

WEEPING FOR JUSTICE IN DOLLAR TREE CASE

A lady we know and love might be weeping. We can't be sure, as her tears are always hidden from us. Resolute and regal, powerful and persistent, we are blinded from her sorrow as she is blind to the dark deceptions of position, power, rank or privilege.

Nonetheless, the acuity of her vision in all things just is legendary. Pimp, potentate or priest, all are equal before her. She is the moral force and bedrock of what is right and fair that anchors our legal system. In her well muscled limbs she carries the upright double-edged sword of decisive reason and justice. In her left hangs the scales that weigh rights versus wrongs, punishments and pleas. She mourns for unpunished evil and the unjustly accused.

Lady Justice is inconsolable when those sworn to promote justice instead choose to tap dance on the truth like a poodle on linoleum; mugging for money, prestige or the sheer rush of the dance.

Taneka Talley, a single parent working for modest wages, was fatally stabbed in the chest during the normally docile morning of March 29, 2006, at the Dollar Tree on North Texas Street. You may not have known her although it could well have been you or your loved ones. She was known to her now 11-year-old orphaned son and egregious dividends of that senseless death, costumed in legalese, threaten to conjure greater harm.

As an oncologist and colonel, many a call to action came my way. This is as pressing as any. I received a press release and a personal appeal from those seeking the right. Excerpted with no misrepresentation, the release truthfully states that Taneka's son is being denied his mother's workers' compensation death benefits by The Dollar Tree Stores' insurance carrier, Specialty Risk Services, a subsidiary of The Hartford.

Its attorney, C. Kempton Letts, contends, "(His) motivation in stabbing Taneka Talley was purely race motivated. As such, it is our belief that our denial... is proper."

Can you hear Lady Justice crying now?

Workers compensation is a nearly century old state-to-state statutory requirement that strikes a reasonable bargain for work-related injury and sickness, without regard to fault, when the harm arises out of and in the course of employment. The worker gives up the right to sue his or her employer for the harm in return for automatic monetary recovery, usually for lost wages, medical expenses and something other considerations.

The employer no longer has to worry about defending lawsuits or about disproportionate awards. The employer pays a premium for the insurance policy. In California, minor dependents such as Taneka's son are to receive a death benefit apportioned until age 18.

When he evaluated possible obscenity in a case, Supreme Court Justice Potter Stewart canonized a phrase sometime known as the “duck test” (walks and quacks like on) or “elephant test” (hard to describe) as he wrote “I know (obscenity) when I see it.”

This utter and reprehensible nonsense with Taneka’s son fails the “mommy test” – anybody’s mommy would be ashamed. But then maybe these tap dancing insurance attorneys are motherless, too. Trying to benefit from a putative (and irrelevant if so) hate crime. Shame! Get the bar of soap for those miscreants and some hankies for Lady Justice; she’s blubbing now.

The promise of equal access, opportunity and protection under ethically based laws is sacred. If that promise has a color, it is red; the same as the blood in every vein and the same color as that meaninglessly shed on the Dollar Tree floor.

We cannot sit idle one moment as those with wit and deep wallets try to lay waste to the rights of those whose pockets are not as deep and whose legs too weary to climb the mountainous refuse of rhetoric masquerading as legal reasoning.

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