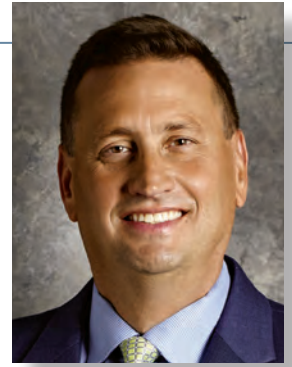


Bill Powers

is a partner with Powers McCartan, PLLC in Charlotte, North Carolina



I'm Just Sayin'

by Bill Powers

My wife Sammie McGee is a Meredith Angel. Her people have been living in Guilford County since before the Revolutionary War. It seems like everyone in the family went to Central. Her daddy Jimmy retired from Thomasville Furniture as a chemist and received the Silver Beaver Award from the Boy Scouts of America. Trust me, that's a big deal. Bertha, her mama, was kindergarten teacher for a lot of children in High Point.

Like all good, old-school North Carolinians, the McGees are salt-of-the-earth folk. They embody *Esse Quam Videri*.

In that we just celebrated 20 years of marriage, Sammie has now been my in-house, North Carolina focus group and jury consultant for over two decades. And while she has had to pay the costs of living with a courtroom lawyer, I certainly have had to learn to accept the "rulings" of the 95 percent accurate jury analog.

Because of Sammie, I also now possess a deep understanding of three words that, despite appearing simple, actually hide an unfathomable, and often missed, level of importance to attorneys: I'm Just Sayin'. When I hear it, I know to shut up and listen. Frankly, I wish I did that more often in court. My apologies; I'm working on it.

Anyway, I recently had the good fortune of sharing a meal in Charlotte with Darrin Jordon, Missy Owen, Sonya Pfeiffer, David Rudolph, and Drew Findling, First Vice President of the NACDL. I know, WOW, right? During our meal and conversa-

tion that followed a public hearing of the Chief Justice's Commission, it became obvious there was a divide at the table.

Two of us knew the true meaning of "I'm Just Sayin'." The others, all of whom were transplants or visitors to the South, received what I consider to be a very valuable gift from me and Darrin. If you hear that term from a witness, you too may want to listen up. If you hear that term during Jury Selection, you might want to use a preemptory.

In North Carolina, "I'm Just Sayin'" means, "I'm speaking up and sharing what I really think, and I'm trying to be nice in doing so, because it's just good manners." It also means, "I am not changing my mind. You can try to convince me until your last breath, it will do no good." Finally, and most importantly, it means, "I am going to speak the truth, even if it is not popular. It is, was, and always has been the truth. Therefore it's right, it's pure, and if you continue to press the issue, we're going to have words."





Personally, I make it a habit to read two books every year: *How to Win Friends and Influence People* and *The Power of Positive Thinking*.

I don't like to "have words" with anyone. I really work hard not to criticize, condemn, or complain. I try to see the positive side of things and people. I also try to avoid conflict.

When I hear so-and-so "should be a lawyer, they love to argue," I think to myself, "thank goodness so-and-so is not a lawyer." The truly great lawyers avoid arguments if at all possible and when required to challenge someone or something, they always try to do so with kind words.

At home and in social settings, I am actually pretty quiet. Just ask Sammie and our daughter the Mook; they'll tell you.

As such, I generally avoid causing a stir in my personal life; yet, as President of the North Carolina Advocates for Justice, I have a higher duty. Professionally, I have a responsibility to speak the truth when it comes to the Courts and court system(s) in North Carolina.

That's a part of leadership. I also try, at the beginning of each year, to assess the past year, its positives, its negatives, and discern the opportunities to learn and grow.

If you are interested in hearing my 2017 "Just Sayin'" observations about the law, courts, and being an attorney in North Carolina, here goes:

Just Sayin' #1: Our Justice System Is Not Broken

Considering the burdens and workloads placed on the Courts of North Carolina, given historically unprecedented growth and population changes, we are doing a surprisingly good job. That does not mean there are not areas for improvement.

In my mind, a good place to start would be to put partisan politics aside and stop making the job of the Judicial Branch unnecessarily difficult.

Justice is expensive. It takes time. It is slow and deliberative, as it must be. Court decisions change lives and affect very real people and their problems.

Our Justice System is the only thing that keeps a civilized society balanced, fair, and peaceable. It is central to our lives, our livelihoods, and our liberties.

The present state of the Costs of Court is unconscionable. Almost \$200 for just costs, excluding other fees, fines, and expenses, is not reasonable by any stretch of the imagination.

The Judicial Branch is not a lesser branch of government. In fact, I think it's actually more important and relevant to the average citizen on a daily basis than almost anything else.

