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BRIEF

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FRANK'S COLUMN

PERSEVERANCE

Keith and I just finished a case we've been working on for 12 years. We represent a young man with cerebral palsy that was caused by the negligent medical care his mom got at a D.C. clinic when she was pregnant.

We won the trial in 2010 and a bunch of appeals since then.

One of the biggest issues in the case was what insurance companies call "life expectancy." Back then, they said our young man wouldn't live more than a few years because of his injuries, which is why we rejected every settlement offer. We saw him the other day and he looks great. He outlived his mom who took care of him for 30 years, and thankfully, he has a brother to take care of him now.

The moral of the story? Don't let others define you. Keep going. It would have been easy for this young man and his family to give up — his life is hard.

They didn't.

I hope we can tell the full story soon, once everything is finalized. It's inspiring.

DONAHOEKEARNEY.COM

AUGUST 2020

OUR FIRST DOG, SNIFFER WHAT'S IN A NAME ANYWAY?

Dogs really are man's best friend, and it can be heartbreaking when they die — or when we're permanently separated from them. I was probably around 7 years old when my family got our first dog. We couldn't afford a fancy purebred from breeders and had probably never heard of such a thing, so we just got our dog from the pound. She was a golden-brown mutt that grew up to be a medium-sized dog, but beyond that, we couldn't tell you anything about what kind of dog she was. It wasn't really something that mattered to us.

On the way home from the pound, we sat in the back of our parents' station wagon with our new puppy crawling all over us (kids didn't even wear seat belts in those days, so there weren't any fancy dog seat restraints). We were trying to figure out what to name her when somebody said, "She's sniffing everything. What a sniffer." **It stuck, and "Sniffer" was our family's pet dog for the next five years.**

Sniffer was a super lovable puppy, even if she wasn't very well-trained. She would sometimes get out of our little fenced-in backyard and run through the neighborhood, and we would have to go out and search for her. **As you might imagine, it was a little embarrassing for me as a 9-year-old boy riding my bike around the neighborhood yelling "Sniffer!" at the top of my lungs. In those moments, I really wished we had given her a normal dog name, like King or Duke or something.** At the same time, though, all the kids in the neighborhood loved playing with Sniffer, so they helped us. Most of the time, when she took off, we all chased her until she came back or let one of us catch her.

About five years after getting Sniffer from the pound, our family had to move. I'm not sure if it was because of the place we were moving to or just because my parents had enough of her, but for some reason, Sniffer couldn't move with us. One day, my mom took us kids to see an uplifting movie about an unlikely friendship between two orphans or something. It was a PG movie, which was very unusual for us, so we knew something was up.

When we returned to the house, Sniffer was gone. Our parents fed us every cliché in the book about life on the farm, but I suspect that my dad turned Sniffer back into the pound.



Murphy, like the present day Beast, enjoyed celebrating all major holidays. Not sure whether he was named after the Irish whiskey, Murphy's law, or an old friend who embodied both.

My family did get another dog, Murphy, when I was about 18, especially since my youngest sister was still a baby when we gave up Sniffer. And Murphy lived a good, long life.

As for Sniffer, that's just how it was in those days. Now you would have dog-centered emotional therapy, dog counseling, and your dog would probably be able to sue your parents for failing to maintain your dog-owner relationship (Sniffer v. Your Parents).

I know all of this because I have a dog now. And that's exactly what would happen if I suggested we turn him back into the "organic, loving, nurturing, we interview you (and probably run a credit check) before we sell you a dog" place we got him from.

Avid readers know the story of Benny and how we got him 10 years ago this month. In other words, I came home one day and we had a dog. Just like Sniffer, he's not very well-trained, but he loves playing with our kids, neighborhood kids, and everyone else — so much so that his nickname is "Beast" because it's the complete opposite of his disposition.

At least when he gets loose and runs wild, I can drive through the neighborhood yelling "Beast" instead of "Sniffer." **Much more manly, don't you think?**

Frank Kearney

CLIENT PROFILE: STEVE GUERTIN

Every heavy-duty construction worker understands that the job is a risk to their health and their livelihood. **That's why we represent injured workers: to protect them, their families, and their long-term livelihood if they get seriously injured at work and can't go back to their regular duties.**

In 2017, Steve Guertin, a union plumber with Local 5, was working at the water treatment plant in D.C. He was 2 1/2 stories in the air when he fell and hit the pavement. As you can imagine, he had very substantial injuries, but the emergency room doctors said nothing was broken, **so he returned to work the next day!**

A few days later, his pain was unbearable, so he went back to the hospital. It turns out that Steve broke nine ribs, had two holes in his lungs, and ruptured his spleen. Eventually, he had to get 18 screws and five plates in his neck and back. **He was in surgery for 17 hours to repair everything that had been injured.**

As is typically the case, the insurance company called and tried to have him sign some paperwork while he was still in the hospital! Thankfully, a friend who Frank Kearney had represented in the past told Steve, **"Call my guy Frank — he will take care of you."** And that's exactly what he did. Frank went to visit Steve in the hospital and told Steve's wife, Sharon, to not sign a thing.

