

# When it Mattered

## Episode 49: William Marler

Chitra Ragavan:

When William Marler was 16 years old, he ran away from home and became a migrant worker in Washington State. Living in squalid cabins, sleeping outdoors, and hitchhiking rides to farms to pick crops was difficult and dangerous. The low point of Marler's life came when he lost a gig and ran out of money. His stint as a migrant worker gave Marler lifelong connectivity to migrant workers, to food, and most importantly, to food safety issues.

Chitra Ragavan:

Hello everyone, I'm Chitra Ragavan. And this is When It Mattered. This episode is brought to you by Goodstory, an advisory firm, helping technology startups find their narrative. I'm joined now by William Marler, managing partner at Marler Clark Attorneys At Law. A national expert in food safety, Marler has become the most prominent foodborne illness lawyer in America, and a major force in food policy in the US and around the world. Marler is a frequent speaker on food safety issues at global events. He has testified before U.S. Congressional committees and his work has led to laws and regulations being passed to make food safer. Bill, welcome to the podcast.

William Marler:

Thank you, Chitra.

Chitra Ragavan:

Why did you run away from home?

William Marler:

Well, it was more like I was out to seek adventures and something different than spending another summer working on the family hobby farm. And I told my parents, I was going to go to Eastern Washington and work in the fields. They were not very excited or supportive of that. And one day when they were away from home, I packed a duffle bag and walked down to the road and finally got a ride. And about 18 hours later, I was in a little town on the Columbia river, almost dead square in the middle of the state.

Chitra Ragavan:

Was it scary? What did you do next? How did you find work? What crops did you pick?

William Marler:

Yeah, so I had some vague idea about where to look for work. I eventually found a job thinning suckers out of apple trees and thinning apples. That was my first job. And it was very hard work and a lot of tree climbing and ladder climbing. And over the course of the next three, three and a half months, I worked throughout Eastern Oregon, Eastern Washington and into Canada, following the crops.

William Marler:

There was peaches, apples, cherries, and various odd other farm jobs, including, a period of time, spraying, God knows what chemicals on plants without a shirt on, without a respirator without anything. So it was a very interesting, very interesting experience and one that I think about more frequently than I probably should.

Chitra Ragavan:

What was the most difficult point of that experience would you say?

William Marler:

Well, the work was really hard generally and this was in the early 70s and at that point in time, the migrant farm workers were essentially for the most part, poor whites. It had not really changed to a Hispanic culture of workers. And I always knew that I could hit the highway and go home. My parents would have welcomed me home, but I was a pretty proud kid. And I think probably the low point was I... There was a period of time where I lost some work. There was not anything to do. I still had a place to somewhat live, but I didn't have any money. And my food was, I had a five-pound sack of pancake flour, and that's what I lived on for about a week until I got a new job. And it has changed my perspective on pancakes I have to admit.

Chitra Ragavan:

Do you even eat them today?

William Marler:

Anytime pancakes come up as something for breakfast, my children have had to hear my pancake story. I think they now avoid making pancakes because they don't want to hear my story again.

Chitra Ragavan:

None of the Father's day breakfast in bed pancakes for you.

William Marler:

No, afraid not, afraid not. But still in all, it was a really interesting experience for a 16-year old. There were most moments in time where it was really super hard work, but it's given me a perspective on farm labor that has stayed with me, and labor generally, has stayed with me for my entire life.

Chitra Ragavan:

And what was the central takeaway do you think?

William Marler:

Well, it's interesting, I've thought a lot more about it here during this recent COVID episode that we're all living through and just how important, so many people that we don't really think about as essential workers. We tend to think of police officers, firemen as essential, but I think COVID has given us a sense of how the frontline people are nurses and doctors, ambulance drivers, and then people who work in grocery stores and people who work in factories, farms and out there too are, there are really the frontline workers picking our fruits and vegetables and working in our slaughter plants.

William Marler:

So, I think it's given me a perspective from a white middle class kid's perspective that has grown into white, upper class, 63-year-old guy's perspective. But nonetheless, I think it's helped shape my view of hard work and the value of labor.

