



Leslie Brueckner

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[Board member Neville Johnson with then-staff attorney Leslie Brueckner: What is it like, in terms of the commitment of time, for you to do your work?]

Leslie Brueckner: When I’m juggling like seven big appeals, I pretty much drop everything else and focus on them exclusively. There’s not a lot of time left for other things.

But part of the reason I’ve been with the organization for so long and I don’t mind putting in the long hours is that I just deeply care about the issues.

Let me just tell you about one of the cases that I’m working on in the Fifth Circuit. We’ve got involved in this case on behalf of the family of a man who was beaten to death within 24 hours of his arrival at a private prison in Louisiana. We found out about this case when it was on appeal to the Fifth Circuit and the private practitioner in the case was totally overwhelmed.

By the time I got to him, his brief was due in 10 days. He was doing the best he could, but he was out-manned and out-gunned. I was able to bring in a [SWAT team of Public Justice lawyers and outside counsel to help him and the family of Erie Moore](#) to put

together a fantastic thorough, comprehensive brief. The issue, in that case, is so important that I don't care about not having nights and weekends when I'm working on cases like that. The job is so rewarding because the issues that we work on are so deeply important to people.

[Neville: Who gives you the green light to work on a case or do you have autonomy?]

Leslie: Ultimately, it's our board. Because we're a public interest organization, we are controlled by a board of directors and every case that we do has to be approved by the case evaluation committee of our board. If I find a case that I think is a good one, I'll first run it by our internal team of lawyers. If everyone agrees that it seems like a good Public Justice case, then I bring it before our case evaluation committee. Then it's the committee that decides whether or not to pursue the case that I brought before them.

[Neville: Let's talk about the cases you are particularly pleased to have worked on. What's the first big one that comes to mind?]

Leslie: Of course, there's [*Sprietsma v. Mercury Marine, which I won in the US Supreme Court*](#) with in 2002. That was a really big preemption case on behalf of a man whose wife had been killed when she fell off their motorboat and was basically chopped by the boat propeller. And the manufacturer was trying to avoid liability by invoking the [doctrine of federal preemption](#). The manufacturer argued that because the Coast Guard decided not to require propeller guards on boats, nobody could sue a manufacturer for not putting a propeller guard on a boat, even if they could prove in a court of law to a jury that the technology existed, that it would've made the boat safer.

That's an argument that manufacturers have been making in all sorts of cases for decades involving all kinds of dangerous products from pharmaceuticals to automobiles to medical devices.

[Federal preemption is one of the biggest threats to access to justice](#). In that case, [we succeeded in persuading the US Supreme Court](#) by unanimous decision -- nine to nothing -- that federal law does not preempt the plaintiff's tort claims. That was one of the highlights of my career. 32846

More recently, [*T.H. v. Novartis*](#) at the California Supreme Court was a fantastic victory on behalf of consumers of generic prescription drugs.

The issue in that case ~~is~~ was whether people who are harmed by mislabeled generic drugs have a right to a remedy in court. Before we brought that case, there was no place in America where somebody who was injured by a mislabeled generic drug could sue in court. By the time we were done, we got the California Supreme Court to say they could sue the brand name manufacturer because the brand name manufacturer writes the label, and therefore they're responsible when somebody gets injured. Huge victory overturning or rejecting over 100 federal and state appellate decisions all across the country.

More recently, I'm particularly proud of [Hardeman v. Monsanto](#), where we succeeded in defending an \$80 million verdict that was the first in the country won on behalf of a victim of Roundup. The case was against Monsanto for giving Ed Hardeman --and thousands of others like him --non-Hodgkin's lymphoma by exposure to Roundup. Monsanto refuses to warn, to put a cancer warning on Roundup and that case, the \$80 million verdict, went on appeal to the Ninth Circuit.

I joined the team and helped convince the Ninth Circuit to uphold the jury verdict in a landmark decision that will keep the courthouse doors open for hundreds of thousands of victims of Roundup and other dangerous pesticides and herbicides in the future. That's just a few of the highlights. I could go on.

[Neville: Go on.]

Leslie: Another big victory that I'm particularly proud of is in the Eleventh Circuit where we won a decision that restores the viability of class actions in that jurisdiction. It involves the issue of "ascertainability." [The Eleventh Circuit had this terrible rule that required as a condition of bringing a class action](#) that the plaintiffs be able to prove that they can identify every single member of the class.

