

From Communication Professor to Trial Consultant

By Kathy Kellermann

I was a professor for 20 years. I was on the faculty at the University of Wisconsin, Michigan State University, and the University of California at Santa Barbara (UCSB). I loved being a professor. I loved being a researcher. I loved teaching. So why did I leave academia?

When I am asked how I came to be a trial consultant, I usually trace my path back to a flip remark I made when introducing myself at a committee meeting at UCSB in the summer of 1995.

That summer, O.J. Simpson was on trial for the murders of Nicole Brown Simpson and Ronald Goldman. A media committee for the Student Health Service was meeting for the first time. I was invited to be on the committee. I said yes.

As we introduced ourselves at the first meeting, we each offered one unusual characteristic about ourselves. I said truthfully that "I am addicted to O.J. TV." A representative of UCSB's public relations office was at the meeting, and asked me if I was doing research on the O.J. trial. When I said that I was, and had attended the trial, the public relations office asked me if I'd be willing to be interviewed. I said yes.

The university public relations office sent a press release to the media. The *Santa Barbara News Press* picked up the story and printed a front-page feature article, complete with photos. I then began receiving unusual phone calls from people who read the article, including three in a row from a woman repeatedly asking me if I was praying for Christopher Darden, a prosecuting attorney in the case. The phone rang again and



although I was leery of answering, I did. A lawyer asked if I was the person interviewed in the paper. I hesitantly replied that I was, and he then invited me to be a guest on a legal radio show in town. I said yes.

I was a guest on this radio show multiple times that summer. After a while, the topic broadened to other legal issues. I was asked to become a co-host of the show. I said yes.

convenience to go to trial in the summer or during spring break.

I then began working for an attorney, who has since become a personal friend. This attorney recommended me for a job heading up the Los Angeles office of a trial consulting firm. I said yes.

My path from academia to trial consulting was less one of my making opportunities for myself, and more one

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I co-hosted the radio show for three years. Both of my co-hosts were attorneys, and I met many other attorneys as guests on the program. One of my co-hosts asked me to present at a continuing legal education (CLE) seminar. I said yes.

Over the next few years, I presented at a number of CLE workshops and seminars. Attorneys who attended the workshops began calling me to consult on their cases. If the commitment was short, I sometimes said yes. I found the work interesting, requiring immediate application of what I knew, and having real-world outcomes.

When an executive recruiter called me about a full-time trial consulting job, I interviewed, but learned that I didn't want that particular job. At the same time, I realized that perhaps I was willing to leave academia.

I talked with a friend who had left academia to be a trial consultant. He invited me to a mock trial his firm was conducting. I said yes.

I began teaching a trial advocacy course. My students kept asking me why I didn't leave academia and become a trial consultant. Other opportunities came along, and I kept saying yes. However, it was difficult to take on anything but small cases while remaining a professor. Cases could not be scheduled for my

of my saying yes to opportunities that came my way. However, absent other experiences in my life, and other commitments of my scholarship, I doubt I would have been interested, or would have been successful. My background prepared me to both leave academia and be a trial consultant.

From the time I was young, I had been interested in the law, and yet never wanted to be a lawyer; here was a chance to pursue that interest. In college, I concentrated on political science, communication, and psychology—great background for a trial consultant. The rhetorical tradition of legal advocacy was not something with which I felt conflict; I experienced both the sciences and humanities in my upbringing. My father was an engineer who taught me to love mathematics and logical thinking. My mother was a music major, pursuing vocal and piano performance. I debated throughout high school and college, and was an assistant debate coach during my graduate school years. I chose to be a social scientist because of my commitment to the scientific enterprise and my love of mathematics. Eleven years before leaving academia, I interviewed at a private research laboratory, seriously considered taking the job when it was offered, and declined because I was worried about what leaving academia would mean to me. These early experiences were formative in preparing me for academia, and in my ultimate decision to leave.

I have always believed that theories can, and should, be applied to real-world problems. I think in theories and act on their implications—in my personal life, in my teaching, and in my research. I taught theories of persuasion, and spent considerable time teaching their application. I taught theories of argumentation, and spent considerable time teaching their application. I taught theories of interpersonal communication, and spent considerable time teaching their application. Other professors called me theoretical; my students called me applied. They were both correct. I am—and have always been—both theoretical and applied.

Straddling the theoretical-applied divide is both related to, and needed for, my transition from academia to the world of trial consulting. The academic division between the theoretical and the applied was something I never fully understood substantively when I was a professor, though I recognized it politically. For me, both theory and application are important. I wanted and chose to be in departments that valued theoretical thinking and theoretical research. I wanted and chose to be applied in my research and teaching while also being theoretical. I would describe my academic life as existing in a world that valued theory over application, where I continued to pursue application in the course of theory development.

