No.

Of course, Manning knew exactly who Skolnick was. You cannot practice law in the general vicinity of the State of Illinois without knowing the name of Sherman Skolnick. What's more, she had read his Declaration included with Ivy's motions. But she played dumb and continued with her interrogation.

Judge: Well, sir, you're going to have to be quiet. As a matter of fact, what I would suggest is that you take a seat in the spectator's area.

Mr. Skolnick: No, I'm an electronic journalist. I've got to hear it good, your Honor.

Judge: Sir, take the seat in the --

Mr. Skolnick: I can't hear.

Suddenly the U.S. Marshal sitting closest to Skolnick stood up and moved forward toward his wheelchair. It was an obvious act of intimidation. But Skolnick was unfazed.

Mr. Skolnick: I can't hear from back there.

Ivy saw what was happening and moved quickly to protect his witness from being ejected from the courtroom.

Mr. Ivy: Your honor, he would be unable to hear, and this is a public hearing. He has constitutional rights.

Mr. Skolnick: I can sit over here if you want your honor.

Judge: He can sit --

Mr. Ivy: But he has problems hearing.

Manning looked around and saw the situation that was developing. She could not have the wheelchair-ridden journalist ejected to the spectator's area as it would only fan the flames of an already tenuous situation. So she relented and gave Skolnick an ultimatum.

Judge: He can sit over by the jury box.

Mr. Skolnick: Alright.

And so it was that Sherman Skolnick, the solitary link to Bob Kolody's potential for justice in the courtroom of Blanche Manning, took his seat as the sole symbolic jurist.

Feeling a sense of renewed confidence after the minor victory, Ivy launched into the issue of Judge Manning's complicit cover-up of Coke's fraud by failing to compel them to bring their Copyright Registration into discovery. Again, Manning played dumb and acted as if there had never been any objection by Kolody's legal team to Coke's lack of discovery.

Mr. Ivy: He has never gotten discovery. You know, he's never had the opposition - - the ability to take the depositions.

Judge: He's never what?

Mr. Ivy: Never received --- well, he received limited discovery where he was basically told that these issues are not important and not available.

Judge: There's nothing in this record by Mr. Kolody or anybody on his behalf prior to your entry into this case indicating that discovery was lacking. There's been no complaint about what he did or did not receive. He was given an opportunity to conduct discovery prior to the entry of summary judgment.

This was an incredible assertion by the Judge considering the verifiable historical record of Kolody's motions and the two amended complaints which cite Coke's obstruction of due process in discovery as the major issue of contention. Judge Manning was now lying in open court. Barely able to control his frustration at the Judge's blatant misstatement of the facts, Ivy decided to end his formal arguments and bring Skolnick to the stand. It was time for the show to begin.

Part Eight: The Bravest Lawyer (II)

While Ivy knew that he would need to bring Skolnick up to the stand to testify, he had to be very careful that he did not allow the judicial antagonist to go too far and risk angering Judge Manning. So he methodically completed his presentation and then began to introduce his intention of bringing a witness to testify. Just as he as about to announce Skolnick, Manning interrupted the hearing and asked if Ivy would mind waiting until she had dealt with another matter before proceeding. Ivy agreed and Manning took a third recess. At this point, the hearing was about to shift in character from uniquely surreal to unalterably bizarre…

Star Witness

As Manning left for chambers, a new group of nine armed U.S. Marshals entered the courtroom. They walked in formation, leading a man dressed in an orange prison jumpsuit with his hands and feet restrained by heavy silver shackles. Suffice it to say that Kolody, Ivy and Skolnick were stunned and a little freaked out by the procession.

When Manning returned to address the prisoner, they discovered that he was a major narcotics trafficker who was involved with the Miedzianowski trial that Manning was hearing at the same time. Nevertheless, it was a highly unnerving moment for everyone in the courtroom. Skolnick still believes that Manning was orchestrating all of this in order to intimidate him before his testimony.

Once she had dealt with the prisoner, the U.S. Marshals swept him out a side door and Manning turned her attention back to Dan Ivy and his first witness.

Mr. Ivy: Your Honor, if I could, I'll call Mr. Sherman Skolnick.

Judge: Very well.

Mr. Skolnick: Am I sitting in the right place, Judge?

Judge: You can sit there. I think we can all -- hopefully we can all hear you. Raise your right hand to be sworn, sir.

And with that began the direct examination of Sherman Skolnick by Dan Ivy, the substance of which is contained in his Declaration and previous installments of this Report. Most relevant to this recounting of the hearing is that whenever Skolnick would attempt to read from his statement, Judge Manning would instruct him to stop and "testify independently". Hoping to drive home the strongest part of his argument for a retrial, that Coke had a spy in Kolody's legal advisory, Ivy kept Skolnick focused on the admission Hanley had made in the cafeteria. But Manning was vigilant and Coke's attorney, Ms. Miller, would not allow anything marginally admissive to pass without objection.

Mr. Ivy: Now, this conversation in the cafeteria, were you shocked at the statement he made?

Ms. Miller: Objection, Your Honor.

Mr. Skolnick: Well, I asked --

Judge: Don't answer the question, sir. I've sustained the objection. Ask another question.

Ivy hesitated for a moment and considered the next phase of his examination Looking around the courtroom at the six U.S. Marshals and ever aware of the potential for Manning to charge him with contempt, he decided not to push the bribery issue. If Skolnick taunted the judge then they would surely both be jailed, leaving Kolody without counsel or expertise.

Mr. Ivy: Okay. I have no further questions at this time, Your Honor.

As Ivy concluded his direct examination of Sherman Skolnick there was a brief moment of silence that hung over the Court. It had passed without incident. Without provocation. Without a scene that recalled the infamous Time Magazine photograph of Skolnick being hoisted to the paddy wagon by Chicago police officers. Kolody could almost sense Skolnick's disappointment.

Meanwhile, Coke's attorney Laura Beth Miller proceeded to the witness box to begin her cross-examination of Sherman Skolnick. Ms. Miller's strategy was to portray Skolnick's testimony about Hanley's admissions of espionage as mere conjecture and hearsay.

Ms. Miller: Your Honor, at this point, I renew my objection to strike Mr. Skolnick's testimony on the basis that he is reporting pure hearsay and lacks foundation for the statements he's made. Mr. Hanley is in the courtroom. If Mr. Hanley is called as a witness to testify as to the statements that he made, that would be the appropriate source for that information. Mr. Skolnick is introducing pure hearsay and conjecture, and I'd ask that his entire testimony be stricken at this point.

