

# THE NATIONAL LAW JOURNAL

©1989 The New York Law Publishing Company

VOL. 12—NO. 6

PRICE \$2.00

The Weekly Newspaper for the Profession

MONDAY, OCTOBER 16, 1989



Clark Thomas

Robert Lee Ballow took a plunge and became a his firm, King & Ballow, represents the manage- lawyer after a stint as newspaper executive. Now ments of 300 dailies.

## PUBLISHERS' CHAMPION

Some call Nashville's King & newspapers, a union buster. By Ballow, which represents Tom Humphrey. Page 27.

## Keeping Babies Free of Drugs

Pregnant substance abusers face prosecutions and loss of custody.

By RORIE SHERMAN  
National Law Journal Staff Reporter

AN EXPONENTIAL increase this year in the prosecutions of pregnant women who abuse substances and risk harming their fetuses has called attention to a national health crisis. But recent studies indicate the legal system is doing a patchwork job on a deep social problem.

At least 10 women this year in California, Florida, Illinois, Massachusetts and South Carolina have faced criminal prosecutions — and one has been convicted — stemming from their use of cocaine, heroin or alcohol while pregnant.

The convicted woman, Jennifer Johnson, 23, of Florida was sentenced Aug. 25 to 14 years probation during which time she must report any pregnancies to law enforcement authorities and receive court-approval for her prenatal care program.

These figures and measures represent a dramatic increase in the amount of pressure prosecutors are exerting in the hopes of sending a message that all women must protect their fetuses or face the consequences.

At the same time, these numbers don't begin to tell about what health care workers and civil liberties lawyers say is a much more pervasive but largely unseen story unfolding behind the closed doors of the nation's family courts. Women are losing custody — their children are sent into foster care systems for months immediately after birth — when a single drug test indicates the presence of illegal substances in the newborn. (NLJ, 10-3-88.)

"The sense of hysteria and concern about drug abuse has only been increasing since the time of the Pamela Rae Stewart case," says Lynn Paltrow, staff attorney with the Reproductive Rights Project at the New York-based American Civil Liberties Union. In 1986, Ms. Stewart of San Diego became the first woman in the nation criminally charged with failing to provide her fetus with necessary medical care. A trial court found state law imposed no duty to care

"The sense of hysteria and concern about drug abuse has only been increasing."

Continued on page 28

### HIGHLIGHTS

#### In the Firms p. 2

Dayton, Ohio's Smith & Schnacke meets its end and Cleveland-based Thompson, Hine and Flory agrees to hire 82 of the smaller firm's lawyers.

Litigation,  
Pages 15 to 19

Career Opportunities: Page 36  
Lawyers' Service Mart: Page 40  
Real Estate/Investment Offerings: Page 42

## Marcos Bequeaths a Legal Tangle

By ANDREW BLUM  
National Law Journal Staff Reporter

IT MAY BE ONLY fitting that the late Philippine leader Ferdinand E. Marcos — a one-time trial lawyer — leaves as part of his legacy a string of litigation, both civil and criminal, with as many twists and turns as there are outstanding cases.

The Marcoses fled their homeland after his autocratic power eroded in a bitter 1986 election against current

Philippine President Corazon C. Aquino. When he arrived in Hawaii, Mr. Marcos' health deteriorated and almost everything connected with him wound up in litigation — including \$8.2 million in property he, his friends and family brought with them on the plane that took them to the United States.

The litigation, lawyers say, ranges from the sublime to the ridiculous; from fights over frozen assets to a lawsuit claiming Mr. Marcos stole a World War II treasure and used it to help purchase four New York properties. After battling heart, lung and kidney

ailments, Mr. Marcos died in Honolulu Sept. 28 at the age of 72. Most attorneys in the litigation say his death should not affect most of the pending cases.

Because of his ill health, Mr. Marcos this past April was severed from the one criminal case against him in the United States. In light of his death, Mr. Marcos will be formally dropped as a defendant in that case, which alleges fraudulent investment by him and others of \$268 million. *U.S. v. Marcos*, SSS 87 Cr. 598 (S.D.N.Y.).

