



# INSIDER SECRETS TO WINNING YOUR PERSONAL INJURY BATTLE

*A Seasoned Trial Lawyer Reveals All*

BY ALBERT M. STARK, ATTORNEY AT LAW

**INSIDER SECRETS TO WINNING  
YOUR PERSONAL INJURY BATTLE**

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*ALBERT M. STARK*

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*TO NANCY KARLOSKY*

*and*

*FLORANCE CHURCHILL*

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## INTRODUCTION

This book is about looking back at cases of seriously injured people, seeing what their lives are like many years later, how they managed their lives, finding out if the money they received helped them, learning about what they did right—and wrong.

The events and circumstances in this book are based on real cases that I have handled myself or with lawyers at the Stark & Stark law firm. I have used actual names, places and locations in many instances. I have used fictitious names or places or locations and combined cases where I felt it necessary or more appropriate to do so. The substitutions and combinations do not alter the significance of the book. The cases teach many lessons, not only to those who face challenges they never dreamed of confronting, but also to the millions who treat the seriously—injured as a silent minority.

Going to court with hundreds of seriously injured persons, I have witnessed the hurdles they had to jump to get justice. Large injury verdicts have become media events and the subjects of well-known movies. News channels like CNN, MSNBC and Fox inaccurately report cases, calling the winners of multi-million dollar verdicts “lottery winners,” polluting the airwaves and people’s minds with stories of frivolous lawsuits, and blaming the legal system and “the litigious society in which we live” for exorbitant insurance premiums and healthcare costs. Laws limiting victims’ rights under the guise of tort reform put a stumbling block in front of innocent citizens.

Is winning big in court a lottery? My clients answer—Telling the truth about what is behind those million dollar verdicts. Their stories show what it takes to fight insurance companies, what happens to seriously injured people after the court case is over. They even suggest how our court system can be reformed so that going to court isn’t hell.

My clients’ stories demonstrate the importance of competent physicians, therapists, financial advisors and—yes, lawyers, who passionately represent people others look away from or give up on, people who are brain injured, burned or paralyzed—yes, lawyers who are a detective, social worker, engineer, financial advisor, storyteller, producer and director, and, of course, an actor.

My clients show what it takes to go home, what it is like to be

institutionalized, and what brain, burn and spinal cord injuries require. Their inspirational stories are about frustration and anger, courage and bravery—hope and reality.

Growing up, the spotlight shone on my father, a respected lawyer. He wanted me to follow in his footsteps. I did not want to walk in his shadow so I enrolled in a pre-med course at Dartmouth College in Hanover, New Hampshire in 1956. His dad—Grandpa Lou—who said his last goodbye two years before, would have been thrilled.

In spite of or maybe because he had a difficult life, Grandpa Lou had a favorite expression, “To understand the other guy, you have to walk a mile in his shoes.” About five-foot-five inches tall, he loved to show me the biceps that bulged when he flexed his arms. “Put up your dukes,” he’d say. “Let’s see how tough you are.” A skilled heart surgeon gave Grandpa Lou the second aortic transplant in the world. It kept him alive for eleven years—long enough to see his Brooklyn Dodgers win another World Series and his grandson win his first tennis tournament.

From college, I wrote Grandma Raschkow, my mother’s mother, a letter in which I explained that I wanted to help people like Grandpa Lou and signed it “Albert Stark F.M.D” (Future Medical Doctor). She said, “Do something else, anything else. Don’t be meshuggana. (Yiddish for crazy). Vith hands like you have, you shouldn’t be a doctor.” Grandma Raschkow, an accomplished seamstress, had tried many times to teach me to thread a needle. She had learned from her failures.

I should have followed her advice. The dogfish I dissected in introductory zoology looked as if it had been through a grinder. I scrambled the egg from which I had tried to extract an embryo. After I was the only student in analytic chemistry that could not mix chemicals precisely enough to measure the size of molecules, I made my first lawyer call to my father. I had switched to pre-law.

The next summer, in California for a national tennis tournament, I was impressed with a part of the country ripe for growth. Ambitious to plant my mark on the frontier, I returned to school. In college and law school, I took every state and local government and land development course offered. When I was about to graduate from law school, Governor John Love of Colorado, who was developing a water resource plan to spur growth in his state, offered me a job. But after a law school professor brought my college thesis and law school articles about urban redevelopment of northeastern cities to the attention of New Jersey Governor Richard J. Hughes, he recruited me. Hughes was my father’s friend and colleague. He wanted legislation drafted that would enable New Jersey’s cities to

replace slums with low and moderate-income housing and create a department of community affairs. After he called Governor Love, he assured me that the Colorado job would not be filled for a year. I unpacked my bags. I completed my work for Hughes in four months. Then Trenton's mayor hired me to bring the city's ordinances up to date to take advantage of the laws I had just written.

I was born and reared in Trenton, playing touch football and stoopball in the street, swimming in the canal that ran past my house and attending public schools that rivaled the best private ones. But over the years, labor unions had chased away the industries that earned Trenton its motto "Trenton Makes the World Takes." Unemployment soared and housing deteriorated. Whites sent their children to private schools and the public schools were becoming blackboard jungles. The canal with weeping willows and dogwoods lining its banks was now a ribbon of concrete. Trenton was well on its way to becoming a ghetto island surrounded by a sea of suburbia.

While I was working for the mayor, an impatient Governor Love filled the Colorado position, so I set up shop in an empty room at my father's office. My first client was a city planner who was building apartment buildings for senior citizens and moderate and low-income families. I met Ellen in New York while I studied housing projects in Harlem and we married in November 1966.

On October 24, 1967 at eight-thirty in the morning, I hustled Ellen through a door at Mercer Hospital labeled "Maternity." I looked forward to one of the brightest days of my life. Twelve hours later, the obstetrician sat down next to me in the Father's Waiting Room and said, "You are the father of a baby boy." But her voice was solemn. "I had trouble," she said. Instead of a Caesarian delivery, which Ellen's condition dictated, the obstetrician had delivered an almost ten-pound baby naturally and now Ellen had no feeling in her right leg and my son's right arm didn't move.

I had until this moment led a relatively smooth life. It was dark outside and inside the apartment to which I returned. My heart was tight as a fist. I knelt and screamed, "I want to die," smashing my forehead on the bathtub.