Manning agreed with Miller's conclusions and was willing to pass Skolnick's affidavit off as conjecture and hearsay. But that interpretation completely undermines the validity of an affidavit which is, by definition: a written statement for use as legal evidence; sworn on oath to be true. Now either Skolnick's version of Hanley's admission was true or it was perjury. But it certainly was not the equivalent of some theoretical postulation or rumor as contended by Coke's lawyer and Judge Manning.

In any case, it did not matter. Fate would soon take matters into its own hands and let the truth be known to all. Just as Ms. Miller was finished with her cross, Daniel Hanley, himself, stood up and walked over to the Judge:

Mr. Hanley: Excuse me, Your honor. Maybe I should have a right to cross-examine with regard to this.

Mr. Ivy: We have no objection, Your Honor.

Judge: Okay. You may.

Mr. Hanley: Mr. Skolnick, you stated in your declaration that —

Mr. Skolnick: What?

Mr. Hanley: -- at the time downstairs in the Federal Building in the cafeteria that I stated that Coca-Cola had knowledge of the strategies of the case through my revealing them to my sister, is that not correct?

Mr. Skolnick: I'm sorry. What did –

Mr. Hanley: In your declaration, you stated that I stated to you at that point that — your question was: Does Coca-Cola and their attorneys know the legal strategy of Robert E. Kolody and his attorney, Dan Ivy?

Then you stated that I said yes, and that I told — let's see, basically you said that I said that she was working with the media buyer for Coca-Cola. Now, I know that she worked for McDonald's, but I don't think I said she worked directly for Coca-Cola as to—

Mr. Skolnick: Mr. Hanley, may I answer?

Mr. Hanley: Yes, you may.

Mr. Skolnick: As I testified a moment ago, you were standing in very close proximity to my wheelchair in the Dirksen Building cafeteria on the 2nd floor. In my interview of you in the presence of Dan Ivy, for that portion that you're referring to, Mr. Kolody was there. I asked you, I asked: "Does Coca-Cola know the legal strategy of Bob Kolody in this matter?"

> And you said: "Yes."
>
> Then I said: "Really? How?"
>
> Then you said: "My sister is media buyer for Coca-Cola."

When I tried to elicit from you what company she was with, you looked at me but did not answer. Thereafter, on July 6th, I asked you a similar question just to be careful as an electronic journalist, and you answered again similarly in the cafeteria in the presence of Dan Ivy. Each time, it was after a hearing in the instant case in this courtroom.

Mr. Hanley: Alright.

And with that Daniel Hanley moved to another topic totally unrelated to the issue of Skolnick's affidavit and left the Court in absolute mystification about his passive, non-refutation of Skolnick's Declaration.

As she closed the hearing, Judge Manning made her final statement and returned to her chambers to begin drafting her Order in response to Ivy's motions.

Judge: I will take this matter under advisement. I will provide a written order addressing everything we have talked about here today.

[It must be noted that despite the fact that Sherman Skolnick's Declaration is a signed affidavit presented in a public hearing, and is thus constituted as a matter of public record, to date no major media organization has reported on his allegations and nor have any of those named as complicit in the scandal (Dan Hanley, Mary Hanley, William Cellini, Carole Moseley-Braun, and Judge Manning) refuted his testimony or sued him for libel.]

Fantastical Claims

In a Court Order dated August 29, 2000, Judge Manning issued a nine-page ruling addressing the motions made by Ivy in the final hearing. Not surprisingly, the Judge categorically denied each of Ivy's pleas for relief from the 60(b)(6) motions pertaining to Simon Marketing and Coca-Cola's fraud upon the court. But, in a move that took even Sherman Skolnick by surprise, Manning also proceeded to rule on the 60(b)(6) motions identifying her own judicial perjury and fraud upon the court.

You see, it is a fundamental precept of Anglo-Saxon law that no person shall sit in judgment of their own crimes. Thus, Sherman Skolnick contends, if Judge Manning were not corrupt then she would have stepped aside and allowed an impartial representative of the judicial society to rule on Ivy's allegations. But she did not. In fact, she denied the motions with prejudice and ridicule. Quoting from Manning's Order, here is her summation and ruling on the matter of her cover-up of Coke's fraud:

In his final motion, Mr. Kolody stated that the court has "committed Judicial Perjury that constitutes a Fraud upon the Court and a cover-up of the Fraud and Perjury by Coca-Cola on the U.S. Copyright Office that is a key matter in the instant case." Mr. Kolody's speculative and fantastical claims clearly fail to have a basis in law or fact. In short, this motion… is DENIED.

In the final section of the Order, titled Conclusion, Judge Manning made clear the finality of her decision and even felt secure enough by her position to patronize Kolody with a lecture on the importance of accepting defeat while obliquely threatening Dan Ivy for bringing the allegation of judicial perjury into her Court.

Mr. Kolody and his attorney, Dan Ivy, "appear to be unable or unwilling to accept an adverse judgment of a court. Presumably [they] expect the defendants to accept the judgment if they should be held liable. Yet there can be no victory for any party in litigation unless there is also defeat. Anyone who files suit in hope of winning must accept the possibility of losing. Unless both sides are equally bound, the process is equally futile." Here, Mr. Kolody - through his attorney Dan Ivy - refuses to accept defeat and is instead barraging the court with repetitive, delusional, frivolous findings. Mr. Ivy is warned that he will be required to bear the consequences of his filings to date as well as any further filings.

And that was it. By denying each and every motion that had been brought into the hearing, Judge Manning had finally rid herself, unscathed, of Bob Kolody, Dan Ivy and Sherman Skolnick. Or so she hoped.

For there was, constitutionally, still one chance left for Dan Ivy to successfully expose the Judge's complicity in protecting Coke's massive fraud and cover-up. That was the Court of Appeals. But as Kolody's chief counsel would soon find out, the tentacles of Coca-Cola's judicial influence did not stop at the lower court. And the blackened robes of the magisterial society would not easily forgive the crusading attorney for his trespass against a member of their order…

Part Nine: Battle Scars

In the aftermath of Judge Manning's annihilation of their case in the 7th Circuit district court, Bob Kolody needed to take a break from the mental and physical stress caused by the affair. He had watched his father, a Polish immigrant who worked in a steel mill all his life, suffer with worry over the strenuous legal battle with Coke until he was bed-ridden and attacked by cancer. Sadly, after standing in firm support of his son for seven years, Edward J. Kolody passed away just as his son was starting his first rounds of court hearings with Judge Manning. With his wife, Shelley, and mother, Sophie, to care for, Bob returned home to the small house in Schererville, Indiana to begin healing the psychological wounds inflicted by his protracted battle against the world's most powerful brand identity.

