

## Making His Case

By tim dumas

William Taufic

“Most criminal defense attorneys want to be in the spotlight as much as possible,” says Mark Sherman, reclining behind a surplus-looking desk at his pleasantly ramshackle office in downtown Stamford. In a field noted for its swaggering egos, Sherman’s ego is conspicuously restrained. “I just want to keep my head down and do a good job for my clients.”

Could this possibly be the son of Mickey Sherman, the most high-profile lawyer in the state of Connecticut? Of course, it has always been Mickey’s saving grace that not only is he in on the joke of his exhibitionist nature, he’s usually the one making it. Who else, when defending men accused of illegally shooting ducks from the bow of a boat, would walk into the courtroom with rubber poultry feet sticking out of his briefcase? One suspects that Mark would recoil in horror at such a tactic. “I’m sort of a nerd and my father’s sort of a class clown,” Mark says. “It works for both of us.”



Mark Sherman, thirty-six, is athletically slender with dark curly hair and a relaxed but precise manner. He’s a marathon runner, a skier, a guitarist, a Cub Scout leader, and a mock trial coach at Stamford High School. Where his father boasts of graduating in the top 85 percent of his law school class (an amazing number of people don’t get it), Mark was student president of his elementary school, his high school and his law school. He says, “I’m not interested in a TV career. Not that that’s a bad thing.” Despite his lower-key approach, he does share with his father an enjoyment of working high-profile cases; indeed his own profile has risen so swiftly as to rival Mickey’s, at least temporarily.

### TAKING CENTER STAGE

Last year was Sherman’s breakout year. He handled his first capital murder case—that of Leonard Trujillo, accused of murdering Andrew Kissel at his rented mansion on Dairy Road in Greenwich in April 2006. Sherman’s 2009 was especially memorable for the sheer oddness of his caseload. He defended Internet sex “slaves” who tried to blackmail their millionaire “master,” Stephen Dent of Riverside. He went up against the formidable Roman Catholic Diocese of Bridgeport for allegedly retaliating against bookkeeper Beth D’Erario, who blew the whistle on Darien priest Michael Jude Fay’s profligate spending. “I mean, the guy was spending thousands of dollars on sweaters for his puppy,” says Sherman, who won an undisclosed settlement for D’Erario. “Burberry sweaters for his puppy!”

Sherman defended Janet Lee, “the foremost psychic in New England” (according to her), who in July claimed to have been attacked on Greenwich Avenue by rival psychics, raising the fascinating specter of psychic turf wars in our midst. Greenwich police thought Lee invented the story and arrested her for making false statements. Sherman’s defense of her shows his growing affinity for the pithy sound bite: “This is a woman who prides herself on being able to predict the future, not fabricate the past.” (In December Lee was granted a form of probation, which, Sherman hastens to add, is no admission of guilt.)

Toward the end of the year, the breakup of an illicit affair made headlines from here to New York and caused

Greenwich Hospital a major headache. The trouble erupted when Stephan Carolan, a prominent married surgeon, filed suit against his former lover, Jill Kent, for allegedly defaming him on the Internet. Kent then hired Sherman. “Carolan sues her under a John Doe name thinking, ‘I’ll keep this quiet,’” Sherman reports. That didn’t work; a judge disallowed it. What’s more, Kent’s scorching response alleges, among other things, sexual doings and dirty picture-taking in sterile parts of the hospital. Moral: Playing doctor while being a doctor leads to bad trouble. In November, Carolan resigned as head of the hospital’s ob-gyn department.

But it was the Kissel murder case that tested, toughened and ultimately defined Sherman as a major player. In April 2006 Kissel, a real estate developer estranged from his wife and facing prison time for fraud, was discovered bound and stabbed in the basement of his rented mansion on Dairy Road. In March 2008 Leonard Trujillo, twenty-one, of Worcester, Massachusetts, was arrested and charged with capital murder and conspiracy to commit murder; his cousin Carlos Trujillo, forty-seven, of Naugatuck, Kissel’s driver and man Friday, was arrested as the alleged conspirator.

