

The Quiet Passion of Shamus O'Meara

The Johnson & Condon attorney advocates
for those with developmental disabilities

BY ROSS PFUND PHOTOGRAPHY BY LARRY MARCUS

In June 2008, Shamus O'Meara was working at the Edina office of Johnson & Condon when he heard the awful news: Keith Kennedy, a 25-year-old with developmental disabilities, had gone missing from a special needs camp in Wisconsin and was lost in the woods. O'Meara was shocked. Linda Kennedy, Keith's mother, had been one of the first professionals to work with O'Meara's oldest son, Conor, who is autistic, at the Rondo Early Education Program in St. Paul several years earlier.

The soft-spoken attorney's voice trembles with emotion as he tells the story. "We had kept in touch with the Kennedy family for years, and when I heard that Keith was lost, I dropped everything and went out and looked for him," O'Meara says. "There were hundreds of people out there. In fact, when I returned with a search party that had come back [to the staging point for the search operation], we were walking through mud and swamp and briars, and everybody was covered. I walked off the bus and there was a friend of mine, Ted, a lawyer who had just heard about the search and came over. He was there in his suit, in his good shoes, and he had tears streaming out of his eyes. His son, Jack, like my son Conor, has autism.

"So there was Ted, crying in his suit, as I got off the bus. We hugged each other, cried a little bit, and he got on the bus [to continue the search]," O'Meara says. "I'm proud of the disability community and

the legal community's involvement on issues like that."

Kennedy was found a week later and has since recovered from the ordeal.

O'Meara, modest to a fault, would never say it, but his own contribution to the state's disability community has been significant. In a lawsuit filed in 2009, he represented the families of three adults with developmental disabilities who were locked into ankle cuffs and handcuffs for "minor behavior problems," according to a 2008 investigation. State law only allows for such restraints to be used for safety reasons. In September 2010, the state settled the lawsuit for \$3 million and agreed to overhaul its policy on the appropriate use of restraints.

"It's not really about the money," O'Meara says. "It's about the change that we're affecting. The Department of Human Services, we think, recognizes that. We're building into the settlement agreement positive behavioral techniques and reinforcement so that we can avoid the use of handcuffs and leg irons. So that we can treat people with respect."

Being able to change the treatment and perception of people with developmental disabilities is particularly rewarding for O'Meara. "This is real change, not just for the parties in the lawsuit, but for everyone that has a developmental disability that touches state government," he says.

Progress is slowly being made, O'Meara says. "It wasn't too many years ago that people with autism and developmental

disabilities were institutionalized. There was a deinstitutionalization of people with developmental disabilities several years ago, but the institutionalization effect continues in access to services, in access to justice, in how we treat and think about these people. What we're trying to imbue into lawyers, in particular, is a sense of what these people are really all about."

O'Meara hopes that more attorneys will get involved to help guide families of people with developmental disabilities through the process of getting assistance through the state. "It's a bureaucratic morass out there to wade through all the language of these benefit programs and other areas of the law and regulations that they need to get through," he says. "They need a lawyer."

O'Meara knew early on that he wanted to be one of those lawyers. After graduating from the University of Minnesota with degrees in political science and economics, the Brooklyn Center native—"back when it had potato fields," he says—sold life insurance, handled financial planning and worked other odd jobs before enrolling at William Mitchell College of Law.

O'Meara's mentor was the late Wayne Trittbough, a partner at Johnson & Condon who took the young lawyer under his wing and introduced him to construction law, which still makes up part of O'Meara's practice. "Wayne had an extremely colorful personality, was a good guy, and knew the ins and outs of construction law," he says.

O'Meara's other main area of practice is education law. "We do any number of



SHAMUS O'MEARA

- PARTNER, JOHNSON & CONDON
- CONSTRUCTION LITIGATION, SCHOOLS & EDUCATION, CIVIL LITIGATION DEFENSE
- MINNESOTA SUPER LAWYERS: 2006–2011

things with respect to school law, from board policy issues to construction projects to representing schools on complex liability matters, school shooting cases and various other things,” he says. “Schools are a reflection of our communities. Any issue you can think of that takes place in a community also takes place in a school.”

That, tragically, can include murder. One of O’Meara’s most harrowing cases came after the school shootings in Red Lake, where 16-year-old Jeffrey Weise killed himself and nine others in March 2005.

“It was a horrific event,” says O’Meara, who, along with colleague Mark Azman, represented the school district in the aftermath. “We spent months and months up in Red Lake handling the investigation, interviewing people who were involved inside

the school. It was a tremendous amount of work and very emotional and draining.” O’Meara is proud of the solution that was reached. “The lawyers for the families, our office and others were able to really reach out, engage in an informal dialogue, and, with great assistance from federal Judge Donovan Frank, resolve that incident without a lawsuit [from the families].”

Tom Heffelfinger of Best & Flanagan was the U.S. attorney for the state of Minnesota at the time, and, in conducting the criminal investigation, found himself initially at odds with O’Meara. “We were both focused on the recovery of the school and the community,” he says, “but I was running an investigation on what had happened and he wanted information from me that I didn’t want to give him.”

O’Meara says that he and Heffelfinger were able to develop a collaborative process. “Tom and I, working two different sides of this horrific event, decided early on that it made sense for us to work together. We developed a close working relationship during the investigation and we’ve become very good friends,” he says. “There’s an example that stands out to me about how lawyers ought to be approaching a case. It’s easy to drop a lawsuit. It’s difficult to have a cup of coffee with the other side and try to bring about a resolution that’s satisfactory to everyone.”

According to the *Star Tribune*, \$2.5 million was eventually paid out to the families of the victims over two settlements.

Since the Red Lake litigation, O’Meara and Heffelfinger have teamed up to speak about school safety nationwide. “We’ve talked about integrating dialogue with law enforcement,” he says. “It’s been a significant development in this state and nationally to have someone that handled the school investigation and the sitting U.S. attorney, who handled the criminal side of it, come together as we did and work with various national groups”—such as the Secret Service and the state and national departments of education—“to engage this issue.”

When he’s not in the office, O’Meara can be found volunteer coaching for his three sons’ sports teams. “It’s not always easy to balance work and family,” he says, “but it’s important to be involved in your kids’ lives.”

O’Meara has set an example not just for his children, but also for his colleagues, including Heffelfinger. “I’m currently representing a young man who has Asperger’s syndrome who is under criminal charges in federal court. In large part, I agreed to take that case on because Shamus convinced me it was the right thing to do,” Heffelfinger says. “He’s very passionate about [working on behalf of those with developmental disabilities], and in my experience, it’s an issue that’s worthy of his passion.”

“Lawyers, more than any other professional group, are in a great position to affect change,” O’Meara says. “You know the old adage that you need to be dispassionate as a lawyer? That’s absolutely wrong. You need to have passion. You just need to use it in the right way.” [S](#)