

## A Case for Justice

*By Anita S Tillemans*

Words, powerful tools in service to all masters whether just or unjust, define us as a nation, as a



people. If we are to be seen as just, then, those words must be based on truth. If our democracy is to survive, we can do no less. My experience with our system of justice may serve as one example of what can happen when words are used in service to powerful interests and justice is rationed and partial.

I have been an artist all my life and with two children to raise, worked evenings in data entry and processing centers primarily to support that love and to be home during the day with my children. My first and only paid job painting was for two years with a photography supply outlet and this involved painting mural-size backgrounds for approximately \$10/hour. I developed a line of over 50 “products” and, in the first year, painted well over 75,000 square feet of canvas and muslin.

The physical work was demanding and the work area, a store warehouse, required that I move inventory in an effort to clear space for painting. During one of these times, in March 2000, as I moved a heavy barrel of scrap canvas, a 30-40lb bolt of canvas dislodged, hitting my head from behind and snapping my neck back. As there were murals to complete on a deadline, I stayed in spite of initial dizziness to finish the work. The pain came in the weeks and months ahead. The diagnosis was concussion and cervico-thoracic dysfunction.

By summer there was tingling in the pads of my feet, numbness in my toes, tremors and progressive symptoms. As a consequence, the doctor ordered me off work for two weeks in August 2000. By January 2001, my left shoulder was weak with decreased range of movement and I was disabled for more than a month, receiving temporary total disability, which was underpaid. With no relief, hungry and struggling to pay my bills, I was forced to return to work and file a claim petition for the underpayment when I should have been in recovery.

When the IME, or “independent medical examiner’s” report was untimely filed by the insurance company, an objection was formally made, received and recorded. When the case was finally heard after a failed settlement and delays, my letter of objection to the IME doctors’ reports, offered in evidence, was denied. Instead, the judge gave deference to the insurance company’s paid medical experts’ reports by making them “findings of fact”; though, by law, it was in the courts’ discretion to refuse these reports.

In addition, this same lower court retroactively claimed I had suffered a “head injury” and multiple injuries from an auto accident in 1993 by making this a “finding of fact” as well. In reality, the fact was whiplash injury diagnosed in 1997. On the scene, at the direction of the police officer, I had driven my car home with no apparent physical injuries. There were symptoms later but no conventional chiropractic or medical was sought until 1997 when the whiplash was diagnosed, MMI given, no restrictions, no disability found or rated, no loss of work, and no “head injury”. Unfortunately, this was not the picture painted by the court after my work injury.

With each experience, one learns more about the nature of truth and illusion. In my case, crucial documents went missing from the official court file, including my deposition. The judgment failed to note the two periods of disability and the loss of work in 2000 and 2001. My disability rating of 10%, given by both my doctor and an IME doctor (only after the work accident) was ignored; though again, by law, the court should have made a determination. Mention of restrictions and ongoing therapy from 2000 onward was missing and legal parameters disregarded.

In spite of any of these facts, the final judgment affirmed by the Appeals Court and the Minnesota Supreme Court allowed the insurance company to abdicate its contractual obligations for an admitted work injury and a legitimate temporary total disability claim. Retroactively declaring that MMI had been reached only five months after a traumatic injury in the workplace, when I was disabled by it, and denying any disability, restrictions, and necessary medical following this accident on the basis of a “pre-existing condition” the insurance company was relieved of its duty.

My fight for justice, eventually pro se, took me four long years and left me jaded concerning our system of justice and the medical insurance industry. It was disappointing to see doctors forced to walk a line between their practice and getting paid, to see funds that should have gone to my care, going to pay the profit-makers and their support system.

As a consequence, I work within my restrictions when possible. The symptoms have stabilized

with time; and though my adeptness at drawing has suffered some, with patience I have improved ... the tremors remain. I can no longer work at a job painting murals. Since the final judgment in 2004, I tried to move on, to forget the injustice done, and so it has taken eight years to understand that this judgment will follow me unchallenged unless I tell my story. Though my condition could have been worse, it most definitely would have been better in a just system.

Being human, I made mistakes, and as an imperfect being, I relied, as many do, on laws that were intended to protect us and to serve the common good. Is this the kind of system we have today under Citizens United v Federal Election Commission 558US50? Can it truthfully be said that money is speech and corporations, people? If, in fact, as a body of people or an aggregate of property, corporations are recognized by law as subject of rights and duties, then, what are their duties? When each individual of a corporate body already has a vote and the right to support candidates of their choice, wherein lies this additional privilege of corporations to essentially influence votes in aggregate using money as speech?

We as citizens have civic duties and limits associated with our right to vote, the political contributions we make, and our speech. Where are the duties, the limits associated with corporate "free speech"? As natural persons, we are born, live, and die; we fight wars, toil, suffer, are subject to laws, and are liable for our words as well as our actions. Can the same be said of corporations? Is this equality?

Did our forefathers have the rights of corporations in mind when they fought and died for freedom? Did they dream of a land where only those who could buy "justice" would have "justice"? Money, by its very nature, procures power and influence, and its price is nothing short of freedom.

In 1787, Benjamin Franklin spoke to this issue in his oration, "Dangers of a Salaried Bureaucracy":

*"...there are two passions which have a powerful influence in the affairs of men. These are ambition and avarice – the love of power and the love of money."*

*"...what kind are the men that will strive for this preeminence...? It will not be the wise and moderate, the lovers of peace and good order, the men fittest for the trust. It will be the bold and the violent, the men of strong passions and indefatigable activity in their selfish pursuits. These will thrust themselves into your government and be your rulers."*

*“This catastrophe, I think, may be long delayed, if in our proposed system we do not sow the seeds of contention, faction, and tumult, by making our posts of honor places of profit.”*

My trial was made necessary by a for-profit health care system in which cost trumped the trust to pay a claim and profit, not health, triumphed. Have we grown healthier as a nation under this system? Money obviously influences not as speech but as a medium of exchange, making tyrants of those who have it, and it is anything but free!

Words perverted to serve monied interests corrupt our system of justice and risk the health and sovereignty of this nation; and by turning our eyes from injustice and failing to stand for truth, we lose our democracy. For without justice, fairness and impartiality so intrinsically linked to the spirit of legal, political and social equality, we have a democracy in name only.

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