In 2008 Sherman took on Leonard, the one facing a possible death sentence. During the case’s many strange convolutions last summer, Sherman was able to convince the state that it wasn’t Leonard who killed Andrew Kissel. “He wasn’t even there. I can say without a doubt he wasn’t there,” Sherman says. “He definitely participated in a plan to kill Andrew. But he bailed out of that plan.” So, then, Carlos was the killer? “Let me be clear about this. Neither I nor Lenny Trujillo knows if Carlos killed Andrew Kissel.”

That’s a defense attorney at work. Let’s grant, however, that the Kissel investigation was tricky from the outset, beginning with the question of motive. Kissel had numerous enemies, having swindled family members, investors, banks and other lending institutions out of millions. As Kissel’s world crumbled—he was due in federal court the week he was killed, and then to prison—Carlos Trujillo seemed to be his sole remaining confidante. Meanwhile, Kissel’s wife, Hayley Wolff, expressed a passionate hatred for him: “Do you know last night in bed I could actually see myself pummeling him to death and just enjoying the sensation of each and every shot...,” she wrote in an e-mail to Kissel’s sister.

In court papers, Sherman made the stunning claim that he had “uncovered a litany of facts, both direct and circumstantial, linking Hayley Wolff to the murder with which [Leonard Trujillo] is charged.” All this amounted to an eerie echo of another Kissel murder, that of Andrew’s brother Robert, drugged and bludgeoned by his wife, Nancy, in their Hong Kong apartment in 2003.

A judge shot down Sherman’s attempt to draw official suspicion to Hayley Wolff, and Sherman makes no comment about it now. But also in those court papers is Hayley Wolff’s own stated belief that Kissel would kill himself before going to the lock-up. She reportedly told the eldest of their two daughters that “she may not see Daddy again.” Broke and heading to jail, Kissel had one remaining asset: a \$15 million life insurance policy. “As far as my client knows,” Sherman allows, “Andrew Kissel wanted to commit suicide, and wanted to have it look like murder. But again, we don’t know what happened.”

For Sherman, the defense of Leonard Trujillo was largely successful; it even won praise from his opposite, senior assistant state’s attorney Paul Ferencek. “The relationship between a prosecutor and a defense attorney is always rife with tension,” Ferencek said by email. “Good lawyers, however, know when the facts of their case dictate a less adversarial stance. Mark found a way to simultaneously work with and against me, and this approach benefited his client at the end of the day.” What had been a possible death sentence for Leonard Trujillo could now be as little as seventeen years in prison, if he behaves himself.

Carlos Trujillo will stand trial for murder this spring.

### **FALLING FAR FROM THE FAMILY TREE**

Mark Sherman was born in Stamford to Judy and Mickey Sherman on June 18, 1973. (Mickey and Judy were amicably divorced a few years ago; today both are remarried.) “Mark is the most conscientious worker you’ll

ever meet in your life, and he's been that way since the first grade," Mickey says. "When we would go on vacation, we'd be on an airplane, and I'd look over to see how he and [his sister] Jamie were doing. Everybody would be sleeping and Mark would be doing his homework on the first day of Christmas vacation."

The first inkling that Mark was destined for a legal career came disturbingly early. "He was probably about seven or eight years old," Mickey recalls. "He'd gone to some kid's birthday party in north Stamford, and I picked him up: 'How was the party, Mark?' 'It was good, Dad, except the dog bit me.' 'The dog bit you? Are you okay?' 'Yeah, I'm fine. It didn't really break the skin. And the dog had all its vaccinations on October 15 of this year.' 'How do you know the dog had all its shots on October 15?' 'I asked to see the paperwork.'"

At Stamford High, Sherman's classmates voted him most likely to succeed, most likely to make a million dollars and most likely to have a nervous breakdown—this last because he took on so much adult responsibility. "He was never afraid of authority," Judy Jacobson, his mother, says. "When he was a senior, there was a big budget cut in Stamford public schools, and Mark initiated a walkout. Everybody in school walked out. He knew he was going to have to face the consequences, but that didn't bother him because he felt very strongly that teachers shouldn't have their salaries cut. They marched from Stamford High down to the Government Center and he made a speech." He was suspended for a day.

According to a 1990 article in the high school newspaper (of which he became editor-in-chief), Mark appeared headed for a career in journalism. He tackled his work with gusto. "Living with Mark is like living with the school's gossip columnist," Jamie Sherman is quoted as saying. "But overall, he's a great big brother, the best a girl could have."

