

## *The Dirty Little Secret of the Legal Profession:*

### **Illegal Age Discrimination In Hiring**

By Atty. Michael H. Agranoff

Lawyers love to trumpet their love and respect for the law. “Law is an honorable profession” is the most common statement in the field. Crooked lawyers are a tiny minority; the rest of us are here for the privilege of serving.

Perhaps so. But as far as I can tell, lawyers, as a class, do not obey the law any more than any other class.

The year was 1988. It was the last good year for legal hiring before the recession that eventually clobbered Pres. George Bush the Elder. Graduates got jobs. Things were good.

I graduated UConn Law in May, 1988. These were my credentials:

1. Second in my Evening Division class of 74. GPA 3.6, magna cum laude.
2. A nearly publishable law review article that was, in fact, subsequently published.
3. No arrest record of any kind.
4. Honorable discharge after 3 years of active military service (more than can be said for some Presidents).
5. Reasonably presentable and well-spoken.
6. Good recommendations from several professors.
7. A solid record of achievement in the business world, which included several promotions, administrative and management positions, and writing for and speaking at several national computer security conferences.

In other words, decent schooling and decent experience.

These were my results:

1. 42 job applications: 41 private law firms; one to the Conn. Attorney General.
2. Zero acceptances.

What I failed to mention above was that I was age 46 when I graduated.

The fact that law firms - which claim to be paragons of virtue, and in some cases flaming liberals - openly and knowingly practiced illegal age discrimination, was bad enough. What really hurt is that no one would help – the House; the Senate; the ABA; the CBA; the law schools; the UConn administration; several liberal politicians, the media – no one.

Therefore, today, when I hear about affirmative action and diversity, and when I hear law firms talk about their pro bono participation, and UConn talk about how it is committed to equity and diversity, I am less than impressed.

For background purposes, I was born on May 12, 1942, and grew up in West Hartford, CT. I graduated Hall High School in 1960. I attended Columbia University in New York City, busted out, joined the Army, and served for 3 years honorably. My major service was in Germany, 28 months with the 24<sup>th</sup> Infantry Division. I graduated the University of Hartford in 1968 with a degree in English Literature. I began working as a computer programmer for the Hartford Insurance Group, and eventually had positions as a data base systems analyst, education administrator, and computer security manager and analyst.

In 1982, having realized that bureaucracy was not my strong point, I thought again about my old dream of being a lawyer. I had always assumed, as a child, that I would be a lawyer, but somehow it didn't pan out. Now I thought again.

The Admissions Office at UConn Law was very helpful. Finally, in 1983, I made up my mind to try. I applied, took the LSAT, and was accepted to the Evening Division starting in September 1984.

I can't say enough about how helpful the Admissions staff was. For example, one item on the application required recommendations from two professors. I called and said that I had graduated 15 years earlier, and this hardly seemed appropriate. No problem, they said; this happens a lot. Just get recommendations from responsible managers at work.

The insurance company was very helpful also, and gave me the time to study that I needed. It was necessary for me to work and go to law school evenings, which was the equivalent of two full-time jobs. I can't say enough about my late wife, who had to put up with this insanity. Finally, I graduated in the standard evening four-year program, in May, 1988; second in the Evening Division, with a 3.6 GPA.

I had many excellent professors. Without meaning to slight anyone, I must single out for greatness: the late Prof. Neil Scanlon, the late Prof. Nathan Levy, Prof. Alan Cullison, and Prof. Richard Pomp.

The job search process began in September, 1987, at the start of my last year. I signed up for interviews. The first one was with Robinson & Cole, a premier Hartford law firm.

I will never forget that interview for as long as I live. The interviewer, who I believe was a senior associate, was incredibly enthusiastic. "I have never seen a resume as good as this", he said several times. He then went so far as to name the partner that I would be working with at

R&C. (I decline to mention that name publicly, as I have no reason to believe that that partner was in on the scam). I left with a euphoric feeling.

Subsequently, I was amazed to find that I had not been invited back to a second interview! I also got very few first interviews, which I thought was surprising, considering my record, and almost no second interviews. I gradually figured out what was happening.

I wrote a letter to UConn Law Dean George Schatzky, with whom I had been friendly. I expected an answer in a few weeks, but it didn't take that long. Two days later, the Dean saw me at the coffee wagon, rushed up and said that he had gotten my letter, was shocked, would investigate, and get back to me shortly. If there was any discrimination, he would put an end to it.

