

Profile of a **POPULAR** Advocate:  
*Andrew D. Jackson, M.A., J.D.*



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### *Introduction and Background*

- Andrew D. Jackson (ADJ) was raised in northwest Indiana, graduated with a bachelor of Arts in history and philosophy, a Master of Arts in history from Purdue University, and a Doctor of Jurisprudence (J. D.) from John Marshall Law School in Chicago. Before engaging in private legal practice, interesting employment consisted of conducting interviews of historical figures involved in the South East Asian war, serving for a short time as deputy coroner, and consulting on prospective purchases of stocks in ordnance and tactical aircraft. In both private employment and military assignment, ADJ has been to “far places”. Legal practice prior to suspension involved both civil and criminal work and part time public defender work in the local municipal court. He notes a listing in Who’s Who in Aviation and Aerospace, First American Edition, and non-credit study of aeronautics at Purdue and marine navigation at the Adler Planetarium.

### *Evidence of Retaliatory Discipline*

- Andrew D. Jackson was admitted to practice of law in Indiana in June 1982. At the swearing in ceremony, one of the promises made was not to refuse to take a case simply because it or the client was unpopular.
- One of his earliest local high profile clients was a former Coroner with M. D. and J. D. degrees who was fighting a wrongful misdemeanor theft conviction. Attorney Jackson (ADJ) came in at the post-conviction relief and appellate stage. ADJ was also co-counsel in a civil case where the Indiana Attorney General and State Board of Accounts charged that former Coroner improperly paid overtime to investigators as they did not fill out a form which the State Board of Accounts neither made him aware of nor furnished. In both cases local publicity was highly unfavorable.
- Attorney Jackson also filed a lawsuit against a large pharmaceutical company for products liability, negligence, fraud (TV and newspaper ads plugging safety), and wrongful death. To “use as directed” failed to give warning of risk of hepatic necrosis, renal failure, and possibly death. ADJ may well have avoided hinted at sanctions as the legal theory was ahead of the state of experiment with not all variables present in the case being tested. A cause of action for fraudulent advertising could have expanded industry wide liability.
- The origin of attorney Jackson’s problems was his representation of Owen W. Crumpacker (OWC) who was disbarred under strange circumstances: In Re: Owen W. Crumpacker, 383 N E 2d 36 (Indiana 1978). After a 24 count disciplinary complaint was filed, he appeared before hearing examiner who found in his favor on all 24 counts. For whatever reason and not showing findings of fact and conclusions of law to be clearly erroneous, the Indiana Supreme Court proceeded to find against him on 18 of those counts and disbarred him.

