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Boston litigator brings Marine Corps grit to court

■ PAT MURPHY

The phrase “once a Marine, always a Marine” describes Boston business litigator James E. Gallagher to a T.

An Executive Committee member and shareholder at Davis Malm, Gallagher’s path to the legal profession runs through the muddy training fields of Quantico, courts of military justice, and the chaos of the Iraq War.

A former active-duty Marine in the Judge Advocacy Division, Gallagher continues his service as a lieutenant colonel in the U.S. Marine Corps Reserve.

“Once you are made a Marine, it is always a part of you,” he notes.

Becoming a Marine always had an aura of inevitability for Gallagher. His father served in the Corps in the ’60s, and his uncle served prior to that.

“My great uncle was in the Marines during World War II,” Gallagher says. “My father’s grandfather’s brother served between the Civil War and World War I.”

Then there were the college pals. Gallagher played lacrosse at Colgate University alongside two teammates whose fathers had served in the Marines.

“The three of our dads would come to watch our games,” he remembers. “They’d sit together and share their stories. All three of us ended up joining the Marines. It was always something I wanted to do, even before college.”

Gallagher began his military career after his first year at Suffolk University Law School, when he entered officer candidate school in Quantico, Virginia.



Gallagher, his interpreter and Judge Walid Hassan in his chambers.

After being commissioned in August 2002, Gallagher returned to finish law school. He went on to serve on active duty from 2005 to 2009 after six months of basic training at Quantico.

Though he was on a path to serve in the courtroom as a JAG, his basic training included hours on Quantico’s rifle range learning how to use various infantry weapons.

“There’s a lot of leadership training, but there’s also a lot of training on basic infantry tactics and weapons familiarization,” Gallagher says. “You learn to shoot every weapon that you can carry – from a pistol to a .50-caliber machine gun. [We learned] convoy operations, basic patrolling, how to assault makeshift towns – you did everything.”



Gallagher meeting oldest child, 10-week-old Keegan, for the first time after returning from deployment.

When you graduate the basic school, every officer is equipped to be a rifle platoon commander.”

While stationed in Hawaii, Gallagher served as a judge advocate, prosecuting and defending troops in criminal court-martial proceedings. His trial experience as a JAG – which included trying everything from negligent homicide to rape cases – proved invaluable.

“As a judge advocate, you get immediate access to a courtroom,” Gallagher says. “In my first trial as a prosecutor, I had a three-star general on the witness stand. We try a lot of cases. There’s not a lot of discovery. We’re constantly arguing on our feet. Your client’s success or failure rests solely on your shoulders.”

In 2008, he was promoted to battalion judge advocate with the 2nd Battalion, 3rd Marines, which had been deployed to Iraq.

His role involved reviewing the unit’s operational planning to ensure missions were conducted in a manner that protected the civilian population in Iraq in accordance with international rules of war. He was also responsible for prosecuting detainees captured in battalion operations.

“At the time, the cases were being prosecuted in the Iraqi criminal courts,” Gallagher says. “Part of

my responsibility was to maintain [the detainees’] well-being. I had a full staff that worked at the detention facility. Ultimately, it was my responsibility to make sure they were safe and fed, and then build a [case] package for transfer to the Iraqis so they could prosecute the case.”

He also helped Iraqi tribal leaders in the standing up of local governments in the battalion’s area of operations.

“We helped the government of Iraq build a courthouse,” he says. “I helped local leaders gain access to funds from the U.S. or Iraqi government [to complete local projects]. I monitored how those funds were spent. I helped [local leaders] pick projects to get the government up and running.”

As a member of the Marine Reserves, Gallagher says it can be a challenge balancing his work at Davis Malm and his military service obligation, which generally entails up to six weeks a year.

“My opposing counsel and judges have been very respectful, allowing me to move things around when I need to,” he says.

Gallagher draws parallels to the Marine motto “Semper Fi” – always faithful – and the lawyer’s bedrock duty to represent clients zealously.

“[As a lawyer], you’re consistently dedicated to achieving the best outcome for your client, within the ethical rules,” he says. “You are ‘always faithful’ in the service, but obviously you don’t follow illegal orders.”

He also draws a direct line between his experience as a Marine and certain skills he brings as a litigator.

“A lot of what we do in the Marine Corps involves planning: trying to execute a plan and being nimble enough to adjust,” he says. “No good battle plan survives first contact [with the enemy]. You need to constantly adjust, whether it’s a strategy for a witness because of a change of circumstances or a strategy for an entire litigation plan. Litigation is a constantly changing battlefield.”