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Wednesday, January 18, 2012

Top 20 Under 40: Brian A. Procel

Procel figures he was way ahead of the curve when he took Thomas Jefferson School of Law to task for allegedly misrepresenting post-graduation employment statistics.



In May 2011, he filed the groundbreaking suit against the San Diego law school, alleging the motive was to lure prospective students to the institution and profit from millions of dollars in student loans. *Alaburda v. Thomas Jefferson School of Law*, 00091898 (San Diego Super. Ct.).

Thomas Jefferson has denied the claims, dismissing them as being part of "a bad-economy lawsuit." The case is now in discovery.

"Based on what I've seen, it seems there is immense pressure on many law schools, particularly in the lower tiers, to manufacture data," he said. "U.S. News & World Report's rankings are extremely important and can make or break a law school's success."

Similar lawsuits have followed elsewhere in the nation, part of a wave that previously has included other types of professional schools.

Procel said he wants greater transparency when law schools are calculating statistics.

"If students read in U.S. News that at a given law school 95 percent of students are employed after law school, it's impressive. But this could include any employment, non-law related - working part time as a cook at McDonald's. The numbers currently being presented to students are extremely misleading."

In April, 2011, Procel secured a \$4.7 million verdict on behalf of his real estate developer client, SunCal Cos., which was suing for lost profits involving a \$12.5 million purchase agreement in Riverside County. *SCC Acquisitions Inc. v. Eston*, INC057703 (Riverside County Super. Ct.).

Procel's client claimed the defendants reneged on the deal because the property value later rose substantially.

"We were locked into a contract for \$12.5 million, but the property owners thought it was worth \$100 million," Procel said. "They had a big incentive to back out of this deal and they did."

The cards were pretty much stacked against him, Procel said, considering the county had been hard hit by the real estate bust. Then, on the first day of what was to be his first jury trial, the defendant settled with one of the other parties.

"It ruined my entire trial theme," he said. "My opening statements were completely

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irrelevant and had to be modified. I was in the middle of jury selection."

Procel remains philosophical about the job.

"If you're going to be a litigator, you have to be able to think on your feet," he said. "You have to roll with the punches. During a trial, anything can happen. You have some issues go your way, and some that don't go your way. You can't slow down or stop. You have to keep moving forward."

Procel said he used a straightforward approach to the case, which is on appeal.

"Jurors understand what a contract is, and they understand that when parties agree to do something in writing, they need to do it."

The jury awarded \$4.7 million to Procel's client following a three-week trial.

"I think that in a different economic climate, we would have been rewarded substantially more than we received," he said. "But the jury was very generous, and we were happy with what we got."

- PAT BRODERICK

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