

The Kellie Crabtree Story—One Client's Efforts to Change the Law



TELLING THE STORY

By John M. McCabe

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Kellie Crabtree was driving home with her 2-year-old daughter on the afternoon of November 12, 1998. They were less than two miles from home, and Kellie was starting to think about what she was going to cook for dinner. As they started up the winding mountain road to their house, a North Carolina Department of Transportation dump truck, which was towing a 12,000-pound steamroller and driven by a person who was not licensed to operate it, suddenly came skidding around a curve and across the center lane. The dump truck slammed head-on into Kellie's mini-van.

The impact was thunderous, but it was followed by immediate and eerie silence. Kellie tried to move, but couldn't—the steel of her mini-van was crushed around her and holding her prisoner. She tried to turn her head to check on her daughter, but she couldn't. And then, the silence was broken; Kellie's daughter began screaming and crying from the backseat. To this day, Kellie describes those screams as the best sound she has ever heard, because they meant that her daughter was alive.

The emergency crews soon arrived and began to methodically dissect Kellie's van in order to free her. As this was happening, her father, who by chance was stuck in the ensuing traffic jam, got out of his car and walked up the road to see what was going on. As he approached the scene, he immediately recognized the crumpled van. He saw that a large white sheet was draped over its roof, and he thought his daughter was dead. He ran to the van, crying and praying and hoping. When he reached it, he paused and then pulled back the white sheet. He saw his daughter trapped in the car, crying—and he too was happy, because the cries meant that she was alive.

Kellie was airlifted to Charlotte, where she was treated for injuries that included a

sliced chin, broken left arm, cracked ribs, deflated lungs, snapped right thumb, crushed left hip, fractured right hip, dislocated left and right hips, broken pelvis, shattered left femur, splintered right femur, pulverized right kneecap, and an almost completely severed right foot.

While in the hospital, Kellie did not worry about paying for her medical bills. She knew the dump truck that hit her was owned by the State of North Carolina and she thought that the State—with all of its resources—would certainly pay for her medical treatment. Kellie was supposed to be in the hospital for three months, but she was anxious to go home and be with her children. So, true to form, Kellie pushed herself, and in less than two weeks, she was able to convince her doctors to let her go home.

However, soon after Kellie arrived home, the bills started coming in. The first bill she received was for \$95,000. More arrived each week. The bills soon totaled almost \$500,000, and then the bill collectors started calling, looking for payment.

Having not heard from the State, Kellie finally called the Attorney General's Office. Kellie learned—to her astonishment—that the State was not going to cover all of her medical bills. The assistant attorney general who was handling the claim explained that under the State Tort Claims Act, the largest amount the state would pay was \$150,000. When Kellie tried to explain that this would not cover even one-third of her medical bills, the assistant attorney general responded, "Under our law, that's all we have to pay you. That's all you will ever get. I'm offering it to you now and you need to take it. If you don't, you are going to feel real stupid when I show up on your door three years from now and I offer you the same amount of money."



Kellie Crabtree and her family

Kellie couldn't believe what was happening. She rejected the assistant attorney general's offer and began contacting lawyers. Each lawyer advised her to accept the \$150,000. Although Kellie understood what the law said, she was not willing to accept it. In Kellie's mind, if that was the law, the law needed to be changed.

Kellie began contacting anyone she thought might be able to help her. She wrote letters to the president, senators and representatives, the governor, and her local representatives in the North Carolina General Assembly. While everyone expressed sympathy, their responses were all the same—"The law provides that the state is only responsible for paying \$150,000, and

therefore we cannot help you."

Kellie wrote more letters and made more phone calls. Eventually, she got some people to help her: Trudi Walend, a rookie representative from her home county, and me.

With the help of the Academy, we set out to change the law. In early 2000, Representative Walend introduced a bill increasing the cap on damages under the State Tort Claims Act from \$150,000 to \$300,000. While this was less than Kellie's medical expenses, we feared that the bill would have no chance of survival if we asked for anything more.

In February 2000, Kellie came to Raleigh to attend the first meeting of the legislative committee that was assigned to study the

bill. As the meeting began, the committee members went around the table and introduced themselves. One by one, each legislator expressed, in one way or another, that he or she was against the bill.

After the legislative staff briefed the committee on the State Tort Claims Act, Kellie was given an opportunity to speak. She rose from her wheelchair and walked, as best she could, to the podium. For the next 20 minutes, she told her story. Kellie never expressed any anger or self-pity; rather, she expressed only gratitude—she was grateful to be alive and she was grateful that the committee would take the time to listen to her.

By the time Kellie was done, the atmosphere in the room had completely changed. The committee members, who were initially unreceptive, had been so moved by Kellie that they agreed to increase the cap—not to \$300,000, but to \$500,000, so that Kellie could pay all of her medical bills. The committee also specified that the increase would apply to all pending claims to insure that the bill would benefit Kellie.

Four months after Kellie's presentation, the General Assembly, acting on the unanimous recommendation of the study committee, passed "The Kellie Crabtree Bill," legislation to protect Kellie and others like her who are injured by the State's negligence.

Kellie has always thanked me for my help, but I am the one who is thankful for her. Her spirit, her energy, and her determination have inspired me. She has reminded me—and many others—why we became lawyers in the first place. She also reminded me that our law is based on the fundamental principles of fairness and justice, and that we should not blindly accept the law when it yields unfair or unjust results. We need to question, challenge, and, when necessary, change the law to make it fair and just. Kellie proved that one person can make a difference. ■