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CLIFFORD'S NOTES

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his year, Sept. 11th marked the 20th anniversary of the terrible tragedy that was an historical turning point in the United States and, indeed, for the world.

Everyone remembers where they were when the planes crashed into the World Trade Center towers and the horror as the buildings collapsed. Americans watched in real time as the media covered the event.

So many of us received calls from concerned friends and relatives, not quite comprehending what all of this would mean. Americans became bonded in our shared shock and concern for those at the scene. Having recently been sworn in as the American Bar Association (ABA) Chair of the Section of Litigation, I thought that the ABA could be effective in trying to assist citizens who sought answers to their many legal questions about seeking justice and equitable answers in a more global approach. I was quickly appointed by the ABA President to chair its Task Force on Terrorism and Law.

The movie "Worth" was released in 2021 by Netflix in conjunction with the 20th anniversary of the tragedy and was "based on a true story." It focused on Kenneth Feinberg, Special Master of the Victim Compensation Fund set up by Congress to avoid protracted litigation and try to help the thousands of families who lost loved ones on that day. The movie, initially entitled "What is a Life Worth" is based on Feinberg's memoir of the events. I was involved on behalf of the ABA to help advise Feinberg and his team on the structure of the fund.

The two-hour compelling biopic, starring Michael Keaton as Feinberg, initially portrayed the man as insensitive and removed in handling each person's different set of circumstances, even though they were all very much a part of the same events. At first, Feinberg, who did this huge task pro bono, set up formulas that he thought could be used across the board. As he got to know individual families, though, he learned that this simply wouldn't work.

I consulted with Feinberg as he tried to make sense of it all for families who knew there was no reason, no justification and no compensation that could put them back together again.

The movie brings to light the difficulty of putting a dollar value on a life or an injury, something that



VALUING 'WORTH' OF A LIFE

Film shows the process to finding a fair settlement

By **BOB CLIFFORD**

juries are asked to do at trial. Somehow 12 minds come together to decide how the loss of a two-year-old is different from that of the family's major wage earner, a single mom of three children or a brave first responder who puts others' safety before his or her own.

"Worth" demonstrates how callous it all may seem, but ultimately, fewer than 100 people did not sign up to participate in the Victim Compensation Fund. More than \$7 billion was distributed to 97% of the thousands of victims' families in exchange for not suing the airlines involved. During the two-year period that Congress set up to distribute the funds, the paradigm shifted from one of objectivity to one of sensitivity so that people impacted would feel they were being respected as individuals, not merely being plugged into a formula.

Feinberg began attending family meetings with a giant tumbler filled with Twizzlers under his arm. He would sit on the stage, not behind a lectern. As he would start eating one of the red licorice sticks, someone would catch his eye, and he would gesture to the person, "Do you want one?" The person would say yes, he would pass the tumbler and soon the whole place was eating Twizzlers. People

who once screamed his name were now calm and listening to him. That was how the healing began for the 9/11 families.

I have always advised and mentored lawyers that our clients are not looking for a shoulder to cry on, and they are not looking for a friend. They have people to rely on for that.

People come to us for sound legal judgment and experience, and it must be done with a sensitivity not all possess. Clients expect their lawyers to be strong throughout litigation while they grieve and suffer the sorrows they must go through in coming to terms with the tragedy that has occurred. Of course, for most, that process is never complete. It just evolves.

In the meantime, legal teams work round the clock to ensure that no stone is left unturned to hold those accountable for wrongful actions and to maximize the recovery each client receives. That is the only way the civil justice system knows how to operate. It is called justice. CL

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