Of course, that's a ridiculous rule and it would defeat class certification in the vast majority of cases. Nonetheless, the Eleventh Circuit was following that rule and tossing out class action after class action after class action on the grounds that if the plaintiffs couldn't identify everyone, they couldn't have a case.

We [convinced the court to throw out that rule](#) and a very conservative judge, the chief judge in that circuit, wrote a fantastic barn-burner of a decision holding that "ascertainability" is just about the class definition and has nothing to do with the identifiability of class members. In one stroke, class actions became a viable tool in the Eleventh Circuit because of our work in that case.

[Neville: How do you see the way this country has been going, vis-a-vis class actions? Is it getting tougher to bring them?]

Leslie: Absolutely. Class actions have been under attack by corporate America for the last two decades and Public Justice has been at the forefront of fighting back to protect class actions. The reasons class actions matter -- I was just trying to explain this to my 91-year-old mother -- if you don't have a class action, if you can't bring a case on behalf of a class, then that becomes a green light for corporations to do all kinds of bad things to people and get away scot-free because, a lot of times, the individual harms that they commit may really matter to the person that's been harmed -- but it's just not enough money to justify an individual lawsuit.

Class actions were created in order to allow injured consumers to band together to hold corporate wrongdoers accountable.

The class action device was created in 1966. It's been the most powerful tool for access to justice in the entire civil litigation toolbox. That's why corporate Americans have been gunning for class actions ever since then and Public Justice has fought to protect and defend the viability of class actions for the past 25 years, ever since I came on board.

And that's why I'm so proud of the decisions that I helped win in [*Noel v. Thrifty*](#) in the California Supreme Court and in *Cherry v. Dometic* in the Eleventh Circuit because, in both of those cases, we got the courts to basically restore the viability of class actions by rejecting this "ascertainability" requirement that made it impossible to certify class actions. So, we're going to keep fighting.

[Neville: Related to that -- how bad is it out there with arbitration?]

Leslie: It's bad, Neville. What happens is that corporations, in order to avoid being held liable for ripping off consumers, they'll stick a clause into their fine print of their consumer contracts for everything ranging from credit cards to banking loans to car loans -- you name it -- that says that if you are injured, you have to go to arbitration, which is not the jury system. It's the opposite of the jury system, and you can't bring a class action.

Basically, that strips consumers of their ability to effectively hold wrongdoers accountable. These clauses have sprung up like mushrooms over the past decade. Public Justice has been at the forefront of fighting mandatory arbitration clauses and particularly, those that contain class action bans because it's a dagger in the heart of access to justice in America.

We keep hoping for a legislative or regulatory fix. But until that comes, the only way to fight these class action bans and arbitration clauses is in the courts and that's what we do.

[Neville: Given the current makeup of the United States Supreme Court, where is the country going, in terms of becoming more conservative, judicially?]

Leslie: It doesn't take a crystal ball to know that, with the current makeup of the Supreme Court, this is not a friendly climate for plaintiffs and for victims of corporate misconduct. And all that we can do is just keep fighting in the lower federal courts and in the state courts, in particular, and that's why Public Justice has such a vibrant presence in not just federal courts, but in state courts. Because with the US Supreme Court being what it is, sometimes the best way to get justice is to pursue your remedies under state consumer and court laws and we do a lot of that work, particularly in the California Supreme Court.

[Neville: All of is not lost.]

Leslie: It's easy to despair right now in the current political climate. It's easy to feel that there's no point anymore in fighting, but I think it's at times like this that the fight is more important than ever. 33710

[Neville: Do you anticipate working in the future with Public Justice, not withstanding you're entering a private practice?]

Leslie: I certainly hope so. That's the plan. One of the things that attracted me to Bailey & Glasser is that they're very open to me bringing similar kinds of cases to what I'm doing now. I'm particularly interested in continuing to go after private prisons and private detention facilities. These entities prey on vulnerable people and we're fighting private prisons in the Fifth Circuit in the case on behalf of Erie Moore.

But there's a lot of more work to be done in that area and I think that private lawyers and firms like Bailey & Glasser are in a great position to step forward and represent individual victims in Section 1983 wrongful death actions. My plan is to continue to pursue that work at Bailey & Glasser. When I'm on co-counsel, my first phone call is going to be to Public Justice.