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**The courtroom joy
of Dan Monnat**



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November 2010 • superlawyers.com

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Being Dan Monnat

What the criminal defense lawyer has learned from
Gerry Spence, Grace Wu ... and the Lone Ranger

by ERIK LUNDEGAARD photography by GAVIN PETERS

Dan Monnat has had his share of mentors—from Mike Finnigan, a local musician who played with Jimi Hendrix, to Father Bob Williams, the head of the Jesuit order at Monnat’s Catholic high school—but you could say he invented himself. He was a high school drummer, Beatles-inspired, who, with Williams’ encouragement, moved to San Francisco in the late 1960s to study with the great jazz drummer George Marsh, and wound up in the creative writing program at San Francisco State University. There, he began writing a story that included a lawyer as a minor character. But he didn’t know much about lawyers. He didn’t even know they went to a separate school to *become* lawyers. But the more he researched, the more he liked the idea of becoming a lawyer himself.

“I thought, ‘You know, this sounds like a perfect place to bring together all of the things I’m interested in, like the communication that takes place in writing or playing music,’” he says.

He never did finish that story.

He graduated from Creighton University School of Law in 1976 but the law didn’t crystallize for him until he read an article on Gerry Spence, the celebrated Wyoming trial attorney, then heard Spence speak at a legal seminar in Las Vegas in the late 1970s. After the seminar, Monnat thought: “Law is exactly the epic, vital experience that my instincts always told me it should be.”

He became a disciple of the older attorney—attending a three-day psychodrama with Spence in Jackson Hole in 1981, and a three-week course at Spence’s Trial Lawyers College outside of Dubois, Wyo., in 2000.

“One of the exercises you do when you first go [to the Trial Lawyers College],” Monnat says, “makes you understand the group dynamics of juries, and how quickly jurors come together and unite with one another. Maybe it’s a group being picked at the Trial Lawyers College and you don’t get picked. Then it’s immediately pointed out how that resonates with the jury experience: If you don’t get picked, if you get kicked out, if some lawyer says, ‘Well, your honor, I move to *strike* that person’—I mean even the *language* is offensive.”

Monnat prefers a gentler approach. “Our job, in selecting a jury, is to bring out the best in the jurors,” he says. “Jurors may come to court with preconceived notions about things or people, but it’s our job to talk to them honestly about those difficult topics.”

This holds true for all jury selections but at that moment Monnat was talking about a particularly problematic jury selection.

Dr. George Tiller, one of the last doctors in the country to perform late-term abortions, had long been a focal point of anti-abortion hatred. He was vilified by anti-abortion activists as “Tiller the baby killer,” and there were daily protests at his clinic, complete with billboards of aborted fetuses. In 1986, his clinic was firebombed. In 1991, 1,100 people were arrested for blockading his clinic. In 1993, a woman fired five shots at him, wounding him in both arms. And in 2007 he was charged with 19 misdemeanor counts of financial impropriety by then-Attorney General Paul Morrison, working on a case started by former Attorney General Phill Kline. That’s when Tiller hired Monnat to represent him.

Though Monnat feels it’s the lawyer’s job to bring out the best in jurors, this is no small task when the topic of abortion tends to bring out the worst in people. During the voir dire for the Tiller trial, he broached the subject of one potential juror’s Catholicism, and, using the language of the Baltimore Catechism, gently suggested *an examination of conscience*: “Ask yourself, based on your background, whether you can go to family gatherings where your priest will be, and say, ‘Yes, I was on the jury that acquitted Dr. Tiller.’”

The juror in question admitted he couldn’t, and, rather than *dismiss* him—Monnat bristles at that word, too—said to him, “Would you like me to ask the judge to excuse you?”

Monnat adds, “Ninety-five percent of the time, the fair juror will say, ‘I would really appreciate that, sir.’”

