

ALL THE WORLD'S A STAGE

Interest in Psychology and Acting Motivate Lawyer to Choose Role as Trial Consultant

Editor's note: Most lawyers know them — attorneys who have taken the ultimate leap and left the practice of law. They change careers to pursue long-held passions or simply to try something new, whether it is to launch a business, pursue artistic, academic or public service dreams, answer a call to the ministry or raise a family. Is there life after law? Texas Lawyer will explore that question through periodic profiles of those intrepid souls, many of whom have discovered that the possibilities are endless.

by ERICA LEHRER GOLDMAN

Texas trial attorneys may recognize Mary K. Griffiths as the founder of Dallas-based Trial Consulting Enterprises, a trial sciences consulting firm with a national clientele that includes Texas firms Gardere Wynne Sewell, Akin Gump Strauss Hauer & Feld, Fulbright & Jaworski, Hermes Sargent Bates, and Slack & Davis.

But lawyers may be surprised by how she spends her down time. One morning in mid-April, Griffiths, 35, who is licensed to practice in Texas and Louisiana, left her home in Dallas and headed for Shreveport, La. Given that she had nearly four hours of driving ahead of her, she popped in a CD to pass the time.

She wasn't listening to music, however. She was listening to a recording of regional accents in preparation for an audition for a feature film, "The Pardon," written by Tom Anton and Sandi Russell.

Set in the 1940s, the script depicts the life of prostitute Toni Jo Henry, the only woman ever to die in Louisiana's electric chair. Weeks earlier, Griffiths had sent in a taped audition for the part of Bertha, a woman who encouraged her stepdaughter to become a prostitute. Griffiths had a callback to meet with the director. She snagged the part.

"Don't worry," she laughs. "I haven't gone Hollywood."

Acting is something I feel passionate about, but I also feel passionate about my trial consulting work."

"I think the acting bug has always been there," says Griffiths, who enjoyed participating in school productions at Louisiana State University so much that she briefly considered pursuing acting as a career. Her parents, however, were less enthusiastic, alerting her to the vagaries of the profession.

For Griffiths, the courtroom is a theater, the jury is the audience, and the lawyers and witnesses are the actors.

"I'm fascinated, and have been from the beginning, by the why of a verdict," she says, "which boils down to presentation and the show that each side puts on."

Griffiths' acting experience is apparent when she discusses effective presentation styles, substantive content and communicating with the jury, says intellectual property lawyer John P. Pinkerton, a partner in Gardere Wynne Sewell's Dallas office, who hired Griffiths for a complex patent infringement case based on the recommendation of a partner in his firm.

"She helps you translate a technical message into a jury-friendly story, which is critical, because we have a lot of technical defenses and technical terms," he says.

To help the lawyers prepare, Griffiths recruited individuals for a jury focus study based on community demographics. The Gardere team presented arguments and received feedback.



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"It helped us get an idea about different themes a jury would be receptive to," says Pinkerton.

In addition, Griffiths assisted lawyers with a mock trial, in which Pinkerton and his team presented opening and closing statements and witness deposition video clips. Griffiths then asked the mock jury to answer questions pursuant to jury instructions drafted for this purpose.

"It was really helpful to see what worked well, where our strengths were, where our weaknesses were, what the jury picked up on, which witnesses they liked and which witnesses they didn't like, because these video clips can be quite telling," says Pinkerton. "We learned a lot about how a group of prospective jurors in a particular case would view different issues and react to them."

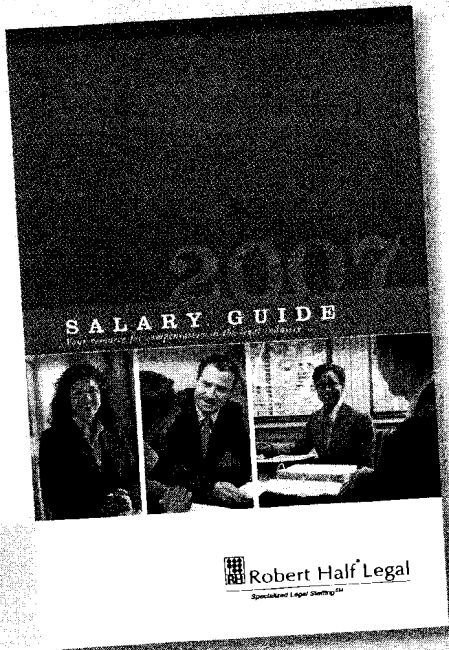
Although they ultimately settled the case, Pinkerton says that his team "used all the ammo [it] needed to kick but

Dallas solo Bob Greenberg hired Griffiths in two cases: dealing with an airplane lease/purchase dispute and the other a malpractice suit against a lawyer and firm.

