

Founder's Forum

By Jeff Baill, Yost & Baill, LLP, Minneapolis, Minnesota Founder And Past President Of NASP

Breakfast With Nino

I am sitting at Reagan National Airport in Washington waiting for my plane to board when I see two Federal Marshalls escorting someone to the gate. I instantly recognize their charge to be Supreme Court Justice Scalia. They walk him onto the plane before anyone boards and then the Marshalls depart. I think, wow, that's cool, Justice Scalia is on my plane.

I wait in line until my group is called to board. As I approach the counter I hear, "Jeff Baill to the podium." I announce my presence and am told that I have been upgraded to first class. As I enter the plane I see one empty seat in First Class, right next to Justice Scalia.

My heart starts pounding and I start to think about what I am going to say. Fortunately, the word Hello comes to mind as I begin to sit down.

Justice Scalia is sitting with headphones on and nods hello back to me. I pretend I do not know who he is and go about my business of settling into my seat and pulling out my new issue of the *Subrogator*.

People who know me well know that I pride myself in playing this game on an airplane of trying to learn all that I can about the person sitting next to me. Sometimes that is a big mistake, essentially opening Pandora's box, when the person I sit next to is loud, obnoxious and refuses to stop talking. Other times, I have learned a lot from a wise soul who is happy to share some wisdom. In any event, I decided that this was the time I needed to use all of my skills to engage with one of the most powerful people in government.

About 20 minutes into the flight, breakfast was served. Justice Scalia took off his headphones and we began to chat. At one point he asked me what I do. I explained that I was a subrogation attorney and eventually described our trade association. He indicated to me that he was involved in the law and that he understood a little about subrogation. He challenged me to explain how subrogation is a different area of practice than general insurance law. Of course, I welcomed the challenge and launched into my usual lecture on what we do and how it is so different from what other insurance practitioners do. It was at that point that I had to pinch myself. Here I am, teaching one of the world's great legal minds about subrogation. Can this really be happening?

At some point in the conversation I began to feel a little guilty pretending I did not know who he was. I said to him: "Did anyone ever tell you that you look like Justice Scalia?" He replied: "Yes, because that is who I am."

I said I did not want to bother him about the court but there was one question bugging me. I told him that I had attended the arguments on the Knudson case in which NASP filed an amicus brief. I left the hearing feeling impressed with the high level of discourse among the Justices and attorneys and felt strongly that these hearings should be televised to the public. Even though only 5% of the people would understand the proceedings, the benefit to lawyers would be immeasurable. I explained this to the Justice and asked his opinion on the issue. He said that he used to favor cameras at the Supreme Court but has changed his view. The Court is worried about 20 second sound bytes being used out of context to put the Court in a bad light. He would entertain the idea of tape- delayed broadcast of the hearings

once the decisions had been announced and the case was no longer in the public spotlight. He told me he thought "Ruth" might be in favor of televising hearings but that Justice Souter has publicly stated that it would happen "over his dead body."

We then went on to talk about tennis, Italy, fishing, Chicago, New York, Ethanol and various other topics strangers sitting on a plane may discuss. He was charming, funny, engaging and just plain interesting. If he were not famous, he still would have been one of the most interesting people I have talked with on a plane.

When the plane landed, we said goodbye and he left. Later my son said to me, "Why didn't you get a picture or autograph?" Others have asked me why I did not ask him to speak at our conference. My response was that it just did not feel like the right thing to do. I even feel a little funny writing about it. He let me into his life for a few hours and I even wonder now if I am being disrespectful in talking about it. However, since it was such a positive experience, I have decided this article is appropriate. Yet, when I got off the plane, the thought occurred to me that I have no proof that this happened. Would people believe me? I can't control what others think. I know for me to have the chance to discuss subrogation with a Supreme Court Justice was one of the highlights of my legal career (whether you believe it or not)!

I can't count how many things had to fall in place for me to land in that seat on that morning. It was like I won the lottery. I hope I made his journey a little more interesting. I know I will never forget my breakfast with Nino.