That was in November, 1987. As of this date (February, 2007) I have had no meaningful response from Dean Schatzky, who considers himself a flaming liberal, or from anyone else.

Some of my interviews are worth noting.

One featured a female interviewer in her late twenties or so. The second I walked into the room, she glared at me and frowned. I suppose that if I had any common sense at all, I would have left at once, but I played the game. I wonder: what would UConn's official reaction have been if a black applicant had said that a white man had glared at him and been obviously hostile from the beginning of the interview.

Another featured a very good interview with a senior associate. We got along well, and then he said that the partner wanted to meet me. Out came an older man, Jewish like myself. We had never met before. He looked at me, frowned, picked up my resume, looked and frowned again, and said, in obvious discomfort, "Well, we have rather special clients here. We can't just have lawyers who want to sit in the back room and write briefs. They have to deal well with the clients."

All that knowledge from a man who had never seen me before. Needless to say, I never heard back from that firm. I was pleased, however, to know that my fellow Jews could be just as biased and prejudiced as Gentiles. That sort of diversity really makes you proud to be an American.

I wonder what UConn's official reaction would have been if a black applicant had said that he had a good interview with a senior associate, and then the partner came out, looked at him, and said, "Well, we can't just have lawyers who sit at their desks eating fried chicken, giving high-fives, and saying 'Yo mutha' to the clients." Can you imagine if that accusation were made? What a field day the press would have! The Courant would send over a dozen reporters and photographers. The NAACP would be beside itself. Possibly Mike Wallace and Alan Colmes would have shown up. You would hear nothing else for months.

Yet my complaint on that matter to the Dean, and to the UConn Central Administration, with its Office of Equity and Diversity, went unanswered.

I also have to chuckle thinking about other possibilities. What if a woman complained that the senior partner came out, looked at her, and said, “Well, we can’t just have lawyers who sit at their desks, doing their nails, talking on the phone, gossiping about others in the office, and complaining about the number of stalls in the restroom.” Or if the senior partner said to a handicapped person, “Well, this is a fast-moving, action-oriented law firm, and we can’t have cripples who have trouble getting around. Our clients won’t stand for it.” Or if the senior partner had said to a homosexual, “Well, we can’t have AIDS in our men’s room, you know.”

This idea that older workers want to start at the top and not participate in the general work of the office is, of course, a stereotype. Certainly there are older workers like this, just as there are women who gossip too much, Italians who are in organized crime, and blacks who are crack addicts. Yet that doesn’t justify stereotyping and discriminating against innocent persons.

Nearly everyone agrees, but they tune out when it comes to age discrimination. What, you have to wonder, is the reason for that?

I actually had one interview with a family friend, an extremely respected Hartford lawyer. We had been on very friendly terms, and our families had socialized. This man was known as a flaming liberal. He made it absolutely clear, in his office, in no uncertain terms, that his experience with older workers had been negative; they all seemed to want to start at the top. I will not reveal his name publicly, as he is deceased; but suffice it to say that old-time Hartford liberals would be stopped dead in their tracks if they knew what this Giant of Democracy had said to my face (sorry; I wasn’t wearing a wire).

Another interviewer was very sympathetic. It was late in the job search process, when most good students had already gotten jobs. We spoke, he reviewed my resume again, and said, “Michael, why does someone with a record like yours not yet have a job?”

Trying to be diplomatic, I replied that there might be three reasons: my record, my appearance, and my age. He thought for a second, and said that my record was excellent, and there was nothing wrong with my appearance. That was it; nothing else. The loudest silence I have ever experienced.

I called four area lawyers who were good friends of mine (not the Super Liberal mentioned above). These folks were all solos, so there was no pressure. I told them the story, and every one, without exception, repeated the same thing: of course there is age discrimination in hiring by law firms; didn’t you know that? It was like listening to a broken record.

In fact, one of those lawyers was an old boyhood friend. He became positively apoplectic, literally screaming at me, “Michael! What did you expect? Are you so stupid that you really believed that lawyers followed the law? How can you be surprised? Michael, what is the matter with you; etc etc.” He was, and is, a mild-mannered guy; I never saw him so agitated.

All of the rather obvious age discrimination practiced openly by law firms, however, was nothing compared to the reaction that I got from the officials and leaders of society to whom I complained.

Worst of all, by far, was UConn. Yes, our beloved Liberal and Diverse University of Connecticut, home of the Happy Huskies.

