



From the President

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*Journal of Consumer Attorneys Associations for Southern California*  
**ADVOCATE**  
August 2024

## The invisible battle

### HOW DO WE TALK ABOUT INJURIES PEOPLE CANNOT SEE?

One of my first TBI cases involved a man named Carl. Carl was a high-wage earner and accomplished professional who suffered a blow to the head that knocked him unconscious. The only visible injury was a bruise on his forehead, which had long faded by the time I met him weeks later. He spoke clearly and deliberately, choosing his words carefully and presenting as easy to understand. He held an advanced degree, and it showed. So, when our legal team considered bringing a TBI claim, I was skeptical. The Carl who sat across from me did not appear injured. From the outside, he seemed fine.

It wasn't until Carl began to describe who he was before his injury that I began to understand the loss. Although the outward evidence of the head injury had faded, the lingering effects of the blow to his head were ever-present and profound. Once a high-functioning, fast-talking, multi-tasking manager, Carl was now different. He shared with me the "little changes" in his life. After his injury, he struggled to tap into his broad vocabulary, searching for words that once danced on the tip of his tongue. His head throbbed, and his brain felt "foggy." Usually quick-witted, he found it took him longer to formulate his thoughts and respond to people. The most significant change was his diminished short-term memory. He frequently forgot where he placed items or why he walked into a room. He also had difficulty keeping track of his daily tasks. To adapt, Carl took to writing notes to himself and setting reminders on his phone. For Carl, these changes were devastating.

#### Understanding TBI

At the time I met Carl, I had a limited understanding of what is commonly known as a "mild" traumatic brain injury. Seeing the words mild, trauma, brain, and injury together seemed oxymoronic. How could an injury to the brain be mild, especially if it is

traumatic? I needed to make sense of it, especially if I was going to explain his injury to a jury one day. I struggled with how to talk about the invisible injury that plagued Carl. The best explanation I found was that traumatic brain injury can be likened to a computer being dropped from a height. While the exterior may remain unscathed, the internal systems can be severely disrupted, resulting in slower operations, lost files, and malfunctioning keys.

#### The impact of TBI

The immediate and long-term effects of TBIs vary but can be profoundly debilitating. Physically, victims may experience headaches, seizures, and blurred vision. Cognitive challenges include memory problems, difficulty concentrating, and altered sleep patterns. Emotionally, victims often face frustration, irritability, and mood swings. These symptoms, though sometimes subtle, significantly impact daily life and overall well-being.

Handling TBI cases presents unique legal challenges. The biggest hurdle is often convincing jurors of the injury's severity. Since TBIs are invisible, they can be met with skepticism. The medical complexities involved in understanding brain function further complicate the matter. Presenting a TBI case requires not only a thorough understanding of medical evidence but also the ability to convey the human aspect of the injury.

#### Telling the TBI story

Compelling evidence in TBI cases often comes from personal accounts. Testimonies from family, friends, and colleagues who witnessed the victim's changes can vividly illustrate the impact of the injury. These personal narratives help jurors grasp the human suffering involved. With Carl, talking with co-workers and close friends about the changes they saw in him was critical. Co-workers

described the sticky notes on Carl's desk where tasks were scribbled. Friends described a man who once was a natural conversationalist who never turned down an invitation to go out. Now, his conversations were brief and outings were rare.

Expert witnesses also play a crucial role. They explain the anatomy of the brain, the nature of the injury, and its practical implications on the victim's daily life. The most effective experts use plain language to educate the jury, making complex medical information accessible and understandable.

#### Our role

Advocating for TBI victims is essential. Every harm, visible or invisible, deserves recognition and compensation. Proper legal representation ensures that the full extent of a victim's suffering is acknowledged and addressed. Beyond courtroom representation, supporting clients involves helping them access necessary medical treatments and rehabilitation services.

The importance of legal representation for TBI victims cannot be overstated. Attorneys play a vital role in giving voice to those who suffer from these often-invisible injuries. Our mission is to educate and empower plaintiff's lawyers so they can best represent their clients. We encourage our members to take advantage of educational offerings such as webinars, seminars, and conferences to deepen their understanding of TBIs. We have dedicated this entire issue to exploring the complexities of brain injuries and how to litigate the cases of those who suffer from them. Although it is a challenge describing things we cannot see, armed with human stories, we can bring invisible injuries into full focus. Through continued education and advocacy, we can ensure that TBI victims receive the justice and support they deserve.