

It's a Wonderful Life

As some of you may recall, Jimmy Stewart played the role of George Bailey in the classic movie, "It's a Wonderful Life." If you haven't seen the movie, you should. George Bailey was a small town banker who ran into a string of bad luck, causing him to wonder whether life was worth living. Through the assistance of his guardian angel (Clarence), George was provided with a chance to see what the world would have been like without him. George learned that each person's life touches so many others' lives and the world was a better place because of all the people he had helped throughout his life.

George Bailey discovered what I believe many trial lawyers forget. Among all the negativity toward trial lawyers, some of us forget how trial lawyers have shaped our nation in so many positive ways and done so much to provide a safer, happier and more just world in which to live. It is worth looking at a few of these positive changes.

Civil Rights. Litigation has certainly played an integral role in the civil rights movement. In 1954, the Supreme Court in *Brown v. Board of Education* rejected the notion of "separate but equal" and ordered the desegregation of schools. In *Heart of Atlanta v. United States*, the Supreme Court ruled that businesses participating in interstate commerce were required to follow all civil rights legislation, thereby precluding a hotel from continuing segregation. This litigation was followed by legislation in the form of the Civil Rights Act of 1964, which precluded segregation or discrimination in public accommodations.

In 1995, a Ku Klux Klan group called the Christian Knights burned down a 100-year-old black Baptist Church in South Carolina, one of many church burnings during the 1990's. Trial lawyers at the Southern Poverty Law Center sought to hold the Klan accountable. The jury rendered a \$37,800,000 verdict against the Christian Knights. The Klan group was forced to give up all of its assets, including its land and headquarters. Consequently, the Christian Knights went from being one of the nation's most active Klan groups to being a defunct organization.

Defective Automobiles & Related Products. According to a report recently released by the national Highway Traffic Safety Administration (NHTSA), traffic deaths in the U.S. have dropped to their lowest level since 1949. Notably, the drop occurred even though Americans drove 21 billion more miles in 2010 than the previous year. History shows that litigation and the civil justice system have served as the most consistent and powerful forces in heightening safety standards, revealing previously concealed defects and regulatory weaknesses and deterring manufacturers from cutting corners on safety for the goal of greater profits.

Toyota. Due to substantial pressure caused by trial lawyers filing suit against Toyota on behalf of persons injured and killed by defective accelerator pedals and defectively installed floor mats, Toyota recalled a record number of vehicles last year so they could fix the problem and make their vehicles safer to drive.

Firestone. Defective Firestone tires on Ford Explorers took the lives of at least 271 people and seriously injured many others before the company issued the largest tire recall in history. During discovery, internal company documents revealed that the company had known of the deadly tire separation and associated rollover problems for years but had decided to hide the problem

by Joel R. Bryant



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rather than fix it. But for trial lawyers and their unrelenting pursuit of justice, the recall would not have happened and many more people would have died or been seriously injured.

Ford Pinto. The Ford Pinto had a defective fuel system design. The result was that the car would explode and burst into flames when involved in rear-end collisions. Although Ford was aware of the problem and had access to a new, safer design which would cost \$11.00 per car, it did not redesign the fuel system. As a result, numerous people died and others were maimed in the fiery crashes caused when the Pinto was hit from behind.

Lawsuits followed. During discovery, it was determined that although Ford knew of the problem and knew the new design would likely result in 180 less deaths, it decided not to redesign the fuel system because it deemed \$11.00 per car too expensive. As you might imagine,

juries in those cases were outraged and their verdicts reflected that. The end result was that Ford stopped selling the Pinto and automobile drivers immediately became safer.

In addition to the above, seat belts and air bags, products that have saved many lives and prevented many serious injuries, would not be standard on cars if it were not for litigation demanding safer vehicles.

Medical Errors. As many as 98,000 Americans die every year from preventable medical errors and countless more are injured. To put this in perspective, if the Centers for Disease Control (CDC) were to include preventable medical errors as a category, it would be the sixth leading cause of death in America. Trial lawyers, through the civil justice system, are the only effective way to hold hospitals, doctors and insurance companies accountable for preventable medical errors. Six percent of doctors are responsible for nearly 60% of

all medical negligence and the civil justice system is the only effective means for holding them accountable.

Other disciplinary mechanisms are woefully inadequate. For example, State medical boards are supposed to discipline doctors who consistently violate standards of care. However, two-thirds of doctors who make 10 or more negligence payments are never disciplined at all. Hospitals are on the front lines of patient safety, yet nearly half of all U.S. hospitals have never reported a disciplinary action to the National Practitioner Databank since its creation in 1990. Hospitals and even entire medical fields have reformed dangerous practices because of the civil justice system.

Elder Abuse. As many as 1.5 million seniors are abused every year, yet experts believe that for every case that does get reported, five more go unreported. Regulatory authorities

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have been largely ineffectual in preventing elder abuse or punishing the wrongdoers. Instead, trial attorneys have proven to be the most effective representatives of abused seniors. By holding nursing homes financially accountable for the injuries and deaths caused by their negligence, trial attorneys seek to force nursing homes to provide proper care to America's frail, vulnerable seniors.

Dangerous Toys. As a result of litigation on behalf of children killed or maimed by dangerous toys, many unsafe toys have been taken off of America's shelves. Examples include the many toys with lead paint — particularly dangerous because little kids often put their toys in their mouth; lawn darts — users had over 6,700 injuries and 4 deaths; Magnetix toys — they contained small, powerful magnets in plastic parts which were easily broken open and thereafter ingested by infants when found on the floor of their home. Unfortunately, in most of the foregoing instances, the **manufacturers had received many complaints about the dangerous propensities of the toys and did nothing about it until faced with litigation on behalf of the victims.** This

is the key — the manufacturers do not respond to complaints. It takes a lawsuit and adverse publicity and large verdicts to get their attention.

Environmental. Among the most notable cases is that of *Anderson vs. Pacific Gas & Electric*. Through litigation, it was discovered that PG&E dumped 370 million gallons of a cancer causing chemical known as hexavalent chromium ("chromium 6") in unlined ponds in Hinkley, California. The poison then got into the town's groundwater, thereby causing many deaths and injuries. Rather than accept responsibility for the harm it caused, PG&E tried to cover-up the problem. Fortunately, through litigation, the truth was discovered. Eventually, after a lengthy legal battle, PG&E agreed to pay the approximate six hundred plaintiffs \$333 million in compensation for the horrors and diseases they suffered, to never use Chromium 6 again and to clean up the environment around Hinkley.

Clergy Sexual Abuse Cases. Trial Attorneys in San Diego and Los Angeles helped secure a record \$660 million settlement from the Los Angeles Archdiocese on behalf of more than 500 people sexually

molested by priests when they were children. As was learned during discovery in the case, Roman Catholic Church leaders had tried to cover up the sexual abuse. Rather than try to help the victims and report the molesters to the authorities, church leaders had shuffled priests guilty of sexual abuse from parish to parish where they sexually abused more and more children. But for the litigation, the cover-up would have continued and more children would have been sexually abused. Hopefully, the settlement also provided some reconciliation and resolution for the victims of the sexual abuse.

I could continue on and on about the ways in which trial lawyers have made the world a better place, but I won't. Be happy you have the opportunity to do good every day and take pride in the fact that you have chosen to use your talents and skill to improve the world around you one client at a time. And don't forget to mention some of these cases that make such a difference for everyone, when talking about the practice of law with your neighbors, associates, friends and clients. **TBN**

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— *McClure v. Donovan* (1947) 82 Cal.App.2d 664, 666



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