

## Are you a real lawyer?

BY MICHAEL J. WARSHAUER

Clarence Darrow says “the only real lawyers are trial lawyers, and trial lawyers try cases to juries.” So, are you a real trial lawyer or one in name only?

In today's world, Darrow's definition might be a little unfair. There are many GTLA members who aspire to protect the rights of the injured and downtrodden, but rarely, if ever, have an opportunity to go to trial. Instead, I think an attorney is a real lawyer if they believe in and support the Civil Justice System in order to ensure that individuals can obtain full, fair and just compensation from those who cause harm.

Real lawyers work to preserve the right to trial by jury — even if they aren't quite up on the rules of evidence or aren't known for the most eloquent opening statement or compelling closing argument. Real lawyers work to make sure that when a case must be tried, their client has their day in court — even if this means that they have to refer the case to a trial lawyer who more closely fits Darrow's definition. Real lawyers make sure that people have a chance at a trial when they need one. Real lawyers are willing to put time, heart and money into a case to help plaintiffs in need.

But why do it? Really, why put our money and hearts on the line for complete strangers? Why do any of us take the risk of losing tens of thousands of dollars to help a widow we don't know? Why do we care that her husband was killed because some stranger made a mistake? Why do we care if there is money for her kids to go to college? Why do we contribute thousands of dollars to political candidates to “protect the Civil Justice System?” Why don't we just get a job for which, regardless of the outcome, we'll be paid and no one will expect us to care about our clients or their Constitutional right to hold the people or companies that injured them responsible? Why?

I suspect that every one of us has asked these questions of ourselves in the years we have been trial lawyers. When the credit line is at its limit, we've lost two trials in a row, and everyone in the office is still expecting a paycheck, we've all asked, “Why bother?” I hope your answer is the same as mine: “It's who I am. I am a trial lawyer.”

What we do matters. Sure, it's hard to see how a \$3,000 car wreck settlement matters as much as a multi-million dollar product liability verdict. But it does.

To the family that lives paycheck to paycheck and loses a week's income because a careless driver was too distracted by his cell phone to look ahead, \$3,000 is the difference between making it or not.

To the manufacturer who has to make a risk utility judgment as to whether to make its product safe or not, a multi-million dollar judgment might just be the tipping point in favor of safety. It's the power of the American jury, made up of regular



citizens, that allows each of these cases to be resolved. Without the power of the jury, neither fender benders nor product liability cases can be resolved fairly.

In our country's infancy, our founding fathers knew the right to trial by jury was important. Not only did they include it in the Bill of Rights as the 7th Amendment, but they talked about it too.

Thomas Jefferson wrote: “I consider trial by jury as the only anchor yet devised by man, by which a government can be held to the principles of its constitution.” James Madison put it this way: “In suits at common law, trial by jury in civil cases is as essential to secure the liberty of the people as any one of the pre-existent rights of nature.” Their contemporaries included these thoughts in the 1788 Virginia Bill of Rights: “In suits between man and man, the ancient trial by jury is one of the greatest securities to the rights of the people.”

When our founding fathers wrote these words, the idea of a society run by big business, a society in which the Supreme Court would say that corporations have the same protections as that of actual men, was unimaginable. No one would have guessed more than 200 years ago that corporate interests would choose our politicians, set our national agenda, and have the power to sway public opinion against the very jury trials that are the only protections we have against them.

But in a world where it's hard to say where government stops and corporations begin, it remains true that it's the jury trial that holds them both accountable. And it's trial lawyers who keep the system working. It's what we do. It's who we are.

I wrote my last message before the election and the protection of the Civil Justice System weighed heavily on my mind as I wrote. The election is over, but I remain worried that we didn't do enough. This is true even though candidates supported by our PAC and Directed Giving Program did very well. The legislative session has just begun, thus the jury is still out on whether this new legislature, led by a new governor, will live up to the conservative values it was elected on — individual responsibility and strict compliance with the Constitution.

I hope so for my clients, my fellow Georgians, and yes, for me. Because if my ability as a trial lawyer to help people were taken away, I'm not sure what I'd do or who I'd be. After all, it's who I am. I am trial lawyer. I hope you are, too. ●