Meanwhile, Dan Ivy returned to Arkansas and began putting his energy into his application to the Appellate Court. As the higher court in the state of Illinois, the Appellate has the power to grant relief to parties who feel that their cases were unfairly or improperly tried at the district level. So Ivy drafted the preliminary Notice of Appeal asking for the right to 'formally appeal the judgements and decisions of the lower court at the Appellate level.' On August 31, 2000, less than one week after Manning's Order, he submitted the documents to the Chief Justice of the 7th Circuit, Judge Frank H. Easterbrook. As you will see, Ivy's attempt to move the case through the Appeal process in a swift and timely manner would be met with a series of obstructions by the Court in an obvious effort to stall his momentum.

Obstruction of Justice

Soon after dispatching his Notice, Ivy received a letter from the Appeals Clerk asking him to submit an application for entry to the bar of 7th Circuit Appellate Court. Apparently, the Clerk could not find the original file that Ivy had submitted a year earlier and he would need to re-constitute it; a chore that would take precious time from his preparation of the case. Luckily, Kolody found a copy of the original application in his seemingly infinite storehouse of court documents and Ivy was able to avoid the onerous chore of re-applying. With that taken care of, he got back to work on the Appeal, waiting for confirmation of his acceptance to the bar of the 7th Circuit Appellate Court.

But it did not come.

Usually the application by an experienced federal attorney to the Appellate Court is an easy process. It only took the Eighth Circuit Court of Appeals in Washington, D.C., a few weeks to process his application and that Court is renowned for its high standard of entry. Yet, Ivy had not heard back from Judge Easterbrook on his status and, after three months of waiting, was beginning to wonder what could be causing such a long delay. If the Court had found reason to question his validity, then they should have issued some form of correspondence indicating their concerns. But as it was, Ivy and his client Bob Kolody were left twisting in the wind.

In order to understand the way in which the Appellate Court effectively blocked Dan Ivy from presenting evidence of Manning's judicial fraud and Coca-Cola's fraud upon the court, we must briefly explain the process of application to the Court of Appeals.

Though the lower and higher courts are part of the same Circuit, a lawyer from out-of-state must apply to the bar of each court separately in order to practice in them. This also applies to attorneys who have licenses in multiple districts like Ivy, who practices in Arkansas and Washington D.C. In the case of the lower court and Judge Manning, Ivy had applied *pro hac vice*, which means that he made an oral application and was accepted immediately due to reciprocity. In other words, since he had already been licensed to practice in D.C., he was automatically considered qualified for the Chicago district as well.

But admission to the Appellate Court is not governed by the same rules. There is no *pro hac vice* at the Appellate level and so Ivy had to submit a formal application, which he did in a timely manner.

Both times.

And so, as he waited for the Judge to process his application, Ivy continued to grind through the long and complicated procedure of preparing Kolody's Appeal.

In early November, 2000, Ivy sent a motion to Judge Easterbrook regarding an aspect of Kolody's appeal. He was seeking to include a new charge of fraud upon the court that pertained to Simon Marketing. I will not elaborate on it any further as the issue is complicated and will only confuse an already too technical matter. The relevance of this exchange, however, is that in responding to Ivy's motion, the Judge sent back an order that denied Ivy's motion outright and also barred the attorney from working on the case until his application had been accepted.

Furthermore, counsel for appellant is informed that pursuant to Circuit Rule 46, he cannot practice in this court unless he is a member of the bar of this court.

But it was Judge Easterbrook himself that was delaying the process of admittance! Curious as to the true nature of Rule 46, I consulted the **Practitioner's Handbook for Appeals to the United States Court of Appeals of the Seventh Circuit**. On page 93 I read the following description of Rule 46:

> Admission to the Bar.
>
> (1) Eligibility
>
> > An attorney is eligible for admission to the bar of a court of appeals if that attorney is of good moral and professional character and is admitted to practice before the Supreme Court of the United States, the highest court of the state, another United States court of appeals, or a United States district court.

Clearly, with his licenses in Washington D.C. and Arkansas, Ivy met the conditions stated as requirements for eligibility. And so, by what reasoning was Judge Easterbrook, the most senior judge on the Seventh Circuit, refusing his admission? Not to mention, suspending the Appeal of Bob Kolody with its contentions of a major breach of judicial propriety by a federal Judge? You can be sure that they were scouring for any possible technicality to prevent him from presenting his case. If they could not deny him for lack of professional credentials, then they would have to find some flaw in his character.

Dueling Banjos

Being a lawyer who challenges power at every level, Dan Ivy has come under the scrutiny of some very influential judicial and political players. Not surprisingly, this has led to several disciplinary hearings in which they have sought to punish the crusading attorney for his actions. Though he has never been suspended, disbarred, or reprimanded for any violation of legal conduct, Ivy has been given 3 letters of caution, the lowest form of disciplinary action in the judicial system. And, in each of the four instances where he has been brought in front of a disciplinary hearing, it has been in the State of Arkansas and with the involvement of a local law firm by the name of Rose, VanWinkle and Woods.

It is interesting to note that in 1992 Dan Ivy ran for the Democratic nomination to Congress for Sebastian County, one of the largest counties in Arkansas. Initially considered the favorite to win that race, Ivy had amassed a very strong crew of supporters to help him run the campaign. But, just months before the election, his team was brutally pillaged by the sudden entry into the race of a local Arkansas attorney by the name of John VanWinkle, a strong supporter and friend of then-Governor Bill Clinton. As it turned out, VanWinkle was given the full backing of the Clinton political machine and had been able to call in enough favors to destroy Ivy's chances of winning that nomination. Never one to give up, Ivy confronted his opponent during a live debate between the candidates and brought up the fact that VanWinkle had once been sanctioned

by the Arkansas Supreme Court. Though it did not impact his ultimate victory at the polls, VanWinkle never forgave Ivy for his public humiliation and vowed to make him pay for it.

And, he has. Since that election Ivy has continually been dogged by the powerful influence that VanWinkle holds over the Arkansas political machine, especially in the judiciary. This has led to the aforementioned disciplinary hearings, all of which have in some way originated from altercations between Ivy and VanWinkle or his associates. Most recently, VanWinkle attempted to discredit Ivy through a series of manipulations that so angered Kolody's attorney that he was drawn into a bitter feud with a Chief Judge in Arkansas, Jimm Larry Hendren. (Yes, there are two m's in his first name.)

