



One on One with Mark A. Cunningham, 75th LSBA President:

Master “Multi-Tasker” Tackling Challenges for the Legal Profession

Interviewed by Marta-Ann Schnabel

Mark Cunningham is the kind of fellow who is almost always running late — not hours late, but just a sufficient number of minutes to make the room expectant. He usually arrives with his attention lowered toward his cell phone and his fingers furiously working the small patented keyboard attachment that hints at techno-cool. Then he snaps his head up, smiles and directs his attention to those in front of him, offering a simple and heartfelt apology that melts away any annoyance. He is the walking, breathing symbol of “multi-tasking.” His little secret: Many of the multiples that he is tasking are his children, Alistair, 12, Virginia, 9, and Pierce, 6.

Mark A. Cunningham of New Orleans is the 75th President of the Louisiana State Bar Association. With him are family members, from left, son Alistair, wife Meredith, son Pierce and daughter Virginia. Photo by K&D Photo + Video.

He and his wife of 15 years, Meredith, also a busy and accomplished lawyer who works as staff counsel for LSU Health Sciences Center, view the challenge of career and family as a joint venture.

“We grew up in the 70s and 80s in a time defined by Carter and Reagan rather than Kennedy and Nixon, when the nation was focused on busing and affirmative action rather than the March on Washington. We have lived most of our lives after the fall of the Berlin Wall. The assassination that *we* remember is John Lennon. Our children are still young, and we have long careers ahead of us. The practice and lifestyle trends of the 80s and 90s are not an option for us. We can learn from those who came before us, but we can’t stand still and expect the same result,” Mark says.

A senior partner in the New Orleans office of Jones Walker LLP, Mark is a member of its Corporate Compliance and White Collar Defense Team, where his practice focuses on antitrust, intellectual property and other federal regulatory issues. Although he enjoys his trial practice and even occasionally indulges in telling war stories, Mark believes that success is better defined by the cases that are never filed than it is by courtroom victories. In his view, “[w]hile litigation is sometimes unavoidable and occasionally even necessary, the best outcome is often found outside of the courtroom.”

A graduate of Claremont’s Pitzer College and Tulane Law School, where he was the senior managing editor of the *Law Review*, Mark went on to clerk for United States District Judge Charles Schwartz in the Eastern District of Louisiana before earning an LLM at New York University Law School in Trade Regulation and then returning to New Orleans to serve as the first law clerk for Judge Sarah S. Vance, current chief judge of the Eastern District.

Drawn to public interest law, he found that his substantial debt obligations did not permit him to consider any options other than private practice. Yet, Mark was unwilling to jettison the penchant for the underserved instilled in him by his parents.

His mother, Marina, had come to the United States with her family after fleeing communist regimes in Russia and China (where they had lived in the Russian-Jewish enclave in Shanghai). His father,

Roger, was raised in the Chicago area by a single mother of limited resources who struggled to provide for him. Both of his parents experienced discrimination in various forms, and both suffered as a result of others abusing their power and authority. Growing up in the suburbs of Chicago and New York, Mark and his younger sister, Larissa, learned the lessons of hard work, family, commitment to the community, diversity and tolerance. Their parents also instilled in them an appreciation for the arts by bringing them “kicking and screaming” to every museum and free cultural event.

Abiding by these lessons, even as a new associate, Mark took on both civil and criminal pro bono cases. He soon found that there was tremendous practical benefit: pro bono cases afforded the inexperienced young lawyer an opportunity for motion and trial practice. Working with a wide range of clients with different backgrounds and legal issues encouraged him to become a better communicator and provided him with a better understanding of how to manage client expectations. Also, the work was tremendously rewarding. Mark still remembers his first pro bono client, a man who had been sentenced to life in prison at Angola in the 1970s for possession of a small amount of narcotics. He was in his 60s when Mark finally won his release, and Mark witnessed the tremendous impact that a comparatively small amount of legal work had on his client’s life.

Considering his upbringing in the suburbs of Chicago and New York and then attending undergraduate school in Los Angeles, Mark may seem an unlikely transplant to Louisiana. But he believes the values emphasized by his parents run deep in Louisiana and his decision to settle here (despite having no extended family in the area) was an easy one.