## *Evidence of Retaliatory Discipline*

- Owen W. Crumpacker approached attorney Jackson eventually to help him reopen his disbarment, find out what happened to lucrative Indiana Dunes family land acquired in 1891, not all of which was taken by eminent domain for the Indiana Dunes National Lakeshore., and help him bring to conclusion 3 cases filed in the 1940s still pending after 1990, help make distribution of assets, and help him secure long overdue legal fees in three old cases where he had been attorney of record. These cases were:
  - 1- Sibley v. City of Hammond (1940 in Lake Superior Court in Hammond, IN) involving money owed to Woodmar Realty, probable embezzlement and/or self-dealing in the sale of some 400 desirable lots by a trustee who died in 1959 and others, and some \$248,000 left over in a local bank on which interest was not paid as mandated by court order and federal banking regulations. Distribution to Woodmar Realty was delayed by a politically connected lawfirm which kept raising the matter of certain unnamed bondholders who were never identified as entitled to some of the funds, even though the time for making any claim elapsed some 20 years before;
  - 2- Woodmar Realty Bankruptcy (filed in federal district court in Hammond, IN around 1940) where after creditors were paid there remained \$48,000 in the federal registry apparently for distribution to Woodmar Realty, there being no other known claimants;
  - 3- Braginton's (?sp?) Estate (Lake Superior Court in Hammond, IN 1947), where not all the estate assets were distributed.
- At the time Crumpacker (OWC) was highly unpopular with the local legal establishment, and a local newspaper would highlight him as a “disbarred attorney” or “senile disbarred attorney”. This once prosperous and respected former attorney was then in his early 80s; in sad financial straits having to leave his nice home in Hammond, IN telling Jackson of police and other harassment and selling it well below market value. Owen Crumpacker stood little or no chance of getting any legal representation. The suspension order involves 3 distinct matters.
- Crumpacker sent attorney Jackson some preliminary paperwork to which additions and omissions were made to reopen Braginton's (?sp?) Estate to make distribution and also pay OWC past due legal fees. OWC talked to a former administrator, supposed nephew of a deceased administrator, who agreed to reenter the matter. Jackson saw “nephew, made some changes to the paperwork before “nephew hurriedly departed for a California vacation. At the hearing to reopen the Estate, “nephew” came in of his own accord, Jackson appeared to reopen the Estate for distribution, and OWC appeared as a witness only, having the most knowledge of the case. No court reporter was present despite ADJ's oral request. The Probate Commissioner clearly did not care for OWC's presence and according to ADJ began screaming and shouting and getting red in the face, clearly frightening “nephew” but not OWC who had nasty things to say. Probate Commissioner left and returned indicating he wanted OWC arrested. Visibly shaken “nephew” wanted out, and Jackson explained that OWC came as a witness only, not as attorney, to answer questions, and that he left. Commissioner told nephew no attorney was necessary as he could order distribution himself upon which Jackson orally withdrew. If there was distribution, OWC never got any long overdue fees.

## *Evidence of Retaliatory Discipline*

- For clarification, there were two pleadings filed in federal district court in Hammond, IN without Jackson's knowledge. According to him, in maybe late spring of 1995 he received a phonecall from the clerk of court asking about a pleading he filed. ADJ denied filing the pleading, went to the courthouse, and told the clerk he neither filed nor signed the pleading. Clerk informed ADJ the matter was set for court in not too long. In court, ADJ informed the Magistrate (magistrate 1) that he neither authored, filed, nor signed the pleading. Magistrate 1 asked him to dismiss the pleading whereupon ADJ told her that not having filed it and having nothing to do with it, he cannot withdraw it and said the court should withdraw it sua sponte or on its own motion.
- The Woodmar Realty Bankruptcy case (1940) was set for hearing in federal court in Hammond, IN in late December 1995. According to Jackson, he was informed that there being no adverse claimants, the government agreed that the \$48,000 should go to Woodmar Realty. ADJ met assistant U. S. Attorney Klingeberger, currently a Bankruptcy Judge, to discuss the matter and told him what he had heard. Klingeberger explained that OWC spoke to him, that wasn't quite what happened, and that the government's position is only that it has no interest in the \$48,000 in the federal registry. ADJ was then approached by "bank attorney" who opposed the \$248,000 distribution to Woodmar Realty. The "bank attorney" then showed Andrew D. Jackson a pleading purportedly signed by him bearing his purported signature whereupon ADJ informed "bank attorney" he had nothing to do with it and some choice words to that effect.
- Enter the Magistrate (magistrate 2) who called court to order and stated we were there to discuss the Woodmar Realty case- but first he would discuss the pleading. Jackson recalls telling magistrate 2 he did not originate, file, or sign the pleading, and saw it for the first time shortly before then. ADJ cannot say whether anyone confided as to the origins of the pleading after he first saw it and court was called to order. This situation would seriously impede his ability to defend on this matter. Magistrate 2 then asked ADJ who signed the pleading to which ADJ answered that if he knew he couldn't say. Repeated questioning drew the same denials of filing, authorship, and signature, and that if he knew who did it he couldn't say. Magistrate 2 then found ADJ in contempt for refusing to answer and informed ADJ he would notify the disciplinary commission. Despite previous denials, as magistrate 2 was leaving, "bank attorney" pointed to Jackson and said: look at the terrible thing he did whereupon ADJ turned to magistrate 2 and said: you know I didn't do that.
- Andrew D. Jackson was during this time period not in the best of health. He recalls over 24 years of recurring tropical virus incurred in military service and that during this timeframe he was perhaps ill with viral symptoms, flu, and ARD for over 300 days out of a year. In addition during law school until early 1996 he had to face demands of caring for old and sick family members only to have them not get any better but eventually die.

