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Acuña vs. the Regents of the University of California, Santa Barbara et al.

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My case against the University of California (UC) ended in the fall of 1995 after a three-week trial and what amounted to about four years of combat against one of the largest and most powerful corporations in the state of California. The case alleged political, race and age discrimination. The strategy of the defendants was to outspend me, which considering my salary was not too far-fetched. In the end, they spent more than $5 million[1] only to have a jury find that their reasons for their denial as being pretextual and that the UC and its agents did discriminate against me.

Because of the type of war that we had to wage against the University of California system, the victory was not a total one. I had a difficult time assembling a team of lawyers who would fight the kind of battle that I wanted to pursue, or that would take the risk of losing their fees in the probability that we would lose. The truth is that there are very few Chicano attorneys who are experts in employment discrimination law, and even fewer who have the resources to take them on. Due to this weakness, we lost our political cause of action because the Center for Constitutional Rights missed the statute of limitations by two months. We lost our race and ethnicity cause of action because what I believe to be the collusion of the judge with the UC. We just did not have the resources to appeal her decision. Yet, we stayed alive, and limited in court.

In the federal court we lucked out. We drew an almost all minority jury, which is not normal in federal court where most jurors are white, male, and professional. The attorneys who tried the case are with us today:

Beth Minsky of the National Coalition of Universities in the Public Interest has been with us from the beginning. She did not

participate in the trial because we had run out of money. My credit cards we maxed out. Beth, however, kept the case alive during the first two years of the trial. She had a lot to do with getting the extensive discovery that we obtained from the UC, which proved among other things the intellectual incestuous culture of the University of California, Santa Bárbara. If the peer reviewers believed you were a good citizen they would literally forgive you anything. Sexual harassment and even sexual assault was forgivable if you published and were part of the network. Moreover, there was a double standard when it came to the review of Chicana and Chicano Faculty. For the exception of one anthropologist from Mexico, there were negative comments in the files of all the Chicana/o faculty, which questioned their research.

Moisés Vázquez was the lead attorney. He came on the case when the UC changed our venue from Alameda County to Santa Barbara. We were in danger of losing the case. Moisés came aboard to help us with a couple of depositions, but ended up doing the bulk of the work. We stressed his facilities and more than once the phones were disconnected. However, he waged a guerrilla war. I spent my sabbatical writing answers to motions in limine, which Moisés would translate into legal babble. Before we began the case, Moisés had not had many employment discrimination cases. Today he is the leading Chicano employment discrimination attorney in the country. He was the perfect general for our team.

Next, Eliot Grossman was one of the trial attorneys. He is a comrade, who I have known since about 1984. His scathing depositions tore the defendants apart. In court, he flirted with the edges, going just far enough without being held in contempt. He is also the attorney whose ideological perspective of the case kept us on track.

The fourth attorney present is Millie Escobedo. She is also the youngest. She was 27 years of age when the case began. She chose to become a solo practitioner. She chose to specialize in criminal law. In court she is brilliant. She is very competitive, always in your face. Many jurors were intrigued by Millie.

Not all of the attorneys could come to Chicago. As I said initially, they are not wealthy attorneys. Silvia Argueta, a Guatemalan, works for the American Civil Liberties Union. We could not have gotten to court without her. Miguel Caballero worked for the California Immigrant Workers Association (CIWA). He is one of the most dedicated and genuinely nice people who I know. There are other Chicana/o attorneys who contributed

to the case, who took one or two depositions or came to the meetings. Jesús Cruz, a paralegal, donated his time.

Why was the Case Important?

The case has to be put into the context of Proposition 187, which dominated the discourse while we were preparing to go to trial. When listening to the testimony of many reviewers, the parallels between the rhetoric behind 187 and reviews were inescapable. The shrillness–the hysteria –came through in both cases. The hypocrisy and the arrogance of white scholars showed in their claiming the truth and objectivity. Extolling the time-tested nature of their reviews. As we went to trial, 209 began to dominate the popular discourse, and again the similarity in the rationality was striking. Nevertheless, more important, I became convinced that we as a people had to develop a litigation strategy. The culture of academe and society was not one that would permit effective participation by Chicanos or Latinos.

The case reaffirmed my faith in the working class. I sincerely believe that if we can get cases before juries consisting of people of color that we can achieve a measure of justice. The judicial system is however totally corrupt and driven by money. It also has a culture of its own, and it bases all of its decisions on a positivist view of the world. On my part, the intellectual experience was fascinating. It not only exposed me to the law, but the different legal theories. The work of Richard Delgado, Derrick Bell, and Patricia Williams, among others, brought freshness to scholarly rhetoric which is for the most part reductionist.

Lastly, it made me more cynical. More important it taught me the value of cynicism. When I applied to UCSB, after being asked by students and the chair to do so, there was opposition to my candidacy. The people who opposed it had every right in the world to oppose me. However, I do not believe that they had the right to be intellectually dishonest and to do it with *mano escondida*. The truth be told, if I had known about their opposition, I would have withdrawn my candidacy, which I advanced in the first place to please my wife. The malicious nature of this opposition will become known when I place all the confidential correspondence into an archive for scholars to see for themselves. Indeed, much of the opposition verged on being sick. Moreover, Raymond Huerta, the so-called affirmative action office, and Francisco Lomelí signed affidavits saying that they feared for their lives if I would become a member of the faculty. These same gentlemen swore during a deposition that there was no discrimination toward Mexicans at UCSB. Lomelí said that the only discrimination that he saw was by Dr. Yolanda Broyles-González, who did not vote for an Anglo candidate for a position in Chicano studies.

The lesson here is that I should have listened to my attorneys and treated the Chicana/o administration friendly professors as the enemy. As such, I did not call any of them as witnesses since I thought that they would at least remain neutral. It was not until we confronted them in court that I listened to Moisés who told me to grow up. We were at least $2 million in attorney hours into this case. He then pulled the gloves.

Conclusion

My years as an activist have taught me to focus on issues. I never, for example, saw the Chicanas/os at UCSB as enemies. I knew that none of them were activists either as students or as faculty members. Most had not even been raised in a Mexican American culture. During my years as an activist I had occasion to have ideological struggles with a wide spectrum of individuals and groups. Yet, I always knew that no matter how bitter the struggle was that I would probably be working with my opposition in the future. There were always Bakke or chancellors to fight. With academics, no matter what color, it is not the issue; it is their ego. Very few have an idea of materialism with Yolanda Broyles-González and Mary Pardo being exceptions. Yolanda or Mary would never ask me, for example, for my theory of gender. They would ask how would you change the conditions in such or such setting to develop the space where women could develop their own definitions. Academics overall like theory because they like the sound of their words. This became brutally clear to me during the trial when the Chicana/o scholars testifying for the administration dined and drank with UC attorneys and administrators at the New Otani at the same time that working class Latinas picketed outside the hotel in a life and death struggle.

Notes

1. The estimate may be low. Corbett & I Kane admitted to $2.7 million in fees. Another trial lawyer received $50,000. My attorneys received $900,000; I received $300,000. And, we conservatively estimate that they spent another $1 million internally. Most of my money went to payoff the credit cards, taxes, and to start a Foundation to fight discrimination in higher education.