

Stories from the brainreels podcast

August 2, 2013

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Introduction

CHERYL: Welcome to Blogtalkradio's Stories from the brainreels. I'm your host, Cheryl Green, from StoryMinders coming to you live from Portland, Oregon, as I do every first Friday and some third Fridays, at 1:00 pm Pacific time to share stories, news, art, comedy, and discussion on brain injury and disability culture.

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So today's episode was recorded earlier. It's a wonderful conversation with lawyer and advocate David Kracke. We talked for so long that the conversation will air in two parts, part one today and part two on Friday, August 16th.

Before we get to the interview, I have some local arts and culture news. Abstract expressionist painter Kris Haas still has her fundraising going online for five more days. Please, check it out by visiting USAProjects.org and searching for Kris Haas. On her profile there, you can find links to her website, her Facebook store, and her Etsy page. And all the donations to that fundraiser are tax deductible.

The other bit of news is that poet and author William L. Alton will be reading from his new chapbook on August 10th. You might remember Bill as the co-star in both of my comedy films, "Cooking with Brain Injury" and "Friending with Brain Injury!". Bill has identified as experiencing mental illness for many years, but he didn't identify as brain-injured until he met me. Shows you what a positive effect I have on people! No, but he knew he have lived through a significant brain injury as a four year old that left him in the hospital for a month. But he didn't know, until we started talking, that the experience might've made an impression on who he is today. It's a fascinating conversation that we have a lot, partly because we don't always remember that we've had it before. But it really is fascinating. The poetry reading is part of the Dis/Representation Reading Into Disability program that's run by the Disability Art and Culture Project. You can read about this group at www.DACPHome.org.

The reading is August 10th at 2:00 pm, held at [In Other Words Feminist Community Center](#) at 14 NE Killingsworth. Details aren't up on the DACP website as of today, August 2nd, so please, email me at info@storyminders.com for a flyer and more information.

And email me any time to talk about this show, other topics or guests you might like to hear, or anything fabulous about brain injury and disability culture.

On to today's guest: David Kracke is a personal injury lawyer in Portland, Oregon. He served on the Board of Directors of the Brain Injury Alliance of Oregon for many years and is now on their advisory board. He writes a regular column in the BIA Oregon newsletter called "The Headliner." He's also on the Board of Wilde Aide, which works on laws and initiatives to save threatened animal species. You can

hear a couple of interviews online he's done at www.legaltalknetwork.com. Search for David Kracke on the site to hear him discuss his work in both areas. His last name is spelled K-r-a-c-k-e. So now, please enjoy part one of the interview.

The Interview

CHERYL: Thank you so much for being on the show and being willing to sit and chat with me about stuff related to brain injury.

DAVE: It is my pleasure.

CHERYL: Great. I have a bunch of questions for you that we may or may not get to, but before we do that, I wanted to sort of talk about how you and I met through BIRRDsong. Do you remember how that was?

DAVE: Well, I'm struggling to think back to the actual time we initially met.

CHERYL: Oh good.

DAVE: I do remember it now. I completely remember it now.

CHERYL: Oh, darn. I was gonna say that maybe you could beat me today for memory impairments, but you remembered it.

DAVE: [laughs] I do, I do. I remember it well. We met at Portland State.

CHERYL: That's right. It was Brain Injury Movie Night, and I was very embarrassed that the only movie that was playing was mine because that just doesn't seem like Brain Injury Movie Night. But before the show started, you came in. And I thought that person looks so familiar, and I couldn't place you. I mean, I don't know why people do or don't look familiar. I couldn't figure out who you were. So I just blew it off. And then at the end of the evening, somebody told me that you had come to the event. I'd never met you before, but I realized I recognized your picture from the column that you write in The Headliner for the Brain Injury Alliance of Oregon.

DAVE: That's right.

CHERYL: And I thought, that's where I know that face!

Brain injury humor and telling the truth

CHERYL: And then not long after that, then you wrote an article in The Headliner about the humor in my movies.

DAVE: I did, I did. And I remember it well. In fact, it was kind of a strange night for me in terms of here you are kind of just opening yourself to everyone and premiering this incredibly great, funny movie with the scene, especially with you and Bill, right?

CHERYL: Mmhmm.

DAVE: And I was just cracking up. And I was laughing because I knew you wanted me to laugh. At the same time, though, I was feeling guilty cuz I was laughing.

CHERYL: [chuckles]

DAVE: You know, here I am laughing because this is so funny. And yet, in so many ways it's so sad. Yeah, I think that that was a real important thing that you did in terms of just kind of shining a light on what people with brain injuries go through, even with the most mundane things such as cooking.

CHERYL: Mmhmm. And was that sensation of guilt because you're laughing at things that are sad?

DAVE: Yes, I think so. I mean I think it's just for me it was a very obvious conflict. Number one, it's very funny. But number two, why is it funny? And it's funny, unfortunately, because a tragedy has occurred, because there are people who are struggling with the most otherwise mundane activities.

CHERYL: Mmhmm. That was very nice when you wrote the article because one of the many things that I liked about that article was that you didn't change my language at all. You didn't change my story. And you even printed in there when I said, "My doctor thinks I'm crazy." Now, probably if we talked to my doctor, he wouldn't say that he thinks I'm crazy. But you recognized that that's just my interpretation. That's my experience of it. Whether it's literally true or not, it's still my experience. And you let that come through in the article, which I find to be a very unusual response. Cuz often, people without brain injuries reword what we say and wanna water it down and change it up and clean it up.

DAVE: I think there's an incredible value and honesty in the truth. Two of my favorite words: subjective and objective. Objective, it's kinda, what does a video camera see? What does anybody looking down on this scene see? But that is oftentimes very different from what the individual who is down in that situation sees. So what I really think is important as an attorney, and more than that, as a person, is for me to understand what you actually are seeing. And therefore, if you are seeing it in this way--you know, "my doctor thinks I'm crazy"--well, I think it's important for me, then, to relate that perspective to my readers in a very honest and open way. I think often--and I think we're gonna get into this a little later on--there is a lot of question about how do we as a society start understanding brain injury more? And I think that when we start watering it down, when we start sweeping things under the rug, if you will, that we do a complete disservice to those people who are working through these brain injury issues. And so, if I water down your comments, or if I try to change them to fit my subjective view or what I think your view should be, which is even worse, I do nobody a service. And if I stay honest to what you have expressed, I think that that honesty comes through. And I think that it probably opens up doors for other people, especially people who are suffering from the effects of a traumatic brain injury or a brain injury of any kind. And that's why I do it: just to stay true to the source.

CHERYL: Mmhmm. I'm so moved by that answer, I can't say anything witty in reply. Thank you.

BOTH: [chuckle]

DAVE: Oh, I'm sure you'll come up with something.

CHERYL: Eventually. After I hang up, I'll be, "Aw, I know what I could have said in response to that." But that's marvelous, and I really appreciate that so much because so much of what we face is about being asked to assimilate, which is hard enough and a strange enough concept in general. But when you're talking about someone with cognitive impairments from brain injury, asking them to assimilate to regular culture, it is actually in a lot of ways impossible because of the cognitive impairment. And so

when you do things like, "Well, here's this person's story in their own words and let's accept it as valid as it is," that's really nice. You're not asking us to assimilate and change up our story and present ourselves in the way that we are supposed to.