Charges remain against his wife,  
Continued on page 26

By TOM HUMPHREY  
Special to The National Law Journal

NASHVILLE, Tenn. THE PROPHECIES were dire when a self-described "fair-haired boy" of this city's newspaper barons gave up a career cultivated profitably from age 11 to take a middle-age plunge into a new life as a lawyer.

"There was literally no person who told me that it was the right thing to do. Everybody said, 'Lawyers are a dime a dozen... You won't be any good and nobody will hear of you again,'" says Robert Lee Ballow.

One of his bosses, he says, even proposed to "send me to see a psychiatrist" for having the wild notion of abandoning his career as a newspaper executive. But despite the predictable "anxieties" of the married father of two, he decided "sometimes you've got to follow your instincts."

Mr. Ballow, 58, has proved his instincts right and the prophecies wrong by becoming fair-haired lawyer to newspaper barons across the nation and, not so coincidentally, nemesis to the labor unions they confront.

The law firm of King & Ballow sprang into an initially unheralded Nashville existence when Mr. Ballow teamed with longtime friend and mentor Frank Stovall King Jr. in 1969, practicing law as a sideline while he kept his newspaper job.

Two years later, when he was 40, Mr. Ballow resigned as circulation director of Newspaper Printing Corp. — which was then business agent for both of Nashville's daily newspapers, the Tennessean and the Nashville Banner — and began practicing law full time.

The firm now represents more than 300 daily newspapers in 42 states, including the Philadelphia Inquirer, the Houston Chronicle, the Kansas City Star and the Denver Post, plus about 100 radio and television stations and an assortment of other clients that have included the Oak Ridge Boys country-western band and the state of Tennessee.

"We are a full-service law firm to media clients," Mr. Ballow says. "Labor relations just has a high visibility." It is also, he added, his personal forte.

Twelve of the firm's 49 lawyers are partners. The most recent addition is Wilford W. Johansen, formerly a member of the National Labor Relations Board, who joined in September. Besides its home office in Nashville, King & Ballow operates a West Coast branch in San Diego, rotating up to a dozen lawyers to serve clients in the area.

Mr. King, 65, is managing partner, tending to administrative matters and providing general oversight while Mr. Ballow toils in the field and in the limelight as a labor relations activist. "It is a wonderful relationship," says Mr. Ballow.

CLIENTS GIVE the firm rave reviews for what they see as its hard work and a hard-nosed attitude, coupled with both legal expertise and a knowledge of media management.

"Bob Ballow has collected some of the highest caliber legal minds in the country," says Edward W. Gold, labor relations director for the New York Daily News, a King & Ballow client. "I wouldn't use anybody else." Their relationship goes back some; Mr. Gold had previously worked with Mr. Ballow in prior jobs with Maxwell Communications Inc. in New Jersey and ALCO Gravure.

The Daily News signed up with King & Ballow this year with an eye toward upcoming and potentially bitter negotiations of new contracts with its unions.

A lot is at stake — as is typical with many of Mr. Ballow's cases. The News, one of four newspapers in the fiercely competitive New York newspaper



# King & Ballow, Lawyers for 300 Daily Newspapers

market, says it needs concessions from its production workers in order to be able to invest in a desperately needed new printing plant. Unions representing the workers say they've already made concessions. Adding to tensions are reports that the News' parent company, the Chicago Tribune Co., is impatient with the News' lackluster financial performance.

In fact, in one of its more publicized confrontations, King & Ballow represented the Chicago Tribune in 1985 negotiations that led to a three-year strike involving printers. The settlement last year left many of them without jobs. The Tribune this year weathered another strike by pressmen, and under the firm's tutelage, successfully hired replacements to man new automated presses.

Labor leaders, not surprisingly, portray King & Ballow as a villainous union buster.

"Historically, King & Ballow has been a law firm that believes literally in a union-free environment," says James Neeley of Nashville, who as veteran president of the Tennessee AFL-CIO Labor Council has watched the firm's growth during the years. "They are out to break every union they can break."

