



No Ordinary Suit

Attorney **Fritz Clapp** and **Khurram Aziz** discuss life as the guardian angel of the Hells Angels' trademark rights

The day Cisco saw a group of Oakland Hells Angels roll into a gas station was the day he realised what he wanted to be for the rest of his life. He wanted to be one of them.

He didn't own a bike. He didn't even know how to ride one. But he'd learn if he had to.

Elliot "Cisco" Valderrama has been a Hells Angel for over thirty years. Today he is the president of the Angels' Oakland chapter, but in the early 1960s the part-Filipino biker earned his pay as a bricklayer, running with the Latino street gangs of East LA.

Becoming an Angel isn't easy. But, when Cisco approached Sonny Barger, the self-styled president of the organisation, he was given a simple task.

Sonny: There were some bikers we'd been trying to catch running around San Rafael in Marin County wearing phony Hells Angels patches... I was halfway being a smart-ass with Cisco when I told him, "Go grab one of those San Rafael patches and bring it to me".

Cisco and a few of his friends went to the house of the fake president of the fake San Rafael Hells Angels. When the president opened the door, Cisco punched the guy square in his face and went on to beat him senseless. When the guy's girl started screaming, he beat her too. Then Cisco made the guy call the remaining members of their fake club to the house, and

as they arrived, Cisco and his boys beat them all in the same brutal way and tied them up in the corner of the house.

Taking their fake patches, Cisco unceremoniously burnt them, all except the president's patch. He took this back to Sonny Barger.

The Angels have always dealt swiftly with fakes, phonies – imposters. That's one of the reasons why the patch is so important – it's a mark of authenticity.

In 1992 Marvel Publishing launched a new comic book called *Hell's Angel*. It was an unaffiliated publication featuring a female superhero. But it infringed trademarks the rebel motorcycle club had filed since the 1970s.

But there were no midnight beatings delivered by motorcycle thugs this time. The two parties reached an out-of-court settlement. Marvel agreed to change the name of the comic to *Dark Angel* and to donate \$35,000 to the Hells Angel designee: Ronald McDonald House Charities – for children. That’s all it took to settle the case.

“Sonny says in his autobiography, back in the sixties when they saw somebody wearing their mark, they just beat him up. But when it gets to the point of corporations, you gotta have lawyers,” says Fritz Clapp.

Fritz had been working as an attorney for 11 years when he took on the Marvel comic book case for the Hells Angels.

“It was clear to me that this case had already gone beyond a simple cease and desist letter. This was one that required a big conspicuous law suit.”

Fritz admits that had this been a conventional commercial case of trademark infringement, he would not have been so aggressive. But this wasn’t a conventional commercial case.

“They have very strong feelings about having control of the exclusivity of the use of their membership marks,” says Fritz. “It’s easy to get press when the Hells Angel bring a case, so part of what I was doing with Marvel was to educate the public and educate the movers and shakers that this famous brand was one that had a gatekeeper.”

Fritz isn’t the motorcycle club’s first IP counsel. The previous guy, who Fritz describes as an “ordinary suit”, had helped the club register the marks in the 1980s. That was back when the Angels had established themselves as a global organisation and were seeing their image voraciously exploited by non-club entities.

The “suit” helped get the club trademark protection, but he did little else. By the time he was ready to leave for a bigger corporate firm – the Hells Angels were not a client he wanted to be associated with. So the motorcycle club went out looking for another attorney.

Fritz had come to their attention through his work as a motorcycle lobbyist. At the time, in the early nineties, Californian bikers were in outrage over the state legislature’s attempts to make the wearing of motorcycle helmets mandatory.

For the rebel biker of Southern California, the law represented just another attempt to control his freedom.

Sonny: The government started getting nervous about motorcycle clubs chopping up their bikes. Laws were passed... As a club it became our personal mission, so we rode to Sacramento to fight their laws on the steps of the capitol building. It always brought out the news cameras when the Hells Angels helped lead the battle against helmet laws.

Fritz was also angry about the helmet laws. He even wrote the word “ANGRY” on a patch sewn onto the back of his leather motorcycle jacket.

Fritz had fantasised about owning a motorcycle since he was a teenager and as soon as he became an independent man, he bought one.

He was drawn to the freedom and individuality motorcycles represented. He admits he’d always had the urge to be the different guy and that’s the rebel spirit that motorcycles used to represent.