DAVE: I agree with you. I understand exactly what you're saying, and I really appreciate that you see it. But I also want you to understand that what gives me the power, the confidence to write in that kind of direct manner is seeing people such as yourself--and you need to know you are a real stellar example to the TBI community, to the survivors out there--of yes, maybe there are limitations, maybe I do have some cognitive impairments and memory problems, some organizational issues, but at the same time, I'm still me. You know, you're still that person. And with, for instance, "Cooking with Brain Injury," your wonderful film, you were so honest that it almost attracts honesty from me. It almost says I would be doing you a disservice if I tried to water this down, if I tried to change this perspective. And I know that there are obviously there are many, many people out there succeeding and doing wonderful things despite whatever limitations they may have, and as a result, I think it's important for people such as myself to recognize the struggles that those people are going through and to essentially treat them with the respect that they deserve and be honest about the situation. And I think that that also gets really close to the heart of what one of my main missions is, and that's education, making sure that people who are not aware, don't understand the cognitive effects of a brain injury or an acquired brain injury of some sort, that those people do, in fact, start to get it. Because then, as we talked about many times, brain injury is the invisible injury. You can't see it. It's not a broken leg. It's not a limp. Don't get me wrong; there are certainly some situations where you can see it immediately. But in the majority of situations, someone walking up to you for instance, they wouldn't immediately think that anything was wrong. Nonetheless, if there are these problems that are out there, I think that I have a responsibility to educate those people who may not understand what those impairments are, how they limit a person's ability to function. Because in that education process, I think it develops compassion, empathy, understanding, awareness, I mean all those words that essentially mean "I get it. I understand what's going on."

CHERYL: Mmhmm, mmhmm. And that is what we need to be able to reduce the barriers and the challenges that come from outside of us. I may have these different impairments that pose their own challenges, but there are a lot of other challenges in terms of people coming up to me and being a little bit aggressive and inconsiderate and judgmental of things about me, such as "Aw, I'm so jealous. You're so lucky you get to stay home and take a nap every day" [laughs]. I recently said to someone, "Well, it's quite a trade-off having a neurological condition that makes you sleepy."

DAVE: Yeah.

CHERYL: It was probably not a very nice response at all, because she put her head down. And then I felt really bad, but at the same time, her comment felt like a bit of a microaggression.

DAVE: I think yeah, that's very insensitive, if you ask me.

CHERYL: Yeah, yeah.

DAVE: And making a comment like that, I was just gonna say that people come to me because they've had problems that have been caused by some other situation: another person, another premises issue, whatever it might be. And at that point, if I am looking for a remedy for those people, unfortunately, I'm very limited in what we can actually provide. And what we are able to provide as a remedy is typically money. However, what my clients are always saying is that the remedy they really wish they had was a

time machine. They wish they could go back and avoid the injury, of course, to begin with. No amount of money is sufficient to essentially placate the fact that they don't have what they had before the injury. And so, when I hear someone say such as the comment that she made to you, "Oh, you're so lucky. You get to go home and take a nap every day," well that just has a fundamental misunderstanding and ignorance as to what the real situation is. And that's that you wish you didn't have to take a nap every day.

CHERYL: That's sort of true. I wish I didn't.

DAVE: That's right.

CHERYL: I could get a lot more done if I didn't have to keep going to sleep all the time.

DAVE: Well, yeah. And by that I mean, you wish that your situation had never occurred, and you were who you were before suffering the effects.

Silver linings

CHERYL: You know, I do think that sometimes, and sometimes I don't. Because there have been personality changes. And I know some people will say, "No, you didn't change that much." But they're basing that on my outward behavior that they can see. They don't know how much changed on the inside, and my personality did change a lot. I'll tell you what: I have much more fun than I ever used to because I used to be introverted, and now I'm not [laughs]. So I wouldn't trade that.

DAVE: You know what? That's excellent, and to be able to find these silver linings, and more fundamentally, to accept the change and to work through the change and to understand that things aren't gonna be the same; however, it doesn't mean that it's all gonna be doom and gloom.

CHERYL: That's right.

DAVE: And look what you have done. Look what you have done. Look what you do with BIRRDsong. Look what you've done with your art. Look what you've done with your public speaking and your public awareness. I remember the premiere of "Friending with Brain Injury!" at PSU as well and how good you were with the audience telling your story.

CHERYL: Oh yes, that was a tough situation [laughs].

DAVE: Well, it was. But at the same time, you handled it so well and essentially said, "Look. My glass is half full. Others may see it as half empty for more than that empty, but I don't."

CHERYL: That's right.

DAVE: And I think that your inspiration was sufficient, it really was important for those people in the audience--the survivors especially--who were struggling and coping with issues of their own, to say, you know what? Maybe there is some hope here. Maybe there is a silver lining.

CHERYL: Mmhmm. Yeah, and I like for anyone to be able to search for that and hopefully find it. And for me, the truth was, the silver lining wasn't so much about accepting the impairments, which in my case, many of them did get better. Oh, that was a long sentence. Now I'm lost. The silver lining for me was redefining disability and redefining brain injury and saying, does my situation actually match what society tells me it should, that disability is negative, disability is awful, it's a burden, you're always sick,

you're always disadvantaged, brain injury is nothing but terribleness? These are all perspectives. They're not universal truths. And I think a sense of silver lining started to come only when I started to recognize that disability does not have to be a negative word or a negative concept or a negative experience. And then something about those holes in my frontal lobe just you know....I just am jolly all the time [giggles]. Except for when I'm screaming and fighting with people. But then I'm jolly again [laughs].

DAVE: Well, that's just the director in you, right?

CHERYL: That's right. That's all it is. It's just that.

DAVE: The Cecil B DeMille in you.

CHERYL: That's right.

DAVE: Or the Katherine Bigelow in you. She won the Best Director Oscar for "The Hurt Locker," which was also arguably an important brain injury film because it highlighted the struggles of so many of our returning Veterans, especially from the Iraq war, where the number one war-related injury coming out of there is the concussive blast and the TBIs that are resulting from those IEDs, those explosions.

CHERYL: Mmhmm.

DAVE: And so she was a very, is a very powerful director and one who doesn't shy away from a fight, and that's the analogy I was looking at with you. You know, you are essentially are taking these issues that are, by a lot of people, they say, "Just don't bother me with this. I don't want to know about this."

CHERYL: Right.

DAVE: And that gets back to the educational issue that I feel so directed toward. I wanna break through that person who is not experienced with traumatic brain injuries or brain injuries and get them to understand it and get them to open up, kind of to search their own souls about their own responses and what they're doing. And I think that that goes not only to the compassion issue but also hopefully then to the prevention issue, and that is something that, obviously, through my legislative work, that's very, very close to my heart, my passion.

CHERYL: Absolutely.

Legislative work and a personal connection to TBI

CHERYL: And so you've talked a ton about your motivation and your passion around this, but could you talk a little bit about what you do in terms of your occupation as a lawyer and then the legislative work?

DAVE: Well, sure, sure. And I think it's probably important to kind of get a little feel for why brain injury work? What about that work for me, what's the personal connection?

CHERYL: Mmhmm.

