

Editor's Note: We are pleased to introduce a new monthly feature dealing with American justice by one of the nation's most eminent attorneys.

ONE AGAINST A BILLION

By Philip Boesch

A mind-numbing tragic end – Start with the young beauty, out there in every sense, with the rich older man. Add the scandalous theft of oil billions by bribery and forgery. Mix in sensational front-page death with uninformed legal opinions. Finish with a baby girl whose paternity is challenged in headlines, and you get media frenzy for the ages.

But the baby in this story is Elizabeth Ann, not Anna Nicole's Dannielynn. It's 1923. The elderly lover is Warren Harding, the childless 29th President of the United States, who watches his cronies steal the national oil reserves, gets his young beauty pregnant, and escapes impeachment by dying of "food poisoning." The scorned First Lady and her doctor, suspects in the poisoning, are also dead within the year. *The President's Daughter* becomes a best-seller... which leaves Elizabeth Ann for the media. Chased and hounded by the hordes, Elizabeth Ann stands up as tall as she can.

IN THIS CORNER, WEIGHING IN AT A BILLION STRONG, THE PUBLIC'S RIGHT TO KNOW...

Freedom of information is expected, memorialized in statutes, etched in stone. Reporters, stringers and paparazzi grab soundbites and pictures from here to Namibia. For decades, the Public's Right to Know has enjoyed its support in First Amendment case law. The Public's Right changed the rules of court, and now cameras are routine in state courts. In another leading case, the Public's Right to Know steamrolled Big Oil to discover price-fixing evidence. In still another, Sarah Jane Moore aimed to kill President Ford. When a marine tackled the assassin, the Public had a Right to Know, and so media reports outed the gay hero. The man's complaint against the L.A. Times was dismissed, because no one is safe from his celebrity. Even the hero's privacy stands no chance against the Public's Right to Know.

AND IN THIS CORNER, WEIGHING 15 POUNDS AND HOPELESSLY WONDERING WHY HER MOTHER IS NOT THERE...

Dannielynn, the daughter of Anna Nicole. So how can one little girl stand against a Public a billion strong and clamoring for tidbits every day?

My money is on Dannielynn.

Fifty years after Elizabeth Ann, the Supreme Court held in *Roe v. Wade* that our right to privacy is a fundamental constitutional right. We expect our privacy, with a passion no less than we reserve for our right to know. Backlash grows against media excess in recycling every intrusive detail. Even many who tune in must feel for the girl's right to grow up in peace.

A billion to one is nothing new here. When Anna's husband died, cut off from funds and left with bills, Anna filed for bankruptcy. It was Pierce Marshall who sued Anna in the Bankruptcy Court in 1996, he who made a Federal case out of it. Answering Pierce's nasty lawsuit against her, Anna won not one but two Federal Court Judgments. Her claims were never tried in any other court. In the Judgment

recently reinstated by a unanimous United States Supreme Court, Judge Carter wrote that the conduct of Pierce's agents against Anna was so outrageous – perjury and forgery and destroying evidence – that he doubled the award of punitive damages to \$45 million. Through the years of litigation abuse, Anna coped in a very human way with pressures from enemies with a billion dollars when she had none. That she survived such relentless pressure for so long belies a strength that few see in the video clips.

When justice is done, and a substantial Federal Judgment is collected, it will cost large sums to buy privacy against a billion eyes, even for some of the time. Ask Brad and Angelina.

“Through the years of litigation abuse, Anna (Nicole Smith) coped in a very human way with pressures from enemies with a billion dollars when she had none. That she survived such relentless pressure for so long belies a strength that few see in the video clips.”

So what of Elizabeth Ann? The Elizabeth Ann Guild lobbied awhile to eliminate the notion of “illegitimate” children, and then she disappeared. She married, moved to Glendale and raised 2 sons in obscurity. Decades later, when Harding's love letters surfaced, historians tracked her down to push DNA testing, to confirm for all time that she was indeed the President's daughter. “No thanks,” she said. “We've been doing just fine.” In 2005, Elizabeth Ann died peacefully at age 86. Peace is possible, Dannielynn will learn. Its path will be hers to choose.

*Philip Boesch successfully represented the Wall Street Journal in *Dow Jones v. Mobil Oil*, the Los Angeles Times in *Sipple v. Los Angeles Times*, 26 of 27 TV news anchors to get camera coverage in the *Hillside Strangler* case, the first of many, and he has authored three editions of the *Judges' Media Handbook on cameras in the courtroom*. Since 1996, Mr. Boesch has been lead trial counsel for Anna Nicole Smith in both Federal Court cases, obtaining the Judgments for \$475 million and \$90 million. The Boesch Law Group remains as lead counsel in protecting and collecting these Judgments. Website: boeschlawgroup.com; email: pboesch@pboesch.com*



Elizabeth Ann

Fast forward 84 years. The media now swarming Anna Nicole serves a billion people. Publications carry scoops at warp speed. Dannielynn is surrounded and unarmed for an unfair fight.