Chitra Ragavan:

And I guess it also taught you the importance of education and college.

William Marler:

Certainly did. I feel very blessed to have been able to go to college and make it through and then into graduate school law school. But yeah, it's certainly, very tough work working on a farm and working on farms and living by your body and I definitely wanted to come back and make a living by using what gray matter I had between my ears.

Chitra Ragavan:

And then in college, you also learned the power of political activism. How did that come about?

William Marler:

I was somewhat politically active in the 70s. I think even though I never had to register for the draft because the Vietnam War was over by the time I turned 18. I lived in a Naval town, Bremerton, which is, there were not a lot of kids that were going to college there to avoid the draft.

William Marler:

A lot of kids were going into college. Not to get into the war and being drafted. And so I viewed that that's what was going to happen. And it certainly focused one's attention on politics. But when I did go to college, I wound up being one of a handful of students that decided to run for the Pullman Washington, which is where Washington State University is. The Pullman Washington City Council. And what happened was that the four of us filed for four separate open seats, the seats were already filled with the incumbent and then another town's person had filed in three of those four.

William Marler:

So the students had to face a primary election where they got bounced out because the town's people voted for one or the other of the town's person. The person I ran against didn't have a primary opponent and so I got a pass through the primary. The students came back a week after the primary, which one would argue that that's probably why they had the primary when they had it, but we were able to register students to vote. And I won by 53 votes out of 5,000 cast and became the youngest person and first student ever elected to the city council, and for a short period of time at age 19, I was one of the youngest, if not the youngest people ever elected to a city wide or any sort of office, because we had just gotten the right to vote.

William Marler:

So, I also learned very early on the power of the vote and I've always been a big proponent of using the power of the ballot box. In addition to what we're seeing presently with people in the streets protesting righteously, it's, hope that translates to voting action.

Chitra Ragavan:

So you became a lawyer and I guess you specialized in personal injury, right? Slips and falls and stuff like that.

William Marler:

Yeah. I mean, when I first started out, I worked in a large firm doing all sorts of trial work, whatever it was getting me into the courtroom, and some of that was defense work. And some of it was defending some pretty nasty defendants, corporations and manufacturers of products that harm people.

William Marler:

But I also had developed a practice on the side that was not in conflict to those, that work, where I'd represent victims in auto cases and slips and falls. And so as long as I kept up with all my other hourly work, I was able to do some other work on the side for the firm, and if it made money for the firm, they were happy.

Chitra Ragavan:

How did you wind up in food safety and getting that famous Jack in the Box case? And what was that case about and how did it end up being so important for you?

William Marler:

In the winter in Seattle, 1993 in January, in the newspapers, there was a morning newspaper and an afternoon newspaper. I remember taking the ferry across from the Island that I was living on and still do.

William Marler:

I got on the boat in the morning and was reading the paper. And there was just a discussion about an outbreak of E.coli. That seemed to be linked to eating food at a Jack in the Box restaurant and by the evening paper, and then the evening news is all about really some kids really hospitalized on dialysis and nobody knew what was really going on. And I got a phone call from a former client of mine, who had slipped and fallen in a place of employment. And so she wanted to sue, but because it was in place of employment, then she had to deal with workers' compensation as opposed to a lawsuit.

William Marler:

So I helped her through that and never charged her for any of my time but helped her through getting her some compensation for her injuries. And a year later she calls me and says, "Hey, a friend of mine's kid is sick with this E.coli."

William Marler:

So I went down and met the family and was one of the first lawsuits that got filed. And from that case, it was one case to, within days it was 10 cases, ultimately hundreds of cases, including children who became deathly ill. So, I went from just being a standard lawyer to all of a sudden being the legal face of the Jack in the Box case on behalf of victims. So that was really the beginning of what now has been 27 plus years of representing victims in food poisoning cases all over the world.

Chitra Ragavan:

And what's that experience been like?

