

## COMMENTARY

# Walking in Your Client's Shoes

By Michael E. Quiat

I have been a practicing attorney for just under 40 years, and I have been fortunate to have lived those 40 years in good health. Through my practice as an ERISA/Disability Insurance claims lawyer, I have experienced vicariously the terrible tragedy which injury and/or illness can mean for an unsuspecting family otherwise enjoying their lives and pursuing their dreams. Over the years I have prided myself on having developed a strong sense of empathy and compassion toward my clients, trying always to appreciate the dear price that clients paid for being unlucky enough to get sick or injured.

But the experience I have had in the last year, dealing with the very first health challenge of my own life, has illustrated, as nothing else could, just how limited my appreciation has been about the plight of my clients. I have now concluded that the extent of their lost quality of life, not to mention the chronic pain and suffering with which many

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clients must contend on a regular, daily basis, cannot fully be understood by a third-party observer, no matter how empathetic. Over the decades of my practice, I have made numerous written and oral arguments about pain and how it can tragically derail the lives of even the most capable human beings. Even so, since I was lucky not to have ever experienced such challenges in my own life, I never really “got it” until it happened to me, albeit on a much less serious, long-term basis.

I was a 61-year-old weekend tennis player with advanced bilateral hip arthritis. After years of living with the progressive, degenerative pain in my hips, I finally decided to have the right hip replaced in a procedure on April 3, 2018, at a very

fine surgical hospital in Manhattan. I had a wonderful surgeon and the hospital met its advanced billing—it was impressive. I left the hospital the next day, and was walking without pain or a crutch within two weeks. I was delighted. I could not have hoped for a better result, and was proud and somewhat self-satisfied that I handled my health so successfully. I planned on being back on the tennis court by July, but it didn't quite work out that way.

In June, I was actively engaged in physical therapy to regain my full functionality, and something went very wrong. I ended up with a badly damaged hip flexor, back on crutches, with severe pain upon any weight bearing. I could only climb stairs one at a time. I was prescribed

pain medication which helped with the pain and inflammation, but had other side effects. Yet without the medication, I could barely walk without a crutch. My activity level declined precipitously. I missed the entire outdoor tennis season and could not participate in any outdoor activities, including yardwork and gardening, which have always been welcome therapeutic respites from my stressful work as a lawyer. I began to feel, for the first time in my life, like a disabled person.

I continued to go to my office regularly, but as the months passed without any discernible improvement, I began to obsess about my condition. Would I ever get better? Would I ever play tennis again? Would I walk with a limp for the rest of my life? Would my limp cause knee and back problems? Should I try another doctor, or another treatment? I have never before had a health issue that I could not solve, and I had never before experienced how distracting, and at times all consuming, chronic health problems can be. I would oftentimes find myself sitting at my desk reading and re-reading the same documents over and over again. Writing, which has always been a labor of love for me, had become an ordeal. The words just would not flow, despite my best efforts. Unable to engage in my regular physical activity, I

became lethargic and unengaged. The profound impact on my life had completely blindsided me.

The reality is that I had suffered a very bad leg injury which would take six-to-nine months to heal, and I was totally unprepared to deal with it. Looking at it now, from the other side of the process, I have to admit that I am a different person today because of it. Pain is, by its very nature, subjective and not susceptible to so-called objective verification. As a lawyer representing disabled individuals pursuing claims against their insurance companies, I am well aware that despite the lack of objective, corroborating evidence, pain itself is real and can be totally disabling. The courts have consistently acknowledged as much. But understanding the concept intellectually is far different than living with it day-in and day-out.

Even for those of us who have a high threshold of pain, chronic pain can be debilitating across the entire sphere of daily activities, not just work related. It interferes with your home life and colors your relationship with your spouse, your children, your friends—even your dog.

But it is not just pain. It was also the unexpected onset of sleeplessness, depression and irritability, which exacerbated my underlying physical ailment, and magnified my functional impairment

beyond anything I could have imagined. Now, having lived through it myself, I can see that my previous comprehension was grossly inadequate to understanding just how chronic health problems, even those which are not life-threatening, can totally disable the whole individual. This highlighted as never before how little I had really been able to understand about what many of my clients endured on a regular basis. Chronic illness or injury can completely hijack your life in ways small and large, subtle and stark.

When someone is in chronic pain and worried about ever recovering, there may be nothing else that person can really think about—best efforts to the contrary, notwithstanding. The fact that such pain is inherently subjective and not readily susceptible to independent corroboration does not change things one bit.

So now that I am finally on the way to a full recovery, I felt an obligation to record my experiences so that I will not forget them, and can perhaps provide insight to others similarly situated. Good health indeed is a fleeting thing, and as advocates we must remember that we cannot truly appreciate our clients' circumstances, unless we have walked in their shoes. I am a better lawyer and a better human being having done so. ■