

## 'AMERICA'S LAWYER'

Mike Papantonio, law partner of Robert F. Kennedy Jr., says trial lawyers without some rage in their hearts aren't doing it right

INTERVIEW BY BETH TAYLOR



**Q: You are a plaintiff's lawyer, author, environmentalist and TV commentator—plus, you do a radio show with Robert F. Kennedy Jr. Let's start with lawyer: What makes you so successful?**

**A:** If you get the best trial lawyers to tell you a fundamental part of being a little better than average, [they'll say] there has to be some rage. I have watched young trial lawyers come up. They can have a technical ability, but if they don't have some underlying sense of rage about injustice, they are never going to be an excellent trial lawyer.

**Q: Rage?**

**A:** I don't think people would ever characterize me as a raging, angry person. [But] you have to have that in your heart when you are doing battle with a corporation that you have every right to be angry at. They have killed your clients in mass torts. My God, they have killed them by the hundreds. You have read the documents. And for you not to be able to say, "This really makes me angry," and not draw on that sense of anger that becomes part of your personality ... you are probably in the wrong business.

**Q: Did you develop a sense of injustice as a child? I understand you did not have a privileged childhood.**

**A:** I think that's an important point. I was raised by many different families all over Central Florida, from Bradenton to Sarasota, Tampa, Arcadia. Growing up like that, you do see a remarkable amount of inequality. You develop your own sense of what's right and wrong. Even though people along the way have been very kind, you still know something is different [for you].

There is no way to grow up like I grew

up and not have some sense of [injustice]. The trick is not to let it affect other parts of your life. You have to be able to separate a courtroom from how you deal with other parts of your life, but I'm absolutely convinced there has to be some underlying element of anger to be able to call on and have the jury see it.

**Q: All the moving around resulted from a dysfunctional birth family?**

**A:** I think, in the long run, it really helped prepare me to do what I do now. It doesn't sound magical, but it was, in so many ways, because it exposed me to so many things; I never think of it as a negative at all. At one place I learned to be a musician, another place I learned to paint, another place I learned to fly airplanes. I would live for a year and a half at one place, and then somebody else would invite me to live with them. It's a great comment about the decency of people, I think; it's just had a big impact on me. I try to give back.

**Q: When did you decide to go into the law?**

**A:** I loved the character Atticus Finch. But I was going to become a journalist, and then somebody introduced me to Perry Nichols. He was just a huge, huge force in trial law. He, along with Melvin Belli, had developed "demonstrative evidence" and really taken it to a whole new level. And, oddly enough, Perry Nichols had a ranch in Arcadia. Somebody said to me, "You know, Mike, you really ought to think about law school. I want to introduce you to Perry Nichols." I went to meet him there in Arcadia, and in the short time I was around him, I was very moved by ... what he wanted to do in his life. He did well by doing good in so many ways.

**Q: And in 2011, you won the Perry Nichols Award from the Florida Justice Association for those committed to fighting for justice.**

**A:** It came full circle.

**Q: Was it difficult for you to put yourself through college?**

**A:** Not really. I sold books door to door. Dictionaries and children's books. I started my senior year in high school. You would work during the summers, you'd work three solid months most of the time, but you were able to make a lot of money. I did that for six summers.

**Q: In law school, did it take you a while to settle on a practice area?**

**A:** I knew that I would be a terrible fit for representing corporations against people: "I won" means I kept somebody from being compensated for their injury. I knew that almost immediately. I don't like to see a corporation sell a product that they know, they *know*, they absolutely are certain is going to cause injury or death. There is no way I can put my arms around that and say, "Yeah, I'm going to be on your side."

**Q: When you graduated from Cumberland, you took a job as a prosecutor in Pensacola?**

**A:** I liked Pensacola. It has an incredible beach, and I used to windsurf. It was a place I loved. I realized that I was not going to be a great brief writer. I mean, I can write briefs. But I thought my strength probably was going to be in the courtroom. Everything about my life prepared me for that.

So I thought, "Well, OK, this gives me some more trials." That evolved into this job. One of the lawyers who worked here, Leo Thomas, is a fairly well-known criminal defense lawyer. He is the one who developed the "battered-woman syndrome" defense. He used to see me on the other side of the table in trials, and he offered me a job.

**Q: Levin Papantonio Thomas Mitchell Rafferty & Proctor has been around quite a while.**

**A:** David Levin and Reubin Askew started the firm. It was 60 years ago, and it started as a plaintiff's firm, which was fairly unheard of at the time. You had a few, maybe, in Birmingham and maybe one or two along the Gulf Coast, but most of the big plaintiff's firms [in Florida] were developed by Perry Nichols and that crowd down around Miami. So it was an unusual thing. They created a culture.