Greenberg praises Griffiths' ability to use her psychology training and to "overlay . . . knowledge of the law to create a more rounded presentation." Of the two cases, one remains pending. The other yielded a result with which Greenberg is "very pleased."

Lester L. Hewitt, a partner in Akin Gump's Houston office, says Griffiths' work was "outstanding."

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office, hired Griffiths in 2003 when a Dallas-based IP case was suddenly transferred to Wichita Falls. Unable to find qualified local counsel on such short notice, Hewitt says he turned to Griffiths, who helped choose the jury and attended each day of the two-week trial to observe, advise and prepare witnesses before they were to testify.

"I thought she did a fine job," says Hewitt. "She turned out to be much more helpful than a local attorney would have been."

"Mary is a powerful communicator and an excellent trial consultant," says New Orleans attorney Dominic J. Gianna, a founding partner in Middleberg, Riddle & Gianna, with offices in New Orleans, Baton Rouge and Dallas. "She knows how to talk to the jury, break things down simply, and, most of all . . . help lawyers pick a jury."

Gianna, who is a member of the National Institute for Trial Advocacy's national faculty and director of trial advocacy at Louisiana State University School of Law, invited Griffiths to teach storytelling and advocacy at seminars on several occasions. Gianna, who has a theater background himself, says Griffiths' dramatic training is evident in the way she comports herself and in her teaching methods.

"It actually helps to teach lawyers not to perform," he explains. "So trial consultants with acting experience [such as Griffiths] help lawyers . . . not to act, but to be thoroughly human, because only real people can persuade, all the while learning how to convey and create emotions, how to use the tools they have: voice, body, gestures, movement."

Opening Act

Born in Pennsylvania, Griffiths moved to Slidell, La., a New Orleans suburb, when she was 12 years old with her parents and older sister, now a doctor.

Griffiths graduated from LSU in Baton Rouge in 1993 with a bachelor's degree in political science and psychology. However, she's the first to admit that in college she was more interested in partying than in attending classes. Indeed, Griffiths recalls how her politics professor, Harry M. Mokeba, called her into his office one day and sat her down for a chat.

"He told me that with respect to my paperwork and everything I turned in, I was an 'A,' but that I needed to show up. If I did that, he said, I would be unstoppable," says Griffiths.

Griffiths says her strong interest in political science led Mokeba to recommend law school. An experience with moot court in high school left a favorable impression, Griffiths says, making her receptive to the idea. Yet Griffiths' interest in psychology made her wonder whether she would be better suited to being a psychologist rather than a lawyer, she says.

"There's no question that you can go in a lot of directions with a law degree," Mokeba recalls advising her, "and that has really worked out for her." Ultimately, he wrote Griffiths' recommendation.

"To hear what she is doing now is simply wonderful," adds Mokeba, who still teaches international relations and comparative politics at LSU. "There was just something unique about her, like an electric charge. She's a radiant personality," he says.

Griffiths earned her law degree from Oklahoma City University School of Law in 1996, where she met her husband, Ryan Griffiths, now a shareholder in Littler Mendelson in Dallas. During her third year, Mary Griffiths' future father-in-law introduced her to people who worked with Dr. Phil McGraw at Courtroom Sciences Inc. (CSI) based in Dallas. Griffiths says she realized at once that trial consulting would be her calling.

"I walked into [CSI], met Phil and realized that this is what I needed to do," recalls Griffiths, describing trial consulting as "the perfect fusion of psychology and law—figuring out what jurors think and why they think it."

Griffiths fired off letters asking for a job and called McGraw on the phone. She remembers his advice: "If you decide to do this, you can't go back to practicing law, so do yourself a favor: Come back when you have practiced a few years." In retrospect, Griffiths feels that was good advice.

