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## Of Counsel Interview . . .

# Legal “Goddess” Leads the Way in Commercial Litigation at Every Judicial Level, including the High Bench

A couple of early-career potholes redirected Pat Lundvall onto the road toward legal-profession success. The top-tier litigator and chair of the commercial litigation group at Nevada-based McDonald Carano overcame those obstacles to launch and maintain a long career. She’s earned a highly regarded reputation for her award-winning litigation prowess, pro bono legal work, and extensive volunteer service, particularly for the Nevada Military Support Alliance (NMSA) on behalf of military veterans and their families.

Lundvall represents local, state, national, and international businesses of all sizes operating in nearly every industry in Nevada, during every stage of complex commercial litigation. She also serves as Nevada counsel in complex multiparty and multidistrict litigation, and out-of-state law firms regularly select her to represent their clients when a suit is necessary in Nevada. She’s prevailed on behalf of a wide array of clients in judge and

jury trials in state and federal courts, as well as on appeal to the Nevada Supreme Court, the Ninth Circuit Court of Appeals, and the U.S. Supreme Court.

Clients don’t seem to hold back when singing Lundvall’s praises. Consider this sampling of some of the many things clients have told *Chambers* researchers about her. “Pat is a goddess; meticulous and absolutely brilliant.” . . . “She provides a clear understanding of the legal process every step of the way.” . . . “Pat is a zealous advocate and an excellent litigator.” . . . “Pat is one of the best trial lawyers I’ve ever seen, possessing perseverance, tenacity, good judgment, and composure under intense pressure.”

Recently *Of Counsel* talked with the dynamic yet down-to-earth Lundvall about the obstacles that ultimately led to her entry

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## Of Counsel Interview

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into the profession; her Supreme Court experience; a significant pro bono case; her volunteer leadership within NMSA, the assistance organization co-founded by her late husband who retired as a full colonel in the Nevada Army National Guard; her likes and dislikes about the legal profession; and other topics. What follows is that edited interview.

### Overcoming Adversity and Telling Dirty Jokes

**Of Counsel:** What influenced your decision to work in the legal profession? Why law?

**Pat Lundvall:** I've long believed that sometimes life makes decisions for you whether you like it or not. And, it's a matter of trying to make the best of whatever fork in your path that you're offered. Two things led me to law school.

One was that I was teaching at the University of Nebraska and a prominent star athlete was one of my students and won [a national sports award]. Before he won that award, he was in trouble from an academic standpoint and had to jump through hoops to get him there. Part of the reason he was in that trouble was because he flunked my class. I sent in a mid-term report that said he was failing. The academic advisor said, "Can I work with him?"

I said, "No problem. He needs to show up to class. He's got to put his butt in a seat." He never did, so he failed the class. I was subsequently put on academic probation and I was

the only person in my department who didn't get a raise. I knew there was cause and effect because there was nothing wrong with my performance; this kid had some difficulty and the athletic department was basically doing a pay-back. I decided the ivy tower wasn't for me.

I then applied for a fellowship at the University of California at Davis and received it. I was going to be working on my PhD. in exercise sciences there. But that turned out to be the year that California went through some major budgetary issues and, long story short, my fellowship was not funded. So I was a kid without anything and was searching a bit.

**OC:** You were in a what-do-I-do-now? situation, right?

**PL:** Yes. My then-fiancée, ultimately my husband, got stationed in Las Vegas, and I ran cocktails for a long time, trying to figure out what I wanted to be when I grow up. I applied to law school, which was 30-some-odd years ago. I took the LSAT but had a migraine the day that I did and I didn't score well. Then, I had difficulties getting a law school to take a look at me.

A friend of mine said, "You need to have an interview with Dean [Gordon D.] Schaber at the University of Pacific McGeorge School of Law." It's a premier law school in Northern California and the dean holds back a number of admittances for people who are what he referred to as his special projects, people who don't quite meet the norm for law school admittance. He liked to think that he could judge students to see if they'd be good for the school. My friend told me, "Oh and by the way, Dean Schaber likes dirty jokes." [laughter]

And I said, "Oh really. That's good news I like dirty jokes, too." So my interview with the dean, which was supposed to be substantive, turned out to be nothing but two hours of the two of us exchanging dirty jokes, one after another, after another. He told this story on the day I graduated as the valedictorian of my class.

## Two Standout Cases

**OC:** [laughter] Where did you go after you got your degree?

**PL:** I went into private practice. Anthony Kennedy was appointed to the U.S. Supreme Court a year before I graduated and Dean Schaber was responsible, in large part, for Anthony Kennedy getting the nod that year; the dean was a very powerful man in California in Democratic politics. And, he desperately wanted one of his law students to become one of Justice Kennedy's law clerks. I said, "Thanks but no thanks" and went into private practice at a law firm in Nevada and fell in love with the state. That's the reason I'm here.

**OC:** Pat, you've been at McDonald Carano since 1994, and you're a highly regarded litigator who's handled many cases over the years. What cases stand out to you as being particularly important or gratifying? Could you summarize one or two?

**PL:** The first one was a case in which we represented the state of California in a dispute that was brought here in Nevada by a tax payer who claimed that he had been wrongly assessed state income tax in California. He alleged probable causes of action against the state and we began representing them in 1998. That case is still ongoing.

It went to the U.S. Supreme Court three times, and finally after the third time, the Court embraced our argument that there was sovereign immunity by one state that was sued in another state. It overturned a precedent that had been standing for about 40 years and in many people's eyes was really bad precedent to begin with. It ended up with many different amicus briefs from all 50 states. Ultimately, the Supreme Court agreed with us. And, right now we're fussing about fees and costs.

