



## What Does a Verdict Symbolize?

**By: Russell Button**

As I am writing this, I am preparing for a string of trials on a variety of different types of cases where my clients have been injured by another's actions. When I prepare, I always try to find the core of the case. Once I find the core, then I can progress through how to bring that out throughout the entire trial.

The first trial I have coming up is what is called a bench trial, which means that the judge takes the place of the jury in making decisions on the facts and applying them to the law. Thus, my goal is to get the judge to see the case through the eyes of what a jury would see and feel. What would he feel if he was called for jury duty on a different case? In order to win, I must humanize the judge and relate my client to him so he can walk a mile in my client's moccasins.

The starting point is what does the verdict mean. Verdict means "to speak the truth". But who is the audience of this spoken truth? In all cases the two primary audiences I'm going to write about for this article are the community and my client.

In a jury trial, the verdict is the jury's decision on the case. For example, was a driver negligent in their driving choices when they chose to drive drunk. The verdict also may include amounts for the damages caused by another's negligence, such as pain, mental anguish, and physical impairment. The judge provides the jury the instructions and questions as defined by the law, which is called the Jury Charge. So, in effect, a verdict is the jury's application of the evidence presented to the law the Judge provides them with.

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When the verdict is read, the community is told whether the safety rules have a backbone or not. Said another way, if a verdict says a driver got away with not paying attention, then that conduct will happen again. The safety rule of drivers paying attention will not be as strong moving forward. It will now become common place because everyone else does it and nothing happens to them; thus, it is ok to be distracted. If the verdict says that drivers must pay attention or be held accountable for the consequences that come from that decision, then the community is told that the safety rule will be enforced.

The second audience of a verdict is my client. She must wake up every morning and hear the echo of the words read in the verdict. If a defense or low verdict, it is a permanent scar that she was not believed and someone got away with it. If it is a positive verdict, then it is a reminder that her pain and torment was real and acknowledged. Either way, closure can begin. But it's the lasting voice of the verdict that she is stuck with.

In its purest form, a verdict sends a message to the community as to the conduct we expect, whether by companies, drivers, doctors, or hospitals. As opposed to other countries around the world, we have a right as US Citizens to protect our own through the power of a jury.

As an aside, I understand jury service is not always convenient or an easy process to go through. The golden rule says to treat others as you want to be treated. Most of us would want a jury to come to our aide if we were tragically injured. So, remember that next time you are called for jury service. You never know when you may be needing those strangers to provide for your family or loved ones.



## Parking Lot Danger

**By: Russell Button**

When I prepare for a trial, I always try to identify statistics and research regarding whatever type of case I'm working on. One particular case I have coming up for trial involves a parking lot vehicle on pedestrian hit. The statistics are shocking. *On average, a pedestrian is killed every two hours and injured every seven minutes in traffic crashes, according to the NHTSA Traffic Safety Facts for 2012.*

Parking lots are similar to neighborhoods. There is a lot happening in them. There are cars parked, cars pulling out, people walking, people jogging, people darting out from behind obstacles, kids chasing toys into the streets, etc. All the while we are driving in a several thousand-pound machine going as fast as an Olympic sprinter or someone riding full speed on a bike. Any impact, even at a low speed, will surely damage whatever it hits. A few key safety rules for drivers:

Keep your eyes up – look around beyond the street to see what or who may be coming into it.

Slow down – you can't truly examine every potential danger ahead if you are going too fast. It's your speed under the circumstances.

Don't drive distracted – whether by phone, passengers, or other distractions in the vehicle.

We all tend to let our guard down the closer we are to home. However, studies have shown that most wrecks happen within a 1-mile radius of our homes. That is because we are familiar with the surroundings and don't pay as close of attention as we should. This is no different in parking lots. We are all either distracted with thinking about getting into the place we are headed or what happened while we were in there. We are in a hurry to get to a place before it closes or in a hurry to get somewhere else. Parking lots are too dangerous to be



thinking about all these various distracting things. Parking lots are too dangerous to be in a hurry or dropping our guard.

We all have a right to be safe while driving on our roads and while being pedestrians. They apply to us all because as we all know... there are no exceptions to safety rules.

## Preparing Our Clients

By: Russell Button



Recently, I wrote about how to find the best personal injury lawyer for you and your case. This is a follow up to that article.

When interviewing a prospective attorney you want to hire, ask them how they plan to prepare you for what will happen during the journey to closure. How do they handle investigating the case before filing the lawsuit? How do they prosecute the case once filed? Is there anything they want you to do throughout the case? Specifically related to this article, ask them how they plan to prepare you for your deposition.

Everyone prepares their clients differently. Do they send you a letter telling you to show up a little early to your deposition so y'all can talk a bit? Do they call you over the phone to explain what not to say? What documents will they show you? What questions will they ask you? How many *hours* (not minutes) will they plan on spending with you? How many different *days* will they need you to schedule preparation time with them? In the end, there are numerous questions you can ask your prospective attorney that are important to you selecting the right attorney for your case. Let the ones I've listed above simply be a foundational start.

Here at The Button Law Firm, we have developed our own method of preparing our clients. It always starts at the beginning of the case. All my current and past clients can attest to the significant amounts of homework we assign them from the outset. By the time the deposition rolls around, my clients could walk into the deposition without me and do just fine. That is the confidence you want your clients to have in themselves, their case, and you as their attorney.