DAVE: And that started, it took me actually a while to figure this out. But when I was young, my little brother got his first skateboard. And this was back in the day well before helmets were mandatory in any way, and we, needless to say, did not wear helmets when we were skateboarding. He was going down a steep hill and crashed and ended up, well, long story short, he ended up fracturing his skull from ear to ear. And it was a terrible thing, but his concussion, the initial one, his brain injury, his initial

response was amnesia. So he was able to walk home, find our house, but then he just went and laid down. And my mom came in and said, "Hey, Theo, what's going on?" And my little brother looks up at my mom and basically says, "Who are you?"

CHERYL: Wow.

DAVE: And at that point, it was just that immediate recognition of how critically important a functioning brain is to all aspects of life. I mean, I know that sounds like a ridiculous comment because it's so obvious. But when you see that type of injury up close and personal, it really hits home. And so I, years later, graduated from law school, passed the Bar, became an attorney, started representing here in Portland, Oregon, started representing people who had been injured and became, yet again, very aware of the brain injury community. And I had done some prior legislative work on a situation: a client of mine was carjacked, and she was injured in the process of the carjacking. And unfortunately, the way that the insurance policies back in those days were written, my client did not have access to her own insurance that would normally cover her, let's say if she'd gotten hit by another car that was uninsured.

CHERYL: Oh, mmhmm.

DAVE: She would, under those circumstances, would've had insurance benefits available to her. But because she was injured in a carjacking, she did not. And there was a direct, an Oregon Supreme Court case called *Cole vs. Farmer's Insurance*, and Judge De Muniz, who wrote the opinion, basically said this is not a judicial fix; this is a legislative fix. That case had sat dormant for about 10 years. No one had done anything about it. When my client got in the situation, and I read that case, I said well, I've gotta do something about this. I'm not gonna let it sit dormant for another 10 years until someone else has the same problem. So I went to work with my good friend, Charlie Ringo, who was a Senator at the time in the Oregon legislature, and we worked through the process. I learned about drafting the law. I learned about working with legislative Council. Certainly learned about the politics because there was some very significant political wrangling that kind of happened as a result of that. And ultimately, the bill became a law, was signed by the Governor. And I suppose I received some recognition from that, which caught the eye of the people at the Brain Injury Alliance of Oregon, at which point I said, you know, I've got this connection with what I do professionally. I've got this connection with what my little brother went through. I've got the experience now through this carjacking legislation that I hammered out and got through. And I was really happy to get involved. I've always been a very kind of active individual. I enter social and organizational aspects. And when Sherry Stock asked me to join with the Brain Injury Association of Oregon back then--but now the Brain Injury Alliance of Oregon--I was happy to do so because it just fit so many different aspects of my career that I was passionate about. And I also recognized it as an opportunity to, again in some ways, give back, if you will. I don't want to sound maudlin here. That's not my intent. But I think that a lot of people really do have a passion and a desire to give something back. We realize that no matter what our problems might be, we still have some significant blessings that we've been given here. And a real important aspect of that recognition is knowing that you also need to give back. You kinda need to pay it forward a bit.

CHERYL: Mm, mmhmm.

DAVE: And that's was the opportunity to be, and boy, that was probably 10 years ago if not more. So it's been a long, very satisfying involvement that I've had, not only with the Brain Injury Alliance, but also with BIRRDsong and certainly with my clients and other people throughout the community. And I know that I'll get calls from people who read my column in the Brain Injury Alliance's newsletter, and they'll be

so thankful that I brought this up, and so thankful that they realize now that somebody else is getting it. And that's all part of the healing process in my mind.

CHERYL: Mm.

DAVE: So it's important to continue.

CHERYL: Mmhmm.

DAVE: Yeah, so that's kind of in a nutshell kinda what started it and how I got involved and takes us up to this point.

CHERYL: Right. And then you did a lot of work on Max's Law. I mean, a lotta people in Oregon know who Max Conradt is, but people outside Oregon may not know the name. But the last time I checked, at least 37 states had adopted one similar to Max's Law.

DAVE: I definitely was one of the core group of people who got Max's Law going, in fact drafted the law and worked with our Representatives and just some tremendously devoted and excellent people down at the Oregon legislature and within the Brain Injury Alliance, and certainly with Max and with Max's dad, Ralph. Yeah, so just for the people who may not know about Max's Law. And you are right; Max's Law now has been adopted in various form. And I think it's actually more like 46 states now.

CHERYL: Oh, great!

DAVE: Right. So it's really just exploded across the country.

CHERYL: Yeah!

DAVE: Max Conradt was a young man. He was an 18-year old, was quarterback of his football team down in Waldport, Oregon, just on the Southern coast. He was a real smart kid. He was on his way to the Ivy League for college. And he suffered a concussion on a Friday night in a game, and unfortunately, the coaches didn't understand. And I don't wanna blame the coaches completely because it just was a very unfortunate circumstance. Nobody knew. I am not implying at all that anybody intentionally play that next week. The problem is, nobody had the education to know what was going on in Max's brain. And what was going on--and this is the analogy that I use in trial situations or when I'm trying to explain what Second Impact Syndrome is--I use the analogy, I talk about icicles. It's kind of a weird little analogy, but what do you mean, icicles? Well, the brain cells when they get concussed in that first concussion, they go through a healing process. And part of that healing process involves kind of a calcification. The brain cells have a significant uptake in Calcium. And that is what I kind of in my mind said, OK, so they get calcified. They get brittle. They get like icicles. And that's where my metaphor developed.

CHERYL: Mmhmm.

DAVE: Well, if you let those brain cells heal, meaning they're gonna go through their healing process, in my mind, it's as if you're letting kind of the sun come out, and the sun melts the icicles, and the icicles kind of flow back into water. And everything's kind of organic. And don't get me wrong: there are certainly consequences with multiple concussions and even with a single concussion can cause significant problems in a long-term basis. But for the most part, typically a concussion will resolve if given the opportunity to resolve. However, if you have a second concussion while those icicles are still hanging from the eaves, meaning if you get a second concussion while you're still healing from that first

concussion, it's like taking a stick to the eaves, knocking down all those icicles. They fall to the ground, and they shatter. And that's the metaphor to indicate that those brain cells that were in that healing process, and that's such a fragile healing state, if they get concussed again, they are in many respects gone forever.

CHERYL: Mmh, mmhmm.

DAVE: And that's unfortunately, that's what happened to Max.

CHERYL: Right.

DAVE: So Max went in that next Friday, a week later. His concussion had not healed. He was concussed again and suffered what's known as Second Impact Syndrome. And from that, he ended up in a very long rehabilitation. He's currently in a care facility down in Central Oregon. Didn't go to the Ivy League, obviously. He hasn't played football since. And it was just a very unfortunate circumstance and situation to befall a young man with tons of promise.

CHERYL: Mmhmm.

DAVE: Now we can look at that and really be upset and sad, and we should be. But at the same time, it created this need within the state of Oregon for concussion education. And that's what we decided to do with Max's Law. We required all high school athletic coaches to get concussion symptom recognition training. They would have to go through, it's not a rigorous education; it's about a half an hour online. The Oregon Activities Association has wonderful programs online. It's not a PhD course by any stretch, but it gives the coaches the basic information to know that if one of their players gets concussion, get that player out of the game, don't risk Second Impact Syndrome, get him to a qualified medical professional, have them checked out, and when that medical professional says it's OK for that player to go back, then that player can go back.