To make a long story short, VanWinkle attempted to induce, through the promise of a shorter jail sentence from Judge Hendren, one of Ivy's former clients to make false statements about him in court. When Ivy found out about it and confronted the issue at the hearing, Judge Hendren became so enraged that he took Ivy into his chambers and threatened him with sanctions. Sensing a frame-up, Ivy subpoenaed the Chief Judge for a deposition, presented it to the Arkansas Committee on Judicial Conduct and won a 7-0 unanimous decision against Judge Hendren. He also attained an affidavit from his former client that VanWinkle had influenced the man to slander him.

The reason that this is relevant, beyond the fact that it elaborates the kind of systemic corruption and baseless defamation that is rampant in the U.S. federal court system, is that at the time Ivy was fighting Judge Hendren, he was also being considered for admission to the 7th Circuit. And since the process usually only takes a few weeks, there had to be something else that Judge Easterbrook was using as an excuse for blocking his entry. After scouring his record for any possible infraction or irregularity and finding nothing, he surmised that the still pending outcome of his Arkansas Supreme Court hearing was it.

So, on January 19, 2001, Dan Ivy fought his case in Arkansas and won a unanimous decision. On January 26, 2001, he sent a letter to Julie Cordes, the Secretary to the Clerk of the 7th Circuit Court of Appeals, informing her that he had been officially vindicated and that he sought immediate admission to the bar. He concluded his letter as follows:

> Moreover, let me bring to the Court's attention that I am also licensed to practice in good standing in the United States Eighth Circuit Court of Appeals, as well as in the Courts of the State of Arkansas and the District of Columbia.
>
> Please note that I need this application approved as soon as possible as my client, Robert E. Kolody, is in the process of appeal [and] my inability to represent him in his cases, pending this application approval could greatly prejudice his rights to his appeals in front of this Court.

Dan Ivy now had no other option but to wait for the Court's decision on his appeal. He could only hope that Judge Easterbrook would act impartially and resolve to allow him entry. But when I asked Skolnick about Ivy's chances, he was less trusting in the objectivity of the Judge's deliberation.

"The Judge is blocking Kolody' appeal by holding up his attorney Ivy's application. The goal is to somehow eliminate Ivy from the case so that Kolody will have to go *pro se* in front of the Court of Appeals - something that would ruin his chances - or get a new lawyer. But we both know that a new lawyer would never bring up the fraud issues. So they've got Kolody right where they want him. And they are going to ruin the career of Dan Ivy if they can."

When I asked him what he meant by the Appellate Court 'ruining' Ivy's career, Skolnick explained that if Ivy was eventually refused by the 7th Circuit Court of Appeals, it could adversely affect his entry into other Circuit Courts. How? Well, it is a standard question on the application for admission to the various Courts whether the attorney has ever been denied entrance to any bar in the country. By having a refusal on his record, it would become very difficult for Dan Ivy to attain licenses to practice in new districts. Worse, an adverse decision in Chicago could create a boomerang domino effect that could imperil his standing in the Courts where he currently practices. His entire legal practice and sole source of income could be wiped out by an adverse decision from Judge Easterbrook and the 7th Circuit Court of Appeals.

Suddenly I was beginning to see the powerful threat that had been veiled in Judge Manning's final statement about Ivy's filing of the 60(b)(6)'s. Now it was clear why no lawyers dared file motions accusing a sitting Judge with judicial perjury. Ivy had stepped over the line and, as you will see, the high Court Judges of the 7th Circuit were going to extract their vengeance. Regardless of the truth. Regardless of the law. Regardless of the possibility that public scrutiny might expose their true contempt for due process and the equal right of all citizens before the law that was guaranteed in the 14th Amendment of the Constitution of the United States of America.

Part Ten: Final Jeopardy

After sending his letter to the Clerk of the 7th Circuit Court of Appeals notifying them that he had been cleared of any disciplinary action by Judge Hendren, Ivy patiently waited to hear something back. But nothing came. So, one month later, he wrote another letter begging the Court to admit him on behalf of his client. Again, he received no reply. By this time even Skolnick was becoming curious as to what excuse they would come up with to deny Kolody's Appeal. The answer was like a scenario right out of a conspiracy flick from the 1950's.

En Banc

On April 27, 2001 Dan Ivy received an Order from the 7th Circuit Court of Appeals denying his request for admission to the bar. Since it had been over seven months from the time of his application, the denial did not come as much of a surprise. What made the Order so conspicuous was that instead of the single Chief Justice, Judge Frank H. Easterbrook, presiding over the matter of his application, all eleven active Judges had

assembled to make the decision; an event known in legal terms as an *en banc* procedure. Again I searched through the Practitioner's Handbook and found the following definition:

> **En Banc Procedure**
>
> En banc hearings or rehearings, i.e. hearings by all the judges currently in regular active service on the court, are infrequent. "An *en banc* hearing or rehearing is not favored and ordinarily will not be ordered unless (1) *en banc* consideration is necessary to secure or maintain uniformity of the court's decision, or (2) the proceeding involves a question of exceptional importance
>
> It bears repeating that hearings and rehearings *en banc* are very rare.

What made it all the more surreal was that, in their Order, the Judges did not supply a reason for their decision. It simply stated that his request was 'denied'. Skolnick was blown away. In a recent interview he told me that, at most, the Court holds *en banc* proceedings once every ten years. Moreover, this was a very unlikely turn of events because it cast a shadow on the proceedings of the entire Appellate Court. All eleven Justices had voted to deny Ivy's application. Even Julie Cordes, the Secretary to the Clerk at the Court of Appeals, said that she had never encountered this type of a decision during her entire career at the Court. Dan Ivy was beginning to feel anxious. He had been shut down by the equivalent of a Star Chamber and now faced the very real threat of losing licenses in his other districts.

What is even more nefarious is that, since Ivy had been ruled ineligible for the 7th Circuit Court of Appeals, they could rule that he was also unfit for the lower, district Court. And if that happened, the Judges could further rule that every action, motion, and argument made by Ivy on behalf of Kolody while he was his attorney were null and void. Including all the 60(b)(6)'s. Are you getting the picture?

Dan Ivy was.

And so now, instead of fighting for the right of his client to have a fair and just hearing of his case at the Appellate Court, he was battling for the survival of his own legal practice. With few options left for him to pursue, Dan Ivy sat down at his typewriter and began drafting what would become the single most important document of his legal career.

In a petition filed with the Court on May 10, 2001, Ivy made his articulate plea for a rehearing of the *en banc* denial of his application. While the entire petition is worth reading, here are some of the more salient aspects of his argument:

> **1**.That the Applicant has a reputation for being a crusading attorney that is not afraid to bring to any court's attention fraud;
>
> **2**.That this Applicant believes that his application was denied because he has expressed a willingness to bring to light said fraud perpetrated upon the Court,

3.It is Applicant's belief that fraud and corruption in the court system in the Chicago area have created a situation wherein local attorneys are fearful to file FRCP Rule 60(b) Motions bringing incidents of fraud to the attention of the courts, especially where it involves judges for fear of falsely being accused of improper conduct, given sanctions and losing their license to practice law and thus their ability to earn a livelihood in the legal professional.