Mark brings a fervor to his commitment to Louisiana and to New Orleans that few locals can match. As a board member for the Pro Bono Project and a number of nonprofits ranging from WRBH Radio for the Blind to the New Orleans Regional Leadership Institute, Mark also has learned how valuable it is to bring business and commercial standards to the nonprofit world. In keeping with his “Gen X” sensibilities, Mark is both an idealist and a realist, both a pee wee soccer coach and a boardroom

negotiator, both a former skateboarder and an experienced corporate litigator.

The contradictions are what his wife and children savor most about him. Meredith is fond of telling stories about Mark’s aspirations to live off the land, even if that “land” is the backyard of their home near Bayou St. John. Unfortunately, Daddy’s Easter gifts (family life incorporates both Christian and Jewish traditions) of live chicks and a rabbit were short-lived in an environment that included two dogs and some irritated neighbors. Indeed, after the demise of *two* chain saws, even the beloved “farm” in St. Francisville was sold off to more adept country folk. “Both chain saws remained lodged in the tree, so they were included in the sale price of the property,” Meredith offers with a straight face but a gleam in her eye.

Mark chuckles and concedes the accuracy of the chain saw story, but insists that the chickens — “La Lune, Godzilla, Brittany and Pearl” — were wonderful laying hens. He adds, “I really have no business around farms, farm animals or felled trees.”

Embracing his own contradictions as a bedrock qualification for the task ahead, he changes the subject and proclaims that he and Louisiana State Bar Association (LSBA) President-Elect Darrel Papillion represent the next generation of leadership in the practice of law.

This hallmark ironic, self-deprecating and yet determined style is both charming and unnerving. When asked why, in heaven’s name, he would spend a year of his life at the helm of the LSBA, a role which many would view as anachronistic, the answer flows without hesitation: “In the course of my bar work, I have met extraordinary men and women from across the state who are changing the communities they live in. Like me, these individuals were drawn to law school by the belief in the transformative power of the law. Some are fighting against injustice and to keep our communities safe. Others are focused on economic development. They work for legal aid and civil rights law firms, but they are just as likely to have a solo family law practice or to work in-house or at a small oil and gas firm. Some are fighting in the courts. Many will never see a courtroom. But they all share a common commitment

to making this world a better place and are guided by the ethical standards we live by as officers of the court.”

Yet, Mark knows that the legal profession faces serious challenges. He is particularly aware that the practice today is vastly different from what it was like when he first passed the bar.

“We can’t ignore that our profession is undergoing systemic changes as a result of advances in technology, changing demographics, increasing competition, and growing consumer demand for low-cost legal services,” he observes. “Many lawyers in Louisiana are struggling in both their professional and personal life. Many new lawyers are saddled with extraordinary debt. Lawyers with established practices are seeing their costs increase and their incomes decline. Non-lawyers increasingly cross the line into the practice of law with impunity, which is not only an economic threat to our members, but endangers the public and undermines the rule of law.”

While the LSBA does not have the resources or regulatory authority to solve these problems on its own, Mark is adamant that the LSBA owes a duty to its members, particularly solo and small firm practitioners, to represent their interests effectively, to provide them with meaningful services, and to continually reassess the value proposition that it offers members.

In direct response to these problems, Mark has collaborated with Immediate Past President Larry Shea and the Board of Governors to engineer an expansion of practice management services for solo and small firm practitioners. During his year as president, Mark has plans to continue these efforts by expanding the technology solutions offered by the LSBA to small firms. “Lowering overhead is a pivotal factor in increasing lawyer income, and technology is a key component in that effort. Small firms often suffer from an information deficit when it comes to technology, and this is a deficit that the Bar is particularly well-suited to fill.”

Similarly, as a way to address the shrinking job market for law school graduates, Mark believes that the LSBA can take an active role in reframing the link between the underserved public and young entrepreneurial practices. He has endorsed and cultivated a program called



Mark and Meredith Cunningham with their children Virginia, Pierce (seated) and Alistair.
Photo by K&D Photo + Video.