CHERYL: Mmhmm.

DAVE: What's also happened now as kind of a result since Max's Law was passed back in 2009, as a result, what we're seeing--In fact, I was just meeting with a friend of mine who's the lacrosse coach at one of our local high schools. And all of their players now are going through a baseline cognitive test so they know where that player is cognitively before they ever get out on the field. So if that player suffers a concussion, and the doctors or the staff administers those same cognitive or neurological tests, and if that player fails to meet where they were before the season, then the coaches, the doctors, everybody involved knows that that player is still suffering from the effects of the concussion.

CHERYL: Right. That's great. I've taken, I've done that screening test before. And the doctor was like, "Well, you didn't do very well, but I don't know how you would've done last time if you had come in before you smashed your head."

DAVE: Yeah.

CHERYL: And it was such an awkward situation because everyone in the room could tell that there was something terribly wrong with me. But with those numbers--But what we did is I came back two weeks later and took the test again to see if we could see a difference. And sure enough, two weeks later, all my scores started to go up. So then we could confidently say yes, your scores were, in fact, terrible the first time. Now we know for sure. But it's wonderful to get that testing done before the season starts

because you know, I mean, everybody wants that star player to make it in every important game. And the student wants to succeed and do a great job and be a star or win for the team. And nobody wants to sit out. And the other thing is with concussions, oh, I challenge you to find anyone who gets smacked in the head and says, "You know, I don't feel well. I think I'd like to rest." No! We get up there, "No, no, I'm fine. I'm fine. I'm fine. Everything's fine. I can keep doing exactly what I was doing." And there's that resistance and that motivation to not change course. And so to have that baseline testing, I'm really glad to hear that.

DAVE: Well, you bring up just a really important point with regard to the player's attitude. And that actually is, in my mind, one of the next real big challenges. Because let's say a player's out there, and they break their leg. No one is gonna tell that player, "Oh, come on. Get back in there!"

CHERYL: [laughs]

Concussion awareness

DAVE: "You know, what are you doing? Get back in there. And we're gonna hand you the ball, and you're gonna run for 10 yards up the middle with that femur in two pieces." Nobody's gonna say that. And yet, if the person is out on the field, and they "get their bell rung," if they get a "dinger," I mean, these pejorative terms that we have developed for what is an extremely serious injury. You would never say to someone with a broken femur, "Oh, get back in there. It's just a bump," [laughs] you know? We would never say that.

CHERYL: That's right.

DAVE: So we struggle--we in kind of the policy side of dealing with the issue concussion awareness--struggle with how do we get these players to understand that the consequences are too great for them to go back in?

CHERYL: Mmhmm.

DAVE: And yeah, maybe there's a scout in the stands, but the scouts are gonna probably appreciate it even more if they understand that you're doing the right thing, and you're coming out. But that's a real naive, also, viewpoint to think that a kid in the heat of an athletic contest, knowing that there's someone there that he's gotta impress, is gonna voluntarily say, "Oh yeah. I'm gonna take the high road here and come out of the game because the scout's gonna appreciate what I've just done." On the contrary. In fact, I was having lunch with an attorney friend of mine a couple of days ago. And we were talking about Jenna's Law, which is--and we'll get into that in a little bit--our new law that we just passed this year. And he was talking about how he played football. And at one instance he got knocked out, and he kinda came to, and he couldn't hear anything. And he was having obvious concussion symptoms. He was dizzy, he couldn't remember where he was, he had a raging headache. And I said, "Oh, that must've been terrible. What did the doctor say when you game out of the game?" And he says, "Oh, I didn't come out of the game."

CHERYL: That's right. That's right.

DAVE: "I didn't tell anybody about it. If I had, another guy would've come in behind me."

CHERYL: Yep. Isn't that amazing? I mean, we will not. It's like there's some kind of personality flaw or character weakness if you sort of give in to those symptoms and say, "Gosh, I'm too dizzy to play. Gosh, I don't even know my name or why I'm running up and down this field. Maybe I shouldn't be doing that."

DAVE: Yeah.

CHERYL: But at the same time, that kind of inflexibility and lack of awareness is part of the injury.

DAVE: Yeah.

CHERYL: You know, I definitely [laughs] I had to resign from my job after my injury in 2010. But you know, I have so many letters on my computer that I was writing to my doctor telling him how outstanding I was doing in terms of executive function, oh, using all these big medical terms. And then writing letters to my boss: "I'm doing an amazing job. I walked 20 steps without a cane. I'm sure I'll be ready to come to work really soon." I mean just clueless.

DAVE: Yeah.

CHERYL: But also, unwilling to think in the long term and want to face the consequences. And when you think about a student athlete, neuroscience is telling us now that those frontal lobes are just having an explosive growth spurt in the teenage years, and they have to get pruned down to really get those connections nice and solid. And so there's not a lot of really structured, linear frontal lobe decision-making stuff going on in the teenager years.

DAVE: That's right.

CHERYL: Then you smack those frontal lobes. Forget it [chuckles].

DAVE: That's right. But then, one of the areas of reluctance or pushback against Max's Law, and I think this emphasizes another kind of angle or another dimension to this problem, there were a lot of coaches out there who were reluctant to implement it.

CHERYL: Mm.

DAVE: In fact, there were coaches that I heard about who would refer to concussions as "cussies."

CHERYL: Oh, wow.

DAVE: Yeah. I mean just a pejorative, just derogatory terms, and essentially saying that if you have a cussy, what does that make you?

CHERYL: Right.

DAVE: And these coaches who placed so much emphasis on winning, maintaining that winning record, that they were literally willing to play their players at tremendous risk to those players, to maybe score one more touchdown. And in part of my world, I have proverbial scale in my mind. I kind of put things on each side of the scale and see where it balances out, at least in my perspective. And when I think about those coaches putting a winning season on one side of the scale and the risk to a kid suffering permanent brain injury on the other side of that scale, it just astounds me that anyone could actually think in those terms, that a winning season is somehow worth the risk of brain injury to any kid.

CHERYL: Mm. So yeah, we can't blame that one on the teenage frontal lobes.

DAVE: Not necessarily.

CHERYL: Ostensibly the coaches are past their teenage years.

DAVE: Yeah.

CHERYL: But I think you know, it's only recently that we're hearing about chronic traumatic encephalopathy and the way that years and years of concussions and also those sub-concussive hits, just charging with your head and crashing into things, that we're only now getting to hear about how that is destroying people's lives. It can't be that that's new. It absolutely just can't be. It's just that we're only now talking about it. And I think if you are a coach who hasn't heard about it yet, and you went through the years playing and charging with your head, and you don't have chronic traumatic encephalopathy, it's hard to want to accept that that is. It's either Second Impact Syndrome or CTE or just some insidious, long-term, low-level problems that you are setting these children up for by letting keep smack their heads and then continue to play.

DAVE: I think one of the most amazing aspects of Max's Law--and Washington State passed what's called Zach's Law, essentially at the same time as Oregon passed Max's Law. It was very coincidental but also just very great in terms of the Northwest being the hub of concussion awareness. And this was back in 2009. When you look at what has happened since then, the NFL: you can't read a story about the NFL or every other story about the NFL has something to do with concussions these days.

CHERYL: Yep, yep.