Over the next four months, we all traveled back and forth to the Rusk Rehabilitation Institute at New York University Medical Center. Helpless, I had to surrender my wife and son to doctors. I met families with children disabled by birth-related conditions that needed extensive physical care, supervision, and support. The parents felt they would be "bad parents" if they "abandoned" their child to large state institutions, the only option for care at that time. Social workers warned them not to be "saints or martyrs," urging them not to take the child home. Caring for a child with severe disability, they were told, would be

physically and emotionally draining, every day would be a new trial, every action, even those performed habitually and unconsciously in the past, would be an accomplishment as difficult as climbing to the summit of Mount Everest. I didn't know it then that my experience would help me walk in other person's shoes in the years to come.

My waiting room buddies at Rusk had loved ones who had been brain-injured, burned, or paralyzed, many of them in accidents. They were suing. They experienced improvement and hope at Rusk but setbacks and disappointment with their lawsuits. I never thought of suing our doctor for failing to do the Caesarian section in what was a "slam dunk" malpractice case because she was a close family friend. After a few of my new buddies found out that I was a lawyer, an urban development lawyer, not an accident lawyer, they confided things I could not imagine happening to me.

"My ambulance chaser is just out for his one-third."

"I had to fight with insurance companies to get medical treatment."

"Going to court was hell."

The disabled people and families had found a sympathetic ear. All of them respected doctors, but they didn't like lawyers.

Fortunately, Ellen and Jared regained almost total use of their injured limbs. During their nine-month home rehabilitation program, I read one neurology book after another, giving myself an education I thought was needed only in my personal life.

On April 4, 1968, Martin Luther King was assassinated. Four days later, catastrophe struck downtown Trenton, pillaged and burned by rioting high school students. Businesses that were spared fled to the suburbs. My clients lost interest in Trenton's future. What Trenton was a day before it no longer was. Trenton had become a seriously injured city.

Rachel was born with a normal delivery in October 1969. I had a wife and children to support and the urban development team I was putting together had no source for funding.

That's when Bobbie McKenzie called. Bobbie had been my boss during college summers when I was on the maintenance crew at Trenton, New Jersey's tennis courts. Three days before Bobbie's friend called me, Bobbie had been badly hurt in some kind of accident. I went to the hospital as a pal, but that visit propelled me toward a career as an advocate for the seriously injured—people who in a millisecond had become different people. Who they were before they were no longer.

My experience with serious injury cases during the next forty years would show me that Grandpa Lou's heart surgeon had a fairly straightforward job.

Certainly, operating on people's hearts is exceedingly difficult but once the heart is replaced or repaired and is working, he could go on to the next patient. Because serious injury cases are seldom, if ever, over, I would learn that it would be hard, but necessary, to continue to walk in my client's shoes.

Bobbie turned his head on the pillow. "Over here," he said, motioning with an arm wired with intravenous tubes. He introduced me to his wife, Roann, a buxom redhead in her late thirties. With her lips painted a bright red, she could be perfectly cast as a waitress at a roadside diner. "Oh, man, it hurts," Bobbie said, closing his eyes.

"Bobbie's going to need months of rehabilitation. I don't know how I'm going to handle this. Who's going to pay the doctors?" Roann said.

She told me what had happened. As a forklift driver at the Chris Craft warehouse in Trenton, Bobbie had picked up a wooden pallet loaded with boxes and backed out of the warehouse onto a loading dock. He had done this thousands of times over the past eleven years. Turning his head, he saw a tractor-trailer with its rear doors open and its side panel painted with a yellow Criterian Motor Freight logo. Its loading bed was flush with the loading dock. After slowly turning the forklift around, he revved the engine and pulled a lever that raised the forks. He pushed the gas pedal again, shifted into gear and the forklift crawled forward until its front wheels hit the steel edge of the dock. He heard the rumbling sound of the wheels hitting the metal floor of the trailer.

But the trailer began moving away from the dock. As the gap between trailer and dock widened, Bobbie's rear wheels couldn't make it to the trailer. Forklift and Bobbie crashed to the concrete four feet below, leaving him with a broken leg, broken hip bones and part of his spine ripped apart.

I told Roann I would help her, anticipating that I would refer the case to an experienced personal injury lawyer and receive a fee if the case was won.

The next day, I sat in a chair in front of a desk cluttered with files in the office of a bald man with a handlebar mustache. I wanted the Trenton lawyer who "got the big settlements" to help Bobbie. He told me how difficult it would be to win Bobbie's case and how expensive it would be to take a chance on it. Experts had to be hired and paid for their investigation and testimony. Bobbie's doctors wouldn't testify without being paid handsome sums. Bobbie and Roann didn't need help with medical bills, he said, because Bobby had nothing, so the doctors wouldn't sue him.

Bobbie's injury case appeared to be a big one. I didn't want to be like my waiting room buddies' lawyers. I told my father what had happened to Bobbie

and with Mr. Mustache. He suggested I go to the Chris Craft warehouse to get a first-hand look at what Bobbie had told me about and then go to another lawyer, who with more information might take on Bobbie's cause. Maybe if I walked a mile in Bobbie's shoes at Chris Craft I would be in a better position to present his case?

I spotted a sign for the Chris Craft warehouse. I had never been on a loading dock at a warehouse, nor had I ever operated a forklift or driven a tractor-trailer. To see for myself what Bobbie was talking about, I turned toward the warehouse. Tractors and trailers were entering the loading area, stopping and backing up to a raised concrete platform edged with a thick steel plate. Every time a tractor-trailer stopped, a loud whoosh escaped. The driver walked to the bottom of the loading dock, picked up a couple of triangular wooden blocks and put them down in front of the vehicle's front wheels. Then he placed two more wooden blocks in front of the rear wheels.

The drivers climbed a set of stairs at one end of the platform, walked over to their trailers, opened the rear doors and walked through a door to the warehouse. Forklift trucks with loads on the forks came out onto the loading dock, were driven into the trailers, set their loads down, backed out and returned to the warehouse. Truck drivers came out of the warehouse, closed the doors to the trailer, descended the stairs, removed the wooden blocks, put them at the base of the loading dock and drove away.