According to the newspaper industry trade publication Editor and Publisher earlier this year, the announcement that King & Ballow had been hired by the St. Louis Post-Dispatch was seen as a "declaration of war" by the Post-Dispatch Unity Council, which represents the paper's unions. "Why, after so many years of a fine relationship, created through admiration, trust and good will, would the publisher hire a law firm that is not only a 'Union Buster' but has no moral commitment to the St. Louis community?" Unity Council President Charles R. Witt wrote in a

letter posted on the newspaper's bulletin boards.

Such talk causes Mr. Ballow to bristle.

"Some of the stuff the unions put out is absolutely, totally unreal," he says. "To the people who know me, it doesn't make any difference... It's more of a reflection on [critics'] credentials and their ability to speak the truth."

"I don't know what union-busting is. I think that's something unions say out of frustration when they can't intimidate a company," he contends. "I will say that we try not to get intimidated by unions."

Warming up to the subject, Mr. Ballow proceeds to provide a critical lecture on the state of organized labor. Unions, he says, represent only 16.8 percent of the nation's work force (about the same percentage of the pop-

ulation, he notes, is "susceptible to television evangelism") and get a disproportionate amount of attention largely because non-union workers "have no designated way to get money to politicians."

"I don't know why somebody doesn't get concerned about the 84 percent" of workers without union ties, he says.

"Unions have a difficult time coping with people who are educated and know their rights," he says. "A lot of people today who are good employees don't want to be paid the same as someone who is incompetent."

"A union can't provide you with any rights under the law that you don't already have," Mr. Ballow adds, winding up his discourse. "The education of working people usually eliminates the need for unions."

AS FAR AS identification with working people, the Nashville native says that he "came up as hard as anybody." His parents were divorced when he was a child. His mother worked for a shoe factory, Mr. Ballow says, and he was raised by his grandparents.

"They tore down the place my family rented in South Nashville to build slums."

Mr. Ballow says he went to work when he was 11 years old, rising at 5 a.m. and earning \$3.25 per week by cleaning up after carriers unwrapping bundles of newspapers.

"That was June 1942," recalls Mr. Ballow, adding he remembers the date because he used it later in successfully arguing that his pension benefits should be calculated from that point.

He finally severed ties with the newspapers 29 years later, in 1971, after working his way through the ranks — and at the same time through high school, college and ultimately the YMCA Night Law School (now called the Nashville School of Law), where he was No. 1 in his class. His only hiatus from the newspaper business during this period was a two-year stint in the Navy.

A pivotal point in his career came, he says, when he was asked to step in as negotiator for the newspaper management on a labor contract.

Mr. Ballow says he decided at first to prepare himself by auditing a course on labor law at Vanderbilt University School of Law, because "the only labor



Jack Gunter/Nashville Banner ADMINISTRATOR: Managing partner Frank Stovall King Jr. stays behind the scenes.

Continued on page 29

"Why, after so many years of a fine relationship, created through admiration, trust and good will, would the publisher hire a law firm that is not only a 'Union Buster' but has no moral commitment to the St. Louis community?"

— St. Louis Post-Dispatch Unity Council President Charles R. Witt.

## Some Denounce Firm's 'Union-Busting' Tactics

Continued from page 27

I knew about was having babies." He talked it over with Mr. King, already a practicing attorney, and decided to enroll instead in the night law school.

He made many contacts in the newspaper business outside of Nashville by serving in such posts as president of the Southern Circulation Managers Association and chairman of the Southern Newspaper Publishers Association Executives' Clinic.

As an attorney, he initially dabbled in domestic relations but developed a distaste for divorce work after finding "I'd get too emotionally involved."

He decided then to concentrate on newspapers and let that intent be known among "a lot of very dear friends in the newspaper business."

His first legal success came in negotiating a contract for the News-Star World in Monroe, La., and, as word spread, the clients began to multiply, he says.

"I knew the lingo and the questions to ask," he says, adding that today lawyers newly hired by the firm are given media training in advance. Now, he adds, clients "don't have to spend three days with you explaining what a press run is or what a web press is."