None of the Deans would help: George Schatzki, Hugh Macgill, and now the Indian Fighter Nell Jessup Newton. All washed their hands of the blatant and illegal age discrimination being practiced on their campus. No one was willing to tackle the big firms. No investigation was conducted; no publicity offered; nothing.

I had not asked for a revolution. Rather, I had asked the Deans to do three simple things:

1. Make it specifically clear to the MANAGING PARTNER at each firm recruiting at UConn Law, not to a flunkie, that illegal age discrimination would not be tolerated, and that the law school was serious about this.

2. Advise the student body of the problem, in official publications widely circulated, and warn prospective students in the catalogue; making it clear that all instances of such discrimination were to be reported immediately, and that the school would take them seriously.

3. Create a mechanism to actively and aggressively investigate illegal age discrimination, just as they would investigate illegal discrimination based on race, color, sexual orientation, gender, handicap, ancestry, religion, and the like.

The law school did nothing. Nothing.

I must add that one courageous and heroic person, former Dean of Admissions Dr. Maryann Michaels, had the decency to tell me that this has been going on for decades, and that all school administrators had been well aware of it. I was hardly surprised. I am surprised, though, that no one other than Dr. Michaels had this kind of honor. Certainly not the Law School Deans.

Actually, I am being a little unfair. Dean Macgill himself did something.

UConn Law had the habit of assigning people to call all alumni annually and ask for donations. For some reason, it was always a female who called me. I started handling the calls this way. I asked the caller if she would donate to the school if the school permitted firms that practiced illegal gender discrimination to recruit on campus. No, they said, of course not. Then why should I... etc etc.

Apparently enough of this got back to Dean Macgill, who, ironically, was to chair a State **ethics** committee in later year. Dean Macgill actually personally removed my name from the alumni donation list; and I have not been called in years.

I stand as the only person in American history, to my knowledge, who was individually sought after and personally kicked off a fund-raising mailing list although committing no crime. The reason: exercising my Constitutional right to speak my mind and protest complicity with illegal discrimination. The irony has apparently been lost on Dean Macgill, who actually taught my course in Constitutional Law at UConn Law.

Truth is indeed stranger than fiction, to coin a phrase.

UConn Law, in short, has refused to address the problem, let alone try to solve it. They are simply petrified of the big firms.

The UConn central administration at Storrs is no better. They have a so-called Office of Diversity and Equity, but would do nothing. At least four successive Presidents have refused to act. My letters are simply not answered; except for one.

There is a sycophant at UConn whose name is Scott Brohinsky. Technically working in “Government Relations”, he is actually a hired mouthpiece and lobbyist, whose mission is to wrangle money for UConn. President Phil Austin had Brohinsky write me a letter stating, sarcastically, that I have written “repeated complaints” on the subject of age discrimination, that UConn investigated the complaints, and found no problem.

The truth is:

1. No investigation was conducted. I repeatedly asked to see a copy of the investigation report, and got nothing, and still have nothing.
2. I was never interviewed by anyone.
3. Nothing has changed.

I asked Brohinsky if he would tell black people that he was tired of their “repeated complaints” of race discrimination. I asked if he would be so smug if UConn refused to put persons of Polish ancestry in responsible positions. Of course, no response from this acolyte. And nothing from Phil Austin, who wouldn’t dirty his hands to respond.

Diversity and Equity. Right on.

Still, all this could have been ended if the courageous, fearless media had publicized the problem and embarrassed the school. Yet they refused to do so.

The media, quite simply, refused to touch the story. The Hartford Courant, Manchester Journal-Inquirer, New York Times, Washington Post, L.A. Times, and others, simply would not print or respond. Numerous follow-ups to the Courant and NY Times were met with stony silence. The fearless crusading investigative TV reports: 60 Minutes, 20/20, etc., were equally unavailing. My pitch was “when liberals discriminate”, but it got nowhere.

It didn't take long to figure out that age discrimination is not sexy; hence, it doesn't sell; hence, the media won't touch it.

All this for a person who was willing to fight and die for his country, even though several Presidents have ducked the draft and active service. Really makes you proud to be an American.

I will never forget the time, as a kid, that the doorbell rang. My mom and I went to the door. There were two well-dressed, well-spoken middle-aged men, making a pitch for the Catholic War Veterans. My mom listened politely, and then said, "I'm sorry; we can't give". They thanked her and left. I said to her, "Ma, they're war veterans. They helped protect our freedom. Why didn't you give them something?" She looked at me and said, "Michael, I'll give them as much this year as they gave the Jews last year."

