



Carrying On For A Fallen Colleague

Dan Brusco and William Cass win a bittersweet pro bono victory

By **THOMAS B. SCHEFFEY**

On a summer day in 2009, Hartford patent lawyer William Cass got a terrible call from a Boston firm. Cass knew that Daniel E. Brusco, his co-counsel in an intellectual property case, had a deposition there that day.

Cass also knew that nearly six years earlier, Brusco had been diagnosed with a brain tumor. Since then, thanks to radiation and chemotherapy, the tumor stabilized. Brusco, an imposing man at 6-feet-3, had been living a generous and adventuresome life — with gusto.

But the news from Boston was bad. “Dan was suffering a seizure at the deposition,” said Cass. He hurried to meet Brusco at the hospital, and soon learned the worst. Brusco’s tumor had grown — and was now inoperable.

Brusco would pass away early in 2010. And while it’s impossible for such a story to have a truly happy ending, this one at least has a satisfying one. Cass carried on and complet-

ed a pro bono case to which he and Brusco had devoted countless hours.



In recognition of Brusco’s efforts, he was recently awarded the 2010 Pro Bono Award

by the U.S. District Court for Connecticut, which was accepted by his wife, Sandra, his daughter, Claire, and by William Cass.

Near Identical Pasts

Even before they met 10 years ago, Cass and Brusco’s personal histories had intertwined without touching, like a double helix.

Back in 2000, Cass’s intellectual property firm, Cantor Colburn, was recruiting new talent. Brusco was recommended by a former courtroom opponent. And his résumé must have looked eerily familiar to Cass. Like Cass, Brusco earned an engineering degree from Worcester Polytechnic Institute. Like Cass, Brusco had graduated from Western New England College School of Law. Both graduated from West Springfield High School, and were active in the marching band.

But since Cass was five years older, they never met before Brusco came to Cantor Colburn.

“One of the happiest days in my legal career was interviewing him to come work with us,” Cass said. As law partners, they made a powerful team.

Brusco had unusual experience. After college, he became a specialist in the Army, excelling in intelligence work that involved critical “order of battle” decision-making. As Sandra Brusco explained it: “You keep track of where everyone is, and where people need to move,” based on intercepted “chatter.”

In his civilian life in engineering and legal practice in Springfield, Brusco blended a love of outdoor adventure with an instinctive desire to help others. He was an accomplished scuba enthusiast and instructor, skier, and sky-diver, and used those abilities to assist police and other first responders in challenging situations.



Daniel E. Brusco was known to friends and colleagues as a compassionate outdoorsman who was ‘willing and enthusiastic’ about taking on a pro bono case even after being diagnosed with a brain tumor.

“No big surprise, but Dan had also been a Boy Scout,” said Sandra Brusco. “And he was an amazing dad,” dedicated to his kids. “For example,” she said, “he chaperoned Claire’s first-grade nature hike. Because of his size, he could get down on the ground and push whole logs back with his feet, so the kids could look for salamanders and things.”

Trained in first aid, Sandra recalled that “Dan never drove anywhere without his crash kit” of emergency equipment. Once, returning from a ski trip in a new full-leg cast, Sandra watched from the back seat while Dan stopped to render aid at three separate accidents on the way home.

Brusco loved nature in the raw — like skiing in 30-below weather at dawn, or touring a Cape Cod lighthouse in a blustery nor'easter.

His motorcycle was an international orange Buell Ulysses, a tall, off-road bike he rode up Mount Greylock in Massachusetts and Mount Washington in New Hampshire, and helped organize bike events for charity.

Prisoner Abuse

Even after his tumor worsened, Brusco was driven to serve others. He took on a prisoner abuse case for inmate William Hamilton in Corrigan-Radgowski Correctional Institution, in Uncasville. Cass served as co-counsel.

In past years, Cass and Brusco had flown down the highways in Brusco's Crown Victoria, looking enough like an unmarked police car that other drivers yielded meekly. But now, on trips to view the prison, or the videotapes of Hamilton being swarmed by guards, Brusco sometimes struggled just to walk.