William Marler:

A lot of lawyers don't like their jobs. A lot of lawyers represent people they don't like to represent, but everyone has a right to be represented. And whether it's a corporation or insurance company, a criminal or defendant. I get the best job. I get to represent victims of food poisoning, who through no fault of their own and most of the time it's children or people who are immune compromised. So I get to help figure out why the outbreak happened, and take care of people who sometimes need lifelong medical treatment and medical care.

William Marler:

So, I'm always every day in incredibly proud and blessed with the kind of job that I had been able to develop. Food borne illness litigation didn't really exist prior to Jack in the Box and what I have been able to accomplish in the last 27 years and starting Marler Clark in 1998. So 22 years at being the lawyer and having my own firm to do what I want to do has been a really exciting thing that I get up every day being thankful for the job that I have.

Chitra Ragavan:

So Bill, people may be surprised to hear that food can be this unsafe, aren't there laws against it to protect them? You've had some major cases, huge settlements. Why's food this unsafe?

William Marler:

Well, I mean, the statistics are pretty, almost, even hard to wrap your head around. There're 67 million Americans getting a foodborne illness every year, 3000 hospitalized, excuse me, 3000 dead, over a million hospitalized, it's a really serious problem.

William Marler:

Yes, we do have laws, but bacteria don't pay attention to laws. And there are times where unfortunately, the people who manufacture our food, don't pay attention to the realities of bacterial and viral contamination. Yeah, we've had laws about selling adulterated and unsanitary food since the turn of 1900s after Upton Sinclair's, *The Jungle* and the work of the progressive Theodore Roosevelt.

William Marler:

And we've had changes over time. The Obama administration with the help of the Senate and Congress passed the Food Safety Modernization Act, but we still have a lot of work to do. I've been involved in a lot of the legislation over the last couple of decades but we still have more to do. But we have the technology to do it and we've made some progress.

William Marler:

I always tell people like I was telling somebody on a International Association of Food Protection conference call that I was on the other day. And people felt like, "Oh my gosh, we really haven't made any progress." And I always tell the story that from 1993, Jack in the Box until early 2000s, 99% of my law firm revenue was E.coli cases linked to hamburger.

William Marler:

And because of a combination of litigation and legislation, hard work by the CDC and frankly hard work by the meat suppliers in many instances, I haven't had many E.coli cases linked to hamburger at all. So other than maybe my accountant not thinking that's a great idea. From the point of view of, from victims and I think point of view of society, that's a success story.

William Marler:

And I tell people that, yes, we still have problems, but these are things that with focus are, maybe not completely fixable because these bacteria and virus are very adaptive, but I think that many things can be continued to be worked on and progress can be made.

Chitra Ragavan:

You were a very successful lawyer for many, many years, and you could have stayed that way, but you made the transition also to being this global advocate and thought leader. How did that come about?

William Marler:

Yeah, I think probably because of frustration that the law... The law is a very blunt instrument of social change. It's a very useful tool and to understand the rule of law and to understand how the system operates is an important thing. But it's a case-by-case basis, and so it really, I think also, my experience in politics and working with coalitions to try to effectuate change, it really had to do with the fact that the law is a really blunt instrument for change.

William Marler:

Lawsuits are difficult on all the parties and sometimes it's a case-by-case-by-case basis. And it doesn't effectuate change as quickly as you'd like. And so and with respect to the E.coli thing, you can sue companies all day long and collect millions of dollars from them, but that may sometimes be just the cost of doing business to them.

William Marler:

But if there's legislation, if there's public outcry, if there's sometimes embarrassment from being outed by how the outbreak happened, I started doing a lot more things like that, that made more of an impact.

William Marler:

And I also think putting yourself out there, going to conferences, whether it's the American Meat Institute or conferences of food safety, the fact that you would go there and go into the lion's den sometimes where there'd be people who were quite angry or very upset that lawyers being invited. And I've had people walk out of a conference that I was speaking at. And not just because of what I was saying, but as a sign of protest that I was even there.