I visited another personal injury lawyer, who told me what Mr. Mustache had said. I went to see Mr. Mustache again. He wouldn't take the case. His waxed ends jiggled up and down when I told him I was going to handle Bobbie's case myself. He guffawed, "If you're going to be a jackass, you ought to go to my good friend Bill Bischoff's seminar. He is talking this weekend." I took the advice.

Bischoff's message in the one-day seminar was "With preparation you can stand up to the most experienced trial lawyer. Be yourself. Show the jury you believe in your case, how much work you put into your case, and tell them stories that will make them identify with your client's cause. That's been my formula."

While Bobbie remained in the hospital for six weeks, unable to bend his knees and ankles, with shooting pains in his legs, I prepared. I witnessed that he couldn't sit or walk and was moody and depressed. After he was transferred to a rehabilitation facility, I watched therapists teach him how to bend and lift his leg and to walk again. I cheered him up just as I had Ellen when she was depressed about her injuries.

Medical reports from his orthopedist, neurologist, and physical therapist

included terms such as lumbar, vertebrae, fibromyositis, Harrington rods, compression fracture, Steinman pins, and tibia and fibula, all new to me, so I read books about orthopedics, studying the bone structure of the back and legs. I learned there was more to a broken bone than a crack, that damaged nerves also caused pain, that surgically installed Harrington rods prevented the spine from bending normally, and that bone deformities irritated muscles surrounding the spine. In the years to come, dedicated doctors, nurses and caregivers like Bobbie's taught me medicine.

Wondering how a trailer could move away from the loading dock if its air brakes were set, I called an experienced trial lawyer, who suggested I contact Professor Richard Wolf, who taught a course at the Newark College of Engineering to students heading toward a career in the air brake industry. Wolf looked like a tackle on a college football team. "You want to learn about air brakes, do you? Tell me about your case." I gave him one detail after another.

Wolf picked up a piece of black garden hose from a table. "See this hose I have in my hand? I'm going to put my finger in one end. You blow into the hose." Wolf leaned over and put the hose up to my mouth. "Now blow." I puckered my lips and exhaled. "Keep blowing. Now put your thumb in the other end and stop blowing." I followed his instructions.

We were standing about a foot apart, his finger in one end of the tube and my thumb in the other.

"Do you think the hose is completely filled with air?"

"Sure," I said feeling foolish and wanting to dispel embarrassment from not knowing something that seemed so elementary.

"You're right. The hose is completely full. But there's an element of pressure. Pressure's important. When you took your mouth off of the hose some of the air that you blew in escaped, causing the air pressure to go down."

He explained that when a tractor driver pulls a lever, a compressor pushes air into hoses and as he releases the lever, air escapes. When the truck is running, the air heats up, so the pressure goes up. But when a truck is not running, the air cools and the pressure is reduced even more. The truck wasn't running when Bobbie ran his forklift into it, so the air brake wouldn't have enough pressure to prevent the trailer from rolling a foot or two away from the loading dock if a heavy forklift moved forward into it. Because air brakes have some give to them unless the motor is running, the driver has to use chocks, wooden blocks pointed at one end, to prevent the rig from rolling.

Wolf believed the insurance company and its lawyer would use the air brakes

to confuse me, but the issue was as simple as trying to tie a balloon without losing any air, which is impossible. "Hire me to be your expert witness. I'm a hundred an hour and I need three days' notice to testify," he offered, smiling.

In his seminar, Bill Bischoff had taken off one of his shoes and limped around the room as he lectured. Did he have a shoe that was too tight? A few minutes later, he stopped and talked about a client who had a leg one inch shorter than the other. He had urged the jury to take off one of their shoes in the jury room so they could feel what his client experienced every time he took a step. Bischoff urged his audience to let the injured client describe how their injury affected them because "a lawyer has to be able to put the jury in the client's shoes."

How could I do that for Bobbie? I asked him to tell me about his injuries in a way that a third grader would understand. "I'm like Humpty Dumpty who the doctors tried to put back together again." "I want to work like I used to," made me think about "The Little Engine that Could" that I read to Jared. Bobbie was a "Little Engine that Couldn't," but wished he could. He compared himself to Little Jack Horner who sat in the corner.

When the day of the trial came a year later, Bobbie limped to the witness stand and gingerly took his seat. He looked at each juror, following my instructions to talk to the jurors after I asked him a question. My questions and his answers taught the jury how to operate a forklift. He described how the trailer rolled away from the loading dock as he entered it. He described his injuries, his disability, his financial difficulties because he earned much less than he did when he operated a forklift and the resulting depression.

Bobbie's wife, his doctors, and Professor Wolf testified. The defense put its witnesses on the stand.

Eight days after the trial began, five courthouse junkies, who made a life out of going from courtroom to courtroom watching trials and waiting for verdicts, waited with me for the jury to return. Two hours had passed slowly when one of the double courtroom doors opened. A Sheriff's Officer waving an envelope poked his head in. I broke out in a cold sweat. The defense lawyer looked at me, smiled and turned to the Sheriff's Officer. "Bring them in," he said confidently.

Judge Leonard took the Bench. Twelve jurors, ten men and two women, stood expressionless in front of their seats. The first juror opened an envelope and took out a piece of paper. I closed my eyes. "We find in favor of Robert McKenzie against Criterion Motor Freight in the sum of one hundred and fifty thousand dollars."

When I opened my eyes, Judge Leonard spun around in his chair. The

Sheriff's Officer looked at the defense lawyer, who shrugged his shoulders in disbelief.

It was the first six-figure verdict in Trenton's legal history. A jury had put a value on Bobbie's life.

The thrill of winning a case for a person who was unable to afford a lawyer and who had put his blind faith in me was indescribable. Never had I imagined that getting money for someone could be so rewarding.

Three months after Bobbie and Roann received their money, they called me to celebrate. At dinner, he told my father and me that he was going to buy a big boat and spend the rest of his life fishing. My father suggested that Bobbie see a vocational counselor and a financial advisor. Bobbie learned that he needed to be with people to be happy and that couldn't do heavy labor anymore. Roann liked to cook.

With the help of the financial advisor and a realtor, Bobbie bought a tavern in a working class section of Trenton near the Chris Craft warehouse. A few months later, I parked in front of a spanking new neon sign flashing the name THE RED FOX—the nickname of the defense lawyer.

