

Why We Do What We Do

by John H. Gomez

I'm writing this month's column the day after Christmas and three days after receiving a jury verdict against Starbucks for my brain-injured client. The case was a difficult one and could have gone either way. That justice prevailed certainly made the Christmas weekend nicer for me and my family. It changed his family's life forever. It got me to thinking about why we do what we do. And so, I decided to write about it.

My client, Anthony Zaccaglin, was a 48-year-old father of two the day he slipped at Starbucks. Married for 22 years, he was a chiropractor and physical therapist. He loved being a doctor. He loved being a husband and dad. When he fell and hit his head, he was embarrassed. He brushed things off. He thought he would be fine. He drove himself home but kept getting worse. He had a headache, he was dizzy and nauseous. A doctor the next day diagnosed him with a concussion. His wife Lisa found him alone in a dark room crying later that week. "I'm not right," he told her. She had never seen him cry before.

The months and years that followed were a nightmare to Tony and his family. Doctors told Tony that he had a brain injury and could never work as a chiropractor again. They sent him to a brain injury rehabilitation program. He and his wife drove more than 25,000 miles to doctor and therapy appointments. With two kids in college, money ran out fast. Soon, Tony and Lisa were borrowing from friends and family. Their elderly parents drained their life savings. The family was literally on life support by the time of trial.

Starbucks never offered them more than \$50,000 until just before trial. A month before trial, Starbucks issued a final Section 998 "Offer to Compromise" for a total of \$110,000. With medical expenses to date of more than \$200,000, litigation costs of more than \$250,000 and a career destroyed, that obviously wasn't going to be enough. At trial, Starbucks doctors and its lawyer suggested that Tony and his family were making things up. After three weeks of trial, our jury made things right. It let the Zaccaglins know their community believed in them. It made sure that Starbucks took responsibility for hurting one of its customers.

Tony couldn't be there for much of trial or the verdict. He fatigues quickly and has very limited endurance. Strange environments, sights and sounds overwhelm him. We called him after the jury returned its verdict. He thanked me with dignity and passed the phone to his mom, who was "taking care of him" that day. She was crying. "Thank you for saving my son and our family," she told me.

Helping hurt people like Tony is the main reason we do what we do. Without us, they would have zero chance. Later today, I plan to call Luis Pena, a former Border Patrol Agent who was rendered quadriplegic when the roof of his defective Ford Border Patrol vehicle collapsed on top of him after it rolled during a pursuit. Luis received federal workers compensation benefits as a result, but those benefits were grossly inadequate to provide him a life of dignity and comfort.

We brought suit against Ford Motor Company to make sure the responsible party paid. The confidential settlement we reached ensures Luis has a reason to keep waking up every day.

We also were able to repay almost \$800,000 to the federal taxpayers out of Luis's settlement. That's another reason we do what we do. We ensure that the responsible party pays the tab. In Luis's case, the federal government was on

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Continued on page 4

the hook for medical expenses and lost wages simply because Luis was an employee at the time. What's more fair? That the taxpayers pay all that or the company that made the defective roof that caused Luis's injuries to begin with? Whether it's Medicare, Workers Compensation, Medi-Cal or private health insurance, injured people receive millions of dollars of government and insurance benefits after negligent people hurt them. We help ensure that the responsible party defrays or repays some of that expense. Shifting costs away from first party insurance or government and imposing them on the truly responsible party or its insurer is another reason we do what we do.

In Tony's case, we also learned about Starbucks' safety policies. What we learned was shocking. When you think Starbucks, you think big company, regularity, consistency.... Guess again. The written policies themselves were shockingly inadequate and confusing. Every employee that testified had a completely differ-

ent understanding of what those policies meant. As a result, a manager thought it was fine to leave a floor wet during business hours with absolutely no warning to customers. I hope that as a result of our verdict, Starbucks will clarify and supplement its safety policies and training. I hope that, as a result of our verdict, Starbucks schedules safety meetings and trainings. Grandmas, parents, kids.... I hope they are all safer as a result. I hope nobody ever needlessly slips and falls in a Starbucks again. Making our communities safer for everyone is another reason we do what we do.

I have recently come to the realization that there is something more meaningful that inspires us to do what we do. I think the words "love" and "justice" best describe the things that truly inspire each of us. There are very few trial lawyers that are "in it for the money." Those that are don't tend to last. What we share is a love of humanity and what defines us as a people. We trial lawyers love families. We trial lawyers love workers. We trial

lawyers love children. We trial lawyers love ordinary people that do their very best to live life the right way one day at a time. It's easy for us because that's exactly who we are too.

And when somebody hurts one of us, we think it's only right that somebody makes things right. It turns our value system on its head when they refuse. Even worse is when some insurance company or hired lawyer starts blaming our neighbor, or saying they aren't really hurt at all. That's when we put on the armor, pick up the sword and march off yet again in search of truth. Our pure and profound sense of justice simply cannot allow us to sit quietly by and allow victims to be victimized all over again. Our love of our neighbors compels us to help them. Our love of justice requires us to seek it. That's why we do what we do. It makes me feel really good kissing my kids goodbye in the morning before I go to work. And it makes me proud of each of you every single day. **TBN**



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