

Ted MacDonald

Trial Lawyer Uses Honesty, Humility, Confidence to Win Over Jurors, Clients

by Wendy L. Werner

EDWARDSVILLE—Theodore J. MacDonald Jr. of **HeplerBroom LLC** comes across like a force of nature, which makes sense given what he likes to do when he's not working.

In MacDonald's office among the images featuring family is a photograph of a beautiful lake surrounded by mountains with him and his wife Joyce in the foreground. It is in the wilds of Chile at the southern tip of the Andes.

Some years ago, MacDonald bought a book called *The 100 Best Hikes in the World*, and when he looked at the photographs he liked most, they all came from this one particular area. "It was the tip of Patagonia," he says, "the Torres del Paine, clearly a beautiful spot. I knew it was one of the top five things on my bucket list. The trip did not disappoint."

Many of MacDonald's features make him seem formidable. He stands out in any room because he is so tall and slender, with a head covered in a mass of curls. He is not loud, but he is forthright and verbal. He makes eye contact, and he listens. He has a great laugh, and his love for work and play are both palpable. It's not surprising that he succeeded in sales. He exudes energy.

From Penn to IBM to St. Louis

Despite having grown up in Rochester, N.Y., and occasionally missing summer trips to Cape Cod, MacDonald is a happy transplant to the Midwest. He graduated in 1973 with a degree in English from the University of Pennsylvania, a Philadelphia college his father also attended.

MacDonald enjoyed his major and liberal arts generally because he really liked reading. "I had great professors, the classes were small, and the teachers were very interesting," he says, specifically recalling courses in creative writing and African American literature.

Upon graduation, IBM hired MacDonald to market to their Pennsylvania clients. "They had a great six-week sales school that included how to conduct presentations and use flip charts, how to encapsulate a product into sound bites, and how to hold people's attention. It was all training useful for a trial lawyer.

"In the small towns of northern Pennsylvania, I found myself calling on small law firm clients and learning more about their practice, which further piqued my interest in law school," he says.

When one of his best friends at Penn decided to attend law school at Saint Louis University, MacDonald secured a transfer from his branch manager so he, too, could enroll. Because there was no night program, MacDonald tried to manage his class schedule to allow a block of time for work in the afternoon.

MacDonald continued to work for IBM where he was a "bull pen guy" for the sales force who taught people how to use and install equipment. And IBM, which was always good to him, provided another opportunity.

"Between my second and third year of law school, I went to White Plains, N.Y., and

(Continued on page 110)



(Continued from page 108)

worked on IBM litigation of renown. They needed someone who knew something about marketing. I reviewed documents and had a team of people who worked with me.

"They were tracking documents that the government was using. They could tell where the government was going with the case," he explains.

The litigation happened to be one of the biggest cases in the history of American law. The work piqued MacDonald's interest in litigation, which suited his personality because of his sales background.

After graduating from law school in 1977, MacDonald returned to Rochester to take the New York bar exam. He had met his future wife Joyce while both were in law school. They got married in 1978 and she, too, had taken the bar exams in Missouri and New York.

She had clerked throughout law school for Marty Hadican, a respected St. Louis criminal lawyer, and he offered her a job. "Since my wife had a job she was excited about taking, I was interested in returning to the St. Louis area. When a law school friend told me about an opening in the U.S. attorney's office in Southern Illinois, I came back and interviewed with the newly appointed U.S. Attorney James Burgess Jr. My IBM civil litigation experience met a need, and he offered me a job on the spot. But between a hiring freeze and the background checks, I knew it would take a while, so I kept my law firm job in Rochester.

"One day my boss came in and said, 'Is there something you want to tell me?' There are two FBI agents in the office, and they want to talk to me about you."

MacDonald spent four "great years" in the U.S. attorney's office. He was initially hired to do civil work, but the office was so small that everyone did everything. "I tried bank robberies, murders and drug conspiracies. Marion federal prison was not locked down at the time, so there were tons of cases to try. I also conducted an 18-month investigation of a series of banks, where owners were loaning money to themselves through straw parties."

From the U.S. attorney's office, MacDonald moved to Thompson & Mitchell (now Thompson Coburn LLP) where he made partner and worked for four years on a wide variety of litigation, including railroad work, condemnation, Jones Act and admiralty work.

"I learned a lot," he says. "I still have great friends there, and we work many cases together."

Wife's Advice: Get It in Writing

While working on a coal mining case, MacDonald met Gordon Broom, who had a small law firm in Edwardsville with Larry Hepler. One of their long-term partners had left, so they offered MacDonald a chance to build a firm.

"It seemed entrepreneurial, and there weren't many opportunities to do that at the time," MacDonald relates.

"We were in need of a trial lawyer," says Broom, "and we had observed his work and thought highly of him."

"When we made him the offer, he came back to us and told us his wife said he should get it in writing. It is a standing joke that more than 20 years later, he is still waiting for us to put it in writing."

MacDonald picked up a major caseload im-



MacDonald and his family on safari in Botswana in June 2006.

mediately and became an equity partner within a year. "He is a talented, dedicated intelligent and creative trial lawyer," says Broom. "He has great jury appeal because he is so honest. He has a big heart and is a man of both humility and confidence. And something I really enjoy is that he always makes me laugh."

The law firm with three partners and four associates in 1986 has 110 lawyers today. Jeff Hebrank joined the firm in 1988, and it grew steadily with the explosion of toxic tort and class action cases.