LIFT (Legal Incubators for Tomorrow) started by the LSBA-affiliated Louisiana Civil Justice Center. This program provides practice management training, technology advice, network and referral opportunities, and mentoring to young attorneys from throughout the state who are committed to developing a law practice which can sustainably serve modest means or public interest clients.

In addition, Mark is working with the LSBA staff and statewide banking institutions to develop a program that will provide young lawyers with free credit counseling. He remembers his own experience with

post-graduate, high-interest-rate loans, the many long years he spent paying them off, and the delay it caused in his own economic solvency. Yet, he acknowledges that his debt burden was considerably smaller than what many law school graduates now experience. “Young lawyers today face twice the debt I did, and we have an obligation to assist them in managing this challenge if we want our profession to continue to thrive.” IBERIABANK is the first to agree to provide young lawyers with personalized credit counseling, but Mark is working to draw other institutions into the program.

Mark's plans also include an ambitious effort to more fully engage corporate and in-house counsel in Bar activities and services. Toward this end, Mark acknowledges he will have to be as much a good listener as a good implementer. "This is a segment of the Bar which is often called upon for contributions to good causes, but about whom we make very little effort to offer services or encourage personal participation."

A champion for the good that the organized Bar can do, Mark is not afraid to offer criticism where warranted. In a recent letter to the National Center for State Courts and the American Bar Association, Mark vociferously objected to the trend to endorse "limited license legal technicians" as a solution to providing legal representation for the poor. Mark rejects the view, espoused in some circles, that the practice of law by non-lawyers is "inevitable."

On the home front, Mark has encouraged the work of the LSBA's Unauthorized Practice of Law (UPL) Committee which has resulted in proposed legislation with regard to UPL. In its current configuration, the Louisiana statute makes UPL a felony, which many local prosecutors choose not to charge. The proposed legislation expands the standing of the Attorney General and private individuals to take action against unauthorized practitioners. "Neither the public nor the profession is served by allowing UPL. Non-lawyers are not subject to the same ethical standards as attorneys. They lack the education, expertise and judgment to provide competent legal services, and they are certain to take advantage of consumers if permitted to practice law outside of the regulatory controls applicable to licensed attorneys."

More seasoned lawyers also stand to

benefit from Mark's plans to work with the Louisiana Supreme Court to address the problems faced by lawyers looking to retire. Many small and solo practitioners struggle to find successors or succession plans which benefit clients as well as lawyers. "Far too many of us don't stop working when we should, or even when we would like to, because we cannot figure out how to effectively transfer the business. This often means that court-appointed administrators and even the ODC must intervene." Mark wants to help senior practitioners avoid having the courts or the Office of Disciplinary Counsel intervene in their practices by providing support to older lawyers who want assistance with succession planning. Mark cautions, "We are not here to insert ourselves into law practices or the lives of attorneys. The job of the Bar Association is to help attorneys succeed in business and

Through the Eyes of the Cunningham Children

Alistair, Virginia and Pierce Cunningham (referred to in family circles as "Ali," "Gingi" and "Elf") are singularly unimpressed by their father's involvement with the Louisiana State Bar Association. Unless, of course, it means a visit to the beach at Sandestin!

Family road trips are their favorite time with Dad, particularly the annual jaunt to Big Bend National Park in Texas. Mark packs them into the car each summer, leaving Mom behind for some well-deserved R&R, and hits the highway toward the far western side of Texas, sometimes taking Highway 90 the entire distance. "Getting there is half the fun!" Mark jokes.

Nine-year-old Gingi agrees, noting that sometimes the exploration of Big Bend can itself be rigorous. Whispering as though she is revealing a family secret, Virginia confides about a time when Dad insisted on a particularly long hiking trail. "Even *he* had to stop and rest! He told us he had the flu, but I don't think so."

The older and wiser Ali shushes his sister and talks instead of the pink flamingo motif at the Kathy's Kosmic Kowgirl Kafe, a favorite stop on the road to Big Bend



Alistair and Virginia Cunningham with the ill-fated chickens. Photo provided by Cunningham family.

