

PRO BONO

TRIAL LAWYERS CARE

IDAHO ATTORNEY BILL MAUK RELOCATED HIS PRACTICE TO NEW YORK CITY FOR SIX MONTHS TO BE A PART OF THE BIGGEST PRO BONO EFFORT IN HISTORY BY AMY KATES



When Bill Mauk turned on the television on Sept. 11, 2001, he saw the New York City skyline in flames. Like many, he couldn't believe what he was seeing. But as the news unfolded, a harsh reality did, too: The plane that entered the North Tower went in between the 91st and 95th floors, and his brother, John, worked on the 88th.

It wasn't until 3 p.m. that Mauk was certain that John was unharmed.

"My brother, fortuitously, on the recommendation of his wife, went to vote in the New York primary that day," which meant that he arrived after the plane crashed into the North Tower, Mauk says. "For my family, things turned out much better than for the thousands of people who died, and the thousands who lost loved ones."

The weight of what others lost prompted him to act. He temporarily left his employment and personal injury practice at Boise civil litigation firm Mauk & Burgoyne in the hands of his partners and relocated to Manhattan.

Mauk was at an Association of Trial Lawyers of America (ATLA, now American Association for Justice) meeting in November 2001, when then-president Leo Boyle announced that new legislation called the September 11th Victim Compensation Fund had been passed by Congress, and also introduced the formation of Trial Lawyers Care (TLC)—a nonprofit entity organized through ATLA to represent victims' claims for the Fund. It eventually coalesced into the largest pro bono effort in American history. Mauk was one of its earliest architects, along with Larry Stewart, then the nonprofit's president; Mike Starr, a staff attorney with ATLA who put together its office staff; and David Golomb, then head of the New York State Trial Lawyers Association, who was

instrumental in getting TLC's office space in a state court building in Manhattan.

"I had a conversation with Leo and told him I thought they ought to pick a series of lead cases to set precedent," Mauk says. Boyle's response: "Would you like to do that?"

As director of litigation support, Mauk, with consultations from others involved in TLC, hand-selected the original group of cases heard by Special Master Kenneth Feinberg. "We put together the basis of what effectively became the settlement briefs that everybody replicated in subsequent cases," Mauk says.

He sifted through the claims to find a wide variety of cases, selecting 33. That number was winnowed down to 12 when many firefighters' families and their attorneys elected to not go through in the first group. "I met with many firefighter widows, and they decided to get the lay of the land first," Mauk says. Also, due to time constraints, some complex cases simply couldn't be put together fast enough.

Initially, Mauk pledged three months to the cause. But that soon turned into six months.

"One of the things none of us had anticipated was that there were a whole host of legal issues that were not addressed by the Fund statute and its regulations. ... The regulations created a damage model that was not unlike the damage model for wrongful death cases throughout this country, where heirs could make a claim for lost support, society and companionship," Mauk says. "But there was also a category of *injured* victims, [including] a small group of about 24 who were significantly burned and needed a totally different damage model."

But the biggest hurdle was probate. "This grand ol' group of tort litigators didn't know anything about probate law," he says. "Probate created a myriad of issues because not all of these were nuclear families that suffered losses. You had claims from multiple heirs in some strange situations."

Because Feinberg decided only one representative would be allowed per decedent to represent an estate, TLC had to work with the probate courts (called surrogate courts in New York) to alter their processes.

"The surrogate courts of New York are ... very powerful, and the process that they go through is very protracted," Mauk says. "In addition, probate law requires you to file in the county or borough of the residency of the decedent. So the surrogate judges in Staten Island were doing a completely different thing than the surrogate judges in Manhattan." Again, the state responded, and a law was enacted that allowed victims' families to file in any surrogate court in New York, and processes were expedited to get individual heirs appointed. "That took a lot of energy and a lot of political influence," Mauk says.

Although predominantly removed from taking cases, Mauk felt their effects. "There were several times when I came home and sat in my one-bedroom apartment just crying," Mauk says. "The emotion was so raw. Even lawyers who have concentration in personal injury and wrongful death ... they see a handful of wrongful death cases, but that's [mostly what] these cases were. Ultimately thousands. Death was a constant companion."

Mauk did take one case—Lauren Manning's. "Lauren was the most seriously injured burn victim of the attacks," Mauk says. "And hers is a story in courage that is absolutely unparalleled." Manning, reporting to work at the North Tower, was in the lobby when an elevator opened and a fire ball roared out, engulfing her and burning more than 80 percent of her body. Lauren's husband sought Mauk out to see if he'd take the case, which he did. Lauren received the Fund's second-largest award. (Manning's book *Unmeasured Strength* chronicles her incredible recovery, which included more than 20 operations and skin grafts.)

Over a decade later, his six months in New York still affects his practice. "I have a stronger desire to want to make the legal system work," he says. "To rip away the impediment, the maze of legal procedures and devices and gamesmanship that, honestly, has become such a major part of tort litigation ... to get to the real human elements of those cases." ■