

# SOUTHERN GRACE

by WAYNE R. GROSS



One of my favorite activities as a law clerk to Judge Waters was to spend time in his courtroom watching federal prosecutors in action. The judge, a former United States Attorney himself, was quite demanding of all attorneys, but particularly so of federal prosecutors. Frequently, the judge, upon retreating to chambers after a hearing, would critique the performances of the attorneys who had appeared before him so that my co-clerk and I, both aspiring trial lawyers ourselves, could learn from his observations. During such discussions, the judge made clear that one of his favorite prosecutors was Thomas H. Bienert, Jr.

In 1989, Tom was only three years out of law school and new to the U.S. Attorney's Office, but demonstrated remarkable presence in the courtroom of a demanding judge. Perhaps due to his Southern roots,

Tom knew precisely how to mix effectively the proper amount of charm with forceful arguments. He came across as a brilliant and earnest lawyer who also was a very nice guy. It's been twenty-four years since my first encounter with Tom in that courtroom. The intervening years, in which Tom has secured numerous high-profile trial victories as both a prosecutor and private attorney, have done nothing but confirm my initial observations. Tom's success in the courtroom is no accident. Examination of his road to success reveals not only that he was destined for the courtroom, but also for leadership.

Tom is a Southerner, having grown up in New Orleans. But ironically, Tom, who has no family in California, was born in South Coast Hospital in Laguna Beach, as his father, then a Marine, was stationed at Camp Pendleton. Upon leaving the Marines, Tom's father returned to New Orleans with his wife and infant son. But the marriage did not last;

his mom and dad divorced when he was three. Tom was raised in a single-mother household in several apartments. Nevertheless, Tom excelled academically in elementary school and was accepted on a work scholarship to Jesuit High School, an excellent all-boy Catholic high school in New Orleans. His scholarship required Tom, who always possessed a great work ethic, to clean tables during lunch. He went on to Louisiana State University, working his way through college and graduating with a degree in English.

Exposed to the law as a young boy, Tom decided to make it his profession. He received an academic scholarship from Tulane Law School, where he made law review. Most law students who make law review do not participate in moot court; you do one or the other. Nonetheless, moot court beckoned Tom, who suspected that as much as he enjoyed and excelled at academic scholarship, his true calling would be that of a trial lawyer.



profile cases filed by the U.S. Attorney's Office in the Central District of California. Such cases included the corruption trials of the Los Angeles Sheriff's Department major narcotics squad, the Reginald Denny matter, the Orange County bankruptcy investigation, and the UCI fertility case. In his ten-year tenure, he never lost a trial. He also served in various important supervisory positions, including Chief of Criminal Complaints in Los Angeles (the section responsible for approving the majority of search warrants and indictments filed in the district) and Chief of the Orange County Branch Office.

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He was right. He received prestigious Best-Speaker awards in both the National Moot Court Competition and the Philip Jessup International Moot Court Competition. Such success begat more success, as Tom received summer associate positions in New York City and Washington, D.C.

Upon graduating from law school, Tom had offers from top law firms in various parts of the country. This was the mid-1980s, however, and Tom, like the rest of the world, was an avid fan of the hit television show *LA Law*. That gravitational pull led Tom to interview with top L.A. law firms and the U.S. Attorney's Office in Los Angeles. Upon receiving offers from all of them, Tom chose the place where he believed he would get both immediate trial experience and the opportunity to make a difference. He was once again right. In a remarkable tenure that spanned from 1987 through 1997, Tom handled many of the highest-

It was during Tom's tenure at the U.S. Attorney's Office that I began working with him for the first time as a fellow prosecutor. I found him to be exactly what both Judge Waters and I had observed when I was a law clerk: a brilliant lawyer and great person. In 1997, I had the good fortune of co-trying with Tom the high-profile UCI fertility case, a defining moment in our careers. As trial lawyers know, the responsibility of trying any case is quite stressful; the responsibility of trying a high-profile one is exponentially more so. Every success or failure is magnified by the press for the entire world to see. Added to such pressure was the fact that Tom and I were responsible for overseeing numerous federal and state agencies involved in the investigation, which entailed harmonizing tension and turf battles as they arose. Through it all, Tom exercised tremendous leadership skills which, with his Southern charm and phenomenal trial ability, led to an important victory for the U.S. Attorney's Office.

Accomplishing practically everything that could be accomplished at the U.S. Attorney's Office, Tom, in 1997, moved to Washington, D.C. to join Ken Starr as Associate Independent Counsel in the investigation of President Clinton in the Monica Lewinsky matter. In this capacity, Tom put numerous high-powered witnesses before the grand jury, including Vernon Jordan, Bill Richardson, and Ron Pearlman (head of Revlon, where Ms. Lewinsky became employed after the incident). After completing his successful tenure with the Starr Commission, Tom decided to return to Orange County, where he joined the law firm of Irell and Manella, focusing on white-collar defense and complex business litigation. Although Tom very much enjoyed his time at Irell, his destiny was to start his own firm, which he did in 2000. Not surprisingly, his firm, which now has ten attorneys, has become extremely successful, specializing in civil litigation, white-collar defense, and complex bankruptcy matters. Since founding his firm, Tom has continued to secure major victories, both in civil and criminal matters. His civil trial accomplishments include a \$21 million verdict against UPS for wrongful termination and a \$300 million settlement in a class action matter. As a criminal defense attorney, he has had several trials result in acquittals and hung juries. He has been repeatedly recognized for such accomplishments, including being selected as a Best Lawyer's Top 50 and as a member of the American College of Trial Lawyers.

In sum, as the Orange County Bar continues to grapple with various important issues, including an extremely challenging legal market recession, we can all be quite thankful that Thomas H. Bienert, Jr. has taken the helm. His background, beginning with his days as a boy in the South and continuing through his high-profile work in government and finally in private practice, demonstrates that he possesses the leadership skills, work ethic, and personality to more than meet such challenges.



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