

# LAWDRAGON

## Hall of Fame: Tom Demetrio

*By Meghan Hemingway*

Tom Demetrio finds inspiration in his clients. Through the nature of his work, he often meets these folks on the darkest days of their lives and can't help but admire their ability



to “rise to the occasion,” as Demetrio puts it. Bearing witness to the true grit, perseverance and positivity his clients showcase helps propel him forward in the complex and often unglamorous world of trial law.

To date, the co-founding partner of Corboy & Demetrio has amassed well over \$1B in settlements and verdicts, and he has never lost an appeal. Something is definitely working for Demetrio, who attributes his success to an industry that keeps him on his toes and fuels his passion to help people. An enthusiasm he shares with younger lawyers at his firm through mentorship. Demetrio believes in the power of osmosis and continues to teach new lawyers through practical, real-life experiences once they're out of law school and in the “real world.”

You might say that real-world experience has made Demetrio the lawyer he is today. Demetrio served in the Army Reserve during Vietnam and lost his older brother due to medical malpractice before starting law school. Two hugely significant experiences that have shaped the way that Demetrio thinks about the sanctity of life to this day.

In 2021 Demetrio was inducted into the Lawdragon Hall of Fame where he now sits alongside other highly distinguished honorees including Justice Ruth Bader Ginsburg. Lawdragon sat down with Demetrio to talk about the current state of trial law, the cases that stay with you and his theory about staying in touch with your failures as well as your successes.

**Lawdragon:** How would you characterize your practice?

**Tom Demetrio:** We have a very eclectic practice. In particular, I do medical negligence, product liability, airplane crashes. That's what's on my plate.

**LD:** What attracts you to this work?

**TD:** When you have a practice like ours, you can be spending a morning with a neurosurgeon who is explaining the subtleties of profound brain damage. You then jump to the afternoon when you're dealing with a mechanical engineer in a construction injury catastrophe, and it makes for an interesting day-to-day work life.

**LD:** So you're still excited by the work?

**TD:** I am, and that's a good thing, especially for the younger lawyers in our office. Osmosis works, I've come to learn over the years, and if they sense my enthusiasm, it's catching. So I try to engage them and let them know the importance of focus and preparation. In the past, I guess I was hoping my mentoring by example was good enough, but it's not. So in cases that I'm either preparing for trial or appellate argument, I always have one or two younger lawyers at my side so that I can truly mentor them.

**LD:** Can you tell us about a recent case that caught your interest?

**TD:** I just finished a very significant medical malpractice case. It dealt with a hospital who ignored the cries for help of a patient, resulting in his death. This young man – 45 years of age, very athletic – about 20 years ago, while skiing in Colorado, took a tumble and he became a quadriplegic.

A year later, after surgery and rehab, he had a pump inserted that supplied him with baclofen – a powerful drug to control his spasticity. About 10 years later the pump failed, causing significant withdrawal with about 11 signs and symptoms. Fast forward about eight years, and his pump again failed. They contacted the neurosurgeon who fixed the pump the last time, and that doctor said, "I can't do it until Tuesday. Let's admit him to the hospital," which was a level one hospital.

**LD:** What does that mean?

**TD:** The significance of it being a level one is that surgery can be performed 24/7. He was admitted Friday night for observation and he was not suffering withdrawal yet, but

the purpose of admitting him was so that the medical personnel could watch for signs and symptoms of withdrawal over the weekend. None of these doctors or nurses assigned to him knew the first thing about baclofen withdrawal, nor did they know what the signs and symptoms were. As the weekend progressed, his symptoms worsened. The patient and his family were telling these medical professionals to exchange the pump – “if you don't, I'm going to die.” He was that blunt. “I've been through this before. I know what I'm talking about.” And they ignored him.

