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## DIVORCE TAI CHI MASTER

CARL MARCYAN: MAKING LIFE  
'A LITTLE EASIER' FOR CLIENTS



# CARL MARCYAN

## The Master of ‘Legal Tai Chi’ in Family Law

by Pat Milhizer



When handling high-stakes divorce cases, Carlton Marcyan occasionally sits across the courtroom from attorneys who like to play fast and loose with the facts.

“The hard part is dealing with that and getting the judge to understand what the reality is, and who’s the good guy and who’s the bad guy,” Marcyan says.

A senior partner at **Schiller, DuCanto & Fleck LLP**, Marcyan prefers not to fight fire with fire.

“Because those lawyers love to have the challenge. They love to have the name-calling,” Marcyan says. “You’re feeding into what they like to do. So you almost have to use reverse psychology, or what’s the martial art where you use their energy against them?”

It sounds like he’s referring to tai chi.

“Yeah,” he says, “legal tai chi.”

And the judges notice.

As a Lake County judge who spent most of her 27 years on the bench handling family law matters, Jane Waller has seen her share of combative lawyers who don’t conduct

themselves in a professional manner.

Marcyan isn’t one of them, she says.

“Some lawyers, when they appear in front of you, cannot refrain from talking over other attorneys, jumping in and being rude and just un-businesslike in the way they present their case. Carl is never like that,” says Waller, who retired from the bench last year and joined Schiller, DuCanto & Fleck earlier this year.

“He’s reasonable. He waits for the other person to finish their presentation before he speaks. Lawyers who operate off the seat of their pants are another pet peeve, and Carl is always prepared,” Waller says.

Marcyan, 54, serves as chairman of the firm’s Executive Committee, and, in addition to working on divorce matters, he handles issues that arise after a marriage is dissolved—such as paternity actions, grandparent rights, and guardianships.

### Chicago Roots and an Influential Uncle

Raised in a Polish family in Chicago’s Humboldt Park neighborhood, Marcyan was

the son of public employees.

His father, Thaddeus, was a city traffic engineer who became a project engineer for the Department of Housing and Urban Development. Helen, his mother, was a Chicago public school teacher.

As a youngster, Marcyan found a role model in his uncle.

Al Mazewski was involved in several city organizations, and he became president of the Polish National Alliance. Through that position, Mazewski represented a large ethnic bloc—also known as votes for local and national politicians.

Marcyan still remembers the day when former President Ronald Reagan visited Chicago during one of his terms and landed a helicopter within a few blocks of the Polish National Alliance headquarters. The president was there to see Mazewski.

Marcyan also got his first introduction to the law through his uncle. Mazewski, who passed away about 20 years ago, was a sole practitioner who primarily handled real estate matters at an office near the intersection where the streets of North, Damen and Milwaukee all cross each other.

“He was a personal hero,” Marcyan says about his uncle. “He was great to his family, and despite all his responsibilities and travels around the country and having to go to Washington many times to meet with whoever was in the White House, he always made sure he got home for family events,” Marcyan says.

“And when ethnic families have parties, it’s not like five people show up. It’s like 50 people,” he says.

When he was 10 years old, Marcyan moved with his family to the city’s Sauganash neighborhood. By the seventh grade, Marcyan began working odd jobs at a neighborhood bank, a job he would continue for many years.

He attended Loyola Academy for two years before his family moved to Northbrook, where he finished high school at Glenbrook South High School.

He started his college education as a pre-med student at Kalamazoo College in Michigan, but he transferred to DePaul University to pursue an accounting degree.

After graduating in 1979, he went to work as an auditor for Coopers & Lybrand, now known as PricewaterhouseCoopers.

After a year in that job, he attended The John Marshall Law School. Until he earned a law

degree in 1980, Marcyan kept working at the neighborhood bank that he worked at as a boy.

But he wasn't taking out the trash or sweeping the floors anymore. The law student was handling check investigations and responding to subpoenas for bank records that stemmed from civil lawsuits, criminal charges, or Internal Revenue Service actions.

Marcyán also worked during law school as a law clerk for the IRS; there, he was like the Shell oil company's "Shell Answer Man" from its 1970s-era television commercials.

Basically, his job entailed looking through tax publications to provide answers to unusual cases.

He didn't realize it at the time, but Marcyan's IRS work included answering income-reporting questions about lawyers and judges under investigation in Operation Greylord, the federal probe into case-fixing in Cook County that yielded nearly 100 indictments in the 1980s.

"They came in with general questions that didn't identify who the taxpayers were," Marcyan recalls.

After law school, Marcyan returned to Coopers & Lybrand to work in the tax department. But it wasn't long before he wanted to change course again.

"In the accounting profession, it's a lot of research, tax planning, tax compliance, properly filling out forms," Marcyan says. "But there's not a lot of opportunity to go to court. What I really wanted to do was litigate."