Bobbie built a successful business, working at something that did not require hard labor like running a forklift. His Chris Craft buddies became his customers and they brought their buddies to enjoy Bobbie's gift of gab and Roann's food. Bobbie did okay. He was able to buy the fishing boat he wanted so much.

After Bobbie passed away, his children presented me with a glassed wooden case, which hung on a wall in Bobbie's boat. In it was a clock and barometer. On the case was a brass plaque inscribed with the words "In honor of many years of cherished friendship." Captain Bobbie's clock and barometer hangs on the office wall behind my desk.

I fought one battle after another for people like Bobbie who did not have the ability to fight anger, revenge, and financial destruction themselves. They were in an unfamiliar place in the midst of unfamiliar people. They were different people who they did not know and who their family, close relatives and friends did not know. What they had been was dead. They were different, even though they were literally alive.

Talented engineering professionals like Professor Wolf taught me engineering principles and accident reconstruction. Finding a way to win and a pocket deep enough to pay for the harm caused was too often elusive, but when you made it happen, it felt wonderful to be able to add quality to a life.

I learned that it was the job of defense lawyers to prevent people from

collecting money and that to successfully deal with them I needed to display a tough exterior. Like a doctor, I could not fall apart at the sight of a life being maimed. I couldn't go home and beat my head on the bathtub when a defense lawyer had me on the ropes.

Rebuilding cities. That dream faded. In case after case, I experienced gratification from helping people whose lives were changed in a millisecond because someone else was careless. In order not to be the kind of lawyer my waiting room buddies disliked, I assembled a team of lawyers and legal assistants to provide the services that seriously injured people and their families needed. David Botwinick, Eric Ludwig, John Sakson, Robert Bratman, Chris Pyne, Bruce Stern, Paul Daly and David Cohen formed the core of the Stark and Stark legal team. Nancy Karlosky, my secretary, became the team captain. Florance Churchill, Mary Ann Papp, Lisa Williams, Debby Toth, Michele Greenwood, Lynn McDonald and Kathy Farrell served as legal assistants who provided technical, investigative and social support to our clients and us. Over the years, Stark and Stark developed specialty teams for brain, spinal cord and burn injuries, as well as construction and nursing home accidents.

Unfortunately, during my career, people who were not as lucky as Bobbie—and me—called, complaining that they had settled for too little money because the ambulance chaser was only out for his one-third. Some had lost their case and now wanted a “second opinion” after they had gone to the lawyer who had drafted their will or handled the closing when they bought a house. Too many had responded to a slick television advertisement promising fast cash. Others had become victims twice because they didn't know how to ask the right questions.

My experience showed me that seriously injured didn't have to be unlucky. There are a cadre of excellent lawyers, experts in the representation of seriously injured persons. Seriously injured people have the right to the best and most qualified lawyer to represent them, no matter what their social, educational or economic background. Contingent fee agreements are available everywhere in United States.

I have read books about the brain, the spinal cord and burns. I have attended and taught seminars. But there is no book or seminar about what a seriously injured person has to do to navigate the legal system or a book about what happens after the case is over.

In 2002, I wrote *Beyond the Bar—Challenges in a Lawyer's Life*—a book about my experiences during the first fifteen years of my lawyer life, a book that showed how the challenges I faced shaped me as a person and lawyer.

I thought about what I needed to do to complete my career, to give meaning

and purpose to a life in court, to have something beyond the rush of a seven figure verdict, the celebratory dinner, the thank you letter, the pat on the back.

That's when Nina Rich called. Nina is the mother of a boy so severely brain injured in an automobile crash that he has been institutionalized for twenty-two years. Although Terry Rich was awarded sufficient funds to afford the finest care available for the rest of his life, Nina had called me more times than I can count for help and advice.

Now, on August 26, 2008, she was angry. She had just read the New York Times story about Staff Sergeant Kevin Owley, an Iraq War veteran struggling to unscramble his memory and thoughts, getting lost on the road, even with directions, and writing his appointments down but still forgetting a few. The article said that little is known medically by doctors or scientists about what happens to a brain as a result of powerful bomb blasts as opposed to car crashes on a highway, blows to the head on a football field or a bullet wound.

"This government of ours sends boys to Iraq and Afghanistan," she said. "They buy the best bombers and missiles and then one of our boys gets hit. They get the best medical care in field hospitals and rehabilitation centers, but after that, guess what? They're not lucky. They get dumped! Some commander-in-chief we have. He never provided for long-term care facilities to take care of our heroes. Worse yet, there's a shortage of adequate facilities for those who can pay for them."

I hung up thinking about how in 2008, at least a million people—civilians injured in accidents and soldiers returning from Afghanistan and Iraq—faced challenges presented by a catastrophic injury. Why not try to write the book about what it took to survive courtroom drama, to advocate for the seriously injured people? Why not share the stories of my clients—courtroom warriors—with our brave soldiers who came back suffering from serious injuries?

I read a book, *Head Cases*, written by Michael Paul Mason, a caseworker who helped people like those I fought for in court and afterward. He answered many questions. But not those asked by my rehabilitation buddies.

To tell the rest of the story, I called Angelo, and Linda, Josh, Andy, and Skylar and others like them. I oftentimes lost touch with them after the case was over except at times when they needed help. Sometimes I was frustrated that a chasm separated me from those who I had fought for and lost sleep over. Other times, I thought it was a blessing that they were out of my mind and that I could concentrate on the cases on my plate. I learned that people either didn't want to bother me or didn't want to think of me because I brought back memories that they wanted to bury.

When I told them what I wanted to do, they were happy. They wanted to help others. They met with me and analyzed what they went through on the way to court and what happened to them after the case was over. We talked about what we did right and discussed what we would have done differently, hindsight being 20-20.

They showed me that there is a disconnect between those who are suffering and the rest of the world. They had not understood the obstacles they faced in their quest for justice and neither did the public, who looks at large settlements that people receive and assumes that they are set for the rest of their lives. That is wrong. Considering the cost of treatment for a severe injury, even one million dollars, invested prudently, may barely cover expenses.

My work had not blinded me to the fact that a big verdict doesn't fix a seriously injured person's life. For some people, the money really helps, providing the opportunity for a high quality of life. For others, the money does not help at all, and can even make things worse by raising their expectations to unrealistic levels. But my eyes have been opened to the stark reality that not winning a verdict or a settlement likely leads to a life of squalor in an institutional warehouse with an abominable quality of life.