He went into his first courtroom encounter, in Texas, with some misgiving about his ability in a faceoff with a battery of attorneys with credentials more outwardly impressive than his diploma from a little-known night law school.

"When I got in there, I found out they hadn't read the cases," he says. "After that, I never worried about my credentials."

**K**ING & BALLOW distributes a monthly publication, "Comment," reporting on legal developments in employee relations and related topics with an emphasis on media angles.

It also has two other publications, "Comment: First Amendment Quarterly," devoted to the media issues of press freedom, libel and such; and "Comment: Entertainment Law Quarterly," which deals with developments

in entertainment and copyright law.

The publications, Mr. Ballow says, have stirred considerable interest among potential clients. He says the firm has enough potential business to probably put another 10 lawyers to work, but he has difficulty recruiting lawyers of the quality — and orientation to hard work — the firm demands.

Says the Daily News' Mr. Gold, "Bob could get twice as much work as he has, but what Bob is more concerned with is the quality of his work and service to his clients. They are a 24-hour law firm. They are there on Saturdays and Sundays. I never feel alone."

"I don't want to get melodramatic, but I've dealt with a lot of law firms and very few will take the heat," Mr. Gold continues. King & Ballow, on the other hand, "will stand with me right or wrong."

Says former Tennessee Attorney General William M. Leech, now with Nashville's Manier, Herod, Hollabaugh & Smith, "Bob Ballow has built up a reputation for hard work. He keeps his people hopping."

Away from the job, Mr. Ballow's interests include his family (a son, Robert Brent Ballow, works with the firm), lifelong membership in the Baptist Church and being active in civic organizations. He was a founder of the conservative Tennessee Business Roundtable.

Otherwise, though, his work is his primary interest. "I don't have any hobbies I enjoy. I don't have a need for that," Mr. Ballow says. "I enjoy hiring lawyers and working with lawyers."

He also professes to like dealing with business people. "I've found that the higher you get in an organization, the nicer the people are," he says. "They didn't get there by not being pretty nice people."

Mr. Ballow also likes to proselytize for his latest profession, encouraging others to buck the naysayers, and, perhaps, to undergo midlife changes similar to his own.

Mr. Gold is among those who can testify to this. "Bob Ballow convinced me to go back to law school," he says. He's now enrolled at Pace University School of Law.

## Women's Rights Violated?

Continued from preceding page

also found that black women were 9.58 times more likely to be reported for their substance abuse even though white women were 1.09 times more likely to have abused a substance just prior to their prenatal care visit.

At the same time that doctors are trying to calculate how many women are actually doing drugs while pregnant, some also have been trying to document what kind of help is available to pregnant addicts. The answer Dr. Wendy Chavkin, associate professor at Columbia University School of Public Health and Department of Obstetrics, found was: Pregnant women, especially if they are poor and addicted to cocaine, can expect little to no help from the health care system.

Health advocates say Dr. Chavkin's is the first survey of drug treatment

availability for pregnant women. And, although limited in scope, they say it accurately portrays what is happening around the country.

Dr. Chavkin surveyed 78 drug treatment programs in New York City. Fifty-four percent of the treatment programs categorically excluded pregnant women, 67 percent excluded pregnant women who are on Medicaid, and 87 percent excluded pregnant women on Medicaid who also are addicted to crack.

Dr. Chavkin is currently working on developing a program for cocaine-addicted pregnant women.

"The first thing we need to do," says Dr. Chavkin, "is talk to both addicted women and drug treatment providers about what they think works and doesn't work so that we can learn from all that experience as quickly and intelligently as possible."