## *Evidence of Retaliatory Discipline*

- As far as what happened before the suspension, ADJ recalls getting a phone call from a staff attorney for the disciplinary commission on the afternoon of his grandmother's funeral who informed ADJ that he would file a disciplinary complaint. At some point Interrogatories were served on Jackson who answered them denying any wrongdoing and again denying authorship, filing, or signature of pleading that came before magistrate 2 or having anything to do with it. Jackson cannot recall any mention of Braginton's Estate or the pleading he denied having anything to do with before magistrate 1. He also doesn't remember receiving any notice that a disciplinary hearing was set or getting a copy of the charges against him. The first ADJ heard of anything in that regard was reading a newspaper story that he had been suspended for at least 3 years.
- The suspension order In the Matter of Andrew D. Jackson, hereinafter Opinion, was according to Jackson, incorrect in several factual respects. Regarding Braginton's (?sp?) Estate, Jackson maintains that Crumpacker attended the hearing as a witness and not as an attorney, and the Probate Commissioner did not question OWC. Omitted is any mention of the Probate Commissioner shouting and screaming with a red face. As to whether Crumpacker later submitted pleadings on the matter as stated, Jackson would not know as he had no further contact with the case.
- The second count in the Opinion confuses and bundles up two separate pleadings dealt with on two separate occasions several months apart by two different magistrates. As ADJ notes earlier, as soon as possible after learning of the purported pleadings, he disavowed them; denied filing, authorship, and signature; and made clear he had nothing to do with their origination. Jackson states he had no 5 month notice of the second pleading, but there might have been a 5 or 6 month interval between the two pleadings. In neither instance could he withdraw as he was never attorney of record. ADJ states the Opinion falsely claims that he said the pleading was the work of Owen Crumpacker recalling that he was found in contempt of court by magistrate 2 for refusing to answer. Apparently both the hearing examiner and the Indiana Supreme Court failed to consider that an attorney might find himself in a situation where he cannot divulge confidential information or secrets even at legal peril to himself. In fact the Opinion states that "the Complaint was recognizably Mr. Crumpacker's work product". If so, that could be learned by other evidence, there being no need to ask ADJ or involve him.
- As far as errors of law, ABA Model Rule of Professional Conduct 4-101, which is studied in law schools, attempts to codify the common law duties in an attorney-client relationships. It prohibits the attorney from using client confidences and secrets (not necessarily from client) gained in the course of the relationship to the embarrassment or detriment of client. Note 14 cites undated caselaw from the Supreme Courts of Illinois and Michigan and ABA Opinion 202 (1940) in that regard. If the legal system wants to sink a client, it is not supposed to ask his attorney for help.