The insurance company played hardball and said, "How do we know this happened at work? You didn't go back to the hospital until a week later." They also threatened to hold his benefits

check unless he signed their paperwork. **But Frank knew all the insurance company b.s. and how to fight it.** He promptly took the insurance company to court to force them to pay for benefits and medical treatment. Like many workers' compensation clients, Steve had to use his



savings to stay afloat while waiting for the hearing. **But Frank won back all the benefits from January plus a penalty against the insurance company for their delay.**

Steve shared with me how difficult it was to go through the workers' comp process. He said, "When I got hurt, I was getting regular and overtime. I went from taking home a lot to making nothing. But Frank was aggressive and got down to business immediately. By the time

he came to visit me in the hospital, he had already petitioned the court for a hearing. **Things just got moving when he got involved."**

Frank knew how to hold out for the right settlement. He kept going back to the insurance company's lawyers. They finally got to a number that would take care of Steve and his family until Steve could retire with a pension.

As you can imagine, Steve is still on the road to recovery. He is not able to work and still can't lift anything over 5 pounds. He said, **"When you've got a family, there's a lot of worry, and this isn't something you can handle on your own. I would refer Frank to anybody. Nobody should try to do this on their own. Frank — he goes above and beyond to make sure everything is taken care of. Don't try to go it alone. You need a good lawyer, someone like Frank. You're not gonna win if you try to go it alone. I know people who have tried. The insurance company is who you gotta worry about, not the lawyer. Call Frank."**



Brooke Birkey

DOES ANYONE REMEMBER HOW TO DRIVE?



Has anyone else noticed a bunch of crazy on the roads since coronavirus hit? With the exception of driving to the grocery store (most people have one within five minutes of their home), everybody forgot how to drive. Except me, of course.

There's certainly less traffic, but I'll bet you didn't know that in northern Virginia, eight people were stopped going over 100 mph in just one day and one guy was doing 132!

There's a serious problem in Maryland, too (and not just since COVID — yes, I live in Virginia, so I have to make fun of Maryland just a little bit). Over the last two years, Maryland's speeding cameras have raked in \$23 million in fines over a two-year period. But they've also reduced speeding through construction zones from 7% of cars down to 1%, so way to go Maryland!

And D.C. just lowered the speed limit on many city streets to 20 mph to try to prevent pedestrian accidents, which have been on the rise for several years. So far this year, there have been 10 fatal crashes. D.C. is a little different because of congestion and so many pedestrians, but everyone who's ever had to drive in

D.C. can tell you it's a crazy experience. Let's face it, reckless drivers are out there and affect all of us.

If you're out there and see the same thing I'm seeing, don't forget to stay above the fray! If some jerk is aggressively tailgating, swerving in and out, just ignore them. Easier said than done (speaking from experience here), but these guys are the ones with the problem, not us. Let's keep it that way!

As you know, here at Donahoe Kearney we handle car accident cases, and we have a whole lot of great information on our website about car accidents, so check it out! If you've been hit by one of these idiots, give us a call to see how we can help you. Don't try to handle a serious car accident on your own, especially if you need surgery or other extended treatment.

-Frank Kearney

PURPLE CHICKEN AND LINGUINE



A Guertin family favorite!

INGREDIENTS

- 4 boneless chicken breasts, butterflied
- Ken's Steakhouse Raspberry Walnut Vinaigrette Dressing
- 1 lb linguine noodles
- 4 tbsp olive oil
- 5 cloves of garlic, chopped
- Grape tomatoes, halved and to taste
- Fresh basil, to taste
- Balsamic vinegar, to taste
- Parmesan cheese, grated and to taste

DIRECTIONS

1. Marinate chicken breast in the salad dressing for 4 hours, turning hourly.
2. Preheat oven to 350 F and bake chicken for 40-45 minutes (I cook the chicken in the marinade). When done, loosely cover while noodles are cooking.
3. In a large frying pan over medium heat, add 4 tbsp olive oil and sauté garlic. Add tomatoes and basil.
4. When noodles are cooked, drain and add to the pan. Toss with tomatoes, garlic, and basil.
5. Add balsamic vinegar and Parmesan cheese, and serve with chicken. Enjoy!