Griffiths worked for several years in New Orleans, first in the law offices of Bob Harvey, a general practitioner, and then for labor and employment law boutique Reinhardt & McGoey, which enabled her to go to court frequently.

"It fascinated me—the drama, watching the parties work

through the issues and helping witnesses tell their story," she says. "But then going back and writing the and doing the discovery—the monotony of all the paper thought: this isn't where I find the energy."

Griffiths called CSI regularly seeking employment but turned down several times until one day there finally position open.

The switch from attorney to CSI jury consultant re moving from New Orleans to Dallas and postponing wedding plans. For four months, she and Ryan, the fiancé, lived in separate cities. During that time, Mary G moved in with her future father-in-law in Dallas, leaving own parents behind in New Orleans—that is, until Hurricane Katrina flooded their home and they, too, moved to Dallas.

While Ryan wrapped up his cases, planned their wedding and interviewed for jobs in Texas—both he and Mary taken the Louisiana and Texas bar exams—Griffiths immersed herself in her new job, which required extensive travel.

She also started taking acting classes, got an agent and began auditioning for parts—simply for her personal development. She soon discovered, however, that honing her skills also enhanced her abilities as a trial consultant, enabling her to coach others to tell their stories in compelling ways.

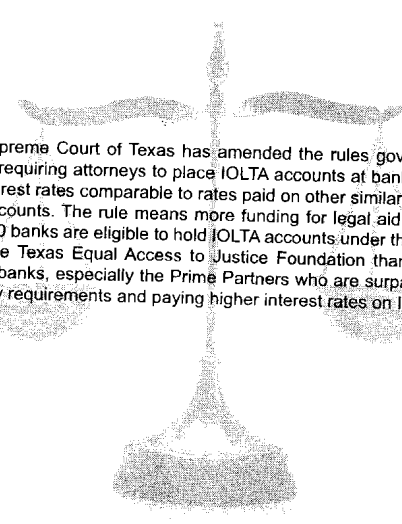
The job was all that she had hoped it would be, Griffiths says: a perfect way to blend her interest in law, psychology and drama.

Griffiths says that she doesn't miss anything from her practicing law—mainly because she spends much of her strategizing and in the courtroom, two aspects of the practice she had most enjoyed.

"As a lawyer, you have to think of all the details and not get down so many rabbit holes," says Griffiths, who considers herself a "big picture" person. "The switch has to be flexible on and off. As a trial consultant, my role is getting to the big picture, to flip from looking at nitpicky details to the big scheme—which temperamentally suits me."

Griffiths says she feels fortunate that she started at CSI in 1999, before McGraw's fame had "crested." Today, McGraw has a syndicated, one-hour daytime talk show, "Dr. Phil." back then, Griffiths says, he taught those he mentored

Banking on Justice



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hand. "He was magnetic and impressive," says Griffiths, who deems him "one of the greatest strategists ever." He could sum up strengths and weaknesses of individuals and arguments instantly, Griffiths recalls. "He'd look at a case and very quickly say, 'With this we could either do this or that.'"

Center Stage

In September 2001, Griffiths left CSI to start Trial Consulting Enterprises. By then, Dr. Phil was segueing into his talk-show persona. It seemed to Griffiths the perfect time to move on herself. Being her own boss, she thought, would allow her the flexibility to pursue her acting, too, in that she could choose the cases she accepted and control her travel schedule, something she had been unable to do as a CSI associate.

Today, even though she still spends months away from home when a case goes to trial, Griffiths says it is rewarding to "be in the driver's seat," and know when these trials will be taking place.

Looking back, she laughs that she did not have a Plan B. "I think if you want to make a dream come true, [one must] be willing to work hard, pray about it and believe it can happen. My husband and I drew up a business plan, and I owe a great deal of my success with my company to his support and advice. Two lawyers equal one great think tank," she says.

"I was lucky enough in that I had made some good contacts and some clients moved with me," she says. "And I got nothing but support from [McGraw] when deciding to pursue my interests." Griffiths has one associate, who has been with her since she launched. She hires part-time employees as needed.