**Q: How did you come to know Robert F. Kennedy Jr.?**

**A:** Well, I was involved in a fight down here. A paper mill wanted to pump some ungodly amount of its toxic waste into a bay in an area where I used to windsurf. I rented an airplane and flew a banner across the sky saying, "Don't pollute our bay."

I parked my truck on the end of the bridges with big signs, and I was waiting to get fired by my law firm any time, because I'm sure they thought I had gone completely crazy. A friend of mine got wind of it and he said, "You and Bobby would really get along." Bobby flew down here, and he asked me if I would start a Riverkeeper for him in Florida. I said, "Sure." We've just become really good friends. We do radio together, TV together. He's my law partner as well.

He and I started handling some smaller environmental cases down around Florida. And from there, we tried some bigger cases.

**Q: What exactly is Riverkeeper?**

**A:** The program is designed to start an activist grassroots fight wherever a corporation comes in and messes with a waterway. Sometimes that activist fight is not in the courtroom; sometimes it is just by demonstrating and protesting. Truly, the core of it is hands-on activism.

It's one thing to do an article in a newspaper or a letter to the editor and say, "Gee, this makes me mad." It's another thing to show up at the CEO's house with

signs and explain to the folks at their country club what they are doing to your community. So this is more of an activist group, and I like that. I like the fact that they are not afraid to jump in the middle of a fight. They know it takes more than a letter to the editor or a \$10 donation—you've just got to get your hands dirty.

**Q: You and Mr. Kennedy have been doing radio together for some time.**

**A:** I had started something called "Mass Torts Made Perfect" in Vegas, and I started seeing that ... if you believe that you are really effecting change by simply being a good lawyer in your office, you really are not doing enough. In Las Vegas twice a year, there are 700 to 800 lawyers, excellent lawyers, [who attend], most of them with their hearts in the right place. The point that I've always made was, "You can't expect to take on corporate America by simply filing a lawsuit or even winning the lawsuit."

I came up with a concept of bouncing stories. First of all, you have to have a good product ... a television segment or radio segment that somebody wants to listen to. So Bobby and I started that with the radio. We knew that we could do very progressive, in-your-face, radical stories that told more than the headlines because we weren't limited. Nowadays, I do television a lot, and I'm limited most of the time to six minutes. Well, you can't tell these stories in six minutes.

Secondly, they probably don't want you to tell the stories on a corporate network. So *Ring of Fire* [on radio and TV] was a product of that. It's a nationally syndicated show. We have to get our stories out, and you can start by bouncing the story: simply doing a segment. Every week I do something called "Free Speech TV," and some of the best lawyers in the country are involved. We do a segment and we will cut it up and put it on the Internet, and before you know it, reporters are hearing it for the first time. Then they start asking, "Well, what is this story about DuPont? Tell me



Papantonio shares his progressive viewpoint on *Ring of Fire*, the show he co-hosts with Robert F. Kennedy Jr. The Internet adds mileage to their message.

more about it." It takes the next step and somebody like Bloomberg picks it up, and then somebody like *The New York Times*.

But you have to begin somewhere. There is a real arrogance among lawyers. They believe that the results that they get in the courtroom are just so radically important that it's going to be a sustainable story ... but it's a three-day story at best, and then people forget it on the fourth day. You have to be able to sustain that story. So Bobby and I started that with Air America.

It was a whole host of great progressives that became our friends, and they remain our friends. So Air America fell apart; everybody went their own way. Rachel [Maddow] went to MSNBC, Thom [Hartmann] went to RT Network and Free Speech TV. People look at Air America and say, "Oh my God! It didn't work." Well, it did work, because the message is still there. Bobby and I still do this, week in and week out. It came out of a combination of lawyering and politics, and you can't talk about one without the other. You can't change much just practicing law anymore.

**Q: Where is *Ring of Fire* carried now?**

**A:** New York, Chicago, LA—we're really all over the country in little parts. But it's not so much the transmission of the radio program every week. This week we might be talking about Rick Perry and the judge failing to dismiss his case in Texas. We will take that segment and we will cut it up and it will be used throughout the Internet. And it has pretty big legs because of that.

**Q: You also do MSNBC, Free Speech TV, RT Network ... and, sometimes, Fox?**

**A:** I used to do Fox. It was torturous, and it was [also] fun, because you could approach it with reckless abandon. So I did it as long as I could stand it, I guess is the best way to put it.

**Q: On *Ring of Fire*, you are called "America's Lawyer." Who came up with that title and why?**

**A:** Either Thom Hartmann or Ed Schultz. The issues I was talking about were not just about my narrow practice. The issue may be climate change, and what is it that we have to do. It might be poverty; it might be minimum wage. It really wasn't put together as any kind of big PR push initially, but all of a sudden, it started taking hold. I walk through an airport sometimes and people say, "You're America's Lawyer." Johnnie Cochran used to be my law partner; he used to be "America's Lawyer." He has passed on, and I don't think they mind me using that. People can't remember Papantonio, but they can remember "America's Lawyer."

