

New Kid on the Block

By Colin Caywood

As I settle into my office on a Monday morning, the phone rings, I grab the receiver, hold it to my ear, and hear a voice say “Hi Colin, I have a call for you, can you take it?” Within seconds I am listening to a young man explain how he recently dined at a local restaurant and a few days later began to suffer from explosive, unrelenting bouts of diarrhea followed by vomiting and debilitating body aches that lasted for days. He received hundreds of dollars in medical treatment, but has no insurance and the restaurant has responded to him by offering a \$5.00 off coupon for his next meal.

Other times the call comes from a mother to a young child who, a week earlier, was enjoying a hamburger prepared on the family’s backyard BBQ for a birthday celebration, but is now hospitalized with life-threatening acute renal failure and intermittently suffering from brain-damaging seizures.

For a newly indoctrinated plaintiff’s attorney, every call poses the challenge of determining whether it is something to pursue. Where I work at least, not only are such calls par for the course, they represent the type of claims that dominant our practice.

What I do is not the norm

The most frequent question I hear when conversing with my fellow, recently graduated law school classmates is, “and where do you work?” followed by “and what type of law do you practice?” When I answer the first question with “Marler Clark,” it typically draws little fanfare and, in fact, usually involves a long pause while the person flips through their mental rolodex of local law firms. But it is my answer to that second question that typically gets the reaction.

“We represent victims of various foodborne illness outbreaks who have the misfortune to encounter bugs like *E. coli* O157:H7, *Salmonella*, *Campylobacter*, *Listeria*, *Norovirus*, Hepatitis A, and *Shigella*.” Cue blank stare. I may as well have sprouted antennas.

I realize that what I do is not within the customary practice areas in which most new attorneys find themselves involved: business, insurance defense, family law, criminal law. The list is endless. Nonetheless, I do represent people with legitimate legal claims, albeit in a unique arena.

I talk to people every day who believe they have been sickened by some foodborne pathogen. They tell me about their burger from last night that “tasted wrong” or “smelled like it was bad.” Perhaps there was something unidentifiable in their chili. Often times they developed a stomach ache or severe diarrhea. Around the same time an article appears in the newspaper, or Brian Williams introduces a segment on the nightly news about an outbreak of foodborne illness that has been linked to, let’s say, ground beef or canned chili. For the common individual, the proverbial light goes on and they think

“that’s it! That food must be what made me sick, put me in the hospital, and caused me to miss all those days of work and endure weeks of misery.” And then the phone rings and a voice says “Hi Colin, I have a call for you, can you take it?”

What’s a new attorney to do?

Like all new attorneys, I am swimming in a sea of uncertainty and confusion. Much of my day I am overwhelmed by this new world in which I have chosen to work. All of us have much to learn from, and to prove to, our employers. But we also have an eagerness and enthusiasm to finally be embarking on a legal practice after years of difficult schooling. We do so by coming in early, staying late, never saying “no,” and hopefully bringing clients in the door that generate business. It is easy to start off our practice by saying “yes” to every new call, regardless of how unlikely the claim may sound. Some of the people who contact us do have clearly legitimate, supportable claims and are entitled to compensation. But I have been learning that many of those who contact us have claims that are suspect, or at least not supportable, and hence the gray area of legal claims emerges.

At least in my practice, some people who contact me have illnesses that are mere coincidence, psychosomatic, or even downright bizarre. And I have quickly learned that the first task of any good attorney—whether a seasoned pro or a green-behind-the-ears newbie—is to sift through the claims and determine which are legitimate, or at least can be supported by circumstances and the evidence at hand. This is a tricky skill to develop, and not one that was readily taught in law school.

Like you, I spent three difficult years maneuvering through academia in pursuit of a Juris Doctor degree. I puzzled with classmates over the Rule Against Perpetuities and UCC scripture, and wrote memos and briefs to imaginary firm partners. Today, however, those experiences—while necessary and important—do little to prepare me for the day-to-day reality of practicing law. As my mentors here at Marler Clark remind me every day, we are advocates. We give a voice to our clients so they can be heard. And in doing so we must be jacks of all trades for our clients—grief counselors, hand-holders, legal advisors, bearers of bad news, friends, and confidants. After practicing law for the first time over these past few weeks, the importance of each role has slowly revealed itself.

My point is this—practicing law is much more complex, uncertain, and multifaceted than I could have ever imagined. When I was a youth imagining myself as a practicing attorney, did it resemble the reality I live today? The answer is certainly “no.” I—like I am sure many young attorneys—envisioned pacing around a mahogany-trimmed court room pontificating aloud before a transfixed jury about guilt or innocence like Perry Mason, or better yet, launching into an impassioned oration on humanity and justice like Atticus Finch. But what I have recently discovered is that my practice is no less grand or important as my younger self imagined—just a bit quieter, personal, and usually involving diarrhea. And I love it. For all my fellow recent grads, I hope whichever area you find yourself practicing in you share that same love.

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