I interviewed doctors, who under the most trying conditions, put people back together again and rehabilitation professionals, who helped people regain mobility and learn to speak again, and caregivers who ameliorated indescribable suffering. They saw serious injury from their perspective.

Mine was different. I often arrived on the heels of the catastrophe, shepherding the flock through an emotional medical and legal maze, and staying with the injured person and their families for years afterward.

Limited in their actions and abilities, sometimes confined to institutions or their homes, it is easy to see seriously injured people as non-human and dismiss or look away from them. People with serious injuries live unimaginably trying lives. They may not be able to stand, to walk, to recall memories or think consciously. They may not even be able to read or write or speak.

I wrote this book to help seriously injured people survive the heat and drama of the courtroom and life beyond the verdict. I wrote to plead with the public to give seriously injured people a voice so that the value of their lives are not forgotten. I wrote to bring to life what it is like to advocate for the seriously injured.

The Take Away section that follows the stories teach applicable lessons that help the injured person, his or her family and loved ones navigate the voyage

from hope to reality.

## 1. THE LUCKY ONE

Muscular arms hung from twenty-three year old Angelo Angarone's broad shoulders. His hands squeezed the grips on the high bars on his Harley, his eyes dancing as he revved the unmuffled engine like Peter Fonda playing Captain America in *Easy Rider*. His lifetime friend, Peter, grabbed the sides of the motorcycle seat.

They were three blocks away from the Allstate Seat Covering Shop on South Broad Street in Trenton, New Jersey, headed back to the Allstate parking lot, where, the plan was, Peter would slide off the seat and get into the car in which he had brought Angelo from Clarksburg, twelve miles away, to Allstate to pick up his bike. Angelo would ride the bike home, take off his white T-shirt, jeans and sneakers and don his Shoprite uniform and go to work loading groceries on shelves.

Angelo had brought his motorcycle to the Shop because the foam on the seat had become soft after two years of use and the bump between him and his passenger had flattened, causing the passenger to slide into him as he slowed to a stop. Allstate agreed to redo the seat so that it was, they said, like new. Angelo paid the bill. Peter had suggested they take the bike for a spin.

Angelo lifted his T-shirt and wiped sweat from his forehead. As the light turned green, Angelo's loud take-off caught the attention of a woman standing on the corner. Seconds later, as a blue Chevy turned left suddenly in front of the Harley, she screamed, "Oh my God."

Representing indigent defendants who faced the noose of criminal justice for free was an obligation of New Jersey lawyers. In 1974, I received an assignment—defending a young man charged with urinating in front of a bar on a Trenton street while under the influence of alcohol. Angelo Angarone was a lanky young man wearing a ponytail, his jet-black hair framing an oval face, taller than broad, with deep-set eyes and a prominent nose. His complexion, pale and wan, bespoke a hard life. He admitted to urinating on the street, but adamantly denied he was under the influence of alcohol. "I was in the bar, but didn't drink. I was high on amphetamines. You can't drink when you are drugged up," Angelo said, matter of factly, sitting in the client chair in my office.

A week later, we ambled down Chancery Lane, a cobblestone street, to Judge Albert Cooper's court. At eight o'clock in the morning, the entrance foyer was

crowded, smoky and reeking of alcohol. Angelo, wearing freshly pressed pants, a white shirt and sports jacket, slid onto an oak bench, which was filled with men in blue jeans and plaid shirts and women wearing tight skirts and ballerina shoes. I sidled into a parade of suits carrying brief cases making its way toward a portly police officer.

Dinky Dooling inquired, "How do you plead?"

"Not guilty."

Dinky scanned the summons, setting forth Angelo's crime. "Not guilty?" His Adams apple rolled in his throat.

"Pissing, yes. Intoxication, no." I replied.

Court was scheduled to begin at eight-thirty. The clock was about to strike nine when a tall, imposing man in a black robe introduced himself to the standing room only crowd. "My name is Judge Albert Cooper," he said, gently. "For most people, a court like this is the only one they will see in a lifetime. Here, you can have a lawyer. But you don't need one. If you are guilty, just tell my clerk you are guilty. I'll be more lenient than if you don't tell me the truth. Anyone can make a mistake. I want you to understand one thing. I do not tolerate dishonesty."

Judge Cooper stood. "I will be back in a few minutes. Anyone who wants to plead guilty, see the police officer over there," he said, pointing to the portly blue shirt.

The courtroom was abuzz. A line of guilties formed.

Half an hour later, a door opened and two men, vagrants in appearance entered, escorted by two blue shirts, who seated them in the front row, next to the suits, of which I was one.

"Order in the Court," Dinky barked. "The Municipal Court of Trenton in now in session."

"Good morning, again, Judge Cooper said before calling out, "State versus Melvin David." A policeman ushered Mr. David toward the bench, and pulled his hands behind his back. "Hello, Melvin," Cooper began. "I told you last year that if I ever saw you here again you were going to the workhouse. Right, Melvin?"

"Oh yes, your Honor."

"Then why did Officer Dooling find you last night sleeping outside this courtroom?"

"I got nowhere else to go, Judge. It be getting cold outside. I need my hooch

to keep warm.”

Melvin was sentenced to six months in the workhouse. Next came Isaac. And then the parade of suits with brief cases followed with their guilty clients. One after another. Forty of them. Then the jeans and tight skirts.

It was now eleven o'clock in the morning, and one case was left. A 'not guilty.' State versus Angarone.

“Do you realize, Mr. Angarone, that if I find you guilty, I will not be lenient like I was with the others?”

Angelo turned toward me, shrugging his shoulders.

“Your Honor, It is the burden of the state to prove all elements of the crime.”

“Mr. Dooling, call the witnesses.”

“Witnesses in State versus Angarone.”

No one answered.

“They were here earlier, your Honor,” Dooling said. “They must have become impatient and left.”

“No witnesses? Case dismissed,” Cooper said. “Mr. Angarone, you are a lucky boy. If the witnesses were here, your case would not have a happy ending. Your nice clothes don't hide your eyes and face. They tell me that something bad is going on with you. My advice. Get your act together or you'll be back here again. Next time, you won't be so lucky.”