In my life as a trial consultant, I am still straddling the theoretical-applied divide, but in a world that values application over theory. My value to my clients is and remains my commitment to both the theoretical and the applied. My blog, the Online Jury Research Update, summarizes social science principles and research to answer questions lawyers have about trying cases to juries. Attorneys want practical answers to questions, and research about theoretical principles is intriguing to them if it also provides practical answers to their questions.

My research is different now in two ways. First, my research now is driven by pragmatic questions to which I develop both pragmatic and theoretical answers, rather than by theoretical questions situated in applied settings seeking mostly theoretical answers. Second, my research is not limited only to communication concerns, and is instead driven by the interplay of

concerns involved in a trial setting (e.g., sociological issues of race and gender, psychological issues of jury decision-making, legal issues of due process rights, case issues that can range from sexual assault to patent infringement to election fraud to employment discrimination).

While inside academia, I read widely across disciplinary boundaries and methodologies: linguistics, artificial intelligence, psychology, sociology, computer science, geography, political science, human factors engineering—regardless of the discipline or methodology, if a question was being addressed of interest to me, I would read that literature. Crossing disciplinary boundaries, without question, was a part of me from an early age, and is critical in the work I do today as a trial consultant. Through my debate years, I read widely on wide-ranging topics, from foreign policy to consumer product safety. I believe that I would not be successful as a trial consultant without this cross-disciplinary orientation toward information and learning.

One of the questions I most often had to field when I first told people I was leaving academia related to giving up tenure. I wasn't particularly worried about this issue, although I did not leave academia without a way back. I took leave from my job when I first left, knowing that I could return if I so chose.

In both academia and my work as a trial consultant, research and teaching are important. The nature of the research is different, and I am comfortable with the predilections of both worlds. Surprising to me, and something for which I am glad, is the extent to which my job now still involves teaching. My goal as a trial consultant is to leave attorneys and witnesses better off than they were before I worked with them, to provide tools they can use in other cases and situations. I frequently give presentations to attorneys that are lectures in both form and function. I find attorneys to be an amazing audience—bright, engaged, and interactive. One huge advantage of not being in academia is that I don't have to grade.

When I left academia, I knew little about business or marketing, and never thought of myself as an entrepreneur. As a professor, I did not keep track of my

time in software on a quarter-hourly basis. I was not judged by how much business I brought in for a firm. I knew little about writing proposals or how (properly) to write a contract for my services. I did not know that marketing would be 50 percent (or more) of my job, and would be the impetus for having a website, starting a blog, having a Twitter feed, and getting onto Facebook as my company and not just me personally.

When I first left academia, I worked for a trial consulting company for three years. When I left that company, I was at a turning point. I thought of returning to academia. I thought of working for a private research lab. I thought of going into business for myself. I faced a very difficult decision because I considered all the choices exceptionally good, with the uncertainty being if I went into business for myself. I took the path of uncertainty, though again had a backup plan. I opted to become an entrepreneur because I believed that I could change my mind. I now believe that my thinking was partly deluded about returning to academia. I had offers from universities for an academic position at that time; I am unsure if I could obtain those same offers now, being as so much more time has gone by since I was in academia.

Thankfully, one of the greatest surprises of my life was when I realized that I liked being an entrepreneur. However, when I started in business for myself, I was beyond naïve about business. I started as a sole proprietor and had to be told to get a tax identification number so that I didn't have to use my Social Security number. From there, I've learned about contracts, S-corporations, business licensing, business taxes, and a host of other matters that don't particularly interest me, but are necessary to know to have my own business. For a few years, I joined a networking group and learned about elevator speeches, wealth management, and how to network with a wide range of private sector professionals, some professions of which I had never before heard. I also learned that providing my own job benefits is vastly different than having an employer provide them to me.

I appreciate my academic job benefits more now than I did when I was in academia. Because I now work for myself, I provide all my own benefits. I provide my own health insurance, something I wouldn't wish on anyone; a group plan through an employer is vastly superior. I still have control over my time, not unlike that I had as a professor, but I find I work harder, with fewer vacations. To take a vacation, I have to wind down my business starting two to three months in advance, and then gear up again when I come back. A two-week vacation is a loss of three to four months of income.

While I like to say that I left academia because of a flip remark at UCSB's Student Health Service, I really left academia slowly. For years before my remark, I had experiences that spanned traditional academic divides and prepared me for the transition. I had early opportunities to which I said no, followed by later opportunities to which I said yes. And I left academia without completely leaving academia. I carry academia with me into my job as a trial consultant, through the research and teaching I do now.

I remain a trial consultant for these reasons: How do I describe the joy I feel when a jury I selected opts for a penalty of life, rather than death? How do I describe the feeling when a very deserving plaintiff I worked for receives the largest damages ever awarded by a jury against the Los Angeles County Sheriff's Department? How do I describe the celebration that occurs when a research scientist I worked for as a civil defendant is found not liable in contract and employment disputes? Just as with academia, I am affecting people's lives, and that is meaningful to me. ■

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