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Finally, on Sunday night, around midnight, the neurosurgeon got a phone call from the patient's father raising hell, and the doctor started prepping for exchanging the pump on Monday. He shows up in the surgical suite at 1:00 p.m. for surgery – the patient now is in horrible shape, I mean he's dying – and they didn't have a pump for him, and they didn't have the baclofen for him. When it's clear in the records that they knew Friday night what was needed. So they scurried around but the baclofen didn't arrive in the hospital until about 5:00 p.m.

Unfortunately, at 3:10 p.m. he went into a coma that he never came out of. Our expert neurologist from Cornell stated that had the pump been replaced by 2:45 p.m. he would be living a normal life today. That's how fast it works.

**LD:** Wow.

**TD:** Interesting side note, after his skiing accident, this man went to the Rehabilitation Institute of Chicago where he and his physical therapist assistant fell in love. They married and had two daughters. This guy was the husband and father of the century. I've always been amazed at how people respond to tragedy. I have so much admiration for him and how he didn't let his significant disabilities dictate his life. He had a positive mental attitude that was something I think the jurors really identified with. They ended up awarding his widow and two children over \$42M.

**LD:** That's a great jury result.

**TD:** My experience with jurors today is they are attentive. They are conscientious. They appreciate the importance of serving as one of the jobs that comes with our citizenship.

On this jury, for instance, I was happy to have two nurses because I knew they would know the nursing care was substandard. That's the key to our system – to have jurors dedicated to following the law that's given to them. If they do that and you're confident in your cause, you're going to be a successful trial lawyer.

**LD:** How has the pandemic affected trial work?

**TD:** One of the great benefits of being a trial lawyer is interpersonal relationships with the client, your opponent, your peers, the judges. Because trial law is not very glamorous – the typical day is spent either in motion court, in depositions, doing everything except performing in front of a jury. Being a people person is very helpful in this business. When things became reduced to telephone depositions or Zoom depositions, it was not as exciting. Now that the pandemic has simmered down, I'm seeing judges who still are practicing by Zoom, holding court hearings, case management, significant motions, all by Zoom. Witnesses would prefer to give their deposition by Zoom. I see lawyers wanting to stay at home and practice by Zoom. I can't imagine trying a case on Zoom, but it's happening across the country.

**LD:** There's so much that gets communicated through body language.

**TD:** Yes. When you're in person, if you're selecting a jury and you asked Mrs. Jones a question, "Do you have anything in your philosophy about civil jury trials and anything negative about them or our system?" And she may say, "No," but Mrs. Smith six seats down may be making a face that you want to capture. You can't do that on Zoom.

**LD:** Is there one case in your career that stands out as a favorite or particularly meaningful?

**TD:** Dealing with tragedy, you meet people who are terribly burned, blinded, paralyzed. You meet them at their worst time in their life, and you try to acquire a corpus for them to improve the quality and dignity of their life. If I have a favorite, it would be representing a young woman who was in the United States Navy. She was stationed in Virginia and was on a second story-level porch when hurricane force winds came up all of a sudden and whipped her off the balcony, and she became a quadriplegic. She was medically taken care of, and she came back to Chicago, where she lived. A few years later, a family friend and she started having a sexual relationship, and she became pregnant. The Rehabilitation Institute of Chicago had a program for soon-to-be mothers who are quadriplegic to help prepare them. She went into that program, which was quite renowned. But the guy, this family friend who happened to be a lawyer, sued her in our family court stating that he sought full custody of this soon-to-be born child.

**“** *I was shot down by the judge when I tried to explain that this is wrong. The NFL is skating a big bullet here because CTE is going to be prevalent forever, and compensation was cut off for that going forward.*

**LD:** His reasoning being?

**TD:** His reasoning was – being a quadriplegic, she cannot be a nurturing mother.

**LD:** Oh my gosh.

**TD:** This story came to my attention through a former client who's paraplegic and who had befriended this young woman and asked if I could be of help. Because of my very high regard for people who instantly become disabled permanently, how they rise to the occasion, I did so pro bono. I was happy to represent her for nothing because she touched my heart. This was a cause célèbre for me.