**Q: You're working on a major environmental case now.**

**A:** DuPont made a product called C8, which is an additive that they used to make Teflon. 3M used to make it and ... decided that it was too dangerous to make. DuPont continued to make it. DuPont then took the toxins from their product and they

would release them into the water system, which affected the aquifer, drinking-water aquifer, for many counties between West Virginia and Ohio. It may be the biggest environmental case in America.

**Q: So where does it stand?**

**A:** The judge had put together a blue-chip panel of epidemiologists. And the panel came back and said that the C8 causes testicular cancer [among other diseases]. So we will be going to trial with those first test cases coming up this year. *[Editor's note: According to newspaper reports, the panel found probable links to six medical conditions; DuPont, which has promised to phase out usage of the chemical by this year, has denied liability.]*

**Q: You referred earlier to your "Mass Torts Made Perfect" program, and I know the speakers there have included President Clinton. That made me wonder how many presidents you've met.**

**A:** Well, I have not gone out of my way to do that. This is going to sound so odd, but I've got to tell you: If you walk into some lawyer's office that is all about meeting the president ... you walk in their office and they've got pictures of "here is me and Obama," "here is me and Clinton" ... I mean, it's almost like you are walking into [the office of] somebody who is a hunter, and they've got all these heads on the wall, like, "I shot this." Well, OK, I like Obama; I worked to try and get him elected. We

spent a fair amount of money trying to do that, but ... you see, I don't have to own that real estate and say, "Here I'm shaking with Obama. See how important I am." You asked me the question. That is my reaction when I walk into somebody's office and it looks like celebrities on parade. It's almost a gag reflex.

**Q: Would you ever consider running for office yourself?**

**A:** I wouldn't have a chance. I have committed so much to my ideology. It's way left. Can you imagine the ads? But I think I accomplish a lot with media. I can go on the air and say things that a politician could never, ever say.

**Q: You've written several books. Which is your favorite?**

**A:** At one point I wrote a book about Clarence Darrow. It was called *Clarence Darrow, the Journeyman*. I wrote that after *In Search of Atticus Finch*, and I was trying to analyze: "What motivates and what characterizes a trial lawyer?" "How do they think?" "What should they be?" So I started off sending out questionnaires all over the country, and the remarkable thing was the response was really good. So I knew they wanted to talk about it.

But by the time I got to *Resurrecting Aesop: Fables Lawyers Should Remember*, I had a really very honed idea about what gave people satisfaction and dissatisfaction practicing law. It's my favorite book. It gave me time to process everything that I had learned over the years. And the things that I learned were so counterintuitive. You'd think, for example, the most sustainably successful trial lawyers are the loudmouth cowboys, hard-drinking, two-fisted ... but they're not. Those are yesterday's images.

The people who are doing the best now are people who have a family center; they care about their children, their families. They are going to work hard enough to succeed, but they have got a good spiritual center. It's amazing when you look at all of these similarities in these people. They are so different from the trial lawyer of yesterday. Racehorse Haynes, God bless him, I helped him get into the [Texas Criminal Defense Lawyers Association] Hall

of Fame and he was a wonderful lawyer but ... that image is no longer relevant. The people who do the best for themselves and the best, I think, for society in general are the people that just have a better center. They really invest in their communities.

So *Resurrecting Aesop* gave me the chance to focus on those qualities. His fables weren't for children. His fables were for leaders, people who felt compelled to try to do better. It takes all of his fables ... and draws parallels [to] relevant issues for lawyers. So people can better understand what he was trying to say.

Hopefully by June, I will have my first fiction finished.

**Q: What's it about?**

**A:** It's based on fact that has been tweaked just a little bit and put into the form of a fiction. People who know our firm, or know me, may know what the parallels are.

We've had such an incredible experience—whether it was tobacco, whether it was environmental, whether it was pharmaceuticals, whether it's Wall Street, *qui tam*, you name it. We have done just about every kind of consumer-oriented law. So we have all these great stories to pull from, and what I'm doing is I'm taking these stories and adapting them. This particular book deals with three different lawsuits.

**Q: What would you like to be remembered for as a lawyer?**

**A:** The willingness to take on those fights that nobody else would take. I hate to oversimplify it, but there are so many law firms all over the country that are asked, "Would you do this, would you take on DuPont in Ohio?" And they've said, "Oh, my God! I can't spend all that money; I can't take the chance." I'd like to be remembered, I guess, as the person who did that. Who said, "Sometimes you've just got to, you've got to bet it all." 

*This interview was edited and condensed.*



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