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Helping just feels good

Taking an insurance carrier to task for wrongdoing is satisfying – even if you don't get paid

By Chuck Geerhart

It was just another Saturday at the Bar Association of San Francisco's Lawyer Advice and Referral Clinic (LARC) in the Bayview neighborhood of San Francisco. I've been volunteering at LARC for 21 years. I call it "bite size pro bono" because you don't take on clients for representation – you simply try to answer their questions or refer them to a lawyer for further consultation. But this day was different.

A nice older couple came to my table. The man, let's call him Edwin, had been sued for an injury auto accident in which one of the cars, a red Toyota Corolla, had struck and injured a person. It was a hit and run. A witness gave police a license number that belonged to Edwin. Nationwide Insurance wound up paying $50,000 in uninsured motorist benefits to the injured person. Nationwide then sued Edwin for subrogation. As alleged owner of the car, he had liability up to $15,000 under the law. But here's the rub: Edwin never owned a red Corolla. He had a green Honda Accord. The eyewitness got the plate wrong.

Edwin was insured by GEICO. He obtained a copy of a letter written by GEICO to the injured plaintiff, in which GEICO said there was no coverage for the vehicle which struck him. GEICO never wrote any letters to Edwin, so he was in an information vacuum. Edwin, who is a Spanish speaker and not well-versed in the law, assumed he had no coverage.

When Edwin did not answer the complaint, Nationwide took a $15,000 default judgment against Edwin. It then levied on his bank accounts and seized $11,000. At this point, Edwin, who owned a home, realized he had to get legal help. Through a legal insurance plan offered by his wife's work, he found a lawyer. Unfortunately, the "legal insurance" only paid the first $400. The lawyer charged Edwin $10,000 to have the default set aside. He then wanted another $6,000 to defend Edwin in the ongoing Nationwide lawsuit. The family couldn't pay that.

As I heard their tale of woe, the wheels were turning in my head. They obviously needed a lawyer to defend them. But there was no money in this case – they had already spent their savings on lawyer #1, and their other savings had been seized by Nationwide. Nationwide had discovery (interrogatories) pending that needed to be answered. In short, it was doubtful any lawyer would take this case on short notice.

So I took it

I had the time, I wanted to help, and I know auto-insurance claims. So after just a little hesitation, I said to Edwin and his wife, "I'm going to be your lawyer." She burst into tears. I realized I had helped relieve them of unbearable pressure, at least temporarily. That felt good.

The next week, I had them sign a fee agreement stating my work would be free unless there was a way to recover fees from someone else. I then contacted GEICO and demanded they provide a defense, even if they disputed coverage. I wrote to the Nationwide lawyer and demanded they refund the $11,000 that had been seized. To my surprise, Nationwide promptly refunded all the seized funds. I also answered Nationwide's discovery and propounded discovery to Nationwide. The Nationwide lawyer said he would consider dropping the case if it was truly a case of witness misidentification.

Then, a few weeks later, GEICO agreed to provide a defense, and assigned defense counsel. I stayed on as associated counsel to push GEICO to pay the $10,000 in attorney fees (that) the first lawyer charged. GEICO kept asking for proof this amount had been paid under a fee agreement. I continued to harass GEICO, telling its claims people that GEICO was already in bad faith – would GEICO like to do something right for a change? After three months, GEICO finally sent a check for the full amount of attorney fees incurred. It was a pleasure to inform the family they were getting back to even monetarily. The only thing remaining is for the Nationwide suit to be dismissed, which I'm sure assigned defense counsel can achieve. I will remain in the case to monitor that result. Although I probably could claim a fee from GEICO, I don't want it. My reward is the gratitude of my clients.

I could go on endlessly about how Edwin was poorly served by the lawyer he hired – it borders on malpractice and an ethics violation. First, the lawyer overcharged. The $15,000 judgment probably could have been settled for half its value. Second, he never tried to get GEICO to pick up the defense, which we know it would have. Third, after getting the default set aside, he never asked Nationwide for a refund. Instead he asked the clients for more money.

But let me end this piece on a positive note. This case gave me as much pleasure as any multi-million dollar case I've ever handled. I was helping real people who were in a jam that was real and big for them. I was righting a legal wrong. I was correcting bad lawyering. I fought a big insurance carrier. It doesn't get any better than this. I urge everyone to do pro bono work – either full representation as in this case, or "bite size" in a legal clinic. It's not only a moral responsibility for us who have been given so much, it's a pleasure. If you're intrigued about doing pro bono, please call me to get started.

Your pro bono story

If you've handled a matter pro bono and have an interesting story to tell, we'd love to hear it. Please send it to editor@plaintiffmagazine.com. Keep it to 1,500 words, please.


Geerhart

Chuck Geerhart is a founding partner of Paoli & Geerhart *and was admitted to the California bar in 1989, and is a graduate of Cornell University and the UCLA Law School. Chuck has tried 20 cases to jury verdict. He has also sat as a juror in three cases in San Francisco County. In addition to his active practice representing injured people, Chuck regularly sits as a Judge pro tem of the San Francisco Superior Court and is a court-appointed arbitrator and settlement mediator. Chuck also conducts private mediations and arbitrations. From 2004 through 2012, Chuck Geerhart was a member of the Board of Directors of the* San Francisco Trial Lawyers Association, *and remains an Emeritus Director.*

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