She had the child, and the end result after a lot of discovery – she got sole custody of her son. She has been an amazing mother, and she stays in close touch with me. It's about as satisfying as any major big case I've ever had.

**LD:** That's incredible.

**TD:** I would also say it's easy to pick out big verdicts and talk about them but as I reflect on your question, I dwell more on my biggest failure.

**LD:** And why is that?

**TD:** Gerry Spence, a well-known trial lawyer from Wyoming, was trying a case in Chicago against McDonald's. During that trial, I was also on trial, and I had a very successful verdict – it ended up being the first eight-figure verdict in Illinois. This was in '83. He took me out to dinner the night of my verdict and he said, "You're not happy you won today. You're goddamned happy you didn't lose." That has stuck with me. We trial lawyers, it's not so much we want to win. We don't want to lose.

**LD:** That makes a lot of sense.

**TD:** I was a very outspoken lawyer during the NFL concussion case that took place in Philadelphia where it ended up a \$1B settlement over my very strenuous objection.

This was in front of Judge Anita Brody in the federal court in Philadelphia.

The good people at Boston University examined, I think it was close to 100 brains of former NFL players, and 98 percent of them had CTE. CTE is damage to that portion of the brain, due to repeated concussions, that affects your judgment, your suicidal tendencies. It's very significant and, at the time, it was believed they could only diagnose it upon death, via autopsy.

It sounds like a lot of money, but it's not. We represent over 100 of these players or former players. One of these players was a guy named Dave Duerson, who was an all-American player at Notre Dame and then the Chicago Bears. He was part of the '85 Super Bowl team. He retired, and he became a very successful businessman. But by age 50, he was out of control. He was found dead in his condominium in Florida with a bullet through his heart, with Post-It notes all over the apartment, "Get my brain to Boston."

**LD:** Oh that's crushing.

**TD:** I was shot down unceremoniously by the judge when I tried to explain that this is wrong. The NFL is skating a big bullet here because CTE is going to be prevalent forever, and compensation was cut off for that going forward. So that, to me, is a failure that I'm more disappointed in than any success I'm happy about.

**LD:** That makes sense. I know you're an advocate for gun control laws, how do you think the nation is faring in that regard?

**TD:** It's lunacy to not have, at the federal level, legislation banning assault weapons and large-capacity magazines for use with those weapons based upon what's going on in our society. I was a gun control advocate long ago, but now it's ridiculous. We have mass shootings almost on a daily basis and a political system where the NRA is so powerful that our mostly Republican senators and congressmen are impotent.

**LD:** You served in the Army Reserve during Vietnam. Are there any lessons gleaned from that time that you carry over into your legal practice?

**TD:** I can't tell you the culture shock of hopping around the campus at Notre Dame and then learning, all of a sudden, how to kill people. It was so eye-opening. Fast forward to graduating from basic training – my platoon was getting their orders for their next assignment. That night, three guys I spent 12 weeks training with, attempted to kill themselves right there in our barracks.

**LD:** Oh wow.

**TD:** Why? Because their next assignment was advanced training in infantry. At the time, with the way the Vietnam War was going, that was a kiss of death. If you were going to be an infantryman, the thought was you're going to die. That experience influenced me. I think the sanctity of life, when it's lost in a negligent fashion and somebody's responsible, they should be held accountable. I'm sure that I have that night in the back of my brain reminding me how precious life is. That was a life experience where for a 22-year-old guy, all of a sudden, realized you're not in Kansas anymore. You're not at Notre Dame anymore. You're out there in the real world.

**LD:** Doesn't get much more real-world than that.

**TD:** I can say this. The week before I started law school, my older brother, who was 29, died. He died due to medical negligence, and I didn't even know what that was. That did not lead me to do what I've been doing all these years. So it's all coincidental is what I'm saying, and I know that for a fact. If that wasn't going to have an effect on the course my career took, I can't say that the Army did either, other than making me realize how fragile life is.