



Mike Withey (1995-1996)

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Mike Withy: I'm Mike Withy from Seattle. I'm a former president of Trial Lawyers for Public Justice.

[Bill Rossbach: How did you come to learn about Public Justice and when?]

Mike: This was in the mid-80s. I joined Schroeter Goldmark and Bender, and [Len Schroeter](#) was just an absolute inspiration to me. He invited me to come to the Seattle convention. It was ATLA at the time --Association of Trial Lawyers of America -- and there were Public Justice meetings associated with that. And he gave a presentation called "Cutting Through the Bullshit" and I just thought it was brilliant the way he was able to dissect how corporate America robs people of their rights, really destroys consumers' ability to be healthy and safe.

Len said, "This is an organization that you should be involved in." It wasn't just because my senior partner told me to join something. It really attracted me because to me, it reflected "the conscience of the trial bar" -- is the way one of the people put it. This was the people who wanted to do right and do justice and that's why I decided I wanted to join Trial Lawyers for Public Justice (TLPJ) -- Len Schroeter.

[Bill: When you joined, did you have an understanding of the role that Ralph Nader may have had in the foundation of the organization?]

Mike: I did. I understood Ralph was involved in its creation. But the people that showed me the beginnings were Joan Claybrook and Tony Roisman, who was then the executive director. They hired Arthur Bryant as their first staff lawyer and he was fantastic. So between the three of them, more than Ralph, they gave me a lot of inspiration, a lot of leadership, and direction and encouraged me to join the board eventually.

[Bill: Did you have any understanding about what principles there would be involved in taking cases? What cases the organization planned to take?]

Mike: I did. Eventually. When I became a board member, I think it was in 1988 -- by that time, I understood that we were taking cases that the private bar wasn't taking and that was, in part, because we didn't want to compete with them.

The people on ATLA who didn't like TLPJ were upset because they were concerned that there was some other trial lawyer group that would speak for the trial bar. So I understood that we weren't going to lobby, we weren't going to have anything to do with politics. We just were filing cases and, "sue the bastard."

That was about as deep as I got: sue the wrongdoers; sue corporate America; and basically, do the cases that the trial bar wasn't going to make any money off of.

So we knew, going in, that if we took a case, we didn't expect to make money. We were willing to advance costs in the case, if we could. But we got trial lawyers that would be

willing to do cases that were outside the normal realm of the trial bar. We didn't do any rear-enders or cases that everybody else was doing a good job on. But also, there were cases that were precedent-setting. We were trying to create a kind of a [corpus juris](#) for public justice. We were to create a body of law through other cases that we brought that would bring relief to the consumers.

This was in the [era of Reagan](#). This was the era, even later of [Dan Quayle's Council on Competitiveness](#). So we were up against the [tort reformers](#) and the insurance industry and corporate America trying to throttle the trial bar in its cradle and TLPJ was an answer to that. TLPJ stood for something and that was civil justice, access to justice and that's what Len Schrader taught me and that's why I wanted to be a member.
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[Bill: You and I joined at exactly the same time. The first time I ever heard of Public Justice was when my old Yale classmate, Macon Cowles, called me. He was, at that point, a partner with Bill Trine and Bill was very close with Ralph [Nader]. He said, "Well, you've got to join this organization. The principle here is that we're going to be taking the cases that nobody else is going to ever take and therefore we're pretty much sure that we're never gonna make any money."]

Mike: Well, for years we didn't.

[Bill: I was wondering about that in terms of when you started and when I started -- who were the lawyers that were doing the cases? Arthur Bryant and Tony Roisman weren't filing the cases, were they?]

Mike: No, but we had the [Woburn case, which was the Massachusetts water contamination case](#) that became a movie "[A Civil Action](#)." [Comanche Peak was another pollution case](#) we had. Going in, we were trying to develop an environmental law project, as I recall. That was way before Jim Hecker joined, who's absolutely fabulous.

But the people that were doing the cases were the board members -- they were the trial lawyers and we had one staff person. Arthur couldn't do everything, and Tony Roisman, for sure, wasn't going to be filing cases all over the country. He had an organization to run. So, in the beginning, it was dependent upon the members of the board to do the work in terms of the litigation. 52832

[Bill: Do you remember how many members there were when you and I started?]

Mike: I remember Lynn was an original founder. I think there weren't more than 200, Bill. It was just a really small group. But we were really dedicated and of course, everybody put up their money on the belief that that's all they'd ever have to commit -- and that went out the window really quickly.

Bill: Do you remember the first board meeting? New Orleans. That's where we met.

Mike: I remember the New Orleans Convention.

