

MY CASE IS THE MOST IMPORTANT ONE EVER (Just Like Everybody Else's Case)

By Evan Gutman CPA, JD (2013)

In 1994, I lost custody of my only son in an unfair trial before a biased judge, who lacked respect for the written law. There is no doubt in my mind this was the greatest travesty ever perpetuated by any Court in this nation's history. So forget about the Iraq War. Forget about the decades of slavery that led to the Civil War. Forget about the presidential election of 2000. Forget about our nation's tax structure, innocent people who are sentenced to death, crime victims, racial discrimination, international policy, the Cold War, health care reform, unemployment, wrongful death lawsuits, religious rights, labor unions, free speech rights, the economy, immigration issues, and every other topic that we read about in the newspaper each day.

What we need to do is to get everyone in this country working to correct the injustice that was done to me over 15 years ago. We need to get the President to devote his full attention to this matter. All Senators and Congressmen should spend all their time on it to the exclusion of every other piece of legislation. All of the lawyers, judges, politicians and every member of the general public needs to make it their chief priority. I want the media on this full time. There should be no newspaper articles written about any other matters until the injustice that was done to me is corrected. Because the bottom line is that there is nothing more important in the world or the entire universe than correcting the injustice that was done to me. The reason is that my case was the most important one ever to occur since the world began thousands of years ago.

The foregoing is true and correct. At least, sometimes to me it is. As for the other four or five billion people in the world, I think it is fair to say that nobody's lost too much sleep over the fact I lost a child custody trial in 1994. In fact, I don't even recall the matter coming up in the 1996 presidential election. Neither the Democrats, nor the Republicans addressed it. By the same token, there have been so many injustices done to so many other people that I am not even aware of, I think it is fair to say I did not lose much sleep over their cases.

The fact is that we all tend to believe our own case is more important than any other. It doesn't matter what issue or dispute is being litigated. While most people believe their case is more important than any other, the rest of the world generally doesn't even know your case existed. To the average person engulfed in their own dilemmas of paying bills, going to work, raising their children, attending weddings or funerals, dealing with the pleasures and tragedies of life,

getting their car fixed, or buying a house, the issue of whether you received a fair trial or not is a nonexistent concern.

In the first part of this book beginning on page 635, I wrote about the gross injustice perpetuated during the Confirmation Hearing of U.S. Supreme Court Justice Clarence Thomas. During the hearing, he made many public statements about how unfairly he was being treated, which I believe were quite correct. One statement he made to the U.S. Senate was as follows:

"I think the country has been hurt by this process. . . . We are gone far beyond McCarthyism. This is far more dangerous than McCarthyism. . . ." ³⁴

There is a key statement missing in the above passage. The missing statement is one that was never even spoken by Justice Thomas. I think maybe he just forgot to say it. The missing statement is, "Because it's being done to me, instead of somebody else." What Thomas actually meant when he testified was that the events transpiring were:

far more dangerous than McCarthyism **because it's being done to me, instead of somebody else.**

Justice Thomas has not been a bad U.S. Supreme Court Justice. By the same token, he certainly hasn't been particularly stellar either. Suffice it to say, he's no Bill Douglas or Thurgood Marshall. I have not seen the compassion, kindness and caring for the underdog exhibited by the Great Warren Court in his opinions. Nor, have I seen the appealing acerbic wit included in Nino Scalia's opinions. By the same token, he did write an exceptionally fine opinion in Rubin v Coors Brewing Company, 514 U.S. 476 (1995). In Rubin, he gave vitality to the First Amendment doctrine that there is little chance a statute can directly advance a governmental interest, if other provisions of the same statute directly undermine and counteract the statutory provisions at issue. He also does tend to at least give words a reasonable construction as exemplified by his joining in the fine Dissent of Justice Alito in Marrama v Citizens Bank of Massachusetts, 127 S. Ct. 1105 (2007).

Certainly, I had hoped for more from Thomas considering the grossly unjust manner in which he was treated at his own confirmation hearing. That however, is the essence of human nature. And Thomas is human. Injustice was his most important concern in 1991 when it was being done to him. After that, it became more or less an ancillary concern. Nevertheless, it is not impossible that he still may develop into a noteworthy Judge.

The main point is that people naturally view injustices perpetuated upon themselves as more important than injustices done to others. There is a propensity of people to regularly make offhand negative statements about the legal system in a social setting. Notwithstanding, deep down most people would probably profess a genuine (albeit dubious) belief that they will be treated fairly by a Court of law. At least, when their litigation begins. By the end of the case, if they have lost, chances are they will have a markedly different opinion. On the other hand, if they win, they will be the first to state assuredly that justice was served and the legal system works. Thus, we have a clear, bright line rule to rely upon. If you win, the justice system works, and if you lose, it is unfair.

The problem with this bright line rule is that winning does not furnish any more proof that the justice system is fair, than losing demonstrates it is unfair. Consider the average person who regularly makes sarcastic negative comments about the legal system in a social setting. That same person has an expectation that the Court will treat them fairly if they are involved in litigation.