But despite this spirit, he was never interested in becoming a member of the Hells Angels.

“It’s not something to be taken lightly. It’s a huge step. It’s like a proposal of marriage – it’s a sort of death do us apart kind of thing. It’s not something you can just dabble in,” says Fritz.

“Recognising that, I didn’t aspire to be part of any club, let alone the most famous club in the entire world...” he pauses. “For that matter, I never thought of myself as being that good of a motorcyclist.”

Fritz was running a small private legal practice when Californian politicians began tabling mandatory helmet laws. He became involved with a lobby group called the Motorcycle Association, which of course was connected to the most important motorcycle club in California – the Hells Angels.

Fritz, on hearing that the Angels were looking for a permanent IP counsel, applied for the job. The man interviewing him was the notorious James “Guinea” Colucci.

Guinea, a close friend of Sonny, had recently been arrested and later released on charges of dealing in methamphetamines, cocaine, illegal weapons and explosives. He was eventually convicted for possessing three ounces of methamphetamine.

“How did I end up here?” Fritz wondered.

Fritz was born in Oklahoma, the “dust bowl” state bordering Texas and the Deep South. He trained in computers and during the late seventies he was working as a technician

in California’s burgeoning computer industry.

He was leading efforts there to run software on distributive computing models – a concept today referred to as cloud computing. Although cloud computing has gone on to dominate the IT industry, when Fritz pushed the idea onto management, he was greeted with blank stares. He gave up on the computer industry after that. In 1978 he decided to study law. He was 32 years old.

“It was enriching to get an advanced degree because I’m a learning enthusiast and I wanted to learn how things work and by that time it had become clear to me that an important part of how the world worked was the legal system,” says Fritz.

He’d developed an interest with IP law in the hope that he could combine those skills with his software background. But Fritz, who describes himself as a maverick in those days, wouldn’t join a big corporate firm. He opened a private civil practice and he says much of his IP specialty languished.

When he was interviewing for the job with the Hells Angels – always sticklers for formalities – Guinea asked him what he would do if somebody infringed the club’s IP.

“I would send out a cease and desist letter,” said Fritz.

“What would you do if they didn’t comply?”

“I would sue their ass”. And that was exactly the right response.

Fritz has never shied away from using the most aggressive means at his disposal to safeguard a client’s interests.

Back when he was running his own firm, Fritz was hired by a Hong Kong film studio to deal with a group of Vietnamese video shops which were selling pirate VHS tapes of Hong Kong films.

Fritz turned up unannounced with armed Federal Marshalls and confiscated the pirate videos. It’s a tactic he hasn’t yet had cause to use for the Hells Angels.

“It’s not hard for people to recognise that I represent a famous brand so these always tend to be one-punch fights,” says Fritz. “But the press reporting does as much good as the legal litigation because it educates the public and business community that the whole suite of Hells Angels marks is diligently protected.”

In the early days the Hells Angels were a loose collective of misfit bikers living and riding and smoking grass in the valleys and deserts of Southern California. They came together around their love of bikes, a hobby which identified them as a group. And identity was important.

Their modified Harley Davidson's, handle bars cranked to a steep incline with elongated tailpipes. The smeared grease on their unwashed jeans earning them the "filthy few" tag. And the unmistakable patch worn on the backs of their leather jackets.

The patch, known as the death head, is a skull with an aviator hat and wings. Only a full member of the Hells Angels Motorcycle Club can wear a death head. The club rules are unambiguous. The death head is always the property of the club. Any Hells Angel who gives up his patch without a fight is automatically voted out of the club.

"The patch as a symbol and as a physical possession has an unparalleled status to every member," says Fritz. "The club's membership goes to very great lengths to recover the physical patch when it falls into the hands of law enforcement. We have cases pending now with local charters attempting to recover the patch."

Fritz is meticulous in enforcing the Hells Angels IP rights. In 1992 he ensured that an advertising firm which used the Hells Angels name in a press release for leather jackets sent notices to the recipients that the name was a trademark belonging to the Hells Angels Motorcycle Club. Their ad didn't appropriate the Hells Angel name, mind you – just the press release.

Fritz is in his 60s. He has a bright red Mohawk and piercing blue eyes. He lives in a motor home in Southern California in a city called San Bernardino. It's a place that conjures up images of easy riders roaming east into the desert, out of the suburban landscape of SoCal's Inland Empire metropolitan area.