If you are looking for the best personal injury lawyer for your case, make sure you know how they will be guiding you through the process. Like I said, every lawyer prepares differently. Make sure that the attorney you select *has* a method, *explains* that method to you, and that method *fits* what you are looking for.

We are always available to answer any questions anyone has with regard to how to select the very best personal injury lawyer for you and your case. Give us a call or email us.

## Tough But Essential Planning

By: Jack Garbo

*Intro by Russell: Jack and I met through a mutual friend and survivor of a brain injury. We all are part of the brain injury community. Specifically, Jack is a master at various areas of law I am not. Namely, estate planning, which is what he chose to write about here today. Since all of us need to make sure to plan for the future, it is a great informative read. As always, this is simply educational and informative. Please seek either Jack or another attorney if you have legal questions. Do not rely on this as advice. However, I hope this jump starts your thinking and planning to get up and get started on some advance directive planning.*

Advance directive planning. What is it and why is it so important for you and your family?

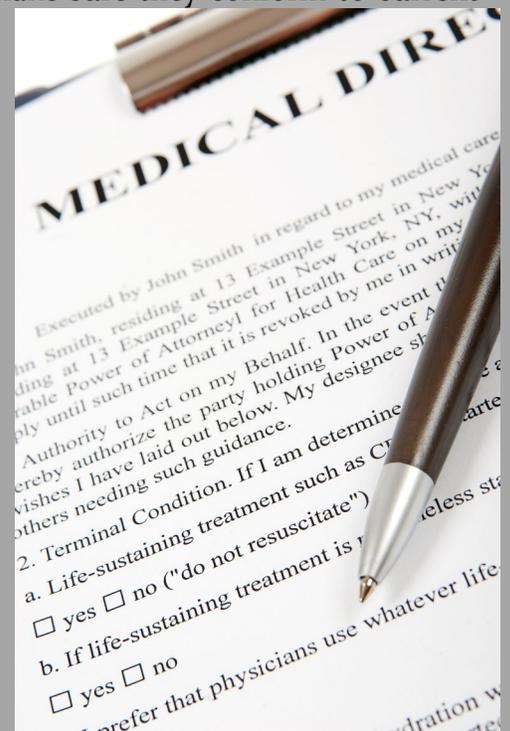
ANSWER: One of the most important and inexpensive planning decisions you can make for yourself and your family.



For those of you who have done some estate planning you have, in most cases, prepared for the orderly transfer of your estate in the event of your death by having either a Will or a Living Trust prepared, and that is good. But what happens if you become incapacitated due to an illness or an accident, and you are no longer able to make business or health care decisions for yourself? Unless you or someone you know has been in this situation, you are probably not aware of the financial and emotional hardships your family can experience if you have not prepared properly.

**Remember this general rule:** No adult, **REGARDLESS OF THEIR RELATIONSHIP TO YOU**, can make business or health care decisions for you or any other adult without **PROPER LEGAL AUTHORITY**. You should not rely upon third parties (bankers, health-care providers, etc.) to simply **allow** your spouse or an adult child to conduct business matters and/or make health care decisions for you if you are unable to do so yourself. **Legal authority** may be extended by you to a relative or close friend by simply designating them as your "agent" under a power of attorney. The laws governing powers of attorney change periodically, so it is advisable for you to check with an attorney in order to have the documents prepared properly, and make sure they conform to current legislation. It is advisable that you have FIVE documents prepared: the **Statutory Durable Power of Attorney** (for business and financial matters); the **Medical Power of Attorney**; the **Directive to Physicians** (living will); the **Declaration of Guardian** (for adults), and a properly prepared **HIPAA Authorization**. Preparation of these documents is very inexpensive compared to a **Court-Ordered Guardianship**. For example, depending on the estate, one Guardianship can cost \$10,000.00 to create, and \$1,000.00 to \$1,500.00 per year to maintain.

I **strongly urge** you to get your **ADVANCE DIRECTIVE PLANNING** prepared by an attorney who specializes in Estate Planning and Probate. Anyone who has had any experience with a Court-Ordered Guardianship knows how expensive and burdensome they can be. Having the powers of attorney in place means your "agent" has total authority to act on your behalf **immediately**, with **no court involvement**, and **no attorney involvement**. Not so with a Guardianship, which requires **substantial attorney involvement**, and is **closely monitored by the court**.



For those of you who may have Living Trusts, please be aware of the fact that you will also benefit by having the **ADVANCE DIRECTIVE PLANNING** documents prepared. Even though your successor trustee has authority to step in to handle certain of your **business matters**, your Living Trust does not enable them to handle **healthcare matters**. Moreover, the successor trustee is only permitted to manage those assets **which have been properly transferred into the trust**. Although **special durable powers of attorney** generally accompany trusts, they usually only permit the "agent" (who is typically the successor trustee named in the trust) to transfer whatever property is outside the trust, into the trust.

Only after going through that procedure will the trustee have the authority to manage those assets. Therefore, having separate business and medical powers of attorney in place helps to eliminate the time, expense, and delays involved in such procedures.

**ADVANCE DIRECTIVE PLANNING** is **easy, comparatively inexpensive**, and **insures** that your family will be free to **legally** handle your financial and medical matters **INDEPENDENTLY** in the event you become incapacitated. I recommend that you discuss this issue with those individuals in your family who are most likely to be called upon to handle your affairs if the need should arise. Believe me, it will save you and your family time, money, and unnecessary stress.

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