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CARING INTENSIVELY



Arthur Bryant- "I remain optimistic and confident that I'll be able to get back to the level of work that I once performed."
Photo By S. Todd Rogers/Daily Journal

By Karen Coleman
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SAN FRANCISCO - The Trial Lawyers for Public Justice Foundation's 21st Anniversary Gala and awards ceremony this week did double-duty as a com-

ing-out party for Arthur Bryant, the organization's executive director.

Bryant became the nonprofit organization's second staff attorney in 1984 and did much to direct its growth into a legal powerhouse. He had been out of the office and away from the

game, however, for most of the past year.

The 48-year-old public-interest attorney is still recovering from a near-fatal car accident last August that left him with a six-[week] blank spot in his memory and injuries that require continuing therapy.

He made his first public appearance since the accident Sunday during the foundation's annual meeting in San Francisco.

He upstaged Attorney General Bill Lockyer, the keynote speaker, by drawing three standing ovations lasting five minutes or more each, the last one punctuated by whoops and hollers. Bryant was received with similar enthusiasm during the foundation's awards ceremony Tuesday evening.

Bryant said he was "thrilled" to finally see so many colleagues in person.

"I spent close to a year in hospitals and doctors' offices, and rehabilitation offices trying to get better. So to return to people and work I love after that kind of a period is just thrilling," he said in an interview.

In a speech during the annual meeting, Bryant related his first memory after the accident, when he fully "woke up" after weeks of lapsing in and out of consciousness. He had no short-term memory during that period. He said he thought he was groggy from a nap until a doctor asked him if he knew the date and where he was.

"I got every question wrong," Bryant said.

At the time, he said, he couldn't believe he and his wife and son had been injured and that he had been in bed for the better part of two months.

"My first reaction was 'get the hell out of here. I just took a nap.'" Then the doctor told him to look down at himself in the bed. "I was lying there all cov-

ered in bandages, and it started to sink in."

As surreal as the accident may have seemed to Bryant, it was worse for his colleagues, who were the first to reach his bedside and remained at his side throughout the ordeal.

"They allowed us into intensive care," said Jeff Foote, of the Portland firm Jeffrey Foote & Associates and a past foundation president. "We were part of their

Bones Broken But Spirit Unshaken, Arthur Bryant Survived a Horrific Crash Thinking About His Family and Public Interest Law

therapy; we had voices they knew."

Foote, a personal injury lawyer, also volunteered his time to keeping Bryant's personal affairs in order after the accident.

Once it was clear Bryant would make it, "it was the head injury that scared us," said Gary Gwilliam, of Oakland's Gwilliam Ivary Chiosso Cavalli & Brewer, the new foundation president.

Bryant, a Harvard Law graduate, is known for his shrewd legal mind and his dogged devotion to Title IX - particularly for forcing Brown University to grant parity to women's sports. Brown was the only school to appeal a Title IX loss all the way to the U.S. Supreme Court, where it was denied review. The

university lost or settled all the claims by 1998. The case ended in the 1st U.S. Circuit Court of Appeals. *Cohen v. Brown University*, 101 F.3d 155 (1996).

Bryant has pressed important civil rights and federal preemption cases. He is particularly proud of a \$950 [million] national settlement in Tennessee in 1995 over allegedly defective polybutylene plumbing, the largest property damage class action in the United States. *Cox v. Shell Oil Co.*, 18844.

Bryant who became the foundation's second executive director in 1987, is credited with building the operation into a 3,000-member, \$4 million concern. Its law firm, Trial Lawyers for Public Justice, boasts 31 lawyers in offices in Washington and Oakland. Bryant moved West to open the Oakland office three years ago.

"This guy has a very rare ability to be a great lawyer and a great administrator," Gwilliam said.

The accident happened on a rural section of Highway 97 in central Oregon. Bryant was driving his family home to Oakland after speaking at the annual convention of the Oregon Trial Lawyers Association in Sun River. A pickup coming in the opposite direction turned without warning in front of Bryant's Toyota. The vehicles collided head-on.

Bryant had to be cut from the wreckage. He suffered brain damage, two collapsed lungs, broken bones in all of his limbs

and a crushed right hand. The doctors told his parents and his colleagues he wouldn't survive the night.

Bryant's wife, Nancy Johnson, also was critically injured and unconscious after the accident. The couple initially was airlifted to the St. Charles Medical Center in Bend, Ore. Their son, Wally Johnson Bryant, then 7, had a broken leg.

The driver of the truck, reported to have had a suspended license, was treated and released that day.

According to several accounts, a hospital representative called the Oakland office of TLPJ first, asking Bryant's assistant for information about his family and medical history.

Paul Stritmatter, the foundation's president at the time, said several colleagues rushed to the hospital. Past TLPJ president Susan Saladoff, of Davis Gilstrap Hearn Saladoff & Smith in Ashland, and her daughter kept Wally company while his parents lay unconscious.

"For the most part, the doctors related to us very well," Stritmatter said, although he remarked that one doctor was especially reserved toward the pack of high-powered tort attorneys at the patient's bedside. Another doctor with a sense of humor made a point of ribbing them about their business.

