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MEDICAL MALPRACTICE
ATTORNEY E. DREW BRITCHER



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Out to Right the Wrongs

E. DREW BRITCHER IS THE ANTITHESIS OF FLASHY AND FLAMBOYANT

BY NICK DIULIO
PHOTOGRAPHY BY MICHAEL PARAS

IT WAS THE SUMMER OF 1987 WHEN E. Drew Britcher unexpectedly found himself preparing for his first court case. He was just 28 years old, three years out of New York Law School, and terrified.

"I was entrusted with a trial I had no right to ever be doing at that point in my life," recalls Britcher, co-founder of the medical malpractice and personal injury firm Britcher, Leone & Roth in Glen Rock. "The only trial experiences I had up until then were mock trial competitions in law school. But there's a big difference between that and the real thing."

Britcher was still pretty new in the small personal injury division of Stern, Steiger, Croland, P.A. in Morristown. During his first few months there, he served as an associate for firm partner and mentor Bernard Conway. When Conway eventually departed in February, he left behind a challenging medical malpractice case that would change Britcher's life.

The case concerned a woman in her 60s who had suffered a stroke a few years prior, leaving her with limited mobility on the left side of her body. In the early '80s, she developed an ulcer on one of her left toes, which eventually became infected and gangrenous, resulting in an emergency amputation of her left leg.

The battle was uphill from the start. Other lawyers had already turned down Britcher's new client, telling her that she didn't have a case. But they had all overlooked a very important detail.

"If you looked at her doctor's medical records, it would appear he had done nothing wrong," says Britcher, who turns 55 this spring. "But I found out there had also been a public health nurse who came to see her regularly during the time she had the ulcer. The lawyers who turned her down told her she didn't have a case based upon the *doctor's* records."

But Britcher got the records of the nurse. He discovered that throughout the three-week period leading to his client's amputation, her doctor recorded continual improvements. The nurse's records, however, told a very different story.

"She had actually gone to this doctor long before my client was hospitalized and basically said, 'What are you doing? Why are you not being more aggressive in your treatment?' And that nurse ended up being one of my key witnesses," says Britcher.

This would become a Britcher hallmark—looking beneath the surface of a case to find its truest and most compelling liabilities.

"One of the things that makes him such an incredible lawyer is that Drew doesn't just look at the first layer," says firm co-founder and partner Armand Leone. "He's able to look at both creative and productive theories of liability that can help clients where they've been turned down in the past. There have been several occasions throughout the years where I've looked at a case and said, 'I can't see anything worth pursuing here.' Then Drew will take a look, and after a short conversation, it's suddenly crystal clear."

Britcher also made an interesting and unconventional tactical decision at the start of that case, opting to keep a nurse and a doctor's mother on the jury.

"People thought I was crazy to include those two jurors at the time," says Britcher. "But I knew there was a certain degree of arrogance to this woman's doctor that would bother them more than anyone else."

In the end, his client was awarded \$1.2 million—the largest verdict ever for a lawyer of his age at that time.

"Right up until the moment the trial began I was truly scared to death," Britcher says. "But despite that, I knew this doctor had screwed up. And I knew I had to try and get the jury to understand that. And apparently they did."



E. DREW BRITCHER

- PARTNER, BRITCHER, LEONE & ROTH, GLEN ROCK
- PERSONAL INJURY – MEDICAL MALPRACTICE: PLAINTIFF; PERSONAL INJURY – GENERAL: PLAINTIFF
- NEW JERSEY SUPER LAWYERS: 2005–2014; TOP 10: 2012–2014; TOP 100: 2006–2014

YEARS BEFORE BRITCHER WAS BORN in 1959, his father worked as manager of the United States Senate Restaurant in Washington, D.C., serving meals to the likes of Dwight Eisenhower, Richard Nixon and John F. Kennedy.

"My father never graduated past the eighth grade, which is pretty incredible when you consider it," recalls Britcher, gesturing to a series of framed black and white photographs hanging to the left of his office desk on walls painted deep blue. One of them shows a man serving food to President Eisenhower and the First Lady. "That's my father during Eisenhower's inaugural lunch. Remarkable."

Britcher's father left that job in 1958 and moved his family to Paramus, N.J., where he went on to become manager of concessions and restaurants at Yankee Stadium. Drew spent many summer afternoons watching games from box seats along the first-base line, and hanging outside the clubhouse for autographs from legends like Whitey Ford and Mickey Mantle; even Joe DiMaggio when he attended an old-timer's game.

"I had a Mickey Mantle Louisville Slugger with the official imprint on one side and his signature on the other," Britcher says. "But I played baseball with it when I was a kid. And broke it."

His greater passion, believe it or not, was politics.