Sherman graduated from the University of Pennsylvania in 1995 with an English degree, specializing in literature of the Holocaust. His interest in the subject stems partly from his wife Rachel's family history: her grandfather was a leader in the Warsaw Ghetto Uprising in the spring of 1943, and her grandmother escaped from Auschwitz and lived in a ditch for a year. Their fortuitous meeting in a displacement camp near war's end, Mark observes, led ultimately to the birth of Rachel, whom Mark met at college, and, carried further, to the births of their two young children. (Rachel works as a trusts and estates lawyer at Cummings & Lockwood in Stamford.) After graduating from Fordham Law School in 1998, Sherman went to work for high-powered firms in New York, notably Pryor, Cashman, Sherman & Flynn, where he concentrated on entertainment litigation. Criminal law did not appear to be in his future.

But in 2002 Mark and Rachel moved to Greenwich (today they live in Stamford) when Mickey, as he puts it, "conned Mark into helping me try the Skakel case." Michael Skakel had been charged with murdering Greenwich teen Martha Moxley in 1975; the long-unsolved killing remains the most notorious crime in Greenwich's history. In terms of style, father and son were a study in contrasts: Mickey a self-professed big-picture guy, Mark obsessing over details; Mickey unbeatable in a duel of sound bites, Mark editing himself as he goes along; Mickey an uncured ham, Mark an earnest intellect. Legally they complement each other nicely, and personally they get along well. "But I think if anybody knows the two of us," Mark says with a grin, "we're like night and day."

The Skakel loss was bruising to both of them. The buoyant Mickey fell into an atypical funk, believing the jury had convicted an innocent man for little more reason than instinctive dislike. Mark? He too believed the verdict was wrong. "That case sort of lit a fire under me to go out there and start building a criminal practice." Mickey never expected Mark to follow him into the dark, or darkly romantic, side of the business. "This was not a situation where I groomed him to follow in my footsteps," Mickey says. "If anything, I probably discouraged him, tried to encourage him to go with his cohorts from Penn into the money business and make hedge-fund money."

Instead, Mark Sherman represents a new, tech-savvy generation of lawyers who are (among other things) handling the burgeoning category of Internet crime. He defended a twelve-year-old Westport girl who took a

photo of a naked friend during a video chat and forwarded it to a couple of kids. “It got a lot of publicity, big national news, because she was so young and she was arrested,” Sherman says. “A felony charge against a twelve-year-old girl. It was an offensive picture, but she sent it to one or two friends, then it spread through the whole middle school. So she was singled out. Cyber safety is going to be a really big deal in the future.”

### **NOT ALL NOTORIOUS**

Sherman’s practice is unusually well-rounded. In addition to newsy criminal cases, there is the usual quotient of distinctly un-newsy civil stuff, including employment matters for the New York real estate giant S. L. Green. Why would they, with their choice of pricey New York legal representation, pick Sherman? “We hire lawyers, not law firms,” says Andrew Mathias, president and chief investment officer of the company. “Mark can litigate with the best of them, but with his engaging personality, we’ve found he’s been able to work through situations with whoever we’re not seeing eye-to-eye with and find common ground.”

Yet it will be the criminal cases that keep Sherman before the public, for both good and ill. On the one hand, ours is a crime-loving culture; we can’t get enough of it, so long as it doesn’t touch us personally. On the other hand, we are deeply ambivalent about criminal defense lawyers. Anyone who doubts this should remember the Greenwich High School fiasco of 2005. GHS invited Mickey Sherman, a town native, to speak at graduation, only to rescind the invitation when a parent or two complained, citing his defense of people accused of doing bad things, as if this were a personal fault.

Still, it can’t always be easy to take the unpopular side, can it? In order to do what he does, Mark Sherman suggests one must have a realistic view of human frailties, a view recognizing that even the most solid citizens can stumble. “I believe everyone can make mistakes,” he says. “Sure, there are some evil people out there. But ninety-five percent of the time you have good people who make a mistake, whether they steal, get in a fight and hurt somebody, drive drunk. Most people make one or two mistakes in their lives, and they deserve a second chance. And isn’t life all about second chances?”