4.[That] there are currently no private attorneys that the Applicant is aware of that are willing to openly oppose fraud and corruption in the court system in the Chicago area and the Seventh Circuit, and if this court wants to have such a private attorney to practice before it then it should approve Dan Ivy's application to practice before the Seventh Circuit, but on the other hand if this court wants fraud and corruption in the Court system to continue unabated in the Chicago area and the Seventh Circuit unopposed then it must disapprove Dan Ivy's application.

Satisfied that he had exhausted every possible avenue for Kolody's appeal, Ivy returned to his law practice in Arkansas and awaited the final judgment of the Appellate Court. He did not have to suffer long. Two weeks after filing the petition he received the Court's definitive reply (bold and capitals as in original):

The entire Court of Appeals has considered the **PETITION FOR REHEARING EN BANC OF THE DENIAL OF APPLICATION FOR ADMISSION TO THE BAR OF THE SEVENTH CIRCUIT COURT OF APPEALS**, filed on May 10, 2001, by attorney Dan Ivy.

IT IS ORDERED that the petition is **DENIED**.

The final decision from the Appellate Court was indisputably menacing. Not only did it unequivocally pronounce the condemnation of the Judges toward his plea, but it also depicted a blatant assertion of authority that has no equal in our civil society. Together, as a single block of arbitrary power, the 'entire Court of Appeals' denied a fully qualified attorney his due process and equal protection rights as guaranteed by the Constitution. Even more importantly, the Court's ruling denied Bob Kolody's right to a hearing before the Federal Court of Appeals with the attorney of his choice in a case that, as we have clearly seen from all the evidence presented both in Kolody's hearings and in this Report, casts serious doubt on the fairness and propriety of Judge Manning's ruling in the lower Court.

The question begs: To whom are the Judges beholden? What kind of power must be asserted to architect that kind of uniformity? And for what cause have the most powerful Judges in the State risked their reputations, careers and, more importantly, the faith that citizens have in their court system?

Was it:

1.to protect Judge Manning from prosecution for her collusion with Coca-Cola's lawyers? Or,

2.to insulate Jerold Jacover, Coca-Cola's high-profile attorney, from disbarment for his failure to disclose the truth about Coca-Cola's fraudulent copyright application? Or,

3.to save Coca-Cola from the humiliation of losing their sacred brand image and exposure to the countless billions of dollars in fraud-based lawsuits that would be exacted by Bob Kolody and their worldwide network of bottlers. Not to mention Coke's shareholders, who have faithfully held on to their stock through the company's recent tumultuous economic downturn?

We'll never know. But what we can be certain of is that some of the Judges who hold these incredible positions of power have developed a cynicism toward their responsibility of upholding the Constitution of the United States that is utterly shocking.

Judge Richard A. Posner

I was hanging out on the phone last week, as I find myself doing with alarming regularity, with Sherman Skolnick. We were going over aspects of my story and Sherman began cackling in his typical fashion whenever he has found some form of intelligence that I am not yet privy to. The conversation went something like this:

"Hey. Do you know what came out in one of the law journals in Chicago today?"

"No Sherman, I don't."

"Hee hee hee hee. You're never going to believe it. I swear you are not going to be-lieve what I have in front of me."

"Ok. Then tell me."

"Do you know who Richard Posner is?"

"Yeah, he's one of the Judges on the 7th Circuit Court of Appeals."

"Right. But he used to be the Chief Justice before his buddy Easter-bunny took over. You know those two, they're joined at the hip. They call the shots on the Appellate Court. Anyways. Posner was involved in some kind of a debate against a law professor at the University of Chicago."

"And…"

"And… you should read the things he is saying. I mean, I can't believe the arrogance of this guy! It's absolutely incredible, especially when you take into consideration the fact that he was one of the Judges who sat in a secret hearing and barred Kolody's attorney from admission to the Court. No justification. "You're out!" "That's it!" "Goodbye!" With no consideration for his due process rights, equal protection and all that. You know what the 14th Amendment is don't you?"

"Kind of."

"Yeah, well, I don't fault you for not knowing the Constitution. Most lawyers don't know it. And you're young."

"The point?"

"The point is that this guy, Posner, was quoted extensively in the Chicago Daily Law Bulletin. The article says: 'People who think that federal judges base their legal opinions solely on their interpretation of the law and the Constitution are living in a make-believe world. At least that's the view advanced by Judge Richard A. Posner of the 7th Circuit U.S. Court of Appeals.'"

Skolnick could barely contain himself.

"A make-believe world! And get this. Get this! He says, of the Supreme Court Justices, and this is a direct quote, "They don't believe in that equal protection stuff." Can you believe it?" Equal protection stuff, make-believe world! Heee-heeee-heeee."

And with that he dissolved into a sonic puddle of deviant laughter. When he was done I asked him to fax me the article. He agreed, but not before giving me one last dose of his cryptic judicial astrology.

"You know when we got all those judges in '69… it was just like this. They got so full of themselves and they thought they were untouchable. And just then, right then, we got them! I tell you, if you can understand the importance of this idiot's words… if you can grasp what they mean to Bob's case and your article, then you have it all wrapped up."

I have to admit that, at first, I was a little confused as to the significance of Judge Posner's words. I guess that in my own cynical way, I already took it for granted that the Supreme Court is politically compromised. After the recent election, who could think any differently? But that was not the point. Here we had one of the top judges in the country mouthing off about the total disregard of judges for ethical standards in adjudicating their cases; a sentiment that presumably mirrored his own approach to judicial authority. More importantly, he was one of the eleven Judges who barred Ivy's entry to the 7th Circuit without stating any justification for it. What Skolnick said was true. There could be no stronger indictment of the arbitrary and unconstitutional character of the 7th Circuit's denial, *en banc*, of Ivy's application than this. And here it was, all on the public record!

As I read over the article, I was taken by the profound sense of disillusionment expressed by the University of Chicago law professor, Geoffrey Stone, who had been debating Posner. In response to Posner's characterization of the judicial mindset, he referred to the recent US election and the Supreme Court's decision on the Florida re-count:

"It's very difficult to argue constitutional law with someone who defines himself as so cynical about constitutional law that he thinks it's legitimate for three justices of the Supreme Court to endorse an opinion that they believe to be false and unacceptable and not persuasive in order to avoid having an illegitimate result.