If you saw the computer systems we use in North Carolina to track information, you would think it a mistake or something from the past. It is from the past. We're just still using it. Mind you, that is not the fault of the Administrative Office of the Courts. We, the Courts, are an analog system in a digital world.

We can wait no longer. We must modernize the system at a faster pace, centralizing all information into a statewide, real time, easily accessible, public network.

If we could track numbers and people, to show how well things actually work, the general public would be wowed. We're not sitting around, wasting time and money in Court.

Not that it should be, but I'd guess the court system is a HUGE revenue source for the State. Justice costs money. Our very society depends on a peaceable, fair manner in which to resolve disputes.

To my friends on Jones Street I say this, "Stop shortchanging the Courts."

Just Sayin' #2: The North Carolina Advocates for Justice Survives for Three Reasons

First, our causes affect very real people. Our membership may represent a wide spectrum of people, politics, personalities, predilections, and practice areas; yet, fundamentally, we are a success because we help ordinary people through difficult times.

We speak up. We hold others accountable for their actions. We demand the laws of the land, even the unpopular portions of the Constitution, be followed.

Second, our Membership and Professional NCAJ Staff personify our mission in everything they do. They devote their time, talent, and efforts to helping others. They are patient, kind, selfless, and in many instances, sacrifice personally to help the outcast, downtrodden, and those whom do not possess financial or political power.

We take on the establishment. We demand the government proceed with honesty and transparency. We take on wealthy interests and, contrary to what some may believe, we do so in an apolitical manner.

Kindness, good decisions, fairness, and compassion to our fellow beings, transcend party, politics, and voting preferences. We seek to do the right thing because it is right. It is just. We are advocates for justice.

Third, Dick Taylor's impact on NCAJ after twenty years of service cannot be overstated. He continues to focus on the long-term welfare of the organization in his last months as Chief Executive Officer. Dick is traveling throughout North Carolina, visiting long-time and new members alike. Take some time to meet with Dick. You will learn and grow from the experience.

Just Sayin' #3: Superior Court Criminal Docket Control Must be Turned Over to an Impartial, Non-Litigant Party such as the TCA

This will not be popular with some of my friends on the other side of the aisle. And yes, I very much consider them friends, respecting them both personally and professionally for the work they do.

I loathe even speaking this truth. The fear of reprisals for mentioning the potential for abuse(s) is both real and substantial.

It will cost money to transition to a comprehensive, state-wide network of Trial Court Administrators with the staff and resources necessary to take responsibility for the Criminal Superior Court docket. It will save money, a lot of money, by making the system more efficient.

It will also require the ceding of substantial amounts of power from those whom currently possess it.

The animals in the jungles of the Amazon weep over the amount of paper we waste in North Carolina, printing dockets replete with matters that have no chance of resolution.

When you control the docket, you do not need a continuance. You decide everything. You possess more power than the Court. You possess more power than your opponent.

Ask yourself: has any District Attorney ever filed Notice of Secured Leave? Has the State ever worried about something being set #1 for jury trial the Monday returning from vacation?

It's not fair. It never has been. It never will be. You will never convince me otherwise and if you are honest with yourself, you will admit one party to the proceeding should not wield such power to control any calendar.

Just Sayin' #4: Lawyers Are Unnecessarily Overstressed. It Makes Us Worse Lawyers

The current rules of court regarding resolving court conflicts and calendaring issues need to be updated to reflect current and developing practice trends.

It is unreasonable to require two senior resident Superior Court Judges to set aside time from their already-busy schedules to call one another and discuss where an attorney should appear for trial.

The idea of staying in one jurisdiction for an entire career, while preferable, is not realistic and likely never again will be. For a host of reasons, lawyers are now required to travel to multiple jurisdictions. North Carolina would be well-served in adopting a conflict, notice, and scheduling protocol similar to that in place in Georgia. In large measure, Court Conflicts could be avoided if the parties shared information and communicated better.

**To my friends on Jones Street I say this,
"Stop shortchanging the Courts."**

That means the litigants would need to timely share information and respond to one another to avoid conflicts.

Courts would not be frustrated with multiple continuances, dockets that suddenly fall apart, disheartened witnesses, and backlogs due to the lack of availability of Expert Testimony, Witnesses, Officers, and Lawyers.

Pressure from above does not solve the problem. It just makes everyone miserable . . . and less efficient.

Let's stop wringing our hands, complaining, but doing nothing, about the unfathomable increase in attorney suicides, substance abuse, and mental health issues. Calendaring is very much part of that.

It is no one's fault. The practice of law has forever changed. Let's put ego and fiefdoms aside, focusing on what actually will work.

Just Sayin' ♦

