

NEWSLETTER

Insights from the courtroom to the coastline

Nobody Sees the Board the Same Way



Twenty five words, two teams, and no two people at the table reading the same board.

CODE NAMES IS A PARTY GAME. Twenty five words sit face up on the table in a grid, and one player on each team is the spymaster. The spymaster is the only person who knows which of those words belong to his side. He is allowed to say one word and one number per turn, so he says “Ocean, three” and his teammates argue out loud about which three of the twenty five he meant.

I once watched a grown man stare at the word RISING for a full minute and announce, with total confidence, that it meant phoenix. The woman beside him was just as certain it meant shine. Same card, same table, same lamp. That’s the whole game, and it’s not really about vocabulary. It’s about working out how other people read a word before you hand them a clue.

Which is jury selection. In Florida that means six people in almost every criminal case, felonies included, and twelve only when the State is seeking a death sentence. Six strangers, each walking in with a grid nobody else can see. To one juror, “he refused the breath test” means the man had something to hide.

To the juror beside her, it means he was frightened. They won’t find out they disagree until they’re shut in a room with a verdict form.

So I ask them what a word means to them first. The trial lawyer Nick Rowley does this better than anyone. Before he asks a panel for brutal honesty, he asks them what brutal honesty means to them, then holds them to their own definition. You take the meaning from them rather than handing them yours.

Now the second half, which is the better half. You find a clue that ties three words together beautifully, deliver it with a flourish, and your team confidently picks the one card belonging to the other side. Meanwhile PUMPKIN has been sitting there the whole time, obvious and unglamorous and yours for the taking.

Cases go the same way. Mine were rarely won by the clever theory. They were won because somebody checked whether the twenty minute observation period really ran twenty minutes, or whether the timestamps quietly say sixteen. That’s reading a document while the coffee goes cold, and it’s where the case usually is.

So if you find yourself in a jury box, the lawyer asking what a word means to you isn’t being nosy. He is trying to see your board before he hands you a clue, because that’s the only way any of it works.

And if you have never played Code Names, play it. Bring people who disagree with you.

EVENT HIGHLIGHTS

The Great St. Pete Cupcake Contest, Aug 29. Fifteenth year, noon to three at the Morean Center for Clay. Competitive baking taken far more seriously than the phrase suggests, and worth the twenty dollars on principle alone.

Gulfport GeckoFest, Sept 5. Beach Boulevard closes for the twenty sixth year, ten in the morning until eight at night. A costume parade, roughly two hundred vendors, and the least serious afternoon on the Pinellas calendar.

WHERE YOU’VE SEEN ME



Live forensic analysis on Court TV.

Commentary for Fox News Digital and the New York Post, and segments on AI and attorney client privilege picked up around the country. Reporters call when a case turns on the science.

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The breath machine prints a number to three decimal places, which makes it feel settled. Its software carries a ninety day warranty. I wrote a book about that, and about why sober people fail the field sobriety exercises every day.

For you it’s free. Email Rory@TheSafirLawyer.com with “send me the book” **and your mailing address**, and one goes out to you. No form and no follow up.



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What the Report Heard

BEFORE I WAS A LAWYER I SPENT A stretch in Envigado, a town just outside Medellín in Colombia, at a language school, failing at Spanish in public every single day for months.

I'd skipped the bar exam to do it. Two law degrees, no job, a one way ticket, and if there was a plan behind any of it I couldn't have told you what it was. I wanted to actually speak a language instead of conjugating verbs at a desk.

The school was called Colombia Immersion. The teachers there corrected me roughly once every nine seconds and never once let me switch to English to get out of a sentence. I lived out of a backpack, in front of people who were unfailingly kind about all of it.

What I got, at least at first, wasn't fluency at all. It was an ear.

