

It's your move, Mr. Attorney

BY HALI WHITE
STAFF WRITER

"For me there are similarities between preparing for and winning a chess game, and preparing for and winning a trial," said Clearwater attorney Robert Persante, a chess master since 1983.

"There are certain things in chess, many hundreds of rules that have come down over the years that are similar to rules in trial practice. For example, in chess you should only attack from a position of strength. Meaning, you must have enough strength built up in one sector of the board to be able to attack. If you're weaker than an opponent and attack there, you will get crushed," said Persante.

The analogy also holds true in trials, he said.

"In trial, you go with your strengths and court danger if you attack where an opponent is stronger than you."

And just like he depends on strategy and tactics to win a chess match, Persante said he relies on both in the courtroom as well.

"Strategy is the overall plan — visualizing what you want to occur before the game starts. The same is true in trial. You play it through in your mind and visualize what's going to occur and how. But you have an opponent — which I've sometimes described as a paid heckler — who is going to try and set you off course. It's the same in chess. You have a plan but you also have an opponent who will do something and you have to change your plan to deal with what they're doing. That's tactics," he said.

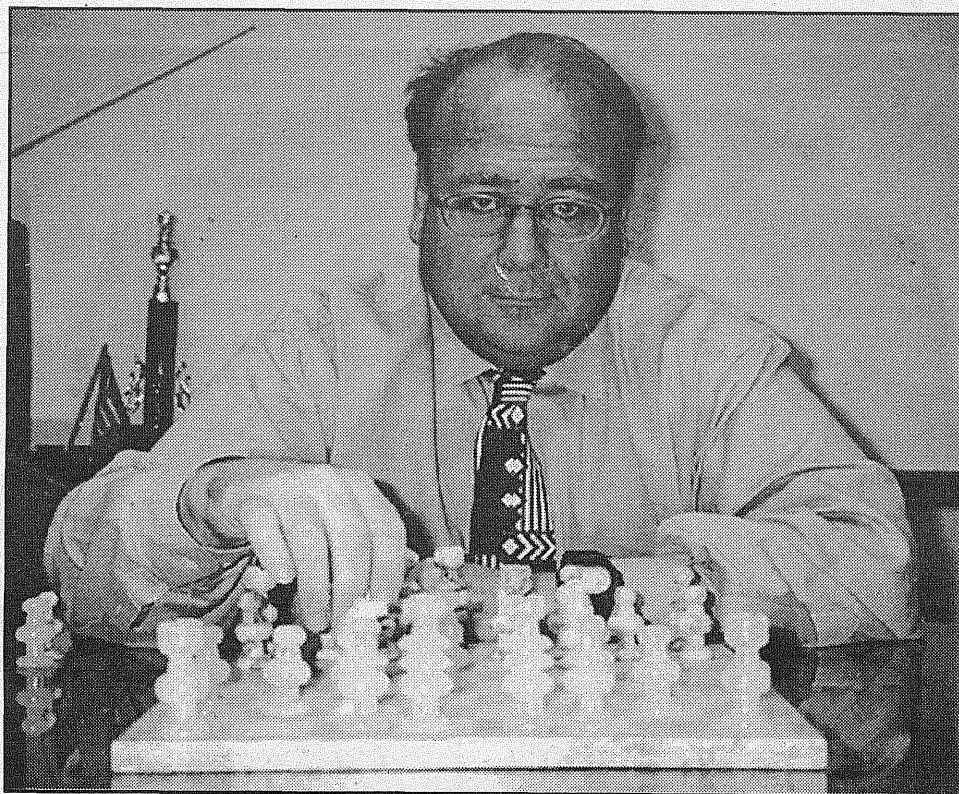
Persante's cousin Russ Genna, now a lawyer in Manhattan, taught him to play when he was 13. At age 15, Persante watched with interest the famous competition between Bobby Fischer and Boris Spassky, which aired on PBS in his home state of New York.

He did not, however, discover the "true world" of chess until he was an undergraduate at Syracuse University, where his roommate introduced him to chess tournaments and books.

"I later learned that there was more written about chess than all other sports combined," he said.

His love of the game grew so much that when he discovered that the University of South Florida had recently won the Pan-American Games in chess, Persante transferred to the school. He received his degree in philosophy there two years later, in 1979.

Following graduation, Persante took a year off and played chess before joining cousin Genna at California Western



Persante: chess and the courtroom.

OPHOTO BY HALI WHITE

for law school. ("Hey, unless you're willing to open a philosophy school ..." he said.)

Meanwhile, Persante continued to play serious chess and in 1983 earned enough points to qualify as a chess master, who are so named because they are among the top one and a half percent of rated players. They earn their titles by gaining at least 2,200 points on a scale that ranges from zero to 3,000.

"The average player in the country has about 1,300," said Persante. "To be master you need 2,200. Right now the world champion has 2,800. My rating is 2,283."

Points are awarded based on the level of the opponent's skill level. The higher the other player's ranking, the more points are awarded for his or her defeat. According to Persante, it takes most players at least 10 years of continuous play to earn the "chess master" title. Some children can do it in as few as five. "It took me eight years," he said.

Persante later earned the title of Life Master after he played the required 300 games as a chess master.

Persante is the first to admit that while there are similarities between chess and trial, there is one major difference — the importance of the outcome.

"In chess, there's just a game at stake; sometimes money and ego," he said. "In trial, peoples' lives, fortunes and rights are at stake — a little more at stake than losing your queen in a chess game."

However, one of his favorite cases

involved not the life and death of a client, but the life and death of an alien.

"I defended two civil cases in California, one in federal and one in state, where the plaintiff, Trimark Pictures, was claiming that the radio and television network that I represented, Peoples' Network, Inc., had violated their copyright on alien autopsy footage from Roswell, N.M."

The tapes in question were the subject of controversy and worldwide interest after Englishman Ray Santilly "somehow" obtained them from the Army Air Corps, members of which are shown supposedly performing an autopsy of the alien on black and white video.

Persante's defense depended on two things. First, under copyright estoppel, Persante said that if something is originally publicly said to be original and true, its owners can not later sue for infringement by saying that it is fiction.

Second, if the tapes were in fact U.S. Army footage, they could not be copyrighted.

"If it's government, it's not copyrightable," said Persante, who received calls from all over the world from people who wanted to know if he thought the tapes were fake.

Although Persante did think the tapes were a hoax — "In certain shots you can see a seam along the side of the alien and I don't know anything in nature that's born with a seam" — it would have hurt his case to argue that point.

"In this case, it would have hurt my case to prove it was a fake, because then

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it would be an original work of fiction and all defenses die," he said. "Trimark certainly didn't want to say they were fake. They were trapped. We moved for a summary judgement and they abandoned their case."

While Persante was forced to keep quiet about the questionable alien in the "autopsy" footage, he is quick to vocalize his displeasure with moviemakers who include chess in a movie scene without doing their research.

"It drives me crazy when they have a board set up with a move that would not be possible," he said. "When that happens, the rest of the chess nerds like me write into chess magazines and ask why the director ruined the movie."



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