Angelo and I turned our backs on the courtroom with its barred windows and peeling paint on plaster walls. A limp, sweaty hand thanked me.

It was autumn 1979 when Angelo Angarone's girl friend called me to say he had been in a bad accident, was in the hospital and wanted me to come see him. “He doesn't know if you will remember him,” Tracy said. “You helped him out with a drug case.” I remembered him.

Tracy and Peter were in Angelo's hospital room. Her tanned round face was topped by hair cut in a fringe, framing high prominent cheekbones. Her eyes were a remarkable gray. Peter's dirty blond hair was pulled back, his hazel eyes full of warmth. Angelo lay in a hospital bed with a trapeze hanging above his head. A beard covered the oval face and the dimples that I remembered. A hand reached out to me. “I can move my arms,” he said. He looked down at his toes. “They don't move,” he said. “Motorcycle crash.”

Drugs, I thought.

"I know what you're thinking," Angelo said. "I've been clean for three years. Did rehab. Ain't that so." His eyes floated to Tracy, who nodded.

"So what happened?"

"We got left-turned," Peter said. "Our way was blocked. Ang dumped the bike, but we still hit the car. There wasn't a big crash. But the sudden stop sent me crashing into Ang's back. I sheared his back with my belt buckle." Peter fingered a Wells Fargo metal buckle.

"I felt the pain in my back. Then I realized I couldn't move. They brought me here."

"You have a good case against the person who left turned you."

Tracy had already had three accident lawyers come to the hospital. They all said the same thing. The old lady driving the Chevy had a \$15,000 insurance policy. She doesn't even own a house.

"They told me I don't need a lawyer because her insurance company will pay me the fifteen." Angelo peered at me.

Professor Richard Wolf at the Newark College of Engineering had helped me understand how air brakes worked in Bobbie McKenzie's case. Now he sat behind a cluttered desk.

"So what do we have this time?" he asked.

I told him about pathetic Angelo Angarone. Wolf rolled his eyes. "Low impact. Seat repair." He paused. "There's a colleague on the faculty who designs seats for cars, airplanes, and, I think, motorcycles. Howard Gage."

The renowned engineer who had designed motorcycle seats inspected Angelo's motorcycle in Tracy's garage. Tracy's house was in a dog patch neighborhood, where the front yards were bare or overgrown, driveways filled with junk cars. Tracy lived with an older sister, who was an alcoholic, and an infirm mother.

"The bike has no sliding damage," Gage said. "The bike laid down only after the impact. The impact was slight. Not a lot of speed. Probably close to stopping." Gage patted the seat. "This is a banana seat." Punching the bump, he added, "The bump is designed to reduce impact between a passenger and a driver, even in low impact collisions. The bump prevents someone seated behind the driver from sliding, as if on a sliding board into the driver's spine." Gage pushed the bump. "It's too soft." He took a penknife from his pocket and made a slit in the new cover. "The bump is old foam," he said, calling Angelo's seat a 'back breaker,' because Allstate used the old worn foam and had rebuilt the bump with

tired foam.”

“It was supposed to be like new,” Angelo had told me. “Even the receipt said it was new foam.”

Gage thought we might have a case against the seat upholsterer.

When I suggested Angelo use the \$15,000 he would get from the blue Chevy to hire Gage as an expert to testify in court against Allstate, he said, “It’s worth a shot.”

I met with doctors who showed me X-rays of Angelo’s crushed spine. Needle test graphs proved that sensation was gone over the whole surface of Angelo’s legs and over his buttocks. I learned how someone lost the use of both legs: the human body is composed of bones—the skeleton—to which are attached a large number of muscles, called voluntary muscles, which possess the ability to contract or relax in response to certain stimuli, which are conveyed to the muscles by means of nerves. The involuntary muscles not under Angelo’s control were not working, causing Angelo to lose control of his bladder, lower bowel and sexual organs.

He had to be turned over every two hours day and night so bedsores did not develop. A physiotherapist showed me how he stretched Angelo to prevent stiffness or contractures in the paralyzed limbs and how great care had to be taken for the rest of Angelo’s life to prevent urinary infections, which could prove fatal. An occupational therapist, who helped Angelo overcome apathy and depression, explained the importance of counseling about domestic affairs, personal and financial. A speech therapist described how Angelo’s brain had been hurt so that he had to make notes to remind himself to do simple tasks because he would forget minutes after he was told what to do.

Paralysis entered my life in 1967 when my wife, Ellen, gave birth to our son. Nine pounds-fourteen ounces, my son’s delivery left him without use of his right arm and my wife with paralysis in her right leg. Fourteen months of patterning, visits to a world-famous doctor in New York and a miracle led to their regaining almost full function. I had read many books on neurology. Now I had to learn about paralysis that would never go away. But there was only one book, a study of paraplegia in England written by J.J. Walsh, available in 1979. I read it over and over, seeking answers to questions I had about Angelo’s physical and mental condition and the treatment he was getting.

While I tried cases, interviewed new clients, and my wife and two children demanded more and more of my time, I was getting to know Angelo and Tracy. How long would Tracy stay with Angelo? Doctors told me that Angelo’s injuries

prevented him from ever getting an erection. I didn't think it would be too long before a twenty-two year old girl would strike out for greener pastures. One day, I came out with it. "How are you guys doing with sex?"

Angelo's lips turned up at the ends. Tracy's neck flushed red. Angelo stuck out his tongue, wagging it like a dog and fisted his hand, except for his middle finger. "I take good care of you, don't I?"

Angelo had been released from the hospital, just shy of six months after the collision. From then onward, Tracy was at his side, turning him so that he did not develop bedsores, catheterizing him so that he did not develop urinary infections, examining his buttocks to discover redness that could lead to infection. She was all he had. His mother and father were distant. "He's always been too much to handle," his mother told me once when I asked if he could move back home if Tracy ever deserted him.

Three long years later, Angelo sat beside me in an empty courtroom—a lonely place—its windows draped with heavy gold damask. Portraits of judges, omnisciently peering out, hung on the walnut paneled walls. A bronze statue of a blindfolded woman stood on a table next to the judge's bench, a sword in her right hand and a balance scale in her left. Her foot crushed a deadly snake against a book of the law, the cornerstone upon which all of society rested. She had a tranquil smile. But I felt uneasy.