Hamilton's case was behind schedule when U.S. District Judge Janet Bond Arterton assigned it to Brusco, whose response was "willing and really enthusiastic," Arterton recalled recently.

Hamilton alleged his civil rights were violated when he engaged in a brief standoff with a guard in a lobby-sized main room of the prison. He had taken a broom from the broom closet, and did not drop it when ordered to do so, backing away instead.

Videotapes show more than a dozen burly guards swarming in and bringing him to the floor in short order, where he was handcuffed. Then, at close range, he was pepper sprayed. Hamilton alleged he was the victim of excessive force.

Despite being intellectual property litigators, neither Brusco nor Cass were fish out of water in this type of case. Both began in general practice firms in Springfield. In addition, Brusco, in the Army, had been pepper sprayed as part of training.

Brusco added to the lawsuit the count of "deliberate indifference," based on the video evidence. It showed Hamilton being held for long periods in the hallways, bleeding, without having the pepper spray washed away from his eyes or mouth. Protocol calls for a 10-minute shower to decontaminate the inmate once subdued, but the video record showed he only had two minutes of showering, after extended processing delays.

Preparing for a March 2010 trial, Brusco conducted out-of-state depositions and lined up an expert witness. In mid-January of this year, Brusco respectfully requested a three-week discovery extension. It was, Arterton was told, "to attend to certain per-



After his death, Daniel Brusco won the U.S. District Court for Connecticut's Pro Bono Award. Those attending the ceremony included U.S. District Judge Janet Bond Arterton (left); Brusco's wife, Sandra; their daughter, Claire; law partner William Cass; and Connecticut chief administrative federal judge, Alvin W. Thompson.

sonal medical issues that required [Brusco's] presence outside of his office."

In February, he moved for another extension, on grounds that he'd "encountered unforeseen personal medical issues, including being diagnosed with a malignant high grade astrocytoma that requires counsel to undergo periodic chemotherapy, which requires counsel's presence outside of the office."

Arterton promptly convened a telephone conference, which Brusco joined from the chemotherapy treatment center. The judge took the case off the active docket for the moment, and Brusco replied, "That's wonderful your honor, because I really appreciate everything. I would expect I will be completely in the saddle and able to proceed, you know, within a matter of a comparatively short time." Brusco pledged to do his best, and noted that his sidekick Cass is "frankly a more experienced trial lawyer than me."

Arterton said that when she ended that call, and said goodbye to this "committed, conscientious lawyer, I had no idea he would die ten days later..."

Back in 2004, when Brusco was diagnosed on his 37th birthday, doctors said he might have only 18 months to live. Almost six years later, he died on Feb. 14, a week before turning 43. "People say his death is a terrible thing," said Sandra, the mother of their three young children. "I say yes, but other people get 18 months or less, and we had six years."

At his wake, she said, "If you put every-

thing he did in his life end to end, he was really 82, not 42. He didn't lose a minute."

'It Mattered Enormously'

Four months after Brusco's death, Cass continued their pro bono effort with a five-day trial before Arterton, building upon the depositions and expert witness foundation Brusco had prepared.

"My understanding is that a lot of people aren't too interested in pro bono cases," Sandra Brusco said. "They do the minimum that they have to do. Dan treated it as he did every case, as if it mattered enormously and it was the only thing that mattered."

That effort was vindicated by Cass's perseverance, and the jury returned a plaintiff's verdict for Hamilton on the count of deliberate indifference – agreeing with Brusco's point that the subdued prisoner should have been decontaminated in a reasonable amount of time. Said Cass, "We hope this results in improved prison procedures."

Assistant Attorney General DeAnn Varunes, who defended the prison guards, said that up until the end, she was unable to discern that Brusco was ill, or in any way different from other lawyers doing the same work. "He was prepared, he did his job – and he definitely made a change in [his client's] life," Varunes said. She added that, at trial, Cass was "a formidable opponent."

Sandra Brusco also praised Cass. "Bill could have just gone through the motions, and he didn't. He came across the finish line." ■