

## FEBRUARY 2005 PRESIDENT'S COLUMN

### Trial Lawyers Make Us All Proud

by Robert J. Francavilla

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When the average citizen hears the words "trial lawyer", he or she may think of President Bush and company's lawyer bashing statements or of lawyer jokes which seem to surface with ever-increasing regularity. What people don't know or don't care to know is that if they stopped and took the time to get to know a trial lawyer and just what it is that he or she does on a regular basis, rather than blame them for all the ills of our society, they would truly come to respect them for the caring, good-hearted, real and human feeling people that they are.

From the moment I became associated with the law, all I ever wanted to be was a plaintiff's trial lawyer -- a lawyer for the people. My association with CASD, CAOC, ATLA, and the relationships with other lawyers who share my same dedication to seeking justice for the injured and down-trodden has truly shown me that there is no greater profession for me than being a trial lawyer. I get passionate in my disagreement with those who would do away with the tort system from the Bush administration, corporate America or the insurance industry claiming that plaintiff trial lawyers are only interested in money and will go as far as to file frivolous lawsuits in the hope that they can convince these same tort reformers (as they call themselves) to give them lots of money for a case that's worth nothing. How, I ask, could that be accomplished if these tort reformers claim they are on to this so-called ploy by the trial lawyers? Surely these entities are not suggesting they are knowingly allowing themselves to be taken advantage of. What the public does not hear among all the rhetoric is that limiting the rights of injured people will not take their injuries away.

Because of this propaganda, the public as a whole seldom gets to hear about the good trial lawyers do, except, of course, when they find they need a lawyer. Then they are eager to find a lawyer, but are shocked to find out how few rights they have because so many rights have been "limited", "capped", or "reformed" out of existence.

With that being the case, I think it's important for us to let them know what we are truly made of. I want to thank my fellow trial lawyer and colleague on the CASD Board, **Alex Scheingross**, for taking the time to write a heartfelt message to the *San Diego Union-Tribune* readers about the good trial lawyers do. The opinion entitled "Tort Reform: Taking Away David's Sling", published in the December 22, 2004 *San Diego Union-Tribune* underscores the important role the civil jury system and the contingency fee contract has in enabling an injured person to stand equal to corporate America and the insurance industry before their fellow citizens. Money damages are an indispensable part of our justice system. As Alex

artfully states, “In our society, money is the only justice an injured person can get. The money is not only for their lost wages, medical bills and payment for pain and suffering, it has symbolic values as well. It means my client’s pleas for justice were heard.” Alex also accurately points out how legitimate lawsuits have forced automobile manufacturers to build safer cars and generally hold society accountable for wrongs against people. The article beautifully articulates the true message the public is entitled to know. Thanks, Alex.

Some of the wonderful deeds that trial lawyers perform are not as obvious as those connected to the day-to-day practice of law. In our own CASD family, there are a huge number of lawyers doing lots of wonderful things to help San Diego citizens with their legal problems with no expectation of or desire for payment.

For example, **Steve Tucci**, a fine trial lawyer and Tierrasanta resident, saw much of his community ravaged by the wildfires of late 2003. Steve was touched by the loss and devastation around him and had a heartfelt desire to do more. So instead of standing on the sidelines, Steve donated over 100 hours of his time to citizens of this community, helping them with issues ranging from what to do when their next homeowner’s insurance bill came due, helping them negotiate settlements with their insurance carrier, and even helping them deal with contractors in connection with rebuilding their homes. Steve was deservedly honored by the Community Response Team and Volunteer San Diego in association with the Community Fire Storm Recovery Week for his work. He received commendations from the U.S. Congress, California Senate, California Assembly, the County of San Diego, and Volunteer San Diego.

Afterwards Mr. Tucci remarked, “It has been a great privilege to assist Tierrasanta residents through the rebuilding process; they deserve every bit of community support available to them as they continue the journey to recovery.” Steve’s assistance came from the heart and he truly deserves the commendation he received. It would certainly be nice to hear the government agencies that commended him point out the positive contribution Mr. Tucci, the trial lawyer and human being, made to society rather than focusing on the negative.

Another lawyer who helped in the fire recovery efforts was our President-Elect, **Richard Huver**, of Levine, Steinberg, Miller & Huver. Mr. Huver and his firm were contacted by a lawyer who was in charge of a group of Scripps Ranch residents insured by State Farm. Mr. Huver and his firm met with that group and then followed up and met with groups from Harbison Canyon, Julian, Cuyamaca, and Poway. The problem was people were sold **replacement cost** insurance policies before the fire, but learned that this generally only covered about 50% of what they needed to rebuild their homes. Richard agreed to meet with about 250 to 300 families to assist them in answering any legal questions they had in connection with the fire loss, **all pro bono**. He also helped dozens of families settle with the insurance company at no charge. We’re talking about one of the top insurance lawyers in the City of San Diego taking time away from his family and his practice to help people who were not in a position to help themselves just because he felt it was the right thing to do!

**Rhonda Holmes**, a partner in the law firm of Gordon & Holmes, will receive the 2004 David S. Casey, Sr. Trial Lawyer of the Year Award at the Installation Dinner of January 13, 2005 by the time you read this article. As amazing as Rhonda’s accomplishments were in the

courtroom last year, the free legal representation she provided to numerous citizens in need is even more impressive. In an employment discrimination/hostile work environment case, an individual was forced to quit a job. The company would not pay severance and damages to this individual. Rhonda intervened and was able to recover everything this person was entitled to and charged no fee. In another case, a contractor did work to convert a customer's home into an office and the customer refused to pay. Rhonda handled the case for the contractor and recovered tens of thousands of dollars. She did not take a fee and waived all costs. In another case, a little girl's arm got caught in a roll-up divider between two basketball courts at a recreation center. Rhonda once again stepped in and represented this little girl and her family, favorably resolving the case and charging no fees whatsoever.

Ms. Holmes gives of herself because she is a caring, kind-hearted and loving person who believes in our justice system. The fact that she is an immensely talented lawyer is simply a bonus to the people that she helps.

Finally, the amazing result achieved by **Denny Schoville** and **Lou Arnell** for their client, in the *Buell-Wilson v. Ford Motor Co.* case stands as a shining example of consumer lawyers beating all odds in a fight for justice. Their efforts truly exemplify the "Small vs. Big" battles consumer lawyers engage in every day to protect the rights of injured people. Denny and Lou received the Consumer Advocates of the Year Award at the Installation Dinner.

The stories I mentioned are just a small number of examples of the great things trial lawyers do to help people who aren't in a position to help themselves, day in and day out, without a desire for recognition. Every trial lawyer who has made a difference, no matter how big or small, in the life of a person wrongfully harmed by another, whether by getting them fair and reasonable compensation or simply by letting them know you are there to help, has not only done something great for that person, but is continuing to touch that individual's life in a positive way.

The lawyers who fight legislation and the initiative battles through intensive fundraising and lobbying efforts to keep the doors of the courthouse open for our clients, whether it be through the local, state or national trial lawyers associations, are also to be commended. We contribute money and many long hours to monitoring our statehouse and meeting with legislators, educating them about consumer rights and needs, and protecting consumer rights to justice. It is long, hard and thankless work that is usually not even noticed. Trial lawyers lead the way in protecting consumer rights and I thank all of you for your dedication.

**My fellow trial lawyers, all of you have my utmost admiration and respect!** Keep doing what you are doing, because here's the thing: We don't need recognition from corporate America or the insurance industry. Our reward is in helping to put back together the lives of those less fortunate than ourselves who need help.