The 19 misdemeanor charges involved 19 instances in which Dr. Ann Kristin Neuhaus, an independent physician from Lawrence with whom Tiller was accused of having an improper financial relationship, provided second opinions on late-term abortions that Tiller performed. During the course of the trial, however, Monnat made it clear that: a) Neuhaus disagreed with Tiller on several other cases—meaning she



- ▶ **The lead trial attorney at Monnat & Spurrier, Chartered, in Wichita.**
 - ▶ **Two-term past president of the Kansas Association of Criminal Defense Lawyers.**
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was no rubber-stamp for his opinions; b) their improper financial relationship amounted to the occasional shared use of a Xerox machine; and c) Tiller hadn't chosen Neuhaus; she had actually been recommended to him by the Kansas State Board of Healing Arts, which regulates medical practice in the state.

"Dan's representation of Dr. Tiller was really quite masterful," says William Tinker, a retired lawyer and lifelong friend of Tiller, who attended every day of the trial and who cites, in particular, Monnat's thorough preparation and his understanding of the facts and the law. These three things, Tinker adds, "are really [Monnat's] hallmark."

The investigation into Tiller lasted years, the trial lasted two weeks but, in the end, the jury—including one Catholic woman who passed the parish-priest-at-the-family-gathering test—was out only 25 minutes before acquitting him on all 19 counts.

Monnat says: "It's really the ultimate reward for a trial attorney to be reassured by jurors that our system works."

Months later, in May 2009, Tiller was shot and killed while serving as an usher at his Wichita church. "It was just the ultimate horror," Monnat says. "A certain energy goes out of the world when vital, epic, heroic people like Dr. Tiller aren't here anymore. It's a tragedy for all of us."

MONNAT GREW UP in 1950s-Wichita, where his father was the general manager of a Buick dealership, and his mother, before becoming a homemaker, was a high school English teacher who passed on her love of reading and writing to her son. They were loving parents, Monnat says, who "cared more about doing the right thing than they cared about wealth or status." He also had great aunts and uncles, and he got to play the Lone Ranger to his heart's content. He acted out other heroes of 1950s-television, too—Superman, Zorro—but the Lone Ranger was his favorite. He had the cowboy hat, boots and mask. He had a wagon called Silver. He corralled neighborhood friends or sisters to play Tonto. But he never played Tonto. "I was always the Lone Ranger," he says.

You could say he's spent a lifetime unlearning the lesson of his childhood idol.

In the late 1970s, while at Shultz, Fry and Fisher, a Wichita criminal defense firm, Monnat had an epiphany about the way a firm should be run.

"All of the research that we were trained to do in law school was not being utilized because [the lawyers] were too busy going to court every day," he says. But he knew how to make it work. "For every lawyer that goes to court, you need one who remains at the office doing research and writing, so we can better win at the trial level," he says. "And if we don't win at the trial level, we will have made the right objections in order to prevail on appeal."

In 1985, Monnat and childhood friend Stan Spurrier, who graduated second in his 1983 Washburn University School of Law class, set up that law firm: Monnat & Spurrier, Chartered. "Stan is a genius—at everything," Monnat says. "However, as is



Monnat, with his wife, Grace (left), who teaches Kung Fu, and above, as the Lone Ranger.

the defendant's detention; *United States v. Lacey*, from 1990, in which the girlfriend of alleged drug kingpin Rick Lacey was acquitted after a six-week federal trial in what was then the largest cocaine seizure and conspiracy case in Kansas history; and *State v. Epperson*, from 1985, the Kansas Supreme Court's expansive discussion of search and seizure jurisprudence.

Monnat & Spurrier currently has five full-time attorneys, along with an independent contractor, Paige Nichols, who does more of the research and writing now that Spurrier has moved onto technological issues. Their cases include privacy rights, white-collar crime, drug offenses, sex offenses, violent crime and DUI.

often the case with brilliant minds, he is shy and introverted. He prefers to work in the office in solitude."

So Spurrier focused on the research and writing while Monnat was the firm's public face in the courtroom and before the press. *State of Kansas v. Trammell*, from 1993, is indicative of how well this partnership worked.

"Our client was essentially accused of converting a half-million dollars worth of annuity payments of senior citizens to his own use," Monnat remembers. "But Stan's careful research revealed that the prosecutor had charged our client with a crime that required proof of the theft of *insurance premiums*. Now under the law, annuity payments, which were what the client converted, are not insurance premiums." Monnat waited until the prosecutor promised, in his opening argument, to prove annuity payments were stolen, then he moved for immediate acquittal. "The judge granted it—without hearing evidence at all," Monnat says. "The trial of that white-collar case lasted 15 minutes."

