

Direct Examination

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A Q&A interview with personal injury attorney David Henson

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David Henson is the managing partner of the injury and disability section of HensonFuerst in Raleigh. He recently received the 2009 Order of Service Award from the N.C. Advocates for Justice. The honor was also bestowed upon him in 2007.

NCLW: *How does your background as a former EMT help you as a personal injury attorney?*

Henson: One of the critical elements of emergency medical training is learning how to assess damage, prioritize risks and quickly and efficiently work from a top-down approach.

Practicing law is much the same, in that we are continually trying to assess situations and facts in cases that are in a constant state of dynamic change. A conclusion or opinion that we reached a week ago can change dramatically with the addition of one small fact.

The other important similar skill is communication: in both professions, you must be able to communicate with people from all walks of life, and who are typically in personal or physical crisis. They both require a calm, compassionate and steady voice of help.

NCLW: *What's your take on the contributory negligence debate?*

Henson: Our state is decades behind what the rest of the nation has known for years. Contributory negligence is an antiquated system, one that has persisted as a political and economic device used against innocent victims. It is time for our state to move forward.

Also, from a practical perspective, when polling juries after trials, I am amazed how few of them understood the concept and application of contributory negligence. The fact is most of them don't understand it, and don't know how to apply it correctly.

NCLW: *Is it difficult to explain North Carolina's contributory negligence law to clients?*

Henson: There is no harder legal task than having to explain to the family of a client who is rendered a paraplegic and will forever need around-the-clock, constant care, that they may not be able to recover anything because their loved one might have been 1 percent at fault.

Far too often, in my opinion, contributory negligence is used as the proverbial sword rather than the shield for which it was originally intended. I have had this conversation with far too many clients, and it never gets any easier to tell them that justice in our state is partial.

NCLW: *What was the hardest case you've ever handled?*

Henson: I represented a child who was in a catastrophic collision and suffered a severe brain injury. By utter coincidence, he was within a few weeks in age of my own young son. As such, each of them should have reached the same developmental milestones of walking, talking, throwing a ball and the like at the same time.

Over the course of working closely with the child and his family for several years, I was continually confronted by how my own child continued to proceed forward, while my client seemed to slip further and further behind.

It was an emotional journey for me, not only as a lawyer, but also as a father. Unfortunately, while the journey may be over for me professionally in his case, that young man has a lifetime of struggle ahead of him.

NCLW: *And the best one?*

Henson: Our firm represented a police officer who was severely injured while in the line of duty. Despite his injuries, he always had a positive outlook and never gave up, even when things seemed the most bleak. This officer became an inspiration to me in that whenever I am faced with adversity in life, I remind myself of the strength that others use to overcome catastrophic injuries or illnesses, and go forth with their lives.