DAVE: That big lawsuit's been filed on behalf of 4,000 past NFL players for the league, essentially the accusations are that, much like the tobacco situation, the league knew what was going on. But they encouraged this activity anyway, and now look at all these players who have been diagnosed with or are suffering from, and in some cases have tragically taken their life as a result of the CTE.

CHERYL: Mmhmm.

DAVE: And I think that the awareness that has swept the country, you know we're seeing so many states, almost all the states adopting some sort of version of Max's Law, the NFL implementing severe fines for head-to-head contacts, discussion--You know, Malcolm Gladwell, the very prominent social philosopher who's written a number of very important books in the past decade or so, just advocated about a week ago with Fareed Zakaria, on Fareed Zakaria's TV show that we should ban college football.

CHERYL: Oh, wow!

DAVE: I mean, that's a very far out there position and, in my mind, not realistic. It won't happen.

CHERYL: Mmhmm.

DAVE: But it raises the question: why are we essentially allowing this type of "entertainment" when the risks to the players' futures is so great? And he's bringing up these questions so that we as a society will essentially ponder those questions. In reading some comments to one of the online reviews about that interview that Malcolm Gladwell gave, there's a lot of "Well, all we have to do is cover the football helmets with 24 inches of Nerf padding."

CHERYL: [laughs] Thank you, Doctor.

DAVE: And all the guys are running around in their giant clown helmets, you know?

CHERYL: [laughs]

DAVE: Yeah, and just so people will be facetious, and they will be very cynical. But nonetheless, society's asking these questions about, again getting back to the scale in my brain, what is the benefit of the entertainment and the benefit of the potential professional career for the small number of kids coming out of college ball who are gonna play the pros versus the risks that they're running for long-term brain injury.

CHERYL: Mmhmm.

DAVE: I think that these questions are really important, and it's really very neat in my mind to just at least be able to have the discussion. And I do think that it's going to result in some more safety measures occurring. I know the helmet designers are doing all they can. Football helmets are real good for preventing skull fractures. But they're real bad, they don't do much at all for preventing concussions.

CHERYL: There's a lot of misunderstanding around that. There is still so much education to do in the public about that, that you will still get a concussion with a helmet on. And people think, well, we've got this nice helmets. What more do you want? We're already doing our part.

DAVE: And also, we've kind of focused on football here. But the second highest incident of brain injury in sports, believe it or not, is with girls' soccer.

CHERYL: Yes! And Brian Williams on what's the name of that show? Mm. It's not "30 Rock" [giggles].

DAVE: Right. Rock Center, I think.

CHERYL: Yes. He did a special on girls' soccer and that phenomenon of it's such a high rate of mild traumatic brain injuries in soccer. And it's not just headers. It is also running into the goal posts and getting up and running right back into them again.

DAVE: That's right.

CHERYL: I mean, I've heard stories from school-age female soccer players. "Well, I mean, I just ran into the goal post a couple times in that game."

DAVE: Oh!

CHERYL: And even then, not knowing that that was a problem. And one girl--this was when I was with a group of folks from BIRRDsong doing presentations in the schools about brain injury and experiences and prevention and support--and this girl said, "Well, I mean, it's the weirdest thing. Like for a couple weeks, I just kept passing out." After she had run into the goal post during the game. And I asked her if she had a brain injury. She's like, "No."

DAVE: Yeah.

CHERYL: And I asked her if she understood what passing out is, that it's your brain shutting down, and it's probably a sign of a brain injury.

DAVE: Yeah, it probably is.

CHERYL: Probably. I think that I was much more forceful about it, and I think I got in trouble because the truth is I'm not a doctor; I can't diagnose a brain injury. But I do have advanced training as a speech-language pathologist, and that includes in brain injury rehab. And I also have some advanced training in living with brain injury myself, a little bit of on-the-job training there to feel confident in saying that if you run into the goal post, and then you pass out, that's an injured brain. You didn't break your femur.

DAVE: Yeah.

CHERYL: I think we shouldn't be so silent about it. I think we should be more vocal about that's an injured brain. Let's talk about that.

DAVE: Yeah, and I think your point is extremely well taken that you were not there to give medical advice. You were there to share your awareness of a very important issue. And in my mind, it sounds like, to encourage that person to go seek medical attention, to go see a doctor. Look. I don't need to be a doctor to know that you just got knocked out from hitting that goal post. I saw it, and I know that that was an insult to your brain. I know that you probably have a concussion. I know that you should now go see a doctor. And that's essentially what we have done with Max's Law and now with Jenna's Law. We are empowering, through education, a whole class of people--coaches, and actually with Jenna's Law it's going to require parents and the athletes themselves--to get educated about concussions.

CHERYL: Wow!

DAVE: We don't expect those people to be doctors, but we do expect them to get this information, to incorporate this information into their lives so that if they see something that they suspect is a concussion, that they will then know to get that kid outta there. And then that translates ultimately, being an education bill, that translates everywhere. So let's say someone is in a store, and somebody falls down some stairs or in a car and they get in a car accident, or they get hit on the head when something falls on them at home, because they have that awareness as a result of the online concussion test that they took, they will now be able to translate that knowledge to these other situations.

CHERYL: Mm.

DAVE: And I think that's just gonna be a tremendous benefit. It's kind of that throw a pebble into the pond and just watch those ripples go out.

CHERYL: Right, right. That's wonderful. And I'll be honest: I never even thought of it that way, but that's because I get so hyper-focused on the details. But absolutely. People get brain injuries who are not engaging in sports at the moment. People do crash into walls, slip down stairs, car wrecks. There's a lot of other ways to get a brain injury, and the more people understand what they look like and what the signs and symptoms are, the more environments they can spot them.

DAVE: Exactly right. And the mystery comes away from it, the veil is lifted. As we talked about earlier, the invisible nature of the brain injury becomes more visible. And I think that's essentially, it's kind of an insult, the "invisible injury." Isn't it?

CHERYL: Oh yeah. I don't like that term. It leaves a lot of it--I cannot tell you how many times it has happened, and not because of my memory, but it's happened so many times--that we will say, "I wish I could get a wheelchair for my head! Something. Some kinda just a wheelchair."

DAVE: Yeah, yeah.

CHERYL: "Even a foam and cardboard one so people would say, 'Oh look. There's a disabled brain, and there's something going on there.'" Someone at BIRRDsong talked about you know those triangles you put on slow-moving vehicles, like if a digger's driving down the street?

DAVE: Yeah.

CHERYL: If there were some kind of slow-thinking vehicle triangle you could put on us [laughs].

DAVE: You know, I mean [chuckles]. Again, should I laugh?

CHERYL: Yes [laughs]!

DAVE: OK, OK. I feel guilty.

CHERYL: I think it's funny to laugh at that cuz I said it.

DAVE: Yeah. But your point is so well taken.

Self-advocacy and lack of privacy after disability

DAVE: You really just do want to be able to explain to people. And I see it--you want to explain, just to finish my thought--you want to explain to them that yeah, I am a little bit slower as a result of this. You wouldn't ask a guy in a wheelchair to hurry up, you know? And you kinda wish that there was a visual signal that you could give so that there would be a little more understanding with people.

CHERYL: Mmhmm.

