

A compelling story of 50 years experience in private and public law. From defending craggy old miners in the mountains to arguing high-stakes cases in the Appellate Court. Not just a lawyer: World traveler, sailing instructor, humanitarian.

Anticipation: Life of a Small-Town Attorney

By David Hammer

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DAVID R. HAMMER
ATTORNEY AT LAW

ANTICIPATION

Life of a Small-Town Attorney



DAVID HAMMER

Memoir

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Anticipation

Life of a Small-Town Attorney

Introduction

Almost every morning I wake with the feeling that something special is going to happen. I don't know if it will happen today, but I have a strong feeling that life holds something special. I have had this feeling for many years, and I don't know if I am a little crazy or if it is just a zest for life. Yet there is something incredible about it, because in February 2025 I celebrated my 80th birthday ... eight decades! When I was a child, most people did not live to age 70, and those who did were ancient. Not me. My desire and ability to travel, experience different cultures, sail the world, and dance has not been tempered with age. I don't feel, look, or act my age. Each day presents new adventures, challenges, and opportunities. There is little I have not done. There is more I want to do.

The world crawled out of a global pandemic in 2023. My wife, Sue, and I cruised across the Atlantic in April 2024 and took a second cruise in October from Barcelona to Athens. I fly to my property in Cozumel, Mexico three or four times a year. I love traveling, salsa dancing, SCUBA diving, karaoke singing, and sailing. I lived on a sailboat on San Francisco Bay for about three years and now live with my wife in Rancho Mirage, California.

I don't know what tomorrow will bring. I fear growing old without experiencing everything life has to offer. My life is still a work in progress and as Winston Churchill wrote: "It is a mistake to look too far ahead. The chain of destiny can only be grasped one link at a time." My life has been a series of serendipitous events.

On December 31, 2022, I put my license to practice law on “Inactive Status,” and I thought I had retired from law. Three months later I received a phone call out-of-the- blue from the Presiding Judge of Alameda County Superior Court asking me to be the legal advisor to the Alameda County Civil Grand Jury for the remainder of fiscal year ending June 30, 2023. I flew to Oakland and met the Presiding Judge and the County Counsel. I accepted the position and reactivated my Bar license. I worked remotely for about three months and completed the contract with Alameda County in June 2023. In 2024 volunteered for the Civil Grand Jurors’ Association of California training grand jurors and their legal advisors throughout California. In the summer, I continued to volunteer at San Jacinto State Park giving two guided nature walks each Sunday.

This is not just a collection of my memorable cases from 50 years of law practice. It is a kaleidoscope true-life events and people. My friends and family asked, “who are your writing this for?” I am not sure of the answer, but it is not just for young lawyers or people who like real-life court drama. Everyone has a life story. This is mine.

Chapter 7:

Jane's Gold Mine

It was a cold snowy Tuesday in December 1989, and I had just returned from my weekly Rotary Club meeting. My phone buzzed and my secretary told me my 1:30 appointment was here. A little old lady with a face the color and texture of a walnut walked in. She was about 5 foot 3 inches tall, with gray hair, and her right shoulder was noticeably lower than the left. She was wearing old Levis, boots, a worn wool jacket, and carrying a huge carpetbag purse slung over her right shoulder. I don't know how old she was, but I would guess a weathered 65.

I stood when she entered, put out my hand and introduced myself. She smiled and responded with a sparkle in her eyes and a western twang, "My name is Jane and I own the Brown Bear mine." Jane told me how she and her then deceased husband had located the mine in the 1960s and had mined and lived on it since then. She said, "a fella name Steven White jumped my claim and I wanna hire you to get him off." When I told her that my usual retainer for mining cases was \$1,000, she reached into her huge carpetbag and pulled out an old leather gold bag and dumped the contents on my desk asking, "will that do?" There was about a pound of gold nuggets and a roll of 100-dollar bills. I peeled off ten bills and gave her back the rest, telling her she shouldn't be carrying it around. Jane responded, "Ain't no one going to rob me," and pulled an ancient 45 caliber revolver out of her bag, waving it around the room. When I asked if it was loaded, Jane smiled and said, "of course dear, you can't shoot somebody with an empty gun, can you?" Then I knew why her right shoulder was lower than her left. Her shoulder bag must have weighed fifteen pounds.

