

THE POWER OF FORGIVENESS: NEVER APOLOGIZE FOR BEING A TRIAL LAWYER

As many of you know, we are moving forward with the battle to enforce drug and alcohol testing for doctors and increasing the MICRA cap for our clients. The impact of these changes will not only identify bad doctors, but it will affect wrongful death cases involving children and elderly Americans who no longer have an income. Honestly, these are the most vulnerable of our society and they deserve equal protection under the laws of California.

Everyone is going to have to step up and support the initiative that we all know is the right thing to do for the consumers of this great State.

I thought I would share another incredible experience as a trial lawyer that reflects the power of forgiveness and the power of humanity in the life that we live as civil trial lawyers. The case involved a 39-year old daughter who was the last of four adult children. The daughter's boyfriend had just proposed to her several days before the accident. She was on the way to work in the morning along the Pacific Coast Highway north of Ventura. She was stopped in traffic because a lane closure had occurred due to a mud slide. Behind her rolled up two Ford trucks – one was an F-150, the other was a F-350. They were both traveling in her lane and going around 60 mph. Unfortunately, the lead truck did not realize that the traffic had stopped in his lane. At the last second the lead truck swerved to the shoulder and missed hitting the stopped car by feet. Unfortunately, the truck behind him wasn't so lucky and hit the stopped car at speed near 60 mph, killing the 39-year old woman.

While working up the case for trial, we could not determine what percentage, if any, a jury might place on driver number one so we had to keep both drivers in the case through trial. Ultimately, the jury found driver number one 10% at fault and driver number two 90% at fault.

However, the most incredible moment occurred after the trial was over. Our client, who was the mother of the decedent, had been asking us for months if she could speak with the defendant driver of truck number two – the striking vehicle. We told her “no” and that perhaps when the case was over, she could speak with him.

After the verdict and while everyone was still mingling about in the courtroom, she asked again if she could speak with the defendant driver number two. We told her “yes” with some apprehension, not knowing what she was going to say. What happened next is something I will remember the rest of

my life. She went up to the defendant and his wife. He was a big guy – about 6’3” and over 270 lbs. Our client, who was 70 years old and a retired nurse, was about 5’2” and 100 lbs. She tapped him on the shoulder and asked if she could speak with him. I saw him turn to her and he seemed very guarded and nervous, but said “yes.” She said “I want to tell you something and I want your wife to hear it too.” She said “I want you to know that I forgive you and on behalf of my daughter and my family, I want you to move on with your life and put this behind you.” I could see that the defendant driver was shocked by this statement. Tears began to well up in his eyes. His wife started to cry. He reached out and hugged our client and told her “I am so sorry for everything.” They stood there and cried together for a few moments. I looked over at the court reporter who was still hanging out by her recording machine and she was crying too. She told me later “I have been working in the courthouse for over 20 years and I have never seen a moment like that.” It was incredible and it was a reminder of the importance of forgiveness and closure that can come as a result of a civil trial.

When you hear someone tell you that there are too many lawsuits and too many lawyers and too many frivolous cases, remember to tell them the story of Mrs. Donovan and the truck driver. Always be proud of the service we provide to our cities, counties and states. The civil justice system in America helps keep the peace and provide opportunity for forgiveness every day. Never apologize for being a trial lawyer; rather, hold your head high and remember what we do really matters.