

How to be desirable (and in the public interest)

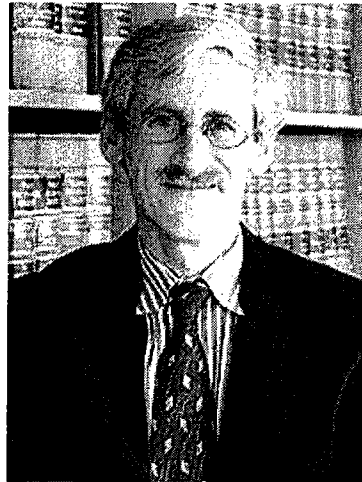
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By *ANDREW H. BAIDA*,
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The parenthetical in the title of today's article is not an afterthought but rather my subtle way of letting the reader know that, yes, this is still an appellate practice column and that while today's legal advice will talk about how to be sexy and provocative, it will be strictly in the sense of writing a certiorari petition. It should be obvious just by looking at my picture to know that I would not be offering advice about how to be desirable in any other sense, but, then again, my wife apparently saw something she liked — believe me, she didn't marry me for my money — so I thought I should clarify matters at the outset, just in case.

Unfathomable as it may seem to some of you, the mere act of losing does not make your case desirable and in the public interest for the Court of Appeals to review. Maryland's highest court is, with few exceptions, a court of discretionary jurisdiction and not an error-correcting tribunal, so to hook the big fish you'll need to use a little more bait than just the lure that a gross miscarriage of justice occurred in your case and needs to be fixed immediately.

Don't get me wrong. Profound legal errors can be a good thing. Well, they're not really "good" if you're on the losing side, but they can be a big step in the right direction of getting the Court of Appeals interested in your case. The key is how to dress up the loss in a way to make sure that you succeed in reeling in the big one.



Andrew Baida

There are a lot of ways to do this, but to give the discussion some focus I thought that I would use as a vehicle for addressing today's topic a cert petition that I filed in a case that the Court of Appeals decided last month, *Maryland Aviation Administration v. Noland*.

Clifton Noland was a paramedic employed by the Maryland Aviation Administration who had a rather stellar employment record, that is, until the early morning hours of March 30, 1999, when he was asked to transport to North Arundel Hospital a combative psychiatric patient, who was physically restrained with handcuffs and strapped to a stretcher after he was observed spitting and drinking water from the toilet in his holding cell at the BWI Airport police station. Somebody was obviously having a bad day.