Fritz makes this journey in his motor home regularly, as he travels out of the valleys and across the Mojave Desert to Phoenix Arizona. That's where Sonny Barger lives.

Ever since Fritz joined the Angels, he has struck up a close professional and personal relationship with Sonny. He's toured with Sonny on his motorcycle in the US and in Europe. Fritz says that travelling with Sonny is like travelling with the pope. Wherever they went, thousands of bikers would ride with them, paying homage to this icon of the rebel biker movement.

When Sonny wanted to publish an autobiography, he turned to Fritz for help. Fritz acted as the producer. He hired the writers and had the book published in 2000. That was just the start.

Another book, this time a non-fiction guide to motorcycling by Sonny followed. The book,

Let's Ride, is subtitled *How to Ride the Right Way – for Life*, and has been acclaimed by instructors as an authoritative text on motorcycle safety.

"Sonny is actually a safety advocate," laughs Fritz.

Fritz is excited by all the projects he could do with Sonny. He even has an idea for a cable TV show on motorcycling featuring him. However, being the tech savvy guy that he is, he concedes that with the impact of video streaming and the internet, cable TV may no longer be a viable option.

Instead he's set his sights on a movie project based on Sonny's autobiography. The film is one year from production and will be helmed by renowned British filmmaker Tony Scott.

"This is one of the first periods in my life that I don't own a house, a car or a dog," says Fritz. "Right now is an experimental period of living on a production box (my motor home) with just a motorcycle."

"This particular phase of my life started three years ago when we were sitting on the edge of our seats waiting for Tony Scott to green-light the motion picture. We made that deal 10 years ago, Fox just paid for the rights and Tony, we're hoping, is going to make it his next film."

"I'd been living on Maui on Hawaii for the last three years of my mother's life, until 2008. I had been living over there and it took a while to adjust to no longer having the Maui property. She died during the financial crash, and it was impossible to get a property here – so I decided to get the motor home thinking wherever the movie gets made, I can be there."

Fritz feels passionately that his friend Sonny's story be told honestly and through Sonny's own words.

Before the biography, the most famous work on the Hells Angels was the sensationalist book written by gonzo journalist Hunter S Thompson in the 1970s. The Angels did not like what Hunter had to say. They branded him a coward and Hunter eventually took a beating for his words from an Angel called Junkie George.

"I don't want Hunter's take on the club to be the final word. It's important that Sonny not only tells his own story but that you can count on it as coming from his lips as the best and most definitive history of the club. If I'm able to do those things I can die a happy man. I mean, I'm not ready to die but I would be happy to have achieved those things."

His words are ominous. Fritz has had close brushes with death over the past 12 months. Last month he was diagnosed with non-

epileptic seizures, a condition that has left him struggling to maintain his lifestyle.

The first seizure was early in 2010. At the time he was waiting for a member of the Hells Angel, a close personal friend, who phoned Fritz in the middle of his seizure. All Fritz could muster was the word "help" before he slumped over the driver's wheel of his motor home. When the Angel arrived he called 911 and apparently the paramedics who came to the scene were sick taking Fritz off the bus because in his disorientation he'd turned on the propane stove without igniting it. The bus was filling with propane and Fritz was close to being asphyxiated.

"I'm just fortunate that none of this happened while I was riding a motorcycle," says Fritz.

The seizures have been a difficult readjustment for Fritz. He hasn't ridden his motorcycle for three months and he's promised his neurologist that he'll stay off his bike until June.

Fritz admits that he's reached a point where he's beginning to confront his mortality head on, but mortality doesn't phase him.

Inspired by his friend Sonny – Fritz has taken on a strength training programme in an effort to put on muscle mass. As he gets older, losing muscle has been a saddening experience, especially as it means his body can no longer handle the bigger motorcycles.

"Sonny is a great model on training. He has a gym in one of his outbuildings and he works out five times a week."

Sonny has sixteen-inch biceps and a 30-inch waist. He can bench-press 248 lbs. To put that into perspective, the average American man weighs 190lbs. Not bad for a 73-year-old.

Fritz is eager to reclaim his life and riding a motorcycle is an important part of it. He has no other options, because, like Sonny says: If I ever get too old to ride a motorcycle or enjoy a girl, then send me to prison because they treat the old guys nicer in there.

Author



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