After Peter, doctors, nurses, therapists, Tracy and Angelo had testified, describing Angelo's life and his future, Howard Gage settled in the witness box. He had grey hair, cut short, and he wore frameless glasses. His salt and pepper beard made him appear older than a man in his forties. Gage had built a scale model of the Harley, the seat, and the positions of Angelo and Peter at the moment of impact. Two lawyers from my office carried the model into the courtroom and placed it in front of the witness box. After telling the jury what he did investigating the case, explaining how his educational background and experience made him an expert, qualified to testify in court, he demonstrated that Peter's belt buckle struck Angelo in the exact location where the spine had been crushed, severing his spinal cord. Then Gage showed how a firm bump on the seat would have lessened the impact enough to prevent that.

Vincent Sponziello, the owner of Allstate Seat Cover Shop, had grey hair, straight and a touch unruly brushed over a high forehead. As he testified in a deep voice, he gave the impression that he was confident and secure. He told the jury that the old foam, while soft, was built up so that the bump was even higher than on the original banana seat.

During cross-examination, I showed Mr. Sponziello the receipt he gave

Angelo Angarone when he picked up his motorcycle on August 25, 1979.

“Beneath the words, Allstate Seat Cover Shop, are there other words?”

“Yes.” He raised his chin and furrowed bushy brows, a touch of arrogance, so I thought. “Please read them to the jury.”

Sponziello’s eyes twitched. He fumbled with the receipt. His lips rubbed together. “Expert Reupholsterer. Seats Recovered. Like New.”

Asking one question too many to an opposing witness is dangerous, especially if you don’t know the answer. Turning to Sponziello, I eyed the jury. It was a sea of blank expressions. Sponziello pushed himself up from the witness chair. “One more question, sir.” He sunk politely. “Mr. Sponziello, would you tell the jury what it would have cost you to have used new foam for Mr. Angarone’s banana seat bump?”

“About four dollars.”

“No further questions.” My jaw tightened, I wheeled around and shook my head from side to side.

Allstate Seat Cover Shop’s lawyer railed in his summation, pointing at Angelo and me. ‘Suing a motorcycle seat. Are they out of their minds? A motorcycle seat caused someone to become a paraplegic? Get real!’ he bellowed before blaming Angelo’s tragedy on the driver of the blue Chevy.

The lawyer for the blue Chevy admitted his client’s guilt, telling the jury that it was up to Angelo’s lawyer to convince them that Allstate Seat Cover Shop was responsible.

I had gone to my high school and borrowed hurdles used in track meets. During my summation, I placed two hurdles in front of the jury box, illustrating the hurdles that Angelo had jumped over and those that he would never scale. I hoped I was dramatizing the jumps Angelo had to make to overcome fainting when he sat up, regaining the power of balancing by using his eyes to tell him how and when he was changing position, and to develop the non-paralyzed muscles of his arms and upper trunk to take over some of the duties of the paralyzed muscles.

I approached the jurors. “But for four dollars we wouldn’t be here today.” Leaning stiff-armed on the jury rail, I pled, “Angelo’s case is important to him but also to others. A verdict against Allstate Seat Cover Shop is a verdict for the consumer, a verdict that will speak loudly, and a verdict that will tell businesses to do what they were asked to do or face consequences. A verdict for Angelo is a verdict for safety.”

Six hours of waiting in an empty courtroom ended when a door to the left of the jury box opened and a Sheriff's Officer dressed in a yellow shirt and brown pants with a yellow stripe delivered the long-awaited announcement, "We have a verdict."

I had tried to introduce jurors to Angelo's world. Had I shown them what it was like to live sitting down and unable to remember what happened just minutes ago? Had the jury appreciated Angelo's hard work using parallel bars in front of a large mirror or learning to use a monkey pole over his bed so that someone could adjust pillows under his buttocks and legs?

What were three of the twelve jurors thinking when they leaned forward as Angelo described the difficulty he had doing things they took for granted, like moving one's bowels by inserting suppositories or urinating through a catheter? What was going through the mind of the juror with his arms across his chest and pursed lips or the two who were expressionless? Until I met Angelo, I had shunned people who were disabled, those who sat in wheelchairs or who were deformed, afraid to think about what their lives were like, fearing and thinking that 'there but for the Grace of God goes I.'

The judge emerged from a door behind the bench.

"All rise," the Sheriff's Officer bellowed.

Oh my God, I thought. Here we were at the moment of truth. No doubt Angelo would receive a verdict against the blue Chevy, but fifteen thousand dollars would not cover the money I had invested in the case. I had spent \$50,000 for doctors' testimony and Howard Gage's services, model and testimony. If he could pay \$5000 in medical bills not paid by Shoprite's insurance company, and close to \$50,000 after paying me back and my fee of one-third, Angelo would be happy. The Allstate insurance lawyer offered us \$50,000, "not a dime more." Angelo and I had no choice but to take a chance.

Tracy, who had stuck with Angelo, despite knowing how difficult his future would be, sat with her eyes closed. I had convinced Angelo's mother and father to attend the trial so that the jury would see a family that was concerned about him. Angelo's father and mother had not been in his life after he had become addicted to drugs and had impregnated a woman twice. They steepled their hands in prayer.

The lawyer for the blue car rocked on his heels. His client had no assets. He had nothing to lose.

Seated in the wheelchair to which he had been sentenced moments after the crash, Angelo grabbed my hand.

The jury foreman fingered a piece of paper.

The lawyer representing Allstate Seat Cover Shop nonchalantly twirled his glasses in his fingers. Even though, under New Jersey law in 1979, I only had to prove that the Allstate Seat Cover Shop was 1% negligent in order to collect an entire verdict from Allstate, three veteran trial lawyers had refused his case. Was that why he was so confident?

To disguise my nervousness, I fingered the yellowed pages of *Understanding Paraplegia*, by J.J. Walsh, a book that I had read over and over while learning about Angelo's life and his future. Now, I could not restrain myself. I glanced at the jury. Juror #3 smiled at me. My heart skipped a beat. The other eleven jurors? Poker faces all.

The judge read a question. "Were Angelo Angarone's injuries caused by the driver of the blue Chevy?" "Yes."

I closed my eyes, afraid to hear the answer to the next question.