LONG-TERM DISABILITY VS. SOCIAL SECURITY DISABILITY INSURANCE

WHAT IS THE DIFFERENCE?

If ever you find yourself out of work for a period of months or years because of an injury or illness, you may have a few different disability insurance options to make sure you can still pay your bills and provide for your family. The two most basic categories of disability insurance you should know about are Social Security disability insurance (SSDI) and long-term disability insurance (LTD). Depending on the nature of your injury, your job, and your level of income, either one of these options could be right for you. You could even potentially use both at the same time. So, it pays to know a little bit about both kinds of disability insurance.

SSDI is a government-funded program for disabled workers, and it doesn't cost anything to be eligible to receive it, but you do need to have a certain amount of time spent working in order to be eligible. SSDI is what we call an "entitlement" program, which means you pay into it as a tax while you are working, and it's there if you need to use it. You also receive it for as long as you're disabled, but it will be converted at retirement age to Social Security retirement.

Long-term disability is not provided by the government. It is a form of disability insurance that is usually provided by your employer as an employee benefit (or you can purchase your own personal disability policy) and is usually governed by a federal law, the Employee Retirement Income Security Act (ERISA). Long-term disability benefits are provided by insurance companies, like The Hartford, Mutual of Omaha, Guardian, and others.

If you are sick or can't work because of an injury or illness, you have to apply for long-term disability benefits (and your job will have the basic info on how to apply). If you're awarded benefits, these will replace the majority of your income while you are out of work.

Unfortunately, both types of disability benefits can be hard to get, even though you have a legitimate illness or injury and can't work. Both insurance companies and the Social Security Administration deny legitimate cases every day, because they know that some people won't go through the hassle of filing an appeal, even if they could win it.



It's hard to find good lawyers willing to fight insurance companies these days — that's why we started helping people with long-term disability claims last year. People who had worked hard and done the right thing were getting screwed through no fault of their own.

While Donahoe Kearney doesn't handle SSDI cases, we do partner with a couple of great firms in town that do. So, if you need to apply for SSDI, we can get you connected with them.

For ERISA long-term disability insurance, if your claim gets denied for some reason or you want more info on this type of insurance, just call us. We'll review the denial letter for free, and we'll help you make a plan for the next steps.

Bottom line — we're here to help you and your family with whatever you need.

OUR STRICT, SAFE SIGNING PROCEDURES



Our safe signing procedures at work — here we are reviewing and signing settlement paperwork with a client from a safe distance.

We won't sugarcoat it — there's a lot to worry about in the world right now. But, one of the things you won't have to worry about is whether or not you'll be safe when you come into our office to sign any legal documents.

We've taken every safety precaution possible for our clients to make sure that they feel safe. We have disposable gloves for you to wear if you want and hand sanitizer if you need it. When you're in our office, you won't have to worry about anything!

At Donahoe Kearney, our clients' peace of mind is our top priority. So, while you might have to worry about each step you take anywhere else you go, just know that you won't have to do that here. We've got your case, your health, and everything else under control!

NOBODY PLANS TO DIE, BUT YOU CAN PLAN YOUR ESTATE!

Q&A WITH ADAM MOSKOWITZ

During the initial stages of COVID-19, we hosted a series of webinars to help people with some of the legal and practical issues we are all facing.

In April, we talked with local estate planning lawyer Adam Moskowitz to hear what he had to say about estate planning in the age of COVID-19, and he delivered. Adam answered some great questions for us on the basics of estate planning: what needs to be done now, what can wait, and how he helps his clients plan their estate the right way.

We pulled out a few of the most interesting and relevant topics. But you should definitely watch the entire interview on our website: DonahoeKearney.com/video/adam-moskowitz.cfm.

Question: Can I do my estate on Legal Zoom or another one of those types of websites?

Answer: You can do your estate on Legal Zoom, but it's only going to help you to the extent you understand what you're doing, and for the most part, estate planning has nuances that aren't covered in these types of DIY websites.

Question: Is estate planning only for celebrities, or do regular people need estate planning as well?

Answer: Statistics say 70% of people don't have a proper estate plan. I never meet someone I can't help. Dying without a will is often going to be a problem. There are certain exceptions, but generally, that's the case. It's much harder and more expensive to organize things on the back end as opposed to planning ahead of time.

Question: What is a medical directive and do I need one?

Answer: A medical directive (also called a health care power of attorney or a living will) is simply a legal document that makes your wishes known regarding medical care in the event you ever become incapacitated. It helps you avoid a huge mess down the road. That's generally the rule in estate planning — whatever you pay on the front end is going to be nominal compared to what you will pay on the back end.

There's a lot more information on the webinar. Don't forget to check it out at: DonahoeKearney.com/video/adam-moskowitz.cfm.