Ladd Sanger, managing partner of Slack & Davis' Dallas office, says he hired Griffiths the day he heard she was going out on her own. His reason? "CSI is very expensive. Mary is able to provide that same service, but more affordably. When you are representing plaintiffs, you have to be cognizant of costs."

The case involved a van rollover that paralyzed a young man and seriously injured his sister and mother, says Sanger, whose practice focuses on aviation and catastrophic personal injury litigation. Griffiths provided a mock trial in a venue where the case was filed, which Sanger says was helpful in determining the valuation of the case and in addressing the apportionment of liability.

The case settled, but Griffiths' work helped determine what sort of settlement should be reached and how such factors as a sympathetic, high-profile defendant and plaintiffs' devastating injuries would play out.

Sanger consults with Griffiths in commercial and aviation cases to this day. "She puts together a first-class production," he says. "Clients and co-counsel are always very impressed."

Now that she has her own company, Griffiths only consults on civil cases in a multitude of legal areas. "You name it, I've probably done it," she says. Griffiths typically turns down criminal cases, partly because she doesn't believe she would feel comfortable dealing with clients accused of drug trafficking or child molestation.

Her services include conducting mock trials and focus groups, creating juror profiles, drafting juror questionnaires, preparing witnesses, conducting mock arbitrations and mediations, venue studies, voir dire development and presentation, jury selection and trial monitoring.

She charges a flat fee for focus groups, mock trials and mock arbitrations. Jury research projects, witness training, jury selection and trial monitoring are generally billed by the hour. In addition, Griffiths is frequently called upon to lead CLE seminars to various bar associations and corporations.

What is a typical day for Griffiths? "Now I'm working on a trial, so it's 24/7 consulting, witness prep in the morning, writing reports in the afternoon, prepping for focus groups. All of that stuff is my day, my week . . . and every now and again, I head off for an audition," she says. At her busiest, Griffiths says she has had 11 cases going on simultaneously, but then, invariably, some settled.

In addition to her real life roles, Griffiths has played the role of lawyer, jury correspondent, litigant and starlet, among others, in general release and made-for-television movies. She also has been featured in commercials for Pizza Hut, industrial films for companies such as Lockheed Martin Corp., RadioShack Corp. and Samsonite Corp., and print ads for BMW Group N.A. On June 9, she appeared in a television movie on ABC with Sam Shepard called "Ruffian," playing the role of a female reporter. Recently, she auditioned for a role to play Jessica Simpson's big sister for a film and a role as an assistant district attorney

for what she describes as a BBC version of "Law & Order" results yet to be announced.

Yet, while she loves the acting gigs, Griffiths says her bra also craves the stimulation of trial consulting. Not only that, but she likens her company to a "beloved child" — "I birthed this thing; this is something I love."

"I think Mary is a gifted talent . . . enlightened in almost every area," says her acting coach, Toni Cobb Brock of Dalla Brock has worked with Griffiths on her on-camera auditions skills for several years.

"Mary spans the range that is needed if you are going to be an actress in Texas, which is that her auditioning for film is just as stellar as her auditioning for commercials or television," says Brock. "[She] already knows how to act; she just needs some staying in shape [by] working on camera every week."

Brock's class consists of a "cold reading" whereby Brock hands out scripts for the actors to analyze, learn the lines and perform on tape, just as they would for a regular on-camera audition, followed by playbacks and critiques. According to Brock, who is a location casting director, Texas offers a "fair amount" of acting opportunities. Recent tax incentive programs in Louisiana and New Mexico have attracted film-makers to the region.

"My acting has only improved my jury consulting," says Griffiths. "As an actor, you learn about tone, inflection, how to present something and give it emphasis here or take away there. So when I'm dealing with witnesses or trial lawyers, often find myself doing acting exercises with them, getting them back in their bodies. Acting has taught me how to read others, because that is what you do as an actor. You have to be attuned to giving nonverbal cues and watch for others' nonverbal communication — very useful in picking jurors. Think of it as another tool in the toolbox," she concludes.

"For the longest time, I didn't tell people I acted; I kept the two worlds apart. But then I realized how much one world helped the other."

Erica Lehrner Goldman is a Houston-based freelance writer.



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