DAVE: Because what's your alternative at that point? Let's say somebody is being rude with you. OK, you just deal with it, you ignore it, you try your best to ignore it, you just get frustrated because you're not gonna confront this person. Or if you are gonna go that next step, which is let's educate this person as to what I'm going through. Let's tell them about my brain injury. Well then, all of a sudden you're getting into personal issues that you don't wanna share with your best friend, let alone with a stranger. And you're kinda being asked to essentially open up and disclose this very personal information to someone just so that they might get it. And I think that when you're looking at those two alternatives, neither one of them is a good alternative. If you sit silently by, and you just kinda be the punching bag, that's frustrating as can be. Nobody wants to be like that.

CHERYL: Right.

DAVE: But I think, at the same time you don't wanna have to get into all this personal information about the fact that you've got a brain injury, and therefore you are gonna be a little slower. I mean, think about it. You see a guy in a wheelchair, you're not just gonna go running up to him and say, "Wow, how'd that happen?"

CHERYL: Oh, it happens to all my friends in wheelchairs, though. It happens to them daily.

DAVE: Oh, does it really?

CHERYL: Oh, I cannot even tell you!

DAVE: Who has the nerve to ask that?

CHERYL: "Were you in an accident? Were you born that way? Does that hurt? How fast does that thing go? Don't get a speeding ticket!" Ooooh, it's non-stop. It's like a zoo.

DAVE: I guess I had under-estimated people, or over-estimated.

CHERYL: Oh, yes. Yes, you might have, yeah. It's such an interesting thing because--and I have a lot of friends who use wheelchairs or have various--you know I've got, my roster of friends, it's really a smorgasbord of disabilities. I'm very proud of it. Very cross-disability friendship circle. For sure, the ones with something that people can see and decide, "that's different, that's other, there's something wrong." Now, whether the person in the wheelchair feels there's anything wrong is a different story. But people who don't use wheelchairs see the wheelchair and think there's something wrong. And yes, my friends get accosted. People will block their path, step in front of them and just block the path. "Hey! What are you doing? Where are you going?" It's really very, very aggressive and very invasive, always asking what happened to them. People like me don't get that. But as soon as we reveal we've had a brain injury, exactly like you were saying, as a form of advocacy, "You know what? Please be patient with me. I'm having trouble because of my brain injury." Well then there, the privacy is gone. And it might as well be in a wheelchair because then everybody's, "Well, what happened? Do you mind if I know? What happened? Was it traumatic? Was it?" And there's no privacy. And so you wanna advocate for yourself, but when you do, all the sudden you've put yourself into a zoo exhibit.

DAVE: Yeah, yeah. In the law we call that "opening the door."

CHERYL: Opening the door, yeah.

DAVE: Once that door is open, people just feel like they have an invitation to walk right through it. And certainly in the legal context, when my client's opening the door in this context--in the legal context--it would be they say something that hints at more, hints at the fact that maybe there's a roomful of information just through this door that this person has just opened up. And it leads to a good attorney on the other side starting to question what's in that proverbial room on the other side of the door.

CHERYL: Mm.

DAVE: And in your case, in a social setting, that door that you open up by saying, "Yeah, how about a little courtesy here. I'm suffering from some cognitive issues," that arguably is that same type of a "door."

CHERYL: Yeah.

DAVE: I just find it astounding, though, that people will have that type of insensitivity and almost an expectation that your privacy can be violated like that.

CHERYL: Absolutely! That's the hallmark of having a disability.

DAVE: I hate to say it. I guess I'm just naive that there are people that are that insensitive. Because to me--

CHERYL: I don't know if it's naïve or it's um, what is? Oh, I can't think of the word. It's maybe that you--it's that you have high expectations for people and assume that people are meeting them [chuckles].

DAVE: You took the words right out of my mind. Exactly right. Exactly right. And it's projection. I couldn't imagine doing that. And therefore, I assume that everybody else couldn't imagine doing that. And actually, that is a trap that I shouldn't fall into because I know better.

CHERYL: Yeah, and now that you say it, I think it is naive. No, I'm just kidding!

BOTH: [laugh]

DAVE: I'm learning something here. This is good.

CHERYL: [laughs]

Wrap up for part 1

CHERYL: So that was part one of my discussion with personal injury lawyer David Kracke. I promised him I would say his phone number at the beginning of the show, and of course, I forgot. I'm so sorry, Dave. If you want to talk to Dave Kracke and see if he has services he can offer you or answer questions related to personal injury law, and especially around brain injury, please give him a call at 503-224-3018. He's not my lawyer. I don't get any kickbacks for giving out that phone number. But I really, truly appreciate how much he knows and understands and respects brain injury. And from my personal experiences in dealing with different professionals, including lawyers, the finest lawyer in the world who doesn't know about brain injury is not going to be a fine lawyer if the case is around brain injury. So do take the time to give him a call, ask him questions, and make sure that if you find yourself in a situation--whether it's SSI, SSDI, personal injury, employment, any of those things where you might want some legal counsel--do find a lawyer who really knows about brain injury in your local area. Again, David Kracke's phone number: 503-224-3018.

I'll just remind you that part two of this conversation will be on Friday, August 16th at 1:00 pm. We'll just continue where we left off. We're about to get to a very juicy story around making judgments about people with disabilities and how much entitlement people have to sort of break your privacy and treat you like you're inferior to them. So stay tuned.

Part II: Introduction

CHERYL: So today is Friday, August 16th. Thanks so much for joining me. Today, you'll get to hear the second half of the conversation I had with David Kracke, a personal injury lawyer with a specialty and expertise in brain injury. We talk a little bit more about concussions and legislation as well as some things around art and advocacy.

And for a couple of announcements, I wanted to let everybody know about a new fundraiser up on Kickstarter. It's for a book called "[Criptiques](#)." This is an anthology of disabled writers exploring the provocative sides of disability: sex, ableism, identity, parenting, cripp culture, and more. This anthology is being edited by Caitlin Wood, who is local Portland. She keeps a blog called [WheresLulu.com](#). She does disability and diversity trainings and a lot of writing. Caitlin and I collaborated on a short PSA called "[Your Daily Dosage of Inspiration](#)." It's sort of a very snarky, sarcastic look at the harm and damage that can be done when a stranger comes up to a disabled person on the street and calls them "inspirational" for having left the house and doing something sort of everyday like making their way down the sidewalk. This isn't something that everybody gets. I certainly don't get a lot of it, a little bit. But certainly, lots of my friends with physical or apparent disabilities definitely get called inspirations on a regular basis for doing things that are not that interesting or inspirational, honestly. So that was one little project we

worked on. And we are working on a couple of other video and media projects that I can tell you about as those get further along.

So please check out the "Criptiques" Kickstarter page at kickstarter.com/projects/620679871/cryptiques. And that's spelled criptiques. Caitlin reached 40% of her funding within two days. So this project is sure to happen. It's really gonna be an amazing book, and I have one essay in the book. There's a number of really fabulous disabled artists and scholars who are already slated to be in the book, folks from various backgrounds, various perspectives. It's gonna be a great book.