### LAW JOURNAL SEMINARS-PRESS

The Eighth Annual Seminar on



# CIVIL LITIGATION PRACTICE

- Drafting Pleadings
- Conducting Discovery
- Litigation Strategy
- Negotiating Settlements

November 16 and 17, 1989

Association of the Bar of the City of New York, New York City

#### FACULTY

Chairman:

**JEFFREY GLEKEL**  
Skadden, Arps, Slate, Meagher & Flom  
New York City

Special Guest Speaker:

**HONORABLE JOHN M. WALKER, JR.**  
Judge, United States District Court  
Southern District of New York

**DENISE COTE**  
Kaye, Scholer, Fierman, Hayes & Handler  
New York City

**FREDERICK T. DAVIS**  
Patterson, Belknap, Webb & Tyler  
New York City

**CONSTANCE S. HUTTNER**  
Skadden, Arps, Slate, Meagher & Flom  
New York City

**GREGORY P. JOSEPH**  
Fried, Frank, Harris, Shriver & Jacobson  
New York City

**ROBERT J. JOSSEN**  
Shereff, Friedman, Hoffman & Goodman  
New York City

**ELLEN R. NADLER**  
Kramer, Levin, Nessen, Kamin & Frankel  
New York City

**JED S. RAKOFF**  
Mudge Rose Guthrie Alexander & Ferdan  
New York City

**ELLIOT G. SAGOR**  
Squadron, Ellenoff, Plesent & Lehrer  
New York City

**RICHARD D. WEINBERG**  
Shereff, Friedman, Hoffman & Goodman  
New York City

#### PROGRAM SCHEDULE

FIRST DAY (November 16): 9:30 A.M. to 5:00 P.M.  
Morning Session: 9:30 A.M. to 12:30 P.M.

Topics from the Judiciary Concerning Effective Litigation Techniques (Judge Walker)  
The Art of Drafting Pleadings (Rakoff)  
Drafting Dispositive Motions (Cote)

Afternoon Session: 2:00 P.M. to 5:00 P.M.

Drafting Interlocutory Motions (Huttner)  
Attorney-Client and Work Product Privileges (Glekel)  
Drafting and Responding to Discovery Requests (Sagor)

SECOND DAY (November 17): 9:30 A.M. to 5:00 P.M.

Morning Session: 9:30 A.M. to 12:30 P.M.

Drafting and Responding to Discovery Requests (Cont.) (Nadler)  
Litigation Strategy (Jossen/Weinberg)

Afternoon Session: 2:00 P.M. to 5:00 P.M.

Depositions  
Preparing for and Taking Depositions (Joseph)  
Defense of Depositions; Preparation of Witnesses (Davis)  
Question and Answer Period

#### Substitutions and Cancellations

Substitutions may be made at any time. Cancellation notices are required and registration fees refunded. One + \$25 cancellation fee if notice is received by 5 P.M. (One full hour on November 16. This refund will be granted after this time. All registration fees must be paid before the first session.

Please contact our registrar, Betty Green, at (212) 462-5389 if you need information about registering at the door or if you do not receive a written confirmation.

#### REGISTRATION FORM

Return Registration Form with Payment to:

LAW JOURNAL SEMINARS-PRESS, 111 Eighth Avenue, Suite 900, New York, New York 10011

SEMINAR REGISTRATION

YES, Please register me for THE EIGHTH ANNUAL CIVIL LITIGATION SEMINAR, November 16 and 17, 1989, Association of the Bar, #P48A1

Registration fee, including course materials, \$250  
Each additional registrant from the same firm, \$200

Special to Government Law Departments, Legal Aid and Non Profit Groups: \$250 each

All fees are payable upon receipt of invoice unless payment accompanies registration application. Substitutions may be made at any time. See Information Section for cancellation policy.

I cannot attend the seminar, but please send me a copy of the Civil Litigation course materials, #P48, \$45 (to be shipped after the seminar). Save 10% by enclosing payment with order!

REGISTER EARLY. SPACE MAY BE LIMITED.

Make checks payable to Law Journal Seminars-Press.

Check enclosed for \$  Bill Me  Bill My Firm

Name \_\_\_\_\_

Title \_\_\_\_\_

Firm \_\_\_\_\_

Address \_\_\_\_\_ Suite/Floor \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone Number: ( ) \_\_\_\_\_

Please indicate additional names on your firm's stationery.

NL-10-16