William Marler:

So I think part of what I'm trying to accomplish is, I have been able to be very successful by representing victims of foodborne illness and it's part of my feeling that I have a responsibility to help avoid these problems to begin with. Because sometimes, you can get somebody tens of millions of dollars, but because you got somebody tens and millions of dollars, it really means that their life has been so dramatically altered that even though they have the money now to take care of it, they would much prefer to have their kidneys. They much prefer to have a functioning brain. They much prefer not being a paraplegic. So, money is a very inadequate way. It's the only way, but it's an inadequate way of helping people through a catastrophic event.

Chitra Ragavan:

All your efforts, as you have mentioned have made a huge dent in eradicating E.coli in a lot of foods and now you're taking a stab at getting rid of salmonella. What is the state of salmonella in foods and meats in particular. And what's it going to be like to take that fight on?

William Marler:

Yeah, well, back in 1994, when Mike Taylor, who at the time was the head of FSIS which is the arm of USDA that regulates meat. They deemed E.coli 0157, which is the nasty bug that caused the Jack in the Box outbreak. They deemed that an adulterant. And what that meant was that the meat companies had to test for it and could not sell it, knowing that the product was contaminated. Where in 1993, '92 and earlier, they could knowingly sell customers E.coli contaminated meat.

William Marler:

That sounds a little hard to think about, and in meat, the meat industry is allowed to do that, but if you have a product over on the FDA side like lettuce, they've never been able to sell E.coli contaminated lettuce, it's against the law.

William Marler:

Salmonella, which is a bug that sickens and kills actually more people in the United States than E.coli does, salmonella is still allowed to be on and in hamburger, chicken, pork, turkey, and the company can knowingly ship contaminated product and expect the consumer to handle it and deal with it.

William Marler:

Obviously, that doesn't happen because we have lots and lots and lots of people that get salmonella illnesses every year and get severely sick and even die. So I petitioned the US government to do for salmonella, what it successfully has done with E.coli and deem it an adulterate, so the industry could not knowingly sell contaminated product to consumers.

William Marler:

And the whole idea behind it is to try to be as successful with salmonella as we have been with E.coli. And obviously that would entail having a lot less work for myself and my firm to do, which again is a good thing.

Chitra Ragavan:

We talked earlier a little bit about COVID-19 and the pandemic as you mentioned, has brought the plight of migrant workers and meat packers to frontline workers, to vivid light, they're at the greatest risk and you were in the trenches as that 16-year-old, and you've dealt a great deal with food safety and food issues. What are the challenges in getting the COVID message out to those workers?

William Marler:

Yeah. This is going to be a challenge. And the challenge is because many of these workers are stuck between a rock and a hard place. They don't have other marketable skills. And so being a farm worker, being in a meatpacking plant is what they know how to do, and that's what they can do.

William Marler:

The alternative is you come to work or if you don't work, you don't get unemployment, what are you going to do? You're going to come to work. If you have a family and you have to feed yourself and you feed your family. I think people who are in that position, that they absolutely require employers and the government to make sure that those workers are safe.

William Marler:

And that may mean a lot more PPE. That may mean a lot more physical spacing, slowing line speed down, it may well mean that the cost of food increases because the labor costs are going to go up. Safety costs are going to go up, but we've already seen the impact of companies not paying attention to the needs of their workers, because we're seeing beef prices go up, we're seeing meat be less available, certain kinds of meats being less available. So you pay for it now by protecting the workers, who also with COVID, go out into your communities and spread the disease throughout the community.

William Marler:

And so it's not just to protect the worker, which I think is the moral thing to do, but it's also to frankly protect yourself. And sometimes profits are the focus and we become so shortsighted about the long term costs to the people, long term costs to the community.

Chitra Ragavan:

Do you think that food safety issues might take a back seat because of the pandemic, given that the full force and weight of the federal government is focused entirely on COVID-19? And if it does take a back seat, how will consumers be able to protect themselves?

William Marler:

Chitra, that's a very good question and it's going to be a very difficult one. We do know for a fact that FDA inspections are down, FDA recalls are down. We do know that FSIS inspectors are getting sick in meat plants with COVID. So we do know that it is having an impact. Exactly what impact it's having, intellectually and thoughtfully, it has to be having a negative impact on food safety.