**OC:** Pat, did you go to the Court and argue the case.

**PL:** I sat at the counsel table once but I did not step to the podium to argue. We hired U.S. Supreme Court counsel to do that.

**OC:** What's the name of the case?

**PL:** It was *Franchise Tax Board of California v. Hyatt*.

**OC:** Was it nerve-wracking for you to walk through the Supreme Court doors and sit before the justices?

**PL:** It was. And I'll tell you a quick story. As a young attorney I went to one of my mentors who had been practicing for about 50 years, and I said, "Dick, I need some help. I have this quaver in my voice when I begin every deposition and when I begin every oral presentation. I need a voice coach, or something, that can help me manage that." His advice to me was: "Pat, I hope you never lose it."

**OC:** Very nice. What's the second case you want to talk about?

**PL:** It was a case I tried virtually during the depths of COVID. It was a pro bono case and originated from a program that was my idea to have the firm help our attorney general start: an organization called the Office of Military Legal Assistance. One of the things that you learn is that JAG [Judge Advocacy General's Corps.] officers are not admitted in many states, not admitted in all of the states in which they are stationed and serve service members and their families. So, a lot of military members and their families can't afford [legal help]. To help with that, we put together a program to take cases for our military members that have a need.

Well, there was a young woman who was a Navy ensign and was assigned here. She bought a house for herself, her mother and her young son to live in. But it was full of defects, none of which had been disclosed. We filed the case on her behalf, pro bono, and tried it with witnesses, judge, and attorneys appearing virtually. We were able to prevail and the

woman received the value of her house, the repairs, and the efforts she had put into it.

## The Bad and the Good

**OC:** To change gears here, Pat, let's talk good and bad, starting with the bad. What do you dislike about the legal profession and wish you could change?

**PL:** I would do away with discovery.

**OC:** Really?

**PL:** Yes, in the bulk of the cases, I'd say about 90% of the evidence you present is evidence that you already have. Maybe sometimes you're fighting for the last 10% and maybe that is a difference with a distinction between success and failure. However, the actual costs associated with discovery are outrageous and out of control. And, it's one of the most frustrating things to tell the client: "Yeah, your \$700,000 case is a good one but it's going to cost you damn near that much to be able to get a judgment." For business entities that make business decisions as to whether to go forward with the case, they often don't because the cost is so high.

In Nevada we enjoy a rule procedure called an offer of judgment that allows you to cover attorneys' fees in certain circumstances when you prevail. But it's not uniformly applied. There's no guarantee of that. The transaction costs getting between point A of filing the complaint and point M of getting the trial verdict is simply huge. It's astronomical. And often out of reach of the average business person.

**OC:** Okay let's flip in around: What do you like about the legal profession, about being a lawyer?

**PL:** Every day is different, and every day I learn something. To me that's the highlight of life—having excitement in your life every single day and being able to learn something every single day. That's pretty special.

**OC:** And what about the satisfaction you get out gaining a good outcome for your client?

**PL:** I end up with great relationships with my clients. I've been fortunate that there have only been one or two clients that I'm happy to see go. [*chuckles*] We usually end up as social friends and end up at the dinner table at my home or vice versa. From a personal standpoint, when you've got somebody who's asking you for your help, it's pretty powerful.

**OC:** And you've done that as more of a friend rather than as a lawyer?

**PL:** Sometimes, yes.

**OC:** You chair the firm's litigation department, which I'm sure brings you a lot of satisfaction. But it also has its challenges. What's one of the challenges you encounter as chair? For example, was it challenging to recruit and bring in good lawyers a couple of years ago as the profession was in the midst of the talent war?

**PL:** Yes, there was and perhaps still is a talent war going on in the industry. But I will tell you that what our firm has done is to develop good networking, which sometimes comes from our young associates. They reach back to folks that they spent time with in law school and giving positive feedback about our firm and the experiences they'd had here. So while we have had to search for talent, we've not been as strapped as some other firms, I believe. It also requires that maybe some of the partners step up their [recruiting] game a bit too.

## **NMSA: Serving Service Members**

**OC:** Let's talk about the National Military Support Alliance. What does it mean to you to be so involved in this organization?

**PL:** It's a legacy. I guess it's a tribute. It's a way for me to acknowledge and say thank you.

I remember when [her late husband] Jerry came home one day and said, "You know what? There were two military members who lost their lives today [one in Afghanistan and one in Iraq]. And I talked about this idea with [his friend] Joe Brown, and we're going to put together a foundation." And from there, he just ran with it.

**OC:** And it does great work. Would you talk about that?

**PL:** Yes, I'll give you examples on both sides of the spectrum. We had a family in Sparks, Nevada that had their water heater go out in the dead of the winter. Their military member had been deployed and they didn't know what to do. They came to us and got a new water heater. They are a young wife and four kids.

On the other end of the spectrum, we raised more than \$3 million to qualify and get a matching grant for construction of a home adjacent to the Veterans' Administration hospital on the campus of the V.A. Southern Nevada Medical Center so that family members can come and stay while their loved ones are getting treatment. It's called The Fisher House.

It takes most states four to seven years to raise the matching funds and we in the National Military Support Alliance did it in less than one. It's built, furnished, and family members are benefitting from it.

**OC:** That's fantastic, Pat.

**PL:** Thank you. ■

—Steven T. Taylor