## *Evidence of Retaliatory Discipline*

- Andrew D. Jackson has noted the pattern of dealing with and denying any connection with purported pleadings he had nothing to do with. Given this situation, there could be no evidence of prior knowledge, consent, conspiracy, concerted action, and the like and which could be inferred by conjecture only. ADJ could not have violated Disciplinary Rule 5.5 (b) (Opinion fn. 1) by assisting anyone in the unauthorized practice of law as he had no role in originating or filing the pleading(s) complained of. By having nothing to do with these pleadings and not answering questions about their originator, he could not have made a false statement of material fact or law to a tribunal violating Professional Conduct Rule 3.3 (a) (1) (Opinion fn 2). By having nothing to do with those pleadings, he could not have violated Rule 3.1 (Opinion fn 4) by bringing a frivolous matter. Even if his client did try to commit fraud on the tribunal, if ADJ learned this in confidence he could not divulge it and by having no role in these pleadings, he could not have assisted anyone in a criminal or fraudulent act before a tribunal in violation of Rule 3.3 (a) (2) .
- If, as the Opinion states, it was proved the pleadings were the work of Crumpacker, there was no need to keep asking and then when he couldn't answer proceeding against an attorney who had nothing to do with originating and filing the pleadings. Clearly other evidence was available to find the originator.
- That he did not recall receiving notice or advance copy of the charges against him led to attorney Jackson being unable to defend against these charges before the hearing examiner or call witnesses in his favor. Considering past related instances of police harassment and Probate Commissioner trying to find a cop to arrest him, in all probability Crumpacker would have been arrested and/or otherwise not testified so that ADJ would still have been deprived of an indispensable witness even if he could call him.
- The constitutional issues at stake are obviously 14<sup>th</sup> Amendment due process in the state court litigations involving the Estate and Woodmar Realty from which certain people were denied distribution and Crumpacker was due legal fees. There is also Fifth Amendment due process similarly involved in the Woodmar Realty bankruptcy. Justice delayed is justice denied. As OWC was a critic of government and the court system but not taken seriously by the media, there is colorable assertion of First Amendment rights of free speech. His wanting to reopen old cases for which he earned legal fees colorably involves the First Amendment right to petition government for grievances.
- As for Andrew D. Jackson, there is a Fifth Amendment due process question of his being in court to discuss the Woodmar Realty bankruptcy but instead facing questions on something he never saw before that morning and in refusing to answer magistrate 2's questions involved the First Amendment right not to speak. In regard to the disciplinary proceedings of which he had no knowledge, Fourteenth Amendment due process questions arise in his not being able to go back and present his side of the story in trying to reverse his suspension. The matter also arises as to his not being given a copy of the charges he would have to defend against had he gone to the disciplinary hearing and not being informed as to the outcome of the hearing so he could petition the Indiana Supreme Court and appeared there before it adopted the hearing examiner's decision.

## *Denial of Fair Consideration*

- After the hearing was conducted before the hearing examiner resulting in an adverse decision, Jackson does not recall receiving notice of the decision. The matter would then proceed to the Indiana Supreme Court which had the final say so. Jackson was unable to present exculpatory evidence there or to petition for reopening the hearing so his side of the matter could be heard.
- After reading about the suspension in the newspaper, Jackson sent to the Indiana Supreme Court a request for vacating the order and for rehearing citing several United States Supreme Court cases noting that due process of law involves notice, opportunity to be heard, fair play and substantial justice, ability to defend, and all that. Other errors, some of them noted above, were raised as well. The Indiana Supreme Court did not answer, and after so many days no response is tantamount to a denial. ADJ recalls getting a letter either from the clerk of court or the disciplinary commission that notice was sent. Whether any notice of charges or of forthcoming hearing was sent or not, ADJ does not recall receiving it as he was in a compromised medical state including virus and ARD and burnout from being a caregiver to sick family members.
- Also, the clerk of the U. S. Supreme Court sent ADJ a rule to show cause why he should not be disbarred in that court. The response denied any wrongdoing, noted filing of a motion to reconsider and reopen the hearing, before the Indiana Supreme Court, that an answer from the court was forthcoming (it never came), and that what was involved was suspension and not disbarment. Jackson was disbarred before the U. S. Supreme Court.

## *Impact on Clients and Families*

- It is difficult to estimate the impact on clients and their families. That ADJ was no longer around to take cases for some clients unable to pay much is a consideration as more than a few cases were taken and legal fees were discounted so the client could get some relief. ADJ had more than his share of such clients.
- Owen W. Crumpacker, as best as is known, never got the Woodmar Realty state case or the Woodmar Realty federal bankruptcy case reopened. He lived in Michigan in an apartment provided by his well to do son in law supplementing that with some assistance from friends and relatives. After Andrew D. Jackson's suspension, what all happened with valuable Indiana Dunes land the family acquired in 1891 was never found out. In early 1998 Owen Crumpacker died never having received legal fees he should have had maybe a half century earlier and never recovering his reputation.
- His wife was hospitalized about the time of his final illness and died some time later never having gotten her share of funds that should have been distributed to Woodmar Realty in both cases. The seven other people involved in Woodmar Realty apparently never got anything either, a few of them said to be elderly and in need of money.