"Let's face it, in the world of law, the lawyers that are in court, they're treated a little different—with a little more respect because you're out there on the trenches and front lines battling it out," Marcyan says.

### He Knows How to Find Somebody's Money

In 1983, Marcyan joined Schiller, DuCanto & Fleck. There, he had mentors in the partners who make up the firm's name: Don Schiller, Joe DuCanto, and Charlie Fleck.

Marcyán found a niche in divorce law, where his knowledge in financial, accounting and hidden-asset issues proved useful. In other words, he knows how to find somebody's money.

"Every day is different," Marcyan says. "You never have the same day twice. More so as an associate, you walk in thinking you're going to do ABC. And you end up doing XYZ."

The firm represents wealthy clients, and they're usually distraught when they first sit down to discuss their divorce.

"They want to understand what is going on, what will happen," Marcyan says. "And all of them to some extent or the other are trying to establish some control over their lives."

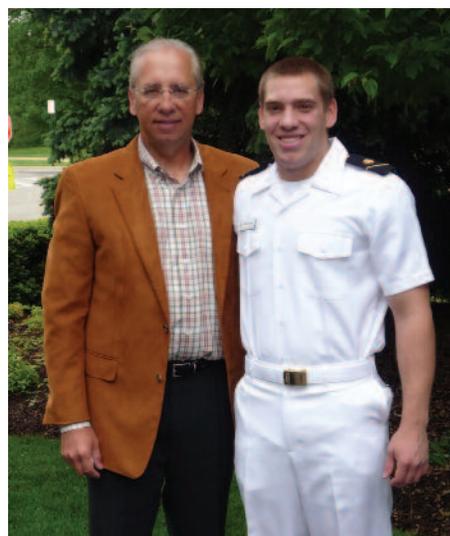
"Clients can feel out of control," Marcyan says, "so part of what I view my job as is not

only to provide them legal counsel but to make life a little easier for them as they go through this process."

Marcyán says that his courtroom style is to stay calm and collected.

"The vast majority of judges really respect a lawyer who knows what the case is all about," Marcyan said.

"It doesn't happen that you show up in court, say some wonderful [stuff], and you win," Marcyan says. "You have to understand the case, know relevant law, and anticipate what the other side is going to come up with."



Marcyán proudly sees off his son Colt on the morning of Colt's departure to Marine Corps ROTC at Norfolk, Virginia, in May.

His practice, Marcyan says, is a reminder that spouses have to be honest with each other.

"And you have to have communication. That's an easy thing to say; it's harder to deliver," Marcyan says. "And you need to make time for yourselves and not allow the two of you to drift apart."

Marcyán has been married since 1986 to general practice attorney Ana Cusack Marcyan, and they have three children: Maggie, 21; Colt, 19; and Baron, 17.

Baron was the first baby born in Chicago on New Year's Day in 1992. The boy was born with autism, and Marcyan says his son's condition has taught him how to be more empathetic toward and patient with people who have mental or physical disabilities.

"Your antenna is raised to those around you who are disabled. And you recognize when you go out to restaurant hotels, they hire a lot of disabled adults," Marcyan says. "Unless



Go Cubs! At the Illinois Judges Association "Cubs Rooftop Outing" in September are, from left, Eileen Schiller; her husband and Marcyan's law partner, Donald Schiller; Marcyan's wife, Ana; and Marcyan.

you recognize that, you think these are people who don't belong working there, but it's great that they are there."

### Let Freedom Ride

In his spare time, Marcyan enjoys riding motorcycles. To explain his hobby to non-riders, Marcyan says every time he gets on a bike is like the feeling students have on the last day of school.

"You get a feeling of just freedom and independence," Marcyan says. "You're anticipating taking a ride, whether it be a short ride or long ride, and you hop on there, and other than the traffic flow, nobody can bother you."

"You can go wherever you want, ride as long as you want," Marcyan says.

A road captain for the Harley Owners Group chapter that's based out of a motorcycle dealership in Libertyville, Marcyan plans trips for 30 or 40 members of the group at a time. There are more than 400 total members, and Marcyan is pretty sure that he's the only attorney in the bunch.

"The Harley groups are really a cross-section of people. You might have some doctors, business owners, some folks that are truckers. And they like to ride...it's a little bit of everybody," Marcyan says.

The bikes help riders get along, no matter their social or professional backgrounds.

"It's the common denominator. Everybody enjoys riding; they like traveling," Marcyan says.

"Outside of this context, you probably wouldn't have, other than maybe sports or something like that, a lot in common. Here, there's a big safety concern, and you've got to be a decent rider to ride in the group. So there's a confidence and respect you have for each other, and that breeds friendship, camaraderie," Marcyan says.

Marcyán's motorcycle hobby started when he

was a teenager and he rode mini-bikes. After buying a Honda motorcycle from a client about 10 years ago, Marcyan started riding again.

Shortly after that, he bought a 2002 Harley-Davidson Night Train.