"I grew up surrounded by books and memorabilia from my dad's years in D.C., which is probably why I was so passionate about law and government," says Britcher. "They say I walked into kindergarten able to recite all of the presidents in order."

At Rutgers University, Britcher studied political science and history while earning a certificate in secondary education. During his senior year, he taught social studies at John P. Stevens High School in Edison. He assumed his future was in education. But he also applied to a handful of law schools.

Accepted at New York Law School, Britcher was captivated by a first-year lecture from celebrated New Jersey trial lawyer Myron Kronisch, who spoke about the fascinating intricacies of tort-oriented law. Britcher eventually ended up working as a clerk for Kronisch that summer, immersing himself in medical research for many of the firm's personal injury and malpractice cases, even going so far as to sit in on multiple medical school lectures at the University of Medicine and Dentistry of New Jersey in Newark to help him better understand the world of internal medicine.

That clerkship landed Britcher his first job at Stern, Steiger, Croland & Bornstein. Two years after his million-dollar victory, at age 30, they made him partner.

"Even as a very young lawyer, Drew had a natural comfort in the courtroom," recalls Bruce Ackerman, a longtime friend and former colleague at Stern, Steiger, Croland. "He doesn't win juries over with tricks or fancy maneuvering. He wins them over with the truth that he is on the right side of a case. And his warmth and straightforwardness allow him to impress upon them the righteousness of his cause. He had it back then and he still has it."

Jim Sharp, a New Jersey-based medical malpractice defense attorney, has faced off against Britcher dozens of times throughout the past two decades. He says it's this precise no-frills approach to litigation that makes Britcher such a challenging adversary.

"He's not flashy. He's not flamboyant. In fact, he's probably the antithesis of that, which is what makes him such a formidable opponent," says Sharp. "When you try a case against someone with a lot of bombast and flair, you can play off of that and use it to your advantage. But not Drew. He just articulates himself so well and establishes this unspoken relationship with jurors so they can be persuaded to his particular theory about the case. That's not easy to do."

Stern, Steiger, Croland split up in 1995 and its personal injury division was not invited to join a new firm; that division separated and Britcher moved on to the Morristown-based Leonard & Butler. Then, in 2000, Britcher decided to team up with Leone and former Stern, Steiger, Croland partner Mindy Roth to form his current practice.

"We knew our combination of talents would really complement each other," says Leone. "I'm the guy who deals with the facts and proofs and strategies. But when it comes to thinking outside the box, that's where he really shines."

It was that kind of thinking that helped forge Trial Lawyers Care, of which Britcher is a founding member. In the months and years after 9/11, Britcher and his firm represented more than a dozen families and individuals affected by the tragedy on a pro bono basis.

"When I think about what sums up Drew Britcher, the first thing that comes to mind is what he did after September 11th," says Abbott Brown, a partner with Lomurro, Davison, Eastman & Muñoz in Freehold and fellow adjunct professor at Seton Hall

Law School, where Britcher teaches courses in medical malpractice law and litigation. "When 9/11 happened, a lot of lawyers thought this would be a gold mine. But Drew was one of the people who said, 'No, we're going to do this work pro bono.' You're talking about hundreds of millions of dollars in potential legal fees that were left on the table. It was just astonishing."

DESPITE HIS ACCOMPLISHMENTS,

Britcher isn't terribly fond of talking about them.

"Look, when someone calls me, it's not because something good has happened," says Britcher. "When people ask for my card, I hand it to them and say, 'I hope you never need me.'"

Britcher currently represents a 33-year-old man who is completely paralyzed as the result of what Britcher says were an undiagnosed stroke and untimely addressed artery blockage. He can no longer sufficiently tilt his head back and forth to operate a wheelchair, and has since lost the ability to use a computer that detects eye movement. He communicates through moving his eyes in certain patterns. But that's it.

"His mind is completely there but he's trapped inside his body. It's heartbreaking," says Britcher. "Cases like this one remind me that we are all just one unexpected moment away. That life is intensely fragile. The challenge is to find ways of channeling that emotion into doing what you can for your client."

When this man's case comes full circle, Britcher says he will use the same closing demonstration he's been using for every case since his first year as a litigator. He'll walk over to his desk, pick up a small paper cup, and begin filling it with water. And he'll tell the jury that this represents the cup of justice.

"And then I'll stop pouring halfway and say, 'If we only fill it this far, we've only received partial justice. We need to meet the challenge and fill the cup.'"

And then Britcher will fill the cup to the brim and stop again, telling the jury, "But spill not a single drop. Because that too isn't justice. Compensate people fully, but don't overcompensate them."

It's an emotional gesture from a lawyer who remains anything but cynical.

"I guess I'm one of those people who was out to right the wrongs," he says. "And I get up in the morning and come to work knowing that, hopefully, I'll be making people's lives better in the process." **SL**