



JONATHAN D. SCHILLER

BY KATRINA DEWEY

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WELCOME TO THE WORLD OF JONATHAN D. SCHILLER.

Since founding Boies Schiller & Flexner in 1997, Schiller has become perhaps the legal world's most famous flip side. The "A" side, of course, is David Boies, not only the most famous but also likely the most influential trial lawyer of his generation.

Every Paul needs his John (and Freddie his Brian) for many reasons - not the least of which is balance and a stinging riff. And Schiller has provided that in abundance, winning billions in high-stakes financial litigation and international arbitrations and defeat-

ing claims for even more. He has won high-profile cases for clients from Goldman Sachs and Barclays to the New York Yankees and DraftKings.

His competitiveness comes easy after years as a basketball standout, culminating as a member of the 1967-68 Ivy League men's basketball championship team at Columbia, ranked fifth in the country; he was inducted into the Columbia University Athletics Hall of Fame in February 2006.

Schiller has been an honored alumnus of Columbia University, serving a nine-year term on Columbia University's Board of Trustees including a five-year term as Chair of Columbia's Board. In 2019, he was awarded Columbia Law School's highest honor, the Medal of Excellence. Schiller was also named a "Legend of Ivy League Basketball" by the Ivy League. In 2020, Columbia's Basketball Court in Levien Gymnasium was named the Jonathan D. Schiller Court.

Less well-known is the remarkable beginning to this Maggie Mae, though much of it was the stuff of headlines from the late 1960s through the '80s.

His parents, Irving and Patricia Schiller, were both lawyers and moved to the nation's capital during the New Deal. His father worked for the Securities and Exchange Commission and his mother, who also earned a master's degree in clinical psychology, worked for the U.S. Office of Price Administration, as well as the National Labor Relations Board before becoming a nationally recognized pioneer and scholar in sex education and therapy.

"I knew I was expected to become a professional," Schiller recalls. "So I became a lawyer by default; I couldn't stand the sight of blood."

That modest self-assessment belies what Schiller has accomplished in the decades since leaving his post as a teacher at Georgetown Day high school in Washington, D.C. during the Vietnam War - which he remembers as an "innovative and non-traditional private school" - to earn a law degree at Columbia University.

In the summer of 1968, as a summer intern for the District of Columbia government, Schiller regularly accompanied the City Council's vice chairman, Walter Fauntroy, on daily tours of a camp set up on the National Mall by the Rev. Dr. Martin Luther King Jr. and his Mule Train to bring international attention to his fight against racism and poverty. Schiller wrote a report on "Police Community Relations" for Reverend Fauntroy and the Washington, D.C. City Council that summer.

Later, at Columbia Law, Schiller won a small Ford Foundation grant to teach New York police officers basic Spanish skills so they could effectively communicate with residents of Spanish Harlem, a program for which he eventually won police officers' buy-in through his championship basketball team's televised presence in New York.

He also spent a summer of law school working for the legal team of the United Farm Workers leader César Chávez during the California lettuce strike, providing legal support for the picket lines and participating in federal court injunctive efforts to protect the farmworkers during one of the largest labor actions by farmworkers in the country's history.

"I've always been out there looking for opportunities to help people who are up against overwhelming interests and are fighting for their civil rights," Schiller says. "Serving as a plaintiffs' lawyer in our practice has been very good to me and my family, but that's not the reason I pursued claims on behalf of victims who were put in personal and financial risk by power-

ful interests who crossed the line. I like fighting for people and doing justice, hopefully."

Call it something like a Revolution.

Lawdragon: How much of that desire was shaped by your parents? It sounds like they were amazing role models.

Jonathan Schiller: My mother had a big influence on my sister and me, as did my dad. He started at the SEC when it opened its doors in Philadelphia under Chairman William Douglas, who was later appointed to the Supreme Court by President Franklin D. Roosevelt, in Philadelphia. He then moved to Washington when the SEC moved to Washington, and he rose in enforcement. When I was entering high school, he was asked by its Chairman Manny Cohen to lead the New York office of the SEC, which was the SEC's most important regional office. But I didn't want to move to New York because of my preoccupation with basketball and so my dear father kindly kept us in Washington where the SEC named him Chief of their Administrative Law Judges.