William Marler:

Part of the problem is because health departments who normally would also be surveilling foodborne illnesses are in the midst of helping society deal with COVID. And so part of the problem is, is it intellectually that this food safety is definitely taking a back seat.

William Marler:

Part of the problem is that we're not getting that kind of surveillance to know for a fact. And then you factor in the fact that we're not... Many people aren't eating in restaurants and they're eating at home. And so are the numbers down in part because of that or

part because we're not surveilling what's going on. And it is a challenge that because of the risk of COVID, it doesn't have a great solution right now.

Chitra Ragavan:

By the way, I'm curious after seeing all of these cases and all of these illnesses, do you still eat meat?

William Marler:

Well cooked. Not a lot, but I do when I do, it's well cooked.

Chitra Ragavan:

Looking back at that 16-year old farm hand, and where you are today, what would you say to that young man about the journey that you've been on?

William Marler:

I have been having that conversation with my 21-year-old daughter who is putting herself in the middle of some of the peaceful protests here in Seattle. And I found myself talking about safety and talking about perhaps focusing on a different thing than putting yourself in harms way with thousands of people marching and police. I think most fathers would think that way.

William Marler:

So, I certainly have a perspective now of a 63-year-old guy that I probably didn't have when I was 16. I suppose if I was... I'm not sure I would really give that 16-year-old any advice. I'd probably listened to what that 16-year-old had to say to me, because even though I think there's a lot of that 16-year-old in me, and maybe even that 19-year-old city council member is still in me, 50 years has... And focusing on other things has taken me frankly away from some of the real issues that I think we're all facing, whether it's institutional racism, public health in a broader way than I focused on it.

William Marler:

I feel good about the work that I do, but clearly my 21-year-old is indicating to me that she appreciates what I do, but I'm perhaps not paying attention to the things that need to be paid attention to today that I haven't obviously been focused on the last 50 years.

Chitra Ragavan:

And would you say that's your viral inside about your life and work in the wake of COVID-19 or have you had other moments of clarity brought upon by this crisis?

William Marler:

I think my 21-year-old is teaching me that you can do important things and focus on the fact that you have and are doing important things, but that there may well be other things that you might need to find time to deal with. And I think that's pretty wise and I

think that's probably the same advice I probably would be giving myself if I was a 19-year-old city council member giving a 63-year-old Bill Marler the advice.

William Marler:

What I'm learning through this COVID thing is we have a lot of work to do as a society. I think this COVID crisis, and some of the recent public killing of an African-American man has brought to the front some inadequacies in our society. That doesn't mean that food safety isn't important, but it means that we need to broaden our perspective and that's something I'm trying to figure out my place in that right now. And I very much appreciate my daughter pointing out my inadequacies.

Chitra Ragavan:

Do you think you might change the focus of your law firm?

William Marler:

I think not. I have the luxury that I may help focus my attention on some other things. The fact that I'm not spending two hours a day commuting, and sometime I spend most of my time nowadays, pre-COVID in a situation where I'm usually in an airport or some courtroom somewhere in the world, that's now not happening. So, my perspective on things may change given the fact that I have time to focus on them.

Chitra Ragavan:

Bill, thank you so much for joining me today and for this great conversation.

William Marler:

Thank you very much. It was a pleasure.

Chitra Ragavan:

Bill Marler is managing partner at Marler Clark Attorneys At Law. A national expert in food safety, Marler has become on the most prominent foodborne illness lawyer in America, and a major force in food policy, in the US and around the world.

Chitra Ragavan:

Marler and his firm have represented thousands of individuals in claims against food companies whose contaminated products have caused life-altering injury and even death. This is When It Mattered. I'm Chitra Ragavan

Chitra Ragavan:

Thanks for listening to when it mattered, don't forget to subscribe to the show on Apple podcasts or your preferred podcast platform. And if you like the show, please rate it five stars, leave a review and do recommend it to your friends, family, and colleagues.

Chitra Ragavan:

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Chitra Ragavan:

Our producer is Jeremy Corr, Founder and CEO of Executive Podcasting Solutions. Our theme song is composed by Jack Yagerline. Join us next week for another edition of When It Mattered. I'll see you then.