The attorneys made a point of putting the doctors at ease.

"Don't be afraid because it's a bunch of lawyers walking down the hallway," Stritmatter recalled telling them. "We just happen to be a bunch of lawyers who have a dear friend in here."

Stritmatter is a personal injury lawyer with Stritmatter Kessler Whelan Withey Coluccio, in Hoquiam, Wash.

"Because of what I would call our medical-legal expertise, we were able to keep track of him and make sure [his family] got good care," Foote said.

Johnson recovered from her injuries, but after about three weeks in the Oregon hospital, Bryant was moved to John Muir Medical Center in Walnut Creek. Three weeks later his faculties, in his words, "came back." Stritmatter said his first inkling that his colleague was going to be OK came soon after Bryant's return to California, when during a telephone conversation he laid out several reasons why an action planned for the board's next executive committee meeting was a bad idea.

"Rather than comment on the substance of the argument, I said 'Arthur, you are back,'" Stritmatter recalled. He had Bryant reiterate his comments by phone during the meeting and, he said, the committee had the same reaction.

"He's a very persuasive lawyer," Stritmatter said.

Bryant was moved to a Marin County rehabilitation hospital in November and went home in mid-December. Since then, he has been undergoing regular physical therapy to recover full use of his legs and his reconstructed hand.

Bryant said his doctors told him he was cracking jokes while his head was mending and that "humor is a high-brain function." Bryant didn't worry about his mental acuity.

"Once my brain came back I never had any concerns about my mental abilities - they just seemed to be back. I did have concerns about my physical survival and the health and safety of my family."

He said his biggest mental challenge was the psychological adjustment of learning about the accident and focusing on recovery.

His mind remained active throughout his recovery, Bryant said, judging from observations by friends and associates, though he remembers nothing.

For a time he thought he was presiding over a meeting in his hospital room, "running through agendas nobody else had," he said.

Through it all, he said, there were two things he never forgot: his family and closest friends, and his vocation as a public interest lawyer.

"It was quite an adjustment, when you've been on top of what's happening in an organization and you know daily what's going on, to being in a situation where you're getting the newsletter and learning we won a case three months ago," Bryant said.

By fall, he was keeping tabs on TLPJ litigation again. In October, for example, he made a point of ringing up Washington staff lawyer Leslie Brueckner to wish her well on her U.S. Supreme Court argument in a federal preemption case, *Sprietsma v. Mercury Marine*, 536 U.S. 921 (2002).

"He called me before my Supreme Court argument from his hospital bed and left me this message saying 'don't worry I

know you're going to do great, and just remember, keep on smiling,” Brueckner said during a speech Sunday. The high court ruled 9-0 in her favor.

These days, Bryant is up and about again, albeit with the assistance of a cane, and he is working part-time. His face and body are nicked with scars and his left eye is swollen closed. He's thinner and slightly less steady in gait and grip, but he still has his striking broad smile and bushy brown hair.

“I remain optimistic and confident that I'll be able to get back to the level of work that I once performed,” Bryant said.

As before the accident, he is in charge of administration for the TLPJ Foundation and litigation for the TLPJ law firm.

His immediate goal, he said, is to catch up on TLPJ's activities and figure out “where my unfortunately still-limited time can best be used to fulfill our mission.” Going forward, he said, his goal is to shore up the foundation's financing, which lagged somewhat his absence.

“We all at one point or another have tried to tell him to take it

easy, either directly or indirectly” said Oakland staff lawyer Victoria Ni. “We were all worried about him personally.”

Indeed, immediately following the accident, Stritmatter said, the board worried that the foundation wouldn't be able to maintain its high level of activism without Bryant at its helm. Someone suggested that the foundation cut back on its activities while Bryant was out of commission.

“I insisted that we do no such thing unless I had an extremely well-documented memo as to why we couldn't proceed without Arthur,” Stritmatter said. Nobody ever came up with such a memo. The staff pulled together to keep everything humming.

“Frankly, they barely skipped a beat,” Stritmatter said. “It was surprising. He was such a strong and forceful leader of the organization that we couldn't proceed without him, and we did succeed without him.”

TLPJ Foundation lawyers racked up several victories in Bryant's absence, including Brueckner's *Sprietsma* case, in which the U.S. Supreme Court

held that the absence of federal regulations requiring boat propeller-guards does not preempt people injured by uncovered propellers from suing for damages.

TLPJ lawyers, who often oppose class action settlements they deem unfair to plaintiffs, this year wrote an influential amicus brief in a U.S. Supreme Court case in which the court ruled that the terms of an Agent Orange class action settlement didn't bar subsequent suits. *Dow Chemical Corp. v. Stephenson*, 123 S.Ct. 2161.

TLPJ also scored one for opponents of mandatory arbitration when the 9th Circuit Court of Appeal held that a disabled plumber could sue insurer Lloyd's of London for bad-faith denial of disability benefits, despite a contractual arbitration requirement. *Boghos v. Lloyd's of London*, 2003 DJDAR 7309

“I would be proud of these accomplishments if I had been there and been involved with them,” Bryant said. “And to have them take place in my absence makes me feel even prouder.”