The case was scheduled for trial in May 1990 and during the winter I kept in frequent contact with Jane as we propounded and responded to discovery. There was no power or phone to her mining cabin on Deadwood Road and during the winter the snow often prevented her from driving 13 miles to the closest town, Lewiston, to pick up her mail.

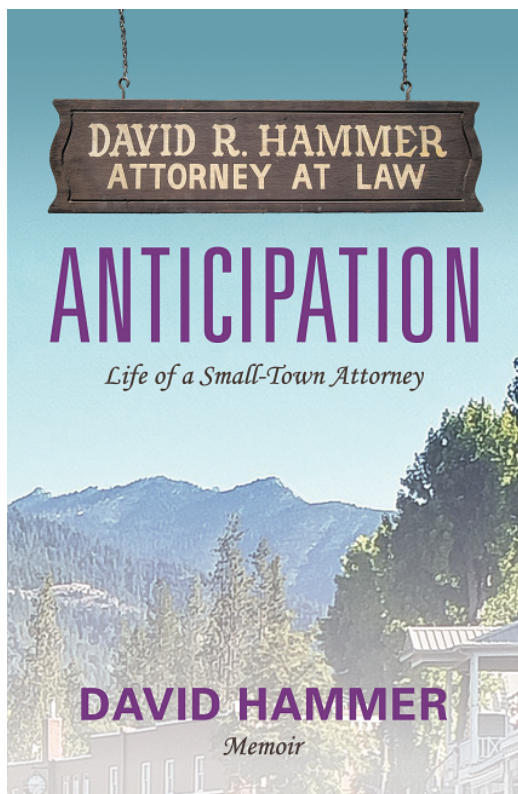
When Jane wanted to contact me, she would call the Sheriff dispatcher on her CB transceiver. One day in January when we had about 2 feet of snow on the ground, I received a call from the Sheriff dispatcher telling me that Jane had an accident and was in the hospital, but that she was okay. When I got to the hospital, Jane had her right arm in a sling, and obviously was in pain. She said she had been chopping wood and when she was carrying it into the cabin, she slipped in the snow, fell and dislocated her shoulder. She called the Sheriff on her CB and asked them to send help, but they said it would be several hours before they could get out to her on a snowmobile. After a couple of hours, she decided she could not wait for help, so she climbed onto the kitchen table, reached above her head, grabbed the rafters, and stepped off the table. She relocated her shoulder but passed out in the process. When the deputies arrived, she was lying on the floor, conscious but in a lot of pain.

The trial started as scheduled in Trinity County Superior Court. It is the second oldest active courthouse in California and along the back wall there are black and white photos of each of the presiding judges from 1856 to present. The wood seats for the public were installed in the 1800s and the courtroom reeks of history and the mining cases that have been tried there over the last 175 years.

The evidence in Jane's case was that at the time Jane and her husband had filed on the claim, the area had been withdrawn from mineral entry by the Bureau of Land Management because of the construction of the Trinity Dam and the need for material to fill the earth-filled dam. In 1989, years after the dam was completed, the Bureau realized the area was still withdrawn from mineral entry or mining activity. The day after the Bureau opened the area for mineral entry, Stephen White filed his claim in the courthouse and with the Bureau of Land Management. Mr. White's attorney had two agents from the Bureau's Sacramento office testify that the Bureau recognized Mr. White as the lawful mining claimant because at the time Jane and her husband filed their claim, the area was withdrawn from mineral entry. But justice prevailed and Jane won because the mining law provides that a miner who is in peaceful possession of the land and actively mining it has paramount rights over

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any adverse claimant who files on the claim. The purpose of the law is to avoid a race to the courthouse to see who could file first during the gold rush. Jane continued to live and mine the claim for several years after we won the case.



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