As a teacher of constitutional law, I am frequently asked by skeptical students: 'Isn't constitutional law just politics in black robes?' 'Don't the justices just vote their political preferences?' 'Isn't all this stuff about the Constitution really a charade?'

I've always rejected this understanding of the Supreme Court and constitutional law."

To which Judge Posner responded:

"I don't understand why constitutional law professors teach fairy tales to their students."

After reading these words I finally began to understand why it is that Sherman Skolnick has been fighting to put corrupt Judges in prison for over forty years. Posner's arrogant dismissal of the constitution and its authority over those we have entrusted with our courts is not only disheartening, it is dangerous. As Dan Ivy told me in one of our last interviews,

"When the people of this country come to believe that they cannot walk into a federal courtroom and get a fair hearing, that is when they will begin turning to men like Tim McVeigh and Terry Nichols and making them their leaders. And then you will see a system that is so violent and totalitarian that it will make all of this corruption seem like child's play."

That is why Ivy, despite all he has been through, still has an unshakable faith in the court system and its importance to democracy. And, like Professor Stone, Ivy still believes in the constitutional law that is upheld by the highest Court in the land.

He better.

Because his last hope for survival as a federal attorney lies in the Supreme Court and, specifically, Justice John Paul Stevens, the supervisor of the United States Court of Appeals for the 7th Circuit.

Chamber Business

When a lawyer appeals to the Supreme Court in order for them to consider their case, they petition for a Writ of Certiorari. Of the hundreds of Writs that the Supreme Court receives each year, they allow less than 1/10 of 1% to be heard. Thus, the odds of Dan Ivy succeeding in attaining a hearing with the Supreme Court for his case are slim at best. Luckily for him, there is a second and more obscure path into the Supreme Court. Rarely used, it allows for attorneys to petition a single Judge by understanding their secondary role as a Circuit Justice. This is how Sherman Skolnick broke it down:

Unknown to most people in the United States is the fact that each of the nine Supreme Court Justices wears two hats. One, as an Associate Justice of the Supreme Court, the other, as a Circuit Justice who acts in a supervisory capacity over a regional Circuit Court. This means that they are the sole governing authority over the Appellate Court in that Circuit. In the case of Justice John Paul Stevens, one of the oldest Judges on the

Supreme Court, he has the distinction of presiding over Judge Easterbrook, Judge Posner and the rest of the gang on the 7th Circuit.

Skolnick further explained that there is a little known Supreme Court rule that comes under the heading 'chamber business'. Chamber business was created as a means of resolution for matters of extreme importance originating at the Circuit level that deserved the attention of the supervisory Circuit Justice. By submitting a motion to that Supreme Court Judge, essentially asking for a meeting 'in chambers', the appellant attorney can seek the opportunity to be heard by the Supreme Court Justice in order to ask for his help in resolving the dilemma. This is the course of action that Ivy is preparing to undertake and, if he is successful, it will set up the final and dramatic conclusion that determines the outcome of Bob Kolody's long and arduous battle against Coca-Cola.

The Root Case

In our last interview, I asked Dan Ivy what he hoped would come of a hearing with Justice Stevens. The tone of his voice reflected how humbling the prospect of approaching a Supreme Court Justice truly is:

"If I could persuade the Judge to look at my case and press that Appeals Court to articulate the reason for my denial, then that would be sufficient. I would just like an honest answer to a fair question. Because if Bob is unable to get a fair hearing with an attorney of his choice, then his constitutional rights are not being respected. We just want Justice Stevens to hear us out."

But Skolnick has other ideas. While he admits that having Justice Stevens compel the Court of Appeals to disclose the reasoning behind their decision would be a great victory, he would also like to see the investigation of the entire judicial handling of Kolody's case by a special commission, a scenario that has only happened once in U.S. history. When I asked him to elaborate, he referred me to his recent article on the McVeigh trial with its citing of the Root Case of 1948. As in Kolody's case, the Root Case involved charges of judicial misconduct - in this case, bribery - against the presiding Judge and led to a landmark ruling with the following provisions:

> [A] A court, regardless of its level in the court system whether trial court or reviewing court, has inherent power and original jurisdiction, at any time (even years and years later) to inquire whether its judgments and decrees had been procured by a "fraud upon the court", poisoning up the temple of justice. That is, by some happening not known at the time of judgment and not previously in the court record but becoming known at a later date.
>
> [B] This inherent power is particularly so when the judgments and decrees had been obtained by a malign if not corrupt influence on one or more Judges of the court.
>
> [C} To supervise the investigation, and to assure the public that there will not be a cover up, the Chief Justice of the United States has to designate judges from faraway to specifically sit in the district of the inquiry. Such faraway judges should appoint a Master, that is, a court-appointed taker-of-evidence, to quiz witnesses, to compile evidence and

documents, and to submit a report to the special panel of faraway judges. And that the special panel consider the same.

[D} Without exception, every possible witness, document, and means is to be used, using court process, to compel the appearance of witnesses and production of documents, in order to be able to effectively unearth the "fraud upon the court".

[E] To assist in the inquiry, there is to be permitted outsiders, not themselves directly involved in the judgments or decrees; that is, as amicus curiae, "friends of the court".

[G] The special panel of faraway judges has to determine whether the court judgments, orders, and decrees, shown to be tainted by having been procured by malign influence and corruption, are to now be purged from the court records.

[H] The special panel has to consider whether the now identified perpetrators of the "fraud upon the court", are to hereafter be barred from the courthouse and not allowed to be further heard.

As I read the provisions set down by the Root Case I was struck by how perfectly suited they were for the resolution of Kolody's case. I began fantasizing about an independent commission gathering at the behest of the Chief Justice of the Supreme Court to interrogate the lawyers, executives and judges involved with Kolody's case against Coca-Cola. I saw myself there as one of the 'amicus curiae' (friends of the court), watching Kolody state his case and present his evidence to a fair and impartial jury. I witnessed them opening all of the files, reviewing Coke's fraudulent copyright registrations, and even investigating Judge Manning's relationship to the underworld boss, William Cellini. And then…

Then reality slipped its veil of improbability back into my consciousness. For Ivy and Skolnick to actually engineer the invocation of the Root Case by the Supreme Court would be an incredibly daunting challenge with the slimmest hope for success. First, Justice Stevens would have to buy into the fact that Kolody's case had been corrupted by Judge Manning's judicial perjury. Then, he would have to refer the matter to Chief Justice Renquist for the creation of an independent commission to investigate it. These are the most powerful and sought after Judges in the land, what could Ivy possibly do to persuade them to listen to his case?