When I visit the SEC periodically on behalf of clients who have problems with the agency, I wait with others to meet with staff in a reception area where the Commission maintains composite photos of past SEC leadership. Their faces and their titles appear in large photographs with the commissioners at the top of the pyramid. And my dad is in one of those photographs from the early 1960s. When a lawyer from enforcement greets me in that reception area to take us upstairs, I often ask, "May I show you my dad's history with the commission? I'm from an SEC family."

And then I take them over and I show them my dad's photograph. My point was, "You can trust me. I'm not going to play games with you. I understand what you need to know. I have great faith in the commission." Those are genuine comments. My parents came to D.C. in the New Deal, as I said and I was born right at the end of the Second World War when Washington was a thriving and exciting city. And the SEC was held in the highest regard.

LD: Did your mom ever practice?

JS: She practiced law at the Legal Aid Society when my sister and I were little and that launched her on her other career. While she was at Legal Aid, women came to see her whose daughters had become pregnant at ages anywhere from 10 to 16, and they were being thrown out of public schools.

LD: For being pregnant?

JS: For being pregnant. And so my mother said, “Well, you have a right to education, they can’t do that.” And she began the process to legally address that issue. Washington at the time was still run by Congress and she either sued or threatened to sue the federal government over their denial of a public education for young, pregnant girls throughout Washington, D.C. As a result of her legal efforts, the then Department of Health and Welfare appropriated funds to purchase an old building in downtown Washington that was converted into a school, the Webster School for Unwed Mothers.

My mother started that school and then went to American University where she obtained a degree in psychology. Following graduation, she served the students at American University and the Webster School. She also began writing a series of textbooks on sex education that served doctors and educators throughout the country. She introduced the field of sex education in the United States. And for her contributions to public education, the New York Times marked her place in American history with an obituary following her death in 2018.

My mother also started the American Association for Sexuality Educators, Counselors and Therapists (“AASECT”). There were a lot of people offering “professional” sex advice to individuals and couples, without any standards and with some abuse of their clients. She set up this blue-chip organization to certify counselors under a set of standards applied by a panel of experts. As AA-SECT progressed, many medical doctors sought this certification and the training that went with it. My mother conducted seminars on sex education with doctors abroad at the request of the World Bank and shared scholarly papers with Masters and Johnson and others in the field. My mother was a very straight lady, but she was involved in some very interesting stuff.

LD: And your dad was an administrative law judge?

JS: Yes, I got to watch my father conduct trials in New York when I was in college. He would sometimes schedule hearings in New York around my basketball games, and I would have the opportunity to sit in the back of his hearing room and watch him run the trial. He was an active judge and questioned witnesses thoroughly. The enforcement staff, of course, presented their case but my father intervened politely when he wanted to make something clear in the record. My father was a calm, humorous and pleasant guy, but in the courtroom he was in complete

control. And very interesting to watch. Very pleasant, very gracious, and very focused.

LD: I can see how much they inspired you. The parallels between your mom’s work and yours are striking, especially with your work in the Spanish training classes, for example. Tell me more about that program.

JS: When I returned to Columbia College after working with the D.C. government in the summer, the Ford Foundation provided Columbia with a \$40M grant focused on urban development. I wrote a proposal for a grant related to my work that summer on police community relations. I proposed that police officers learn simple Spanish at their precinct that would permit them to have some capacity for communication with the Spanish speaking communities they served. Aided calls, a call to the police for help in a domestic situation, were a high percentage of police calls from the public in Harlem at the time. My grant was funded and a police precinct in East Harlem allowed me the opportunity to place Spanish language instructors I recruited from Columbia College in their precinct.

This program wasn’t altogether popular with the beat officers at first. Ordinarily, the officers come off their shifts and go home. But in order to participate in our program, they had to remain in their station for the Spanish class, and because of that, the captain required them to come in an hour early before their shift or stay an hour late. I was present at the commencement of each program to introduce the teachers and explain its purpose. The program lasted a school year (1968-69) after we made an early presentation. I remember standing by the door after we made a presentation, and several officers, as they walked by, hit me in the leg with their billy clubs to express their view of my interference with their job and schedule. I was making them do something they didn’t want to do, and they weren’t even getting paid to go to this program, but the captain thought this Spanish language education would be important.