The firm successfully networked and partnered with big, national law firms that needed help trying cases in the difficult venues of St. Clair and Madison counties and in St. Louis. "About 10 or 12 years ago, we had so many clients being sued in St. Louis we decided we needed a more robust St. Louis office. Our mantra was to find the best trial lawyers available."

"I knew Jerry Noce, who had left Evans and Dixon to start his own firm. He joined us about 10 years ago. We also added some well-established, long-term trial attorneys who had good business connections and would serve our clients well. We could have expanded more quickly, but we wanted to have the best lawyers, and several opportunities made that possible," MacDonald says.

"Our partnership has been very stable," he adds. "People move around a lot now, but we haven't had a lot of that. The lawyers I practice with are my friends and people I respect."

Although MacDonald has management responsibility, he spends the bulk of his time in a litigation practice that includes medical malpractice work for hospital groups in Illinois and Missouri and for medical surgical groups in Illinois.

He also works on employment litigation, white collar/criminal defense work, and qui tam whistleblower cases. Sometimes he handles both the civil and criminal aspects of a case. MacDonald describes his varied practice as mostly representing professionals who are in very difficult situations.

Though he likes the courtroom and the strategy, MacDonald's real professional motivation is the people he represents. "I like the people—in most of my cases, individuals are at the core of what I do."

"I like defending an individual who may have a strong defense, whose career is on the

line as a result of a lawsuit. Physicians who have been sued while trying to exercise their best judgment are 100 percent invested in their case. What motivates me isn't moving dollars back and forth. It is when I represent an individual."

Improving the Litigation Arena

While he generally enjoys litigation, MacDonald has some concerns about the current litigation climate. "I don't like how the professionalism of our practice has diminished. I had a chance through the U.S. attorney's office and my subsequent practice to see great trial lawyers who were people of character and who treated other lawyers as professionals."

"Filing motions for sanctions or filing motions to paper the process to death has now become more common. It used to be like a sporting event: You fought hard, did your best, then had a beer with your opponent and stayed friends. Experienced lawyers should be like the older players on a baseball team and teach the younger lawyers the right way to do things, like Stan Musial and the Cardinals."

MacDonald's firm has HeplerBroom University and many in-house CLEs where it partners with junior lawyers to help them learn practice skills and the way to treat other lawyers.

MacDonald has recently been doing a lot of mediation work. He also teaches.

"A few years ago I started teaching mock trial at St. Louis Priory. We took a team to nationals with Jim Davis and Gretchen Meyers. My son went to Middlebury and now teaches classics at Priory. He is the moderator of mock trial there, so I now help him. You can teach people even in high school how to conduct themselves."

"I have taught in Washington University's law school clinical program for 27 years. For the last 10 years or so I have been splitting the class with Amy Gunn, who used to work with me but is now at the Simon firm. So the students get an old defense guy and a younger woman from a plaintiff's firm."

Gunn has great admiration for MacDonald. "I worked for him for six years," she says, "and when I moved firms, he asked me to continue teaching with him. We love offering both the plaintiff and defense perspectives to the students, who also seem to like it."

"As professionals, I think we all try to be

(Continued on page 590)

MacDONALD

(Continued from page 110)

mentors, and Ted was and remains a mentor even though I haven't worked with him directly for 12 years. I consider him an important person in my life and career.

"He always puts humor into a situation and, while he takes his work seriously, he looks at it realistically and always reminds me not to lose sight of other things that are important. He was never shy to say that he was going to leave to coach one of Ann's games or attend Joe's practice."

Passion for Family and Play

Family means everything to MacDonald. At its core is his wife.

"Joyce is the smartest person I know, and I am not kidding," he says intently. "She did a lot of appellate work for Marty Hadican. But, after eight years, she decided to stay home and raise the kids. As far as intellectual integrity and purity of spirit, she is the moral beacon of our family."

Together they have raised three children, now grown and working. Ann attended Colby College central Maine and then Washington University Law School. She is a sixth year associate at Schiff Hardin LLP in Chicago. MacDonald often sees his recently wed daughter when he visits his firm's Chicago office.

His second oldest daughter, Helen, attended University of Puget Sound, where she met her husband on the swim team. She earned an MBA in finance while he was in medical school. He is finishing a chief residency at Barnes-Jewish Hospital in internal medicine and will do a fellowship there. Helen works for a fund at Ascension Health Care, which invests in early stage medical related startups.

MacDonald's son, Joe, like his father, is a music buff. They go to concerts, trading preferences to broaden the exposure of both.

MacDonald plays just as hard as he works, often combining his leisure activities with family time. With his wife, he enjoys biking, hiking, golf and tennis.

His travels are not restricted to Chile. "Joyce wanted to go to Africa, and one of my son's teachers planned a trip to Botswana for us that included camping and the recommendation of a guide. Two years later, that same guide was able to find us passes to see the mountain gorillas in Uganda. We saw the southwestern corner of the country and hiked in to see the gorillas up close."

The couple's bike trips every other year have included the Danube, northern Italy, Tuscany and the Loire Valley.

Like many people who live and work nearby, MacDonald is a big St. Louis Cardinals baseball fan. He has had season tickets since 1981.

"My whole family loves baseball," he says. "In fact, my daughters learned how to keep score when they were only 7."

He is hands-on with sports, too, having played softball with a group of lawyers for nearly 30 years and basketball with another group in various leagues during much of that time.

Ever the fan, MacDonald cannot avoid remembering the Red Birds. "Part of the reason I chose my (St. Louis) office is because I can see the infield of Busch Stadium."

It's one more demonstration of that passion for work and play. ■