Yet, if they genuinely believe the system is unfair as exemplified by their constant proclamations condemning the legal system, how can they reasonably justify being a Plaintiff in any legal action? Admittedly, if they are hauled into Court as a Defendant they don't have a choice in the matter. But, there are many people who regularly make negative statements about the legal system and then proceed to institute suit in some matter against others. It would seem to be irrational to seek justice in a system that you lack faith in. There are at least four reasons why people do this, which are as follows.

The First reason is that although we tend to believe other people have been treated unfairly by the Courts, we think that our case will be an exception. The concept is, "it won't happen to me." This belief is rooted in our instinctive tendency to view ourselves as special and unique individuals in the universe. Although we know the Courts are unfair to other people, we think the Court will be sufficiently astute to recognize how truly special we are, and thus will treat us fairly. Regrettably, while we are all undoubtedly unique and special in GOD's eyes, such is not quite the case in the eyes of the Judiciary. To most trial court Judges, your litigation is nothing more than an administrative nuisance he needs to get off of his desk. People who think the Court will treat them any more fairly, than any of the other litigants the Court treated unfairly, will be quickly educated to their error by the end of the case.

The Second reason why people who justifiably lack trust in the Courts may voluntarily interject themselves into the system, is their belief that even if the Court is unfair, it is not as unjust as the person they are suing. The concept here is that "I know the Courts are unfair, but they can't be as bad as the

Defendant." People in this category seek to remedy an injustice wrought upon them by one unjust entity, by seeking assistance from another unjust entity.

The Third reason why people who lack trust in the Courts may voluntarily interject themselves into the system, relies on economic self-interest tempered with a willingness to compromise one's ethical principles. People in this category know exceptionally well how unjust the Courts are. However, they also have sufficient financial resources to utilize the Court's injustice to their own self-advantage. Good examples of people or entities in this category are greedy landlords, debt collectors, insurance companies, credit card companies, banks and large corporations. They do not have the slightest degree of reluctance to enter into the legal system because they are precisely the ones the system is intended to benefit. They are the ones who made the Courts what they are. They pour a lot of money into the legal system by paying the right high-priced attorneys large legal fees on a regular basis. In turn, they are rewarded for their dedication to the system by legal rulings, which allow them to continue perpetuation of illegal acts.

Before addressing the Fourth reason, it should be noted that when the average person is treated unjustly by a Court it functions as a rude awakening in their life. They become sour on the entire government. They tell their family and friends about it. This perpetuates an overall societal increase in negative, sarcastic comments about the legal system by more people in new social settings. Judges do not sufficiently comprehend how far-reaching the impact of their intentional perpetuation of injustice in many instances will be. While this is partly due to their inferior intellect, it is also somewhat derivative of how sheltered they are from the rest of the world.

Judges need to realize that their rulings affect a lot more people than just the particular litigants involved in a case. When Judges render rulings they know are incorrect for the purpose of rewarding friendships with local attorneys, they are guilty of wreaking immense havoc upon this nation's government. And it happens a lot.

My basic qualm is not the fact that Judges make wrong legal decisions. That is understandable. Judicial decision-making is extremely difficult and the law immensely complex. It is inevitable that incorrect legal decisions are going to be made. There are many good Judges and it is unavoidable that even the most trustworthy, hard-working, ethical judge is going to make errors. However, it should not be equally anticipated that many Judges intentionally render incorrect legal decisions when they are fully aware the decision is wrong. These are the decisions causing damage to our government. When Judicial decision-making becomes a process of rewarding friendships with local attorneys, it causes an absolutely massive diminution of faith in the Courts by

the general public. Similarly, the same effect inures when Judges willingly abandon the written law in favor of their personal preferences, to reward or punish litigants they like or dislike.

The essence of being a good Judge is to allow application of the written law to trump your personal preferences, likes and dislikes. That means if a Judge totally detests what he perceives to be the arrogance of a litigant standing before the Court, but he also knows they are 100% correct on a legal issue based upon the written law, he must rule in their favor. It's as simple as that.

Yet, there are so many judges who render their decisions precisely based on their personal preferences, likes and dislikes. The written law is then used only as a supplement to justify their personal preferences. Not all Judges do it, but there are a lot who do. For Judges who engage in this contemptible treatment of the written law, the phrase "justice is blind" is effectively defined as follows. It means the Judge's decision will be based on how you look, who you know, and how you generally appear to the Court. In conjunction, the phrase "rule of law" comes to mean the process whereby a Judge substitutes their personal preferences and biases for written statutes and court rules. And "case precedent" becomes nothing more than the process by which judges select those cases, which support their personal preferences.

For whatever reason, many people lacking either trust or faith in the legal system voluntarily interject themselves into the system. They think the Court will treat them fairly, even though they know others before them were treated unfairly. They enter the system willing to trust it, but dubious from inception about doing so. When they come to realize the error of placing their trust in a system they were dubious about trusting from the start, the rest of the world might just as well come to a stop. The reason is that there is no case more important than your own. At least to you. But, the rest of the world is not going to stop because of your case.

Oh, I almost forgot. The Fourth reason why litigants who don't entirely trust the legal system voluntarily interject themselves into it. It is the rarest reason of all. Undoubtedly, it is also the most risky. They seek to change the system. I kind of like that one.