So that year, as this program commenced, our basketball team at Columbia University played through its schedule and proved to be a very good team. We won the Ivy League men’s basketball championship in 1968, and we were on TV several Saturday afternoons in New York. At home in D.C. during my summers in college, I played basketball every weekend at a very popular court at the Chevy Chase Playground. Red Auerbach occasionally showed up with several of the Celtics to play on that court. His daughter and I had gone to Sunday School together and he knew me

a little bit when he joined some of those games at Chevy Chase. He later was a television announcer for one of those Saturday afternoon basketball games featuring our college team and when he recognized me on the court, I was later told, he spoke about me. It turned out that some of the police officers in that Spanish Harlem precinct happened to be watching that game and their mood dramatically changed when I next visited the precinct. I was actually an OK guy despite disrupting their schedules.

LD: That's amazing. Once you graduated law school in 1973, are there cases or incidents in the early years that stand out to you?

JS: Definitely, I have been lucky to participate in a number of exciting and important cases. After my federal district court clerkship in Washington, I accepted a position as an associate at Arnold Porter. My first week there, I was asked to go into a conference room where the table was filled with banker boxes of documents as far as the eye could see. It felt like half a block. A partner explained, "This is the tobacco multi-district litigation which involves all tobacco sold at auction in the United States. So read up on the case, you're going to join the tobacco team."

I spent two weeks reading into this case. And it was a major antitrust case against Phillip Morris and other tobacco companies, who were accused of fixing up the prices of tobacco sold at auction. Plaintiffs alleged a conspiracy over the price fixing of every pile of tobacco sold at auction in several southern states. I was assigned to work on a team led by Bob Fiske, a distinguished New York lawyer and former U.S. Attorney to travel through the auctions, learn how the auctions were run, talk to the auctioneers, look at the records of the sales and determine whether there was a conspiracy to fix prices or not. I became immersed in this set of facts under Bob's expert leadership. On behalf of Phillip Morris and others, we were able to prevent the class from being certified because we established that each auction was different; the tobacco companies won partial summary judgment. And my appetite for determining and using facts was established.

After a year and a half with Arnold & Porter, I was invited by three partners who were leaving the firm to join them at Rogovin, Stern & Huger. I jumped at that opportunity because of who they were and the nature of their work. I worked closely with Gerald Stern on a mine disaster case in Kentucky for much of my first two years there. We represented the widows of 17 miners who lost their lives in a methane gas explosion

in Oven Fork, Kentucky. Through a difficult trial and successful appeal, we were able to deliver substantial damages to the widows and their children. Looking back, I should note that Gerald, like David Boies, has an unusual memory: His brain records every fact he reads or hears which is quite helpful to a trial lawyer. Through Harry Huger, I was introduced to union work. I was asked by the Amalgamated Clothing Workers and Textile Union to pursue a Section 1983 civil rights case against J.P. Stevens in Milledgeville, Ga. The union organizers there believed they were being watched and listened to by the local police who aided the company in blocking the unionization of J.P. Stevens Milledgeville in Georgia. The opportunity to develop and prosecute this case was a big chapter of my early life as a lawyer. That case and similar cases I later brought on behalf of the ironworkers led me to cities and small towns throughout the south and the southwest where union organizing and union elections were challenged by government interference including by local police departments. I did that work for two to three years.

LD: Did you travel to courthouses in the South?

JS: Yes, I filed 1983 actions in federal courts. A lot of textile companies had moved from New England to right-to-work states in the South where they received a variety of tax incentives to build mills. And in Milledgeville, Ga., as my first lawsuit established, J.P. Stevens had built a conspiracy with other companies in town to defeat union organizing with the assistance of the mayor and the chief of police. Milledgeville was Flannery O'Connor's home; it was the antebellum capital of the South, a very old, and distinguished southern town.

The union had heard from a source that the police were "spying on the union." I didn't know what that meant but I traveled to Milledgeville and looked through police department records which were available to the public. I was searching for any officers who had left the force in recent years and may have relevant information. I went to public files and I wrote down names, phone numbers and addresses.

