



CHRIS MESSERLY

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- MINNESOTA SUPER LAWYERS: 2003–2011

AFTER THE COLLAPSE

Personal injury lawyer Chris Messerly tackles the 35W bridge collapse

BY ANNA BEFORT PHOTOGRAPHY BY LARRY MARCUS

Chris Messerly was in a Woolworth's in Ohio, holding his mother's hand, when JFK was assassinated. He was driving to work on Interstate 694 when a friend called to tell him about 9/11. And he was standing in a park in Wausau, Wis., when he received news that the 35W bridge had fallen into the Mississippi on Aug. 1, 2007. It was one of those moments he will never forget.

"I knew immediately I was going to get involved, I just had no clue what it was going to be," says Messerly, whose commute from Vadnais Heights to Minneapolis' Robins, Kaplan, Miller & Ciresi had taken him over the bridge every workday for decades. "All this stuff was running through my head—'We're not there to help carry people off the bridge, what can we do now?'—and finally it dawned on me: 'Duh! Do what you can do best, and that's provide your legal services.'"

Just two weeks later, Messerly found himself in front of 500 people at the Minnesota Association for Justice's summer convention,

ditching his carefully prepared speech as outgoing president and instead delivering a rally call to help the survivors of the bridge collapse—for free. Ultimately, 16 firms would join Robins Kaplan to form the largest pro bono collaboration the state has ever seen—one that would take 20,000 hours of the firm's time and more than \$2 million in costs. And leading the charge was Messerly, a compact Energizer Bunny of a man whose career started with three-hole punches.

MESSERLY IS NOT ONE OF THOSE PEOPLE

who always knew he wanted to be a lawyer. He didn't know any lawyers growing up. But after graduating from Bowdoin College, he decided to give law firm life a try.

When Messerly joined Robins Kaplan in 1981, he spent his days three-hole punching documents, fetching highlighters for attorneys and being referred to as "mail boy." It was a humble beginning for one of the most prominent personal injury and medical malpractice lawyers in town, but it inspired him to enroll in law school at Hamline University—he saw how the profession could help people.

Messerly has helped people in many high-profile cases. He took on pro bono Title IX cases that helped launch women's hockey programs at St. Cloud State University and the University of North Dakota. And he took the case of a healthy 40-something woman who had both breasts removed after she was mistakenly diagnosed with breast cancer due to a biopsy slide mix-up. But no previous case caused him to lose as much sleep as the bridge collapse. "To have on my shoulders the responsibility of so many people whose lives were ruined or destroyed is a heavy weight," he says. "I could not let them down."

So, with the same endless energy he used to coach his three kids' sports teams 12 months a year for 15 years, Messerly dug into the case. When legislation needed to be drafted to change the state's total liability cap of \$1 million, he spent every day at the capitol for weeks, testifying in front of House and Senate committees, staying after midnight to answer their questions, and regularly meeting with the revisor of statutes to rewrite the bill. And when the state set up a \$36.64 million compensation fund for the survivors in May 2008, Messerly was pleased, but he didn't stop there—he and his lead co-counsel, Philip Sieff, followed through on the promise they had

made to the consortium's 112 clients: find out *why* the bridge had collapsed.

Messerly says one of the worst days of his career was when he had to tell his clients why the bridge fell. "Once we realized that it just never, ever should have happened, that it was so easily preventable—to have to tell our clients that was so disheartening," he says. In March 2009, he and Sieff invited all 112 consortium clients to Robins Kaplan to meet with their engineering experts from New York. As they explained the warning signs that were ignored—including corroded roller bearings that couldn't expand with the summer heat—Messerly says some survivors started crying; others were so mad they turned red in the face.

Betsy Sathers was one of them. "It was heart-wrenching," says Sathers, whose newlywed husband, Scott, died in the collapse. Sathers remembers sitting at home on his birthday, three days after the bridge fell, staring at the cake she had gotten for his surprise party. She had to wait 19 days before his body was found. "Now it was like, my husband's death could have been prevented? Twelve other people died and a hundred people were injured and our city was broken because someone overlooked this?"

Messerly hopes the findings help prevent future disasters. "We made the world safer by more or less telling the world that the [National Transportation Safety Board] didn't get the whole story, and that here's exactly why the bridge fell, and hey, rest of the world, will you please go out and check your bridges?" Messerly's drive to make the world safer is one reason he stays passionate about personal injury and medical malpractice work. Thanks to the case of the mistaken mastectomy, for instance, the national practice of pathology changed to include more safeguards. "When you cannot only help one person but also help the rest of the world, that's the greatest service a lawyer can do," says Messerly.

"Service" is a word that comes up often with Messerly, who says lawyers need to remember that they work in a service profession. The pro bono consortium embodied that attitude and it served the 35W clients well: PCI Corp., the company resurfacing the bridge when it collapsed, agreed to pay \$10.1 million in 2009. That left URS Corp., hired to evaluate the bridge before it collapsed, as the only holdout. Messerly says the turning point finally came in July 2010, in the form of the punitive damage motion. He holed up at a hotel out east after

taking his younger son to Hamilton College, writing the punitive damage brief himself. It paid off: "When we argued it to the court, it went very, very well for us. And it went very, very badly for the defendants. Everybody knew it; we knew that the tide had turned."

The case culminated on a hot Saturday in August 2010 with a settlement conference in downtown Minneapolis. At the last minute, Messerly decided to up the ante, asking for an extra \$1.5 million. Surprised, Judge Deborah Hedlund asked why he was raising his demand. "I said, here's why: 'We just passed the third anniversary of the bridge collapse, and no one has built the memorial,'" says Messerly. "I had called the mayor the week before and said, 'Mayor, I can't make any promises, but what kind of check would I have to give you to build this thing?'" And so, an extra \$1.5 million was included in the \$52.4 million URS agreed to pay that day. "That's a very important thing for closure for the people on the bridge," Messerly says.

That tendency to go above and beyond didn't go unnoticed by clients. Sometimes it was the little things, says Sathers, like Messerly making sure she got to her car safely. Other times it was big things, like when Sather called Messerly in a panic when the earthquake in Haiti endangered the twins she was adopting with the 35W settlement money—starting the family she could no longer have with her husband. "I called Chris, and I said, 'Do you know anyone that's got a plane? I need to get my kids out of Haiti!'" Sathers remembers. Although it had nothing to do with the case, Messerly started making calls. After receiving clearance to leave Haiti, the children were able to come to Minnesota using humanitarian parole. "He's just such a great guy," she says, "a genuine nice guy."

That sentiment is echoed by Nelson Peralta, who received a cold call from Messerly one afternoon asking him to join the consortium, which needed a Spanish-speaking lawyer to represent children on the school bus that fell with the bridge. "Chris is a very humble person, and he's not someone that is bringing attention onto himself. Despite his level of success, he's very approachable," says Peralta.

"Lawyers get dumped on left and right, particularly lawyers in my field. But I take tremendous pride in what we do, because we help people's lives; because we can change the world," says Messerly. "And if you can do that, I could retire tomorrow and feel like I've accomplished something in life." 