And in other announcement news, quite a change of pace from the "Criptiques" anthology is that a proposal I sent to the American Speech-Language-Hearing Association national convention was accepted. And this was a presentation that I gave along with Dr. Rik Lemoncello and Lisa Stember. They are both speech-language pathologists. We gave a presentation last October at the state speech-language pathology and audiology conference. In that presentation, we showed both of my comedy films, we talked about how important it is for folks who are in rehabilitation to be able to tell their stories and help their rehab therapist really get to know them, something about them, what their goals are as opposed to the clinician making all the goals and sort of pushing the person in the direction they think is best for the person. Those are some of the big highlights. So that's really quite an honor, seeing as I'm not a speech-language pathologist, that I get to show my films at this conference and work with these other two wonderful people to talk about the importance of storytelling and self-advocacy for folks who are in the role of patient. Although, I do like to make a point that we're not patients 24 hours a day, just in those 50-minute hours when we're in our rehab sessions. So anything that can really humanize people with any kind of disability or impairment is really important. So I guess in that way the "Criptiques" and the conference sort of do have a little bit in common.

So with that, I'm gonna turn it over to the second half of my conversation with David Kracke. This was recorded earlier. And of course, if you wanted to get in touch with Dave Kracke, the best way to do that is to call 503-224-3018. He's happy to talk to you about the work that he does and see if maybe if you are a person with a brain injury, and you need a personal injury lawyer, he's a great one because he really understands so much about brain injury and so much about us. So I will turn it over to the conversation.

The Interview

CHERYL: You sometimes feel like you are so far on the outside, you can't even imagine what you've just done by invading my privacy and demanding personal information in a way that you wouldn't demand of someone else.

DAVE: Right. It almost becomes an exhibit.

CHERYL: Oh yeah.

DAVE: Or a circus, and I'm walking by and whatever. And therefore, I'm curious, and I have a right to know merely because I am curious.

CHERYL: Yeah, the curiosity.

DAVE: We can evade any privacy that the person should be afforded.

CHERYL: Yes, yes. And I had some terrible problems with--nobody ever figured it out, but--I had this extremely exaggerated startle response. I mean anything: a light turning on, a light turning off, somebody near me breathing, anything moving. I was constantly screeching and throwing my hands in the air. Sometimes I'd duck and cover and end up in that airplane crash position. I mean everything constantly startled me, and a lot of the times my arms and legs would just flail and flail. And at the point where I was attempting to go back to work and--well, who knows. I guess it was 2010 or 2011 when I was trying to go back to work. I was at a training, and there was a licensed clinician in the rehab field. I won't say what field. But she thought it was so funny the way my arms kept flailing any time there was any noise in the room. And she said, "I just wanna slam my hands on this desk here just to make you do that!"

DAVE: Oh my gawd.

CHERYL: "Cuz it's so funny." And I just looked at her, and I said, "Well, it's a reasonable thing to want to do but not to have said that to me." And she just laughed it off having no idea how brutal and insulting that was. And really making fun of something that was pathological.

DAVE: Right. Not to mention the fact it was coming from a professional who should certainly know better.

CHERYL: You'd think.

DAVE: And also, it's in my mind, something that is a phenomenon that happens in that situation. And I think again, it gets back to the subjective nature of the comment. To this professional, it was probably nothing. I bet she doesn't remember saying it in any respect.

CHERYL: Right. That's right.

DAVE: A passing comment to you has stayed with you. You will always remember that. Now, the good news is you're learning from that, and you are incorporating that, and you're adjusting and you're moving forward with it. But there's also, I would imagine the way that I'm responding to it, kind of viscerally, there's almost an anger in there.

CHERYL: Oh yes!

DAVE: How dare you treat me like a dancing bear.

CHERYL: Yes.

DAVE: How dare you wanna slap the table just so that you'll see me jump. And kind of how demeaning that is and how disrespectful of your own subjective understanding, your own subjective existence. I think that that's really unfortunate, and I'm sorry to hear that.

CHERYL: It really is. And I think in this case, there were two things going on. One is that because she's a rehab clinician, she had the medical gaze going on me, that diagnostic medical gaze. I'm looking you up and down, I'm observing your communication patterns, and I'm making my guesses as to your impairments. But she also had the whole you're sick, you have a problem, so you're less than me, and my status is higher than you. So I can tease you and say that the things you do are entertaining to me. And so it was quite a double whammy. It was very hard to not punch her in the face. I will admit that. But we were in a training, and I knew that that was not the place to punch somebody in the face.

DAVE: As a lawyer, let me explain [laughing] not to punch someone in the face under those circumstances.

CHERYL: [laughs]

DAVE: Now, had she actually punched you in the face, different story, but--

CHERYL: Different story, right. So you approve of my choice to not punch her in the face from your professional perspective?

DAVE: I do. I do. Well done, well done to handle the situation as perfectly as you could have.

CHERYL: Thank you. Thank you very much.

Respecting clients' experiences

DAVE: I think it also emphasizes something that people such as myself know about other individuals or about individuals who have suffered from traumatic brain injuries, and that is that I really do need to respect that person and understand what those struggles are that the person is dealing with. For instance, just three weeks ago I had a meeting in my conference room with a brain-injured client. And we had to turn the lights off and close the curtains because she just really was very, very light-sensitive. And I was like fine, absolutely. That startle response, that response, that very big response to what prior to the injury might've been just a little noise or a little disturbance, and in your analogy, slapping on the desk, that is something also that I'm very, very acutely aware of.

CHERYL: Mmhmm.

DAVE: A lot of my clients have the tinnitus, the ringing in the ears.

CHERYL: Mmhmm.

DAVE: And when I think it's perfectly silent, unfortunately, they are dealing with that high-pitched ringing that is maddening. And so it's just real important for me, in doing what I do, to understand that that whole, what we call the "constellation of symptoms" and to be aware of each and every one of them and to understand that look, my client might not have gotten a great night's sleep last night. They might be a little irritable, they might be a little depressed, they might have a headache, their eyesight is not on and they don't have their prism glasses. So there's a whole category of symptoms that I need to be acutely aware of so that I'm not acting in a way that's inappropriate through kind of ignorance or, God forbid, inappropriate through direct action, which is what I'm kind of hearing that happened with this provider you're referencing.

CHERYL: Sure, sure, yeah. So do you hear your clients say to you that other people are not doing that for them? Do you hear them say, "Nobody believes me, no one understands why I'm not better?" Do you hear that kind of language from them.

DAVE: Hear that all the time. From a social standpoint, it's very difficult to hear because you wish that the, especially in the support circles that that person runs in, that everybody would understand, and everybody would treat that person accordingly. Now, the stranger on the street, different story. But then, let's talk just a little bit about how that happens within a lawsuit or within a case, a legal case. And how do I, as an attorney, get this jury to understand what is going on with a person?

CHERYL: Mm.

DAVE: And so there's a quick story. There's a woman who was in a very serious t-bone accident, hit her head into the side window, suffered a traumatic brain injury; it was a mild traumatic brain injury, which first of all, I really dislike the qualifying language "mild" traumatic brain injury.

CHERYL: Right, right.

DAVE: Really? Mild?

CHERYL: [laughs]

DAVE: What about this is mild?

CHERYL: Thank you [laughs].

DAVE: Yeah, we've added this soft, little word. Oh, I'll have some mild salsa, please.

CHERYL: [laughs]

DAVE: Make it baby for me, please. Can you cool that down a little bit and make it mild? It isn't just right. It's like Goldilocks. Are you kidding me? This is traumatic brain injury, and we're calling it mild.