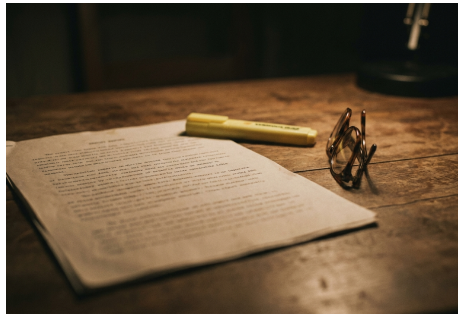
Spanish isn't one thing. Neither is English. Put an American, an Australian and a Londoner in a room and all three are speaking English, and not one of them is doing it wrong.

The Spanish I learned was paisa, the accent of Antioquia. They say vos down there instead of tú, and they pronounce the s with the tip of the tongue, the way they still do in northern Spain, which is where the first settlers came from.

Central Mexican Spanish holds its consonants harder than almost anywhere. That final s practically never softens, which gives it a real sharpness. What gets squeezed instead are the vowels in between, and most of all a vowel caught between two s sounds, until it shortens, goes quiet, and sometimes disappears.

Cuban Spanish traces back to southern Spain the way paisa traces to the north, and it treats that same s the opposite way. At the end of a syllable it becomes a soft h, so esos perros arrives closer to ehoh perroh. That is a rule, applied consistently, and not a shortcut. Different rooms of the same house.

Years later I had my first jury trial. A DUI. My client was Mexican, and his Spanish was careful and well articulated. What the State offered as proof of impairment was one line in the officer's report: his speech was slurred.



One word in one report, written in good faith, meaning something other than it appeared to mean.

I read that word and something went off in the back of my head.

The officer was a good officer, and I want to say that plainly, because the story doesn't work if she's the villain, and she wasn't. She was Cuban American, raised on the Spanish that turns that s into an h. At eleven at night she heard a nervous man compress his vowels the way central Mexico always has, heard something clipped, and wrote the word that came to mind.

So at trial I asked the officer about dialects. Not aggressively, and not as a trap. I asked whether Spanish sounds the same everywhere, and she said no, of course not. I asked whether she grew up around Cuban Spanish, and she agreed that she had. I asked whether she knew how my client's dialect handles the s inside a word, and she told the truth, which was that she didn't.

Then I asked her about diphthongs, which is the word for two vowel sounds sharing one syllable, so the syllable glides instead of sitting still. Spanish is full of them. Tiene. Cuando. Seis. To an ear raised on a different set, a run of gliding vowels doesn't sound crisp. It sounds like a man running his words together.

None of it was dramatic. No gasp, no moment where the case turned on its heel. Five questions and a witness answering them honestly. But by the end the word slurred had stopped being a fact and gone back to being one person's impression of a sound she hadn't heard before.

"He dug in on a complicated stop issue on a DUI. Very impressed with his research, presentation, and of course the results."

JASON M., GOOGLE REVIEW

Here is the part I still think about. During jury selection one man in the panel mentioned that he spoke Spanish. He ended up on the jury, and the jury made him foreman.

The verdict was not guilty. What the jury never heard, because telling them would have ended the trial on the spot, was that my client was facing deportation over it. Without that badly organized, mildly irresponsible year of my twenties in a small Colombian town, I would have read that report and seen nothing at all.

I've asked a version of the same question in every trial since. What does that word mean to you? Not to the officer, not to the lab, not to whoever typed the form and never met anybody involved. To you, sitting there.

People assume a defense lawyer's job is to argue. Most days it's closer to translation. Somebody writes down what they honestly believe they saw, in the words available at eleven at night on the side of a road, and by the time it reaches a courtroom four more people who weren't there have read it, every one of them in their own accent.



Six of them in nearly every Florida case, and not one hearing the same word the same way.

None of this makes an officer a liar. Most are doing a difficult job in the dark with a form in front of them that wants one word. The form has no box for "this man is speaking a dialect I haven't heard before," so the closest available word goes in, and it carries a meaning nobody intended.

It's a slower way to try a case. It's also the only way I know to keep somebody's life from turning on a single word that two people heard completely differently, in good faith, on the same night.