Mike: I remember Joan. We had some fun at that convention. I'll put it this way: Joan and I were able to sneak away and go gambling down on the riverfront and we had some parties. But mainly it was some good education about what the organization was doing.

In fact, we brought the case [Domingo v. Marcos](#) to TLPJ to have it help out on [discovery against the US](#), which was going on at the time I joined the board. We were very grateful to the organization for the support it gave to the estates of Domingo and Viernes in winning the case against Ferdinand Marcos.

What I remember was the incredible ability -- and you manifested a lot -- of understanding of the science in any case. That was true of the Woburn case. Tony Roisman was right on the science of everything really, pretty much, and you knew the value of having great scientific experts -- people that did water contamination and chemical analysis and all those kinds of things. I think that ended up being a tribute and a trademark of the TLPJ board. They were very impressive lawyers in that group.

[Bill: Do you remember any other younger lawyers like we were then?]

Mike: That's what happened. We were kind of the Young Turks. It was us and what we call gray beards, which I happen to have now. But the Young Turks were Jeff Foote, you, me, Macon Cowles, [Larry Trattler](#). And we were a group...

[Bill: Larry Wallbrock.]

Mike: Larry Wallbrock. Yes, in fact, we were treated sometimes with some disdain by the older members because I think they thought maybe we wanted to be in leadership rather than the guys who had founded the organization. And they were almost all guys.

So when Jeff Foote first became president [in 1992], that was the first time a Young Turk like us was made president. And it was a good transition because it reflected -- well, we needed young blood in this organization. We needed younger lawyers but we also needed to have the experience of people like [Eugene Pavalon](#) and [Bill Sneed](#) and [Bill Trine](#). They became presidents and they did a great job -- but we wanted to get some leadership positions ourselves and the organization was open to it. That's an important part of TLPJ. It was open to new leadership and I think that still applies today.

[Bill: Mike, in the 30 years or so that we've been on the board, what cases do you feel are those that deserve recognition as markers in the evolution of the organization?]

Mike: The first case I got deeply involved with was the [Avirgan v. Hull](#) case, which was the Iran-Contra case that we brought on behalf of journalists that were injured by the Contras that were fighting the war in Nicaragua.

Bill: There was a bomb?

Mike: Right. The Contras had bombed the airport and Tony, our client, had flown in on it. One of the major things in that case was we got board members, probably as many as 15 of us, working together as a legal team to take the depositions of the leadership of [the Iran-Contra fiasco](#), which was Oliver North and [Albert] Hakim and [General Richard] Secord. I got to take the deposition of the head national security advisor of Vice President George [H. W.] Bush, a man named [Donald Gregg](#), who used to be in the CIA.

We worked tirelessly for like 18 months. The [case eventually was dismissed](#) and it was unfortunate because I thought we had a great case. But the way the board members came together to work on that case together was fantastic. It was like a law firm. That, to me was a real signal case, because more recently, the board hasn't been involved as much in cases like that. The board members don't all get together and say let's bring a lawsuit, let's work together on it, which is unfortunate.

Another case that was really important, financially, was the [polybutylene pipe case](#). This was a huge class action with a \$900 million settlement. There was a big issue whether we should take the case because this was the case that was actually going to make money and it did make millions of dollars of fees for TLPJ. It was a very close vote in the executive committee whether we should take it. I voted for it because I thought it was a model for how you do class action settlements. I think that stood the test of time.

Another case, of course, was the [Exxon Valdez oil spill case](#) that you worked on, Bill, and Manny Machin worked on because I think we decided to take that case in Chicago and one of our past presidents, [Leonard Ring](#), had decided he was going to speak in favor of us taking it and he gave a speech and then he thanked you as "Larry."

There was a standing joke that the older guys in the organization couldn't remember our names so all of us were "Larry." Any rate, Leonard Ring said, "Well Larry, I think we should take this case because who else speaks for the bunnies up there?" -- and the room just didn't know whether the crack up or just say "Yeah, okay, he's in favor of it. Let's don't say anything. We're not saving any bunnies. We're saving the environment."

But anyway, that was a big, big turning point that [we represented the National Wildlife Federation in that case](#).

My basic point is that was when board members were actively involved in litigation in a major way and I'm not sure that's still true, and that's a shame to me.

[Bill: Any other cases that you can recall that you think made a difference in terms of how the organization operated?]