I've never forgotten that. When people ask me to give money or other support to end race or gender discrimination, or any other discrimination du jour, I smile and decline. If I'm in a festive mood, I may even tell them why.

Illegal age discrimination is a fact. Its practice by law firms that should know better is a fact. Its practice by liberals who swear they wouldn't dream of discriminating illegally is a fact. And the complicity therein of law schools, central university administration, politicians, and the media, is also a fact. And a disgrace.

The Connecticut Law Tribune is a publication that is overwhelmingly liberal. As of this writing, it permits one conservative to have a column, but its other columns, editorials, and regular articles look like a rehash of the Democrat Party platform.

Several years ago, I got the attention of an editor who agreed to publish my story. I sent it in, he said fine, but how about a few changes and improvements. I agreed. I made the changes and sent them in. He then called and said that I had "missed the deadline", and the story wouldn't be published. I had no idea what he was talking about, but asked if it could be published in the next issue. "We'll see," he said. And it never happened.

It could be just a coincidence that Dean Schatzki was associated with the Tribune at that time. More likely, someone else killed the story. And continue to refuse to publish it to this day, while losing no opportunity to complain of everyone else's discrimination.

Fearless. Courageous. And so American.

So how did things turn out? Actually, not all that bad.

I finally got a job with a very difficult lawyer. He had the interesting and innovative strategy of hiring people with marketing defects. It was a good way to get decent people and not pay them the going rate. One was "too attractive"; no one could take her seriously. Yes, this really happened in America. Another had a harelip; most disconcerting to no-nonsense lawyers. Again, in America. Another was myself. And there were others.

After a year and a half with him, I had enough, bit the bullet, and started on my own in my adopted small town. With some luck, things have gone well. I'm certainly not rich, and have no subsidized country club membership or access to the Governor; but at least I can look in the mirror each morning.

I have done a lot of work with the forgotten of our society: the kids who are victims of abuse and neglect, and the parents in the DCF system, who are often victims themselves. It is interesting that the Doges of UConn and UConn Law will vote themselves raises, pensions, benefits, and choice football and basketball tickets, while giving nothing but crumbs to the needy. How totally immoral, corrupt, and irrational they are; yet they never miss an opportunity to tout how liberal and diverse their outlook.

In the 1930's, the Germans had an excuse for not opposing Hitler: they could have lost their businesses, their health, their lives. What excuses do the Honchos of UConn have? What do they think that the big firms will do to them?

Money is important. But is it everything?

I still await UConn's report of illegal age discrimination in hiring, by firms recruiting on its own campus. Perhaps UConn should take its worst lobbyist and assign him the report, as a sort of institutional penance.

But it's a pipe dream. President Phil Austin will not dirty his hands. He is too busy covering up the latest UConn scandal, claiming that he had no knowledge of it, while ensuring that his own divorce file remains hidden in the court and unavailable to the public. That's us – the public whose files are, well, public.

And the State Legislature continues to vote UConn virtually everything that it wants. Lobbying hath its charms. And basketball seats.

Law is indeed an honorable profession. It would be well if its practitioners remembered that.

### **The latest development:**

On September 28, 2006, I received an e-mail from a lawyer in New York City. She had been appointed to a special committee of the New York State Bar Association (NYSBA) that was investigating age discrimination in the legal profession. She searched the web, found my article, and invited me to give testimony.

The date was set for Nov. 8, 2006. The Bar was arranging a room in New York for the testimony. Naturally, all travel and other expenses would be paid by me alone, but it would be worth it to try to correct an injustice.

She also asked if I knew of other possible witnesses. I told her to ask the President of UConn, and the Dean of UConn Law, for their full files.

I cleared my calendar and prepared. Finally! And if New York State did something, Connecticut might follow shortly.

Then I asked exactly where the hearing would be held, and what time I should arrive. She announced that they were working on it.

Then she wrote that the hearing would be postponed. However, she would get back to me with the exact date, time, and location.

Then the word came back; ironically, right on November 8, 2006: “The NYSBA Special Committee decided in a late October meeting not to hold any hearings at all.”

That was it. Nothing. Finis. End of story.

For those who are wondering: Still no response from UConn, UConn Law, the Connecticut Law Tribune, or the Connecticut Bar Association.

The Bar is wonderful for pointing out other people’s prejudices. But Heaven forbid that it should investigate its own.

Equity and Diversity. What exciting concepts.