The Case That Made Me Quit

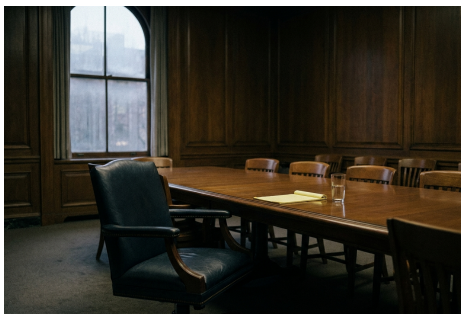
I SPENT A STRETCH OF MY CAREER ON the other side of these cases. It's the part of my resume that surprises people.

After my years as a public defender I went to a firm that did insurance defense work. If you have never had reason to think about how that side runs, the arrangement is simple. Somebody gets hurt. They make a claim. The insurer doesn't want to pay it, or doesn't want to pay all of it, and it hires lawyers. I was one of the lawyers.

I was good at the work, and I would rather say that than pretend I was quietly troubled from day one. There's a real pleasure in being handed a stack of documents and coming back with the one line that doesn't fit. And after the public defender years, where the budget is whatever the county decided it was that year, having real money behind a single file was a novelty. It wasn't better lawyering. Some of the best trial lawyers I know are still in that office. It was better funded.

Then I was sent to take a deposition.

The woman across the table had lost her father. He had been in a nursing home, and the family had brought a claim about how he was cared for. My job that day, stated plainly, was to find the place where her account didn't line up. Every claim has one. Memory is unreliable, people compress timelines, and a grieving daughter recalling the worst months of her life will say Tuesday when she means Wednesday. You find the Tuesday. You mark it. Later, somebody uses it.



I sat there with my outline in front of me and understood what I was being paid to do.

So I asked my questions, and she answered every one of them, and I kept waiting for the thing that didn't fit.

It never came.

She wasn't exaggerating and she wasn't building a case. She was a person describing, in order, what had happened to her father, and she was doing it carefully because getting it right mattered to her. At one point she apologized for not remembering a date precisely. She apologized to me.

I understood, with a clarity I have had about very few things, that I was the person in that room being paid to make it worse.

I lasted six or seven months.

(Six seven. If there's a middle schooler in your house they just yelled it at the ceiling, and you have my sympathy. It was explained to me twice and I still don't have it.)

None of this is a swipe at the people I worked with. They were excellent lawyers and good company, genuinely smart, and the senior associate I worked under taught me things about documents and depositions I still use every week. My problem was never them. It was the practice area. A system where nobody ever tests a claim isn't one anybody should want, and claims do get exaggerated. I've seen it. But I couldn't be the one testing that claim, on that day, against that woman, and once you notice a thing like that about yourself, you can't unsee it.

"I never felt like just another case number, because I was always shown individualized care, understanding, and empathy. He tenaciously fought for me."

STACY P., GOOGLE REVIEW

I remember the drive home more clearly than the deposition. I'd done the job competently, and that was the worst part, because it meant the problem wasn't my performance. It was the assignment, and the assignment would be the same next week, and the week after that.

So I went to a plaintiff firm instead, and a few years later I built my own.

There's a detail underneath this I don't usually include. My father was lost to de-

mentia and was cared for at home, by home health aides, in his last years. I wasn't thinking about him consciously in that deposition. I've thought about him every time I've told it since.

He's the reason I take nursing home cases seriously in a way that has nothing to do with the value of a file. People don't move a parent into a facility because they've stopped caring. They do it because they've run out of road, and then they spend years quietly auditing that decision, usually at about two in the morning.

Those seven months were the most useful of my career and I wouldn't repeat them for anything. I know exactly what a first offer means, because I was once the person handed the outline and told to go and test it. When a number arrives in the first thirty days, I know what that number is for, and I know it's not an estimate of what anybody lost.