The Last Card

You may remember that Skolnick's most famous judicial takedown was the Isaacs Affair of 1969 during which he exposed several of the Judges on the Illinois Supreme Court for bribery. In that case, after the information Skolnick brought forward was validated, the Illinois Supreme Court used the provisions set down by the Root Case and created a special commission to investigate itself. It was a rare situation, but the public uproar over the scandal was so severe that the Judges had no other recourse; Skolnick had created a furor. As they convened the five-man commission, all eyes turned to the man who was appointed to act as general counsel for the enquiry. He was a very successful lawyer

from the Chicago district by the name of John Paul Stevens. With the help of Skolnick's unimpeachable evidence of judicial perjury and fraud upon the court by several members of that Supreme Court, Stevens presided over what would become known as the biggest judicial bribery scandal in the history of the United States.

Will the incredible sequence of events that has led us to this great collusion of fate and circumstance bring a similar outcome for Bob Kolody and his hard-fought case against Coca-Cola? Truly, this is a story that, if nothing else, deserves a dramatic and magical ending. But even with the help of all the forces that carried them to this place, Kolody, and his attorney Dan Ivy, will not be able to steal justice from corruption without the help of some very special people. Very special, indeed.

Epilogue: The Fire This Time

As I have waded my way into this case and absorbed all the minutiae of Bob Kolody's legal battle against Coca-Cola, one observation has recurringly embedded itself into the frame of my consciousness. It is a phrase that I jotted down on my airline ticket after getting onto that final flight out of Chicago Midway:

The law is a code that isolates justice from public participation.

The law is a code that isolates justice from public participation.

The words became a form of mantra for me as I struggled to articulately present some verifiable proof of the way in which corporate power has invaded and corrupted the highest levels of the U.S. judicial system. They gave me a definitive raison d'étre and the inspiration to overcome the often daunting challenge of encapsulating such a complicated matter into a coherent narrative.

For many, I am sure this was a long and complex read and, if you have made it this far, I commend and thank you. As I finished each installment, GNN's Executive Editor Anthony Lappé and I battled over the lengthy elaboration of specific issues and how to best present this information without:

a) omitting crucial aspects of Kolody's legal case and,

b) alienating our treasured readers

And so, if there are those among you who feel that, for the good of the cause, this should have been much shorter and succinct a presentation, I take full responsibility. My proximity to this case and the hundreds of pages of court transcripts, legal arguments, and attorney correspondence that needed to be assimilated into the Report granted me a certain license and latitude that Anthony respected and supported. I truly feel it could not have been any other way.

But this raises an important point about mainstream media and the fact that we, as a society, have been conditioned to tune out when confronted with a complex story that demands more than a cursory glance. Let's briefly examine why.

Medium:Message

Broadcast news media seeks to condense issues to their most diminutive form. It has, over the past fifty years of its evolution, gradually reduced the life span of a 'story' to the space allocated between the real estate owned by their corporate sponsors. In fact, the whole concept of a 'news bite' is just that, a short, simplistic hors d'oeuvre of information that can travel through the airwaves and telephone wires just long enough to keep your attention on the next advertisement. And in this new paradigm of story-telling and news-breaking, there isn't enough time for any valid exploration of the true nature of power and its matrix of inter-dependent agencies. We cannot deny the fact that, as the most pervasive medium for information-gathering on the planet, television's limitations have severely impacted and damaged the collective capabilities of its viewership.

Even newspapers, which at one time seemed to be the last bastion of substantive, in-depth coverage of important news developments, have been taken over by a corporate ideology that does not allow them to elaborately question the very structure of our society. Publishers of publicly-traded news organizations have been inoculated from the risk of challenging the powerful and litigious interests that dominate U.S. intelligence and corporate domains. Journalists have been confined to the strict perimeter of verifiability and chastised for even considering the notion of speculation about how true power orchestrates its hidden agendas. In what stands as the last truly great example of investigative reporting by a major newspaper, Gary Webb's **Dark Alliance** series in the San Jose Mercury News, which uncovered the hidden system of associations between the CIA and drug traffickers during Iran-Contra, was rigorously challenged by the government and eventually disavowed by the paper's management. What reporter wants to suffer these attacks on their credibility and livelihood? None. And the few that do inevitably find themselves pushed to the fringe and then, quietly excommunicated.

But more importantly, let's take it a step further. True power understands perfectly well the inherent limitations that govern the media. The brilliant strategists employed by the multi-national corporations know that in order to protect themselves from exposure for their dirty deeds, they must simply ensure that the trail behind them is long and twisted and covered over with all manner of debris. The mainstream media outlets (if not already bought off by the corporation's advertising dollars) and their alleged investigative reporters, will never find the time, resources or critical interest to investigate the trail. They have become lazy and fat. Addicted to press releases and celebrity murder trials. No, Edward R. Murrow has left the building.

A long time ago.

So, if we can't depend on the media to keep a sustained and vigilant watch for abuses of power and corruption of government agencies, then to whom are we going to entrust this vital role?

The People

You. Me. Us. We.

The People.

Aren't they beautiful… those words? The People.

They imply collectivity. They assert commonality. They defy fascist oligarchy.

And they have a wonderful opportunity to resurrect accountability.

As anyone reading these pages knows, the tale of Bob Kolody's ten-year odyssey into the dark regions of the federal district court system was a harrowing and painful experience. His story contains a message of warning for us all:

If individual citizens who have had their constitutional rights trampled by another person or institution, no matter how large or influential, cannot address those issues in a federal courtroom without suffering the risk of unfair judgments and/or unscrupulous tactics being used against them, then we do not live in a society that is protected by a rule of law that is equal for all. And, if that is the case, then we do not live in a democracy as it came to be known after the creation of the 14th Amendment which guaranteed every person - black or white, male or female, rich or poor - the right to due process and equal representation before the law. What we have then is the verifiable devolution of our society. Which portends the loss of individual rights, the revocation of the Constitution and the descent into authoritarianism.

Bob Kolody never imagined that he would be embarking on a life-defining journey to expose the corruption that rules the corporate-dominated institutions of our government when he first went after Simon Marketing and Coca-Cola for stealing his property. But, each time Coke and their powerful lawyers tried to dismiss him and insult his desire for justice, he forged on. Despite questions and ridicule from those around him, Kolody endeavored to accumulate enough knowledge about the legal system so that he could be heard as an equal representative in the federal Court.

At every instance, the system failed him. At every turn, the Court used its power to further the interests of its corporate ally instead of protecting those of its plaintiff citizen.