Mike: In the beginning we got our feet wet, not only in environmental cases, but on Title IX. Arthur Bryant was an expert in this and brought [one of the first suits against Brown University](#). To me, that really put us on the map, not only in women's athletic programs, but in the public interest law community, because we were the upstarts. We weren't the NAACP Legal Defense Fund. We weren't the Sierra Club. We weren't doing the work that many of the great organizations-- NOW Legal, the National Organization of Women. We're new upstarts and trial lawyers.

But I think the Title IX cases really brought us a lot of great attention and credibility for the excellent work that we did on that, including Arthur's work and many others, Adele and Lesley and all the staff -- they did a great job on those cases.

I'm very proud of all the cases we did, including the Domingo case. But I think the organization went through a lot of growing pains that weren't related to the cases we did, including the name change, including who got on the board, including what the purpose of the board was. I have some thoughts on that.

[Bill: What are those thoughts?]

Mike: I think when I was President from 1995-1996, we had basically raised enough money to get out of poverty. We were able to hire some staff people and we were able to do some major cases. But I thought the future of the organization lay in the state captains and the state coordinators. We wanted to create TLP J on a statewide level that would have the same role that TLPJ nationally played with ATLA. We would support the trial community, but we would take cases they didn't take. That was partly successful, but it didn't really happen.

The name change came about because the forcers of tort reform were doing everything they can to plaster trial lawyers "frivolous lawsuits" and equating the lack of competitiveness, supposedly, of the U S capitalist system to the fact that these trial lawyers were messing everything up. That was a huge, huge dispute. And unfortunately, a number of our leading members left the organization when we changed the name to Public Justice Foundation.

I supported the name change because what's in a name? I got my TLPJ shirt on today because I believe that that was a great organization when it was founded and it still is. But there was a lot of hard feelings about that name change. We went through a lot of turmoil -- but we survived it and came out better at the end of the process.

[Bill: What about the crisis when Arthur was injured in the car wreck?]

Mike: That was the darkest moment. Jeff Foote and Susan Saladoff and I went down to Bend, Oregon to visit Arthur, who was in a coma. He stayed in a coma for a long time,

right after he was injured. We tried to help him, Nancy and Wally -- but Paul Stritmatter, my partner, played an amazing role in trying to pick up the pieces from where Arthur had left us.

[Bill: He was the president at that time, right.]

Mike: [Paul Stritmatter](#) was president [2002-2003]. Jeff and I were past presidents, but Jeff lived in Oregon and I was living in Seattle. So we flew into Bend and just spent about three days down there trying to console Arthur's mom and dad and everybody. It was just a horrible, horrible accident.

But the organization realized that we had to move on and we did a tribute to Arthur -- and Arthur came back as strong as could be and he still has the brain injury. He still has the physical limitations. But he's a fighter -- amazing human being, Arthur Bryant.

You're bringing back some very sad memories for me when I was in that hospital room looking at Arthur fighting for his life. It was sad, but the organization lived on.

[Bill: Mike, do you remember the first long-range planning committee, that retreat that we had, and what were some of the issues that arose out of that meeting?]

Mike: Out of that long-range planning committee, Len [Schrader] helped create a committee we called the Outrage Committee. The notion was, if you read something in the newspaper and you're a board member of TLPJ and you're outraged by it, then let's see if we can create a case out of it. Let's see if there's a case there.

And that was the board members' responsibility. We didn't like the fact that all we were being asked to do was raise money or being on a committee and rubber stamp the decisions of staff. We wanted to be involved in litigation, [as we had with the Iran-Contra](#).

We called it the Outrage Committee, but it actually became formalized. I was honored to be the first chair of the Case Development Committee. We were just trying to find cases and board members would come out of left field sometimes and say, "Hey, how about this case or that case?" And a lot of good cases came out of that. I don't know that that's true anymore.

[Bill: Well, Joan was another person who's never been an officer who brings that historic consciousness to the board whenever she comes.]

Mike: I love Joan Claybrook. Sandra Robinson's another fighter. Gerson Smoger. These are people still active in the organization that really carried it through for many, many years.

[Bill: As you've become less involved, but maintained your involvement as a past president, how do you see the evolution of the organization?]

Mike: I'm delighted that Public Justice is so active in the litigation field. We've got the best financial foundation that we've ever had. We've got cases. We've got an enormous staff that are just so talented. Credit to Paul Bland and Jim Hecker, unbelievably great people.

My only concern is that we can't forget why we got started. We can't forget the reason for our existence. It isn't just to put on great galas and have Trial Lawyer of the Year awards and have all of the way that we are inspirational -- that's very important. But we've got to keep suing the bastards because there's nothing going on in this country from the rightwing and from corporate America that's good. So, let's make sure we don't revel in our success and forget the origins that started us -- and that's the fight for social justice and access to justice.