

The Client Who Needed Me Most...

By

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On December 1, 1998, Norma² dropped Leo and his brother and sisters off at school just like she usually did. And, just like normal, little six year-old Leo got out of the car and sprinted up to the building excited to see his friends. At that time, no one had any reason to believe this day would be any different than any other. Norma, Leo and Leo's siblings had no idea that in just a few hours, all of their lives would be changed forever, in an instant. In just a few hours, Leo would never run again.

When school got out, Leo met his brother and sisters outside and they began their walk home, just like they had so many days before. Norma, a single mom, was at work and unable to come pick them up, so the kids would walk about six blocks home and stay with a friend until Norma got off of work. Leo's older sibling, Samantha, was ten years old and in charge of making sure all the kids got home.

On this day as on most days, Leo and his siblings were walking home with a group of kids from their neighborhood. They took the same route they normally took which required them to cross over Smith Street, a busy street with two lanes of travel in each direction and a turn lane in the middle. The children pushed the button on the traffic signal at the intersection as they had been taught to do and waited for the signal allowing them to cross.

Leo, his siblings, and their friends were very familiar with their routine and had done it plenty of times. What they did not know, however, was that one of the driver's on Smith Street,

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² The names of the people, streets, etc. used in this article have been changed to protect the privacy of those involved.

Mr. Hanson, was traveling down that road for the first time. Therefore, Mr. Hanson did not know he was in the vicinity of a school and did not notice as he passed two signs warning of kids crossing in the area.

When the walk signal came on, the children began to cross. Some ran, some walked, some skipped. Leo was skipping along just a few feet ahead the rest of the group. After Leo had gone about 50 feet and was just about five feet from the curb, Mr. Hanson's vehicle slammed into little Leo's body. Mr. Hanson did not see Leo, or any of the other kids crossing the road that day, before the impact. Therefore, before the collision, there were no tires screeching, no horn blaring, no sound at all except Leo's bones breaking against the front of the vehicle and his skull slamming into the concrete seconds later.

All of this happened only a few feet from Leo's friends and siblings. After overcoming the initial startle and shock from almost being hit themselves, they watched as Leo was hurled almost 90 feet down the road, landing on his head. They had no idea what to do and it seemed like many of the adults at the scene also were confused about how to respond to this horrific event. Mr. Hanson, in an apparent state of shock, continued to drive down the road as if he was leaving then turned around and drove back to the scene.

Mr. Hanson just sat on the hood of his vehicle about one hundred feet away, unable to go view the damage he had inflicted. Leo's brother and sisters, however, were not so fortunate as they witnessed their brother laying on the pavement, struggling to breath, blood trickling out of his ears.

In an instant, all of the things that Norma and her family had hoped for Leo's future were gone. Leo would never play sports, go to dances, drive a car, or graduate from college. He would likely never date, marry, have kids, or earn his high school diploma. Leo's broken bones

would eventually heal, but his brain injury was permanent and severe. Leo's brain injury was a shearing injury that significantly reduced his control of all motor skills. Leo was, however, still able to understand that he was injured and different than other kids. He was able to remember what he could do and see now that he was unable to do those same things. Possibly worse of all, he was able to understand that he would never be able to do the things he wanted to do in the future.

One of the difficult parts about Leo's injuries was that physically, he was not permanently injured and continued to grow. While he could not walk, it was not because his legs did not work, but because his brain did not know how to make his legs work. Leo required 24-hour care as he was completely immobile, confined to a wheelchair, and incontinent. Not only did someone have to provide the basic necessities for Leo such as bathing him, changing his diapers, and feeding him, but they also had to continually exercise him to avoid muscle contraction and skin breakdown. As Leo continued to grow in size, providing this care became more and more difficult.

Norma was a single mother of five. While she certainly had made some poor choices in life, she was doing the best she could to provide for her family. Understandably, the family had very little money and, after the collision, had even less. Norma was forced to leave her job to care for Leo. Norma also was forced to get rid of the family vehicle. Finally, the family was evicted and had to move into a second-story apartment managed by Norma's friend. While the rent was cheap, the family was forced to carry Leo up and down the stairs to get him in and out of the apartment.

When Norma came to see us, we all felt horrible for what her family had been through, however, we were not at all convinced we would be able to help her much. The police report

indicated that Mr. Hanson was driving his own vehicle and our investigation revealed he carried minimum limits of insurance coverage. Mr. Hanson's insurance carrier promptly offered their limits and assured us that Mr. Hanson was not working at the time of the collision. The minimum limits under Mr. Hanson's policy would have taken care of just a small portion of Leo's medical expenses, which were already over \$200,000. It looked as though Leo was destined to live his life dependant upon public subsistence and medical care.

We noticed on the police report that Mr. Hanson was employed as a sales person. Because accepting his limits of coverage would make no difference whatsoever in Leo's life, we decided to file suit to make absolutely certain that Mr. Hanson was not working. When we received the defendants' written discovery responses, we learned that Mr. Hanson was, in fact, working at the time of the incident, contrary to what his insurance carrier told us. Furthermore, the company that employed Mr. Hanson at the time carried primary and excess policies totaling \$16 million in coverage.

Instead of taking responsibility for their insured's driver's actions, the insurance carrier and defense fought the claim at every turn. They blamed Leo, they blamed Norma, they blamed the city for the signaling, and so on. They also fought on damages. We had retained one of the country's preeminent life-care planners who opined that Leo would need approximately \$13.5 million in future medical care. The defense argued that the expert's estimate was too high and that Norma, who had no medical training whatsoever, could provide much of Leo's care, including most of his therapy and even diagnostic testing.

In the end, the insurance carrier made the business decision to resolve the matter through settlement. While Mr. Hanson was clearly remorseful for what he had done, his employer and its insurance carrier refused to acknowledge their fault in this tragic ordeal and included language to

that effect in their settlement agreement. In the end, we were able to obtain a very favorable settlement for Leo and his family. A settlement that will enable Leo to get the medical care he needs for the rest of his life. A settlement that allowed Norma to get a vehicle capable of hauling Leo and his siblings around. A settlement that will permit Leo's siblings to go to college if they want.

Many times, helping folks in these situations can be very challenging. Like with Leo's family, often they don't have telephones, they are frequently being evicted, and they don't have vehicles. But, helping Leo and his family was one of the more rewarding experiences we all have had at our firm. We developed a close relationship with the family and would do things like throw birthday parties for Leo and his friends so that Leo could experience at least one day of a normal childhood.

Had Norma not contacted us, she would have no doubt accepted Mr. Hanson's minimum policy limits. Even if Norma thought to ask about whether Mr. Hanson was employed, she also would have likely accepted the insurance company's misrepresentation that Mr. Hanson was not working at the time. Without the settlement funds, Norma and her family would still be living without a vehicle, a job, a phone, or a sliver of hope for a better life.

Sometimes I wonder whether the people who support damage caps and other restrictions on justice ever think about victims like Leo. If they knew about his experience, could they honestly say that the pain and anguish he has endured, and will continue to suffer for the next 70 years, is worth no more than \$250,000? I imagine their response would be, "Well, that is different." Yes it is, and that is the point.