Some of their other big cases include *United States v. Lambert*, from 1995, in which a federal appellate court completely reversed a defendant's conviction and 10-year sentence for possession with intent to distribute because reasonable suspicion had not been established for

BUT SPURRIER WAS merely the first of Monnat's main partners. Another came by way of Shanghai.

In 1985, a friend of Monnat's brother, with whom he had waited tables at a country club in high school, needed legal help with a traffic ticket problem. Monnat obliged but afterward the guy couldn't pay. He was a martial arts instructor at Wang's Wushu School, though, and offered Monnat free tai chi lessons. As Monnat remembers the conversation:

Monnat: I saw an article in the paper about tai chi, and I saw a picture of Grace Wu. Is she still teaching there?

Client: Yes.

Monnat: I'll be right over.

Grace X. Wu-Monnat is the granddaughter of Wang Ziping, a wushu martial arts grandmaster famous enough, says Monnat, to be on a postage stamp in China. Three years after she graduated from high school, she was banished to an agricultural work camp during the height of the Cultural Revolution. Eventually the anti-intellectual bent of the revolution subsided, and Wu tested out of the work camp and received a college degree in Chinese martial arts. A relative living in San Francisco sponsored her emigration to

the U.S. This relative also had aircraft contacts in Wichita, and they knew about the Intensive English Language Center at Wichita State University, so, in 1985, that's where she headed.

Monnat took her class for a year and a half before work consumed even this leisure activity. When he next saw her she was speaking English, and he asked her to dinner.

"I went away from that [dinner] saying, 'The happiest I have ever been has been while sitting and listening to Grace talk,'" Monnat says. "That's *still* true. I talked to her this morning and had that same exact feeling." They were married on May 15, 1992.

Wu is Monnat's partner not only personally but professionally. "Maybe the first trial Grace went to," Monnat remembers, "she said to me during a break, 'What are you doing? There's all of this dark energy on your side of the courtroom.' And I said, 'What do you mean?' And she said, 'You're not completely being yourself. You're

usually a pretty positive, humorous person, but you're not talking at all to the prosecutor when there's breaks and that kind of thing.'"

Monnat explained that clients didn't like it when their lawyers fraternized with prosecutors. "She said, 'Talk to the client. Tell him you're going to [talk to the prosecutor]. Because when you're holding back, you're putting out a completely different kind of energy in the courtroom, and the jury can see it when they come in.'"

"Ever since," he adds, "I've completely changed that. I'm just myself."

And ever since, Wu has been sitting in the gallery giving Monnat small nods of approval, or looks of disapproval if he goes on too long. "She's particularly good at helping pick jurors," he says. "Some of that may be because she spent so long [in the U.S.] trying to make decisions about Americans without knowing really what they were saying."

All of her courtroom help led to a husband-and-wife collabora-

tion, a Continuing Legal Education course called "Crouching Tiger, Hidden Dragon: Kung Fu Strategies for Trial" in which their theories are melded with Sun Tzu's *The Art of War* into an hourlong program. Trial lawyers are encouraged to: 1) Know the battleground, 2) Know the enemy, and 3) Know yourself. Monnat lectures while Wu performs kung fu. As for Monnat's kung fu?

"I've been officially declared Grace Wu's most hopeless martial arts student," he has said.

MONNAT CALLS HIMSELF a

lucky man. He's lucky to have grown up in Wichita, he's lucky to have partnered with Spurrier and Wu, and he's lucky to be doing what he's doing.

"I love being a lawyer," he says. "I love defending accused persons. In a way, it's a kind of calling. . . . I use everything I've learned from Grace Wu, from Gerry Spence, from Mike Finnigan, from George Marsh, from Father Bob Williams, and remember that I don't have to be anybody other than who I am."

In this way he's unlearned the lesson of his childhood idol. The Lone Ranger derived his power from putting on a mask and going it alone. Monnat derives his power from taking off his mask and asking for help.

"The Lone Ranger is a great myth," Monnat says, "that really needs to be shed for the recognition that we're all working on things together." ◀

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Reprinted from the November 2010 issue of *Missouri & Kansas Super Lawyers*® magazine.
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