And the pressure on a claim doesn't start with the firm handed the file. It starts a long way upstream. In the nineties Allstate paid McKinsey and Company, the firm that also advised Enron, to redesign how it handled claims. Good hands if you took the offer, boxing gloves if you didn't. A lawyer named David Berardinelli pried about twelve thousand five hundred of those consulting slides loose in litigation and published what was in them. There's a whole book about what was in them, and it deserves an issue of its own rather than a paragraph buried down here.

Every so often somebody asks whether I regret the detour. I don't. It taught me the shape of the thing I'm now on the other side of, and there's no shortcut to that. I would just not have wanted to stay long enough to stop noticing.

NOW TELL ME HOW I DID

Write back, or email me at

Rory@TheSafirLawyer.com, and pick

one: "Loved it, keep them coming." or "It

was all right." or "How dare you mail me such drivel." The third one gets

answered first. And if there is something you would rather read about next month, tell me that too.



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A MONTHLY NEWSLETTER TO INFORM AND ENTERTAIN

The Limit Isn't 0.08 for Everyone

EVERYBODY KNOWS THE NUMBER IS 0.08. Ask anyone at a cookout and they will tell you. For a driver under twenty one in Florida, the number is 0.02.

That's not a typo. One standard drink usually produces a reading between 0.02 and 0.04, so a single beer, one glass of wine, or in some cases mouthwash puts a nineteen year old over the line. The zero tolerance law, section 322.2616 of the Florida Statutes, never asks whether the driver was impaired. It makes the number itself unlawful, so impairment never enters the conversation.

Here is the part that surprises parents most. The statute says a violation of it is neither a traffic infraction nor a criminal offense, and that being detained under it is not an arrest. What it is instead is a suspension, handed down by the DHSMV rather than a courtroom, and no prosecutor has to decide anything for it to happen. Six months for a first violation. A year for a second. Refusing the breath test costs more than failing it: a year for a first refusal, eighteen months for a second.

At 0.05 or higher the license stays suspended until the driver finishes a substance abuse course at a licensed DUI program, at the family's expense. The course includes an evaluation, and for a driver

under nineteen the program reports the results to the parents.

So a family can be told the young driver wasn't charged with a crime, which is true, and take that to mean the matter is over, which it's not.

There are ten days from the date of the notice to ask the DHSMV for a review, and the review is narrow. Narrow doesn't mean hopeless. The statute itself supplies two ways one of these dies on procedure alone. Subpoena the officer to the formal hearing and the department must invalidate the suspension if the officer doesn't appear. Ask for the hearing and it must invalidate the suspension if the hearing isn't scheduled within thirty days. Challenging it can't hurt a criminal case running alongside it either.

Ten days isn't long, and August is when the driving starts again. If you know a family with a college age driver, this is the paragraph worth forwarding.

Every figure and deadline above was read against the text of Fla. Stat. § 322.2616 in August 2026. Full detail is at thesafirlawyer.com under DUI Defense.

THE PODCAST IS LIVE

Reasonably Safir is about Florida cases and why they turned out the way they did. Start with episode one, "The One Who Checks,"

which has no case in it at all. It's how I got here, including the parts I would rather leave out.

And there's a second show coming. My brother and I are starting the **Safir Bros Lawcast**, which is exactly what it sounds like. More on that in September.

A FEW RECENT RESULTS

A commercial driver kept his CDL after an arrest that normally disqualifies him for a year. A cannabis DUI dropped once the positive urine test was shown to prove nothing about impairment. And a 0.179 breath reading undone by an officer's own radio.

EVENT HIGHLIGHTS

Rays Homestand, Aug 28 to 31.

Padres for three, then the Mets, all at the Trop. Four nights of baseball indoors while it's ninety two degrees out, which is the correct way to watch it in August.

Labor Day Weekend, Sept 5 to 7, and the Bucs opener Sept 20.

Cleveland at Tampa Bay, one o'clock. Between the long weekend and the first Sunday of football, this is the most heavily patrolled stretch of the calendar. Sort the ride home out first.