He's also president of Top Cats, another motorcycle riding group, and Marcyan plans the group's annual trip to Sturgis, S.D. for the largest motorcycle rally in the world.

Last August, the group made the trip in three days, leaving from the northern suburbs for Mankato, Minn., then to Pierre, S.D., then to Rapid City, S.D. before heading into Sturgis.

"It was great. The weather was a little cooler than normal, but I think that was true everywhere," Marcyan recalls.

For motorcycle riders, hills and curves beat a straight road any day.

"The feeling when you hit the crest of a hill and it drops—some people don't like that, but bikers do. You really feel what's going on and you feel that exhilaration," Marcyan says.

Locally, Marcyan prefers to ride on Lake Shore Drive, especially early in the morning when the sun is rising.

Other favorite spots include Kettle Moraine in Wisconsin; the Smokey Mountains in Tennessee; Blue Ridge Parkway in Virginia; and U.S. Route 66 out to California.

Compared to driving a car, the bike lets him "really pick up the temperature, the changes, the smells, the environment."

"Or the ma-and-pa restaurant on the corner that's making breakfast...and the aromas of the plants that are growing. You really feel like you're more part of the environment," he says.

Riding also generates some legal business for Marcyan because he inevitably meets clients through the motorcycle clubs.

One of Marcyan's good friends says the motorcycle provides an outlet from the demanding workload in divorce cases.

"If you get into family law, it is very depressing," says Mike Brennock of the Law Office of Michael W. Brennock. "You pick up the phone, and you got the wife or the husband, they start telling you all about the personal things, the finance issues."

Brennock has known Marcyan since 1968, and they both worked at the Bank of Lincolnwood.

"He has extreme integrity; he has extreme ability; and he's highly motivated. He's very disciplined. He does a lot of things a lot of us don't do after 50, like exercising and riding," Brennock says. "Most of the guys in our ilk are pot-bellied and grey-haired."

### Getting Involved Outside the Office

In addition to his leadership role with the biker groups, Marcyan also served as president of the Advocates Society, the Polish-American

bar association. He held the title in the late 1980s and encourages young lawyers to get involved in bar groups.

"When you're a young attorney, going into law is a very threatening environment because you don't know the people. You don't know the judges; you don't know the other lawyers; and it's brand new," Marcyan says.

Joining bar associations, Marcyan says, gives members access to other attorneys with the same level of experience, senior attorneys, and judges.

"Then you walk into a courtroom, and there's the judge you met several weeks ago," Marcyan says. "You're not expecting any favors, but it

does go to court, everybody is fired, and the parties have to start over," Marcyan says.

Though alternative dispute resolution is cheaper than going to trial, the prospect of saving money is not the main reason that parties go that route, Marcyan says.

"The primary motivation is to allow spouses to go through this process without ending up as life-long enemies. Going to trial, if there's discord, a trial will make any kind of relationship irretrievably broken. And you have kids involved, so that's not a good thing," Marcyan says.

"With collaborative law, the possibility to maintain civil relationships between parties is much greater."



Riding in the Rolling Thunder Motorcycle Rally in Washington DC this past Memorial Day weekend, Marcyan waits for his turn to pull out of the Pentagon parking lot.

adds to a tremendous amount of civility. People will respect each other more because you're not just some anonymous person."

"There's all this talk of a lack of civility, and a lot of it is because many lawyers don't get involved in bar associations. And judges have some trepidation of joining the groups, and it's counterproductive. It's much more productive to have everybody know each other and respect each other as a result," Marcyan says.

Along with his active litigation practice, Marcyan is a trained attorney through the Collaborative Law Institute of Illinois. So he's prepared to handle alternative dispute resolution outside of court.

"Litigation costs are notorious, and there are reasons for that—preparation, especially in these complicated cases to win for your client—but in those instances where you don't have to go trial or you find the parties want resolution outside of going to court, mediation is a very popular method," Marcyan says.

Collaborative law has built-in incentives for the parties to avoid court altogether.

"The parties make a written agreement that they will not go to court. And if somebody

James Feldman of Jenner & Block LLP has faced Marcyan in courtroom litigation and in collaborative law cases. Feldman praises Marcyan's ability to handle sophisticated financial matters in and out of court.

"I would say that he is very capable of shifting his approach easily between the litigation mentality and the collaborative approach," Feldman says.

"He's very bright, yet down-to-Earth and practical. He's a tough and aggressive litigator but civil, courteous, and professional at the same time," Feldman says.

Marcyan, Feldman says, will be assertive to meet a client's interest, but he also listens to the other side's viewpoint.

"He is honest and straightforward," Feldman says. "It's important to know that you can rely on information that someone is giving you. You have to be able to rely on each other's word...or the case will not go well."

"It goes much easier for the clients, and it's much better for the clients, if the lawyers can count on each other's word," Feldman says.

"And I can always count on Carl's word being his bond." ■