I started visiting houses in Milledgeville, ringing doorbells and talking to people trying to get information. The union organizers had told me when I first arrived that they were being trailed by squad cars whenever they came to town. They always felt they were being watched and listened to. And local people who came to their organizing meetings at the Milledgeville Holiday Inn stopped coming after they or others in their families lost their jobs at Milledgeville businesses. So I

wrote all that down, but I still didn't have anyone with direct knowledge, just theories.

Most ex-cops wouldn't talk to me. However, I found one young guy by chance who, after leaving the police department, was manning the midnight shift at a youth corrections institution somewhere on the outskirts of Milledgeville. I knocked on the building door and he let me in. I said to him, "I'm a lawyer from Washington D.C. I know what you were doing at the Holiday Inn when the union organizers held meetings there. I know what you were doing when you were on the police department with the mayor's office to try to keep the unions out of town."

I was quite unsure as to what he or other police were doing. At that point, I had no specific information.

LD: You were bluffing.

JS: I was proposing a theory but I was earnest when I also said, "I'm not interested in hurting you. I just want the information so that I can help the unions deal with J.P. Stevens without the police interfering with the union organizing effort. And if you cooperate with me, you will see no harm from me." He became concerned rather quickly at my late night intrusion but he didn't say "no." I mean he could have said "get out of here" but he didn't. He decided to tell me his story.

He was 23-24 years old. He talked to me all night. I took careful notes as he told me his story. He explained that he and others would sit in their cars and as people drove into the Holiday Inn parking lot to attend meetings with union organizers, he would write down the license plate numbers of each car. Usually three or four people would get out, principally Black people. He also told me that the police would also listen through the walls to union meetings being held in an adjacent room. The owner of the Holiday Inn permitted them to come in and literally spy on the union.

After the officers wrote down the license plate numbers, the young man explained he and the officers went to the offices of the Georgia Bureau of Investigation ["GBI"] to run these plate numbers through the GBI computer. Through this effort, they were able to identify the names of the car owners and their family members. They sent a list of these individuals to other companies in town including Grumman Aerospace, which had a huge plant there. Many of those individuals lost their jobs. And this was the big weapon that J.P. Stevens was using to prevent union organizing in Milledgeville. The mayor was in on it. The chief of police was in on it. Indeed, the entire police department was aware of it.

After I prepared the Section 1983 complaint, I wrote a letter to the CEO of Grumman Aerospace in which I said, "I have discovered that your company is involved in a civil rights conspiracy to keep Amalgamated Clothing Workers from organizing a union at the J.P. Stevens plant." I wrote, "I am sure you don't know anything about this. But I am also sure that if you investigate this conduct, you will find out that what I'm telling you is true. And I know you don't want your company participating in this kind of illegal conspiracy."

Labor lawyers representing Grumman visited me at my office in Washington D.C. within a day or two of my letter and said, "What is it you that you want?" And I said, "I want J.P. Stevens. That's all I want. I want your people to tell me who they were dealing with there and what they did. Then I'll ask you for a nominal penalty to settle this out: \$50,000 or something like that. I'm not trying to hold you up; I could, but that is not my goal. What I want to do is stop this J.P. Stevens conspiracy and give the union a fair opportunity to organize these plants and give these Black citizens of Georgia a chance to vote for a union if that's what they want."

Grumman began cooperating with us after we filed the lawsuit in federal court in Macon, Georgia. Grumman accepted deposition notices of Grumman Aerospace people who testified with candor of their participation in the conspiracy. I also met with the city attorney of Milledgeville on the day that I filed the lawsuit and took him through the initial evidence we had of the town's involvement in the conspiracy. I said we would be seeking a temporary restraining order before then-Federal District Judge Wilbur Owens in order to stop the conspiracy. The town agreed to cooperate with our investigation and the mayor and chief of police soon testified at deposition.

I had not named J.P. Stevens as a defendant. I had named Grumman and several other businesses and "John Doe as co-conspirators." By the time I amended the complaint to include J.P. Stevens, we had a tidy package of sworn, indisputable facts from the depositions of Grumman, the mayor and the chief of police. The case settled within a few months and the union went on to organize four plants of J.P. Stevens during the next year.