"Were Angelo Angarone's injuries caused by Allstate Seat Cover Shop?" The jury foreman answered, "Yes." and I felt Angelo's hand grip my wrist.

"In what percentage?"

"The blue Chevy – 50%"

"Allstate Seat Cover Shop – 50%"

"What amount will fairly compensate Angelo?"

"\$3,500,000."

I had never seen Angelo cry—not after his doctor told him he would never walk again, not when Tracy catheterized him. Not when a drug store step became an insurmountable barrier. Now, tears streamed down Angelo's cheeks. I had made up my mind to be expressionless, expecting the worse.

Whoopee went round and round in my head.

A newspaper reporter approached Angelo as he wheeled out of the courthouse. "What do you think about the verdict?"

"Today is a great day for the consumer," Angelo replied, smiling broadly.

The next day, a banner headline in a Trenton paper read, ***MAN AWARDED RECORD DAMAGES FROM SUIT. 3.5M AWARD.***

"The largest amount ever awarded by a jury in Central Jersey and possibly the entire state," court personnel were quoted as saying. And Angelo had told the reporter, "Mentally I couldn't handle it. It's a good thing I was heavily sedated

with morphine at the time. I was just hoping for enough to pay my bills. Those bills total \$5,000.”

I didn't know it then that the article would provoke such unpopularity. Many asked me, “Why so much money?” Many, including Kevin Quinn, a fellow member of the Junior Chamber of Commerce, called me “Stark the Shark” and criticized me, complaining that I was putting a hardworking businessman out of business and that insurance premiums would go up. I had taken on a case, at great risk, to help someone and was derided for my efforts.

It didn't take long for Angelo to blow my mind. In my office, he waved a \$2,200,000 check, exclaiming, “I hit the lottery.”

I worried.

A month later, he wheeled into my office and, with a smile from ear to ear, asked, “How do you like my new racing wheelchair?” My Adams apple rolled in my neck. “You're looking at the next Para-Olympic gold medal winner,” he said. Two weeks later he rented a garage and began building a three-wheeled motorcycle. Then he hired a stockbroker who was going to make him “very rich.”

When Nancy, my secretary, told me, “Angelo is on the telephone,” I cringed, afraid to hear what was coming next.

Angelo's spinal surgeon had opened my eyes to the mental processes paralyzed persons go through, by explaining that paraplegics faced enormous risks of infection often leading to an early death. The “live and let live” syndrome was, he said, “natural.” Angelo had rationalized that he could die any day so why not spend and live for today.

After the case was over there was a disruption of his relationship with Peter, who stopped coming to see him. I called Peter, who had been an impressive witness at the trial. I listened to Peter tell me, “He's too much to take care of. It's too tough even to go to a movie.” I thought about what Peter said and understood it. Or so I thought.

While talking to a psychiatrist about another client, I discussed my conversation with Peter. The psychiatrist told me that Peter probably felt guilty, thinking that he contributed to his friend's injury. Thereafter, when clients were shunned by close friends like Peter I suggested they seek help in allaying their guilt.

Angelo faced a challenge. How could he tell the difference between people he could really trust and people who were just seeing him as a financial opportunity? How did he choose someone to help manage his money so that it would be there

when he needed it in the future?

How could I convince Angelo to understand that he needed protection from his own behavior without insulting him or putting down his ability?

With the help of his parents, who were suddenly interested in Angelo's well being, I connected him with a banker experienced with children who had large inheritances. Knowing how to protect heirs from themselves, he convinced Angelo to put a million dollars into an annuity paying enough in interest to provide funds for good medical and home care.

Two years later, Angelo called me. He had spent \$5,000 for a penal implant. "Best bucks I ever spent," he railed. He thanked me for directing him to the banker, who had persuaded him to "get out of the stock market which had tanked."

He continued to live at Tracy's where her alcoholic sister and infirm mother preyed upon Angelo's sympathies, wresting close to \$10,000 from him before he wised up. As the sister became drunker and drunker, she treated Angelo and her mother roughly. Angelo recalled his problems with drugs and realized that he was pouring money down a drain.

One afternoon, a Trenton policeman called to tell me that, "A client of yours has been riding a scooter down the middle of a heavily traveled street. His name is Angelo."

"Put him on the telephone."

"I just bought a new mobility chair," Angelo explained, "and I'm giving it a test drive. I thought it would be safer to drive on the yellow line—so drivers can see me from both directions."

The policeman agreed to escort Angelo back to the mobility store with wigwags flashing.

On another occasion, a nurse called me. "I have a client of yours here. He has a urinary tract infection. He just asked me for a cigarette and a light. He offered me fifty dollars. It's against hospital regulations."

"So?"

"Fifty dollars is a lot of money."

"So why are you calling me?"

"He said if he ran out of money, he'd just call his lawyer, Albert Stark."

I knew without her telling me who the client was.

## Insider Secrets To Winning Your Personal Injury Battle 29

The harsh winters in New Jersey were hard on Angelo. He and Tracy relocated to Florida, where they bought a house on a river and for many years I lost touch with them. One day, I spotted an obituary in the paper. Angelo's mother had died. I was curious about what happened to Angelo and Tracy. I found where he lived through a doctor who had treated him. When I asked Angelo why he stopped sending me holiday cards, he replied, "When I think about you, I relive the bad times. I needed to get on with my life. Sure, I appreciated everything you did for me. But..." his voice trailed off.

Tracy became a well-paid physical therapist, working in a rehabilitation hospital. Over the years, Angelo survived infections and depression, thanks to Tracy and his team of doctors. They had learned how to deal with depression, how to deal with people who resented him because they thought he received too much money for a case he did not deserve to win.

Angelo's money enabled him to benefit from many technological advances that over the years made his life easier—mechanized wheelchairs, handicapped ramps and parking spaces, electric stimulators for his legs, and motorized chairs and vans. He still rides the three-wheeled motorcycle he had built. Angelo designed a winch to lift him in his wheelchair from his dock to his speedboat. I received a 2007 Christmas card with a photo on the cover. Angelo and Tracy smiled, sitting in a boat tied up to a dock.

He and Tracy had overcome hurdles many seriously-injured cannot jump over. He had learned to look forward without constantly thinking about and being emotionally hamstrung by the past.

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