When Bob Kolody began to realize that the country he loved and believed in had become so disfigured by the very forces he was battling, he continued on with the fight without regard for his personal health or material well-being. His struggle rose to the level of

crusaderdom and caused others to question the toll it was taking on his own life. One of those people was Professor Tom Field, one of Kolody's earliest mentors.

Field, who has studied hundreds of intellectual property cases, explained that many lone plaintiffs have successfully sued major corporations for copyright infringement. But only to suffer great personal loss:

"That's why I keep telling Bob, 'Why don't you just drop this and walk away and then you can get your life back and go do something. Even if you win, at what price have you won?'"

For Kolody, that has been the vital question throughout his decade-long battle with Coca-Cola and Simon Marketing. It is a journey that has sucked all of his life into a solitary beam of judicial focus. In one of our last conversations, I asked Kolody how he was able to weather what must have been an interminable line of questioning from people around him. 'Why not just give up?' 'You'll never win'. 'Let it go.'

He did not hesitate for a second to answer:

"You know Steve, when you've been hit so hard by something? It kind of knocks you down. And the only way to get up is by taking out that which tried to kill you. It's like I really couldn't learn to co-exist with the knowledge of what had been done to me without fighting it to the end. And I'd like to think I will have won a battle for us all. If that's not too romantic a notion."

It's not.

If this case is allowed to pass into the annals of corporate legal history without a vigilant public outcry against the systematic decimation of one citizen's constitutional and legal rights, then it will be a loss for the society as a whole. I can tell you that right now, as you are reading this, officers of Coca-Cola are hedging their bets that we cannot form a collective fabric of public outrage strong enough to move the Supreme Court to act and investigate the blatant corruption and abuse of power that has been enacted by the federal judicial system on their behalf. In fact, I am pretty sure they are certain of it.

So let's prove them wrong. Each of us now has a responsibility to bring this information to members of the media, the government and the shareholders of Coca-Cola who, by charter, control the management of that company, and demand action. And when a representative of any of the aforementioned groups fails to act on it, then you will know that they are complicit in the domination of individual rights by corporate power. And you should formally tell them that. Or just email us and we will.

Let the games begin….

Reported by: Stephen Marshall

Note: Ben Deutsch, Coca-Cola's Director of Media Relations, declined to comment on this case, citing company policy that they: 'do not comment on matters currently in litigation.' GNN tried to reach Mary Hanley at DDB, Jerold Jacover at Brinks, Hofer and Dan Hanley at his mother's house. But none responded.

Updates on Bob Kolody vs. Coca-Cola

To receive updates about Bob Kolody's fight against Coke and other news from GNN, subscribe to the Guerrilla NewsWire. Just send an email to: info@guerrillanews.com with 'subscribe' as the subject.

Action on Bob Kolody vs. Coca-Cola

If you would like to take action on this story, here are some alternatives. Just pick one and it will make a huge difference:

1. Write the SEC an email complaining about Coke's failure to comply with SEC Rules. The following is a message that GNN reader Matt Jastremski sent to his local SEC Representative:

Hello Mr. Long,

My name is Matthew A. Jastremski, a resident of Elkins Park, Montgomery County, Pennsylvania. It has recently come to my attention that management of the globally-known Coca-Cola Company [EDGAR CIK : 0000021344] has, for a number of years, withheld a large amount of information regarding its lawsuit against a Mr. Bob Kolody and the related $4 billion liability. I paraphrase the following information from the U.S. Securities and Exchange Commission website.

"The laws ...[state that] all investors ...should have access to certain basic facts about an investment prior to buying it. ...The SEC requires public companies to disclose meaningful financial information to the public, ...used to judge for themselves if a company's securities are a good investment."

From what I understand, Coca-Cola has committed a serious infringement of security industry law, affecting not only the security of our economy, but the role of law among ever-growing corporate giants. It might be speculated that this enormous oversight has been kept secret, even among certain departments of our government, and I have decided to make it known that I am aware of this issue and am taking action to see to its resolution, for the sake of our economy and of the rights of American citizens.

Thank you for your time and service.

Thanks Matt!

2. Research the names of top investigative and business journalists at your local paper and/or the national media and call or email them regarding this story. You may have to pitch it, so have your one-liner ready!

3. Send an email to Coca-Cola's Director of Media Relations, Ben Deutsch, and very politely ask him where you should direct your questions/complaints about Coca-Cola's actions in the Bob Kolody case currently being litigated in the Seventh Circuit.

4. Research the names of fund managers who hold significant investments in Coca-Cola stock and alert them to the issues confronting Coca-Cola and their shareholders. Similarly, if you know any individuals who have shares in Coca-Cola, refer them to this site. They have a right to know how their investment conducts business, even if that company chooses to obscure it.

5. Send an email to Attorney General John Ashcroft informing him of the alleged corruption of a federal judge, Blanche Manning of the Seventh Circuit District Court, and espionage conducted by DDB executive Mary Hanley on behalf of Coca-Cola, a Fortune 500 company.

6. Send a letter to your Member of Congress alerting them to this story and asking for action from the federal government.

7. Send a letter to Senator Patrick Leahy, Chairman of the Judiciary Committee in the Senate. Here is a sample letter written by GNN reader Len:

Senator Patrick Leahy
United States Senate
Washington, DC 20510
(202) 224-4242

I'm sure you agree with me that, among all things, it is absolutely imperative that the Federal Courts be free of base corruption. The recent decision by the Supreme Court that effectively decided the presidential election (Gore v. Bush) is the most widely publicized recent federal case that suggests that federal judges no longer decide on the law, or even the merits, but instead on the desired outcome. Alas, as Mark Twain once wrote, "the deed is done."

There are, however, other cases that I believe are worthy of your notice. Cases so shocking that they are too unbelievable for the mass media to report, and sound very much like a wild conspiracy theory. I'm no insider in the case, and like most Americans, I rely on our government and the media to expose fraud and corruption whenever it occurs at the highest levels of the federal government. But lately, media, as well as the government, has so closed ranks around big business, I can no longer be sure what to believe and what not to believe.

The case I refer to the case of Bob Kolody v. Coca-Cola -- ostensibly a trademark and copyright case that has ballooned into an amazing plethora of judicial misconduct and fraud by a lawyers for Coke and federal judges on the 7th Circuit.

If it wasn't for the existence of the Internet and my interest in intellectual property law, I would never have learned of this case. I urge you to read – to the end – this story in Guerrilla News Network, entitled, "Coca-Karma". It is a long article, but you will not be disappointed.

The URL is: http://www.guerrillanews.com/cocakarma/

Thanks Len!

Good luck. Be sure to report back to the Guerrilla News Forum with your results.