In the end, I received a police badge from the Milledgeville Police Department making me an honorary member of the force. I have it framed in my office along with a t-shirt that the Act II organizers wore to that year's annual shareholders meeting of J.P. Stevens which read, "Bargain, Don't Spy!"

In the end, the mayor of the town appeared grateful for this lawsuit. We spoke a number of times, outside of his deposition, about the pressures placed on him by J.P. Stevens when it came to town. They came to Milledgeville demanding all kinds of breaks on utilities and things like that, and effectively tried to run the town. He didn't like that. But he went along with it because he thought the town would prosper. He was relieved by this lawsuit and its settlement.

LD: That's just an incredible story. So when did you meet David Boies? Tell me about that.

JS: I spent approximately 17 years with the firm Mitch Rogovin, Gerald Stern and Harry Huge started and which was named Rogovin, Huge and Schiller at the time I left. A couple of years after the firm opened, I worked with Mitch Rogovin in our representation of several executives at Westinghouse who were accused of being part of an effort to bribe Ferdinand Marcos, the then-president of the Philippines, to get an order from his government to build a nuclear plant - the biggest order for Westinghouse at the time.

Westinghouse did an internal investigation of "foreign payments" pursuant to a Securities and Exchange Commission mandate in 1976 and reported on instances of questionable payments in certain parts of the world including Egypt but concluded that there was no corruption in Westinghouse's efforts to secure the nuclear order in the Philippines. The Securities and Exchange Commission then did its own investigation in 1978 and reached the same conclusion. I assisted Mitch in representing individuals who were examined in the course of that examination.

In 1986, when the Marcoses fled and Corazon Aquino became president, she was opposed to any form of nuclear power for electricity. She expressed concerns about the dangers of the waste from the nuclear plant. We wanted to show her that it was a safe plant, it was state of the art, and that it had been approved after a vigorous investigation by the International Atomic Energy Agency. The Philippines are famous for brownouts, and the country had the worst grid in the world at the time, but Aquino was insistent and mothballed the plant. The cost of constructing the plant was enormous and the Philippines was under heavy debt as a result. The Philippines hired Washington lawyers to sue Westinghouse for in excess of \$12B, more than the company's value at the time.

At that point I was Westinghouse's lawyer in Washington dealing with new inquiries by the SEC and the Justice Department regarding alleged corruption in the bidding for the nuclear plant, identical

to the allegations which were investigated by the government in 1978. Those investigations including two new grand juries, one in Washington and one in Pittsburgh, were resolved successfully without any new action being taken against Westinghouse. Soon after I learned of a threatened civil case by the Philippines, I received a call from the Westinghouse general counsel, who said, "This will be a bet-the-company case. Because of its significance, as you can understand, we have turned to David Boies at Cravath, Swaine & Moore to defend the company. Please see him and give him all of the materials you have prepared for us over the years."

So I put my binders in a big box, took the train to New York where I met with David at his apartment in the city on a Saturday afternoon. I spent a few hours sitting in his kitchen, taking him through the binders and explaining all the witnesses, what they'd said before the SEC, what I understood their grand jury appearances to indicate and why I believed they had paid their agent generously to secure the contract but that no money was passed on directly or indirectly to President Marcos. I believed in the facts we had gathered and presented to the government from 1976 through 1986.

LD: What did you think of him when you first met?

JS: Oh, I liked him. He was smart, pleasant and awfully good when discussing litigation in a conversation. He spent a lot of time listening to my presentation of the Westinghouse saga. He called me soon after I returned to Washington to ask if I wanted to do this case with him. So we began back in 1986 what has continued through today, a collaborative professional and personal relationship. We like each other, we like to talk to each other and we enjoy working together.

LD: It shows. You've created something amazing together - there's a reason that you and David Boies have been such powerful partners. You each brought something to this partnership that the other did not, right?

JS: We have both said to one another, and publicly, how appreciative we are of one another's contributions to our partnership. We have done a number of trials together since 1986, in New Jersey, in Geneva and in Washington D.C and through those trials and the development of our law firm, Boies Schiller Flexner, we have forged a lasting friendship. Someone said to me in 1997, that if I take up David's offer to start our law firm together, I will live in David's shadow. Well, that is a bright, cheerful and productive place, whatever one calls it and that's what I tell people.