



When Service Means More Than Money

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I often wonder why people choose to be trial lawyers since we all know it's not an easy job. Maybe it's a combination of personal ambition and civic duty. Even if we try not to focus on the ambition, it's perhaps inevitable. Every once in a while, though, there's a case that stands out as representative of why we do what we do, "for the good of the order," so to speak. A recent case reminded me of that.

In February of 2014, I boarded a plane for an unexpected trip to Missouri. Two days earlier, I had taken a phone call from a woman who was audibly distraught, stymied by what she was going through and still disbelieving of what she was describing to me. Initially I was skeptical. Is the allegation true? Can it be proved? My skepticism eventually faded. It was a call I wouldn't soon forget. Just a few hours after speaking, I booked a ticket to St. Louis for an in-person meeting with the woman and her family. I didn't know then that we would be preparing for a life-altering case.

At our first meeting, I heard in vivid detail crimes that made me angry. This was an child abuse case of the worst kind, one that leaves families in the spiral of emotional ruin. Worse still, it left a six-year-old girl with lifelong emotional scars that can never be erased from her memory.

The family—which for this article we've dubbed "the Smiths"—

had been living near St. Louis for the better part of three years. During that time, they enrolled their daughter—“Suzie”—in a nearby daycare facility. An employee who happened to be the ex-husband of the daycare’s owner sexually abused Suzie and several other little girls. Had another young girl not told her parents about the abuse, the situation may have continued for a lot longer and without consequence. I sat in a hotel conference room listening to the Smiths recall details of the last few years, and one especially critical component: a criminal conviction. It turned out the molester pled guilty. He was sentenced to what amounts to life in prison.

With the criminal case behind them, the Smiths were noticeably still in shock. The events left them reeling from traumatic circumstances, as child abuse cases inevitably lead police to take all possibilities into consideration, including whether the parents were involved. It became clear that Mr. and Mrs. Smith were battling through an overwhelming sense of guilt, despite having done nothing wrong. It also became clear that this civil case was about more than money.

I remember wondering: “Okay, how can I *really* help the client and justly compensate the family for the physical and emotional trauma they’d endured?”

After a few more hours of talking and learning their story, I proposed an initial strategy. They considered the possibilities and decided to go forward with a lawsuit. For Mr. Smith, it was a particularly sensitive decision. He wanted the nightmare to simply go away. But as he said later, the situation had taken an unthinkable toll; he said he often felt like a failure as a father. And though the abuser was now spending life behind bars, he and his wife had yet to feel vindicated. As many attorneys can attest, victims are often given limited opportunities to address the court during criminal proceedings. The same was true for the Smiths, who did not testify, keeping them on the sidelines as mere spectators. After gathering all the information and speaking with the Smiths at length, I filed a lawsuit on behalf of the family.

Initially, although not the easiest path, I began working to pursue a case that would hold the daycare owner responsible for carelessly supervising her employee/ex-husband. I was hopeful that the daycare’s insurance company would cover a settlement or pay a judgment. We learned in the course of litigation that insurance would not cover the case. On top of that, the daycare owner predictably declared bankruptcy.

I met the Smiths to present the options: dismiss the case, since the opportunity for monetary compensation was nearly non-existent, or continue the process so the family could have their day in court. They opted to proceed. One of our goals was to have the Smiths testify in front of a jury, but even that modest goal felt increasingly becoming less likely as new dimensions began to come to light.

I approached the judge to discuss the possibility of allowing the family to speak, but the judge resisted my proposal, suggesting that he alone could make a decision. The judge was also reluctant to have a jury trial because the verdict would very likely

be uncollectible—why waste everyone’s time, in the judge’s eyes.

But the Smiths were determined to speak. I returned to the judge and implored to him that, in this instance, a jury was a necessity for justice but also a method for catharsis. This was about giving the Smiths their day in court, however cliché it sounded. We were conscious of Suzie and outlined one condition: Suzie would not testify. The judge eventually allowed us a trial before a jury.

The testimonies of Mr. and Mrs. Smith were wrenching and powerful. We sought significant damages for what Suzie had endured, knowing the amount would never be paid. The statement was more the point. The jury ultimately awarded the Smiths what we would all consider a full and fair verdict. I could sense the family’s relief. On some subconscious level, the Smiths could feel at ease, knowing they had done nothing wrong. A jury of their peers had said as much.

Having handled many cases over the years, the most rewarding ones have less to do with a settlement, or even a personal victory. I was compelled to help the Smiths for several reasons, perhaps none more resonant than when I considered the unfathomable situation by reversing roles with Suzie’s parents. I have three boys at home with their futures ahead of them. I couldn’t help think that Suzie’s future had been derailed, her destiny forever changed. If I could somehow bring a better ending to this hellish chapter in the book of the Smith family’s life, then it was worth the effort. Money was not the point.

Trial lawyers often tell clients that all we can get them through the civil justice system is money. Experience had shown, however, that clients and prospective clients prefer a variety of results, whether it’s changes to a company’s policies, safety reforms or even an apology. My usual position is to be as realistic as possible, and typically that means some type of monetary compensation. But thinking about the Smiths’ circumstances helps me think about how we can truly help our clients. They sometimes deserve more than a check—they deserve to have their stories heard, too. 📞



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