(until Kathy's recent retirement). "And the hiking's the best part of Big Bend!" he tells her.

Young Pierce, exactly half the age of his 12-year-old brother, zooms past on his scooter, but agrees rather heartily with Ali. He's clearly the one who is always in motion, and a little hike must certainly be easier for him than Dad.

The children also share fond memories of La Lune, Godzilla, Brittany and Pearl, the four pet chicks, who grew to adulthood, but then met their demise at the hands of grumpy neighbors and feisty dogs.

Cutting off the discussion of exactly



Mark and Pierce Cunningham on a family vacation. Photo provided by Cunningham family.

what happened to the chickens, Meredith intervenes with the observation that they were acquired one day when she was in court and inaccessible for consultation by cell phone. "Mark was convinced that Easter would be incomplete without live bunnies and chicks. I think the result here has tempered his holiday gift enthusiasm a bit, but I never turn my phone off during Christmas and Hanukkah season!" she adds.

—Marta-Ann Schnabel

life by providing them with a platform for support when they need it.”

Success comes in a variety of forms, but no lawyer can be successful without tools for managing stress and assuring good mental health. Mark points out, “We are at least three times more likely to be depressed than other professionals and rank at the very top of all professions in burnout, substance abuse and suicide. The LSBA *must* take a leading role in addressing these issues.” A prime mover in the recent restructuring and expansion of the Lawyers Assistance Program, Inc. — a Bar program dedicated to providing programs and services for lawyers, judges and other members of the legal community who suffer from substance abuse, depression and other mental health challenges — Mark is a staunch believer that the LSBA owes a duty to its membership to make sure that support and treatment are available to all lawyers who need it.

Mark also believes that the LSBA should do more to respond to attacks on the judiciary in Louisiana. “Our judicial system is often unfairly and inaccurately portrayed in the national media. The truth is that the Supreme Court aggressively enforces ethical standards in the judiciary and the Bar, and the Court has shown no tendency to favor plaintiffs or defendants. We should be developing partnerships with business groups in the state and nationally to get this message out.”

While he seldom tires of policy talk, Mark’s phone beeps with a reminder that his son needs to get to tennis practice. “Ali is passionate about tennis,” Mark says, proudly. “He brings more heart and will to the game than anyone I have ever seen. He inspires me to do the same.” Equally admiring of young Virginia, Mark notes that she has “an independence and wit that I have only known in one other person — her mother.” Pierce, the youngest, is “elf-like” and “whimsical,” bringing balance to a family of high achievers.

More than aware of his good fortune, Mark insists on rattling off the names of many who have provided support and guidance, including law partners, judges and colleagues. Then he pauses as he once again mentions his wife. “I am the luckiest person ever,” he says. “I wake up every morning amazed that Meredith married me at all and I couldn’t be more excited about our future



Mark and Meredith Cunningham with their children Alistair, Pierce and Virginia. Photo by K&D Photo + Video.

and the future of Louisiana in the years to come.” Then he flashes that smile, offers a simple and clearly heart-felt apology for having to leave, and dashes away again.

Marta-Ann Schnabel, a shareholder in the New Orleans law firm of O’Byron & Schnabel, P.L.C., served as the first woman president of the Louisiana State Bar Association (LSBA) in 2006-07. She also served as the LSBA secretary and Louisiana Bar Jour-



nal editor from 2001-03. She chairs the LSBA’s Access to Justice Committee and the Access to Justice Policy Committee and heads the board of the nonprofit Louisiana Civil Justice Center. She is currently the president of the Louisiana Association of Defense Counsel and the chair of the Louisiana Supreme Court’s Judicial Campaign Oversight Committee. She is a Fellow of the Louisiana Bar Foundation (LBF) and was recently recognized as the 2014 LBF’s Calogero Justice Award recipient. She has served in the American Bar Association’s House of Delegates and as a member of the ABA Standing Committee on Bar Activities and Services. (Ste. 1950, 1010 Common St., New Orleans, LA 70112)