CHERYL: Yes, I hear you.

DAVE: I'll get off my vernacular soapbox there. But we were driving with my client up to Seattle--my partner and I, we were driving up to Seattle--to meet with a Vocational Rehabilitation specialist. And we were about an hour and a half into the drive up to Seattle, and our client started repeating herself and telling the same stories again and kinda saying the same things again. And Craig Nichols, my law partner here, and I, we looked at each other, and we just had the same thought, which is this is how we're gonna be able to explain what's going on to a jury. We have to let our client be up there on the stand long enough that the jury will recognize what's going on and will see this. So when we had the trial, which is very difficult to do, because it almost seems--We'll put it this way: we wish we didn't have to do it. At the same time, it's the one "bit of the apple" that we have. So we have to do it so that this jury will understand.

CHERYL: Mmhmm.

DAVE: Well, the jury did understand, and they awarded a very significant verdict in our client's favor. But the point of my story is that after that verdict was rendered, the jurors were allowed to talk to my client. And five or six of them were so supportive and were saying, "Yeah, we get it. We get what you're going through, and we really just want you to know that we hope you'll get better, that we hope your brain is gonna 'rewire itself'," when things used to go from A to B, now they have to go from A to C to D to E to F to B. "But hang in there. We see that you've got a loving husband, you've got a loving family, you've got friends who are there to support you. Hang in there." And the fact that these jurors got it, that they had come into this situation with no knowledge of brain injury, and yet, after that experience, they're coming out of it with that knowledge. I think it probably translated into better interactions with those people, that those jurors have and continue to have now with people who have a brain injury.

CHERYL: Absolutely.

DAVE: I've just got to believe that that's the case. And again, we're talking about education.

CHERYL: Right, right.

DAVE: Right back to education.

CHERYL: Right, and you feel like, in terms of how supportive and compassionate they were for your client, if your client had not testified herself, you feel like the jurors would not have made that connection? And if it was just you and your partner describing, "Well, she goes through this. She does this. Here are her problem," that they wouldn't have had so much compassion because they wouldn't have seen it firsthand.

DAVE: Yes. There's one kind of caveat to that, that is ultimately absolutely true. And the one caveat is that the people who tend to be the best witnesses for us in a legal case are the significant others, are the family members who are so close. And they are the ones who have lived with the person, the survivor who is now a different person. And they have gone through those changes with, in this case, the spouse as much as the person--almost as much as; don't get me wrong--but has been somewhat very significantly affected by the changes in our client's life. So while absolutely, it was critically important in our minds for the case to get the survivor up on the stand so that she could tell her story, it was also, if we had not done that for whatever reason, we still would've given at least a big part of that story through the testimony of her husband.

CHERYL: Oh, that's good. So yeah, that's wonderful. In that case, she was a person who has that really close support.

DAVE: You know, as I was telling that story, that's exactly the thought that was going through my mind is that, unfortunately, I know a lot of your listeners and a lot of people out there maybe don't have that.

CHERYL: Yes, it's true.

DAVE: Yep. And then it's really, and I have a number of clients who kind of fit into that category as well. Yeah, it's gotta be really, really difficult at that point.

CHERYL: Mmhmm. Especially because so many people go through, "Well, I must be crazy. I must be the only one feeling this. Everybody tells me I look fine. My doctor says I should be better by now. Obviously, I'm crazy." And having that really close support person, and in BIRRDsong we've started using the term "care partner" instead of "caregiver"--

DAVE: Oh, I like that!

CHERYL: Isn't that nice? Yeah. It balances out the power in the relationship, at least in the word.

DAVE: Or that that person may not have a spouse will be able to find through groups like BIRRDsong.

CHERYL: Oh! Oh! That's not what I was gonna say, but it's completely true. Thank you for that endorsement of BIRRDsong. Yes!

DAVE: Yeah?

CHERYL: Absolutely.

Support organizations and the value of peer support

CHERYL: And all the support groups that are--And I mean, every state has a Brain Injury Alliance or Brain Injury Association where they--I think it's every state where they--list support groups by city or by area. And that is an outstanding place to go when you don't--even if you do have that close support because as that care partner or person you have a relationship with, as they go through their changes and the changes in the relationship and watching you change--[laughs] I just really don't know what I was gonna say! I slept enough last night. But I start doing these really long sentences, and I don't know what I'm trying to say. Anyway.

DAVE: Why don't you try to relate what you will do at BIRRDsong. What is empowering in those types of support groups from your perspective? Because I think that for me, that would be, I've struggled, I'm trying to figure out, from again subjective, I'm trying to figure out your subjective view. And I know that you get--and I mean kind of the generic "you"--I know that the participants in BIRRDsong and in the other wonderful support groups that are out there, that they do get help. They do benefit from participating with a group of people who have kind of a shared circumstance. Is that what your experience is?

CHERYL: Absolutely. And I don't go to the support meetings anymore because I am in a phase in my life where I'm more interested in social justice, disability justice, and direct action more so than I am in the personal and emotional support area. So I'm no longer part of the support groups, but I went for a very long time. And I would say that one of the first things that you see there and that people respond across the board is that sense of validation. "I am not making this up. I'm not alone in this. Somebody else has that problem. Oh, look. Somebody else has actually thought of a solution or tried a different solution." And so it's just incredible seeing that you are not the only one going through this in and of itself is amazingly empowering and amazingly relieving. And just being able to share stories and share perspectives and say, "Here's something I struggle with. Has anybody else tried something for this?" And it's one thing for your doctor or your speech therapist to say, "You really need to write these things in your calendar this way." It's another thing to have a peer with a brain injury, "Yeah, I can't use those calendars either. I do it this other way." And it's the less respected way, I think, because it wasn't given by a doctor or speech therapist, but those are the strategies that they so often tend to work and work very quickly because they've been time-tested by people with the same impairments.

DAVE: That's really encouraging.

CHERYL: It's nice. There's a lot of creative problem-solving that happens in those groups, and a lot of ranting to, which is very valuable.

DAVE: Absolutely, absolutely. And quite frankly, what I'm sensing in where you are now--and how wonderful that you're focused on social justice and advocacy issues and education and getting the word out--I have to believe that part of the reason you have the confidence to be doing this is because you have gone through those support groups, and the taboos have been broken down, and the mystery has been kind of taken away, in certain respects.

CHERYL: Absolutely.

DAVE: And you have found this internal strength, at least in part, because of your participation with those groups that has now given you the ability to go beyond that and now do what you're doing now.

CHERYL: Mmhmm. I concur. If I could have said it as succinctly, I would have [laughs].

DAVE: I'm trying not to use too-long sentences [chuckles].

Jenna' Law

DAVE: I'd like to talk a little bit about the recently law that was just signed by Governor Kitzhaber on June 24th. That's Jenna's Law.

CHERYL: Great.

DAVE: And it's named after Jenna Sneva is a young woman. She's down in Corvallis at Oregon State now, but she also prior to that, was living in Sisters, Oregon. And was just a phenomenal skier, athlete. She was a national champion in ski-cross, which is just kind of like motocross, kind of just a real crazy, four-person race down the slope. Anything goes, practically. It leads to some really violent falls, and it's very exciting. But unfortunately, during a lot of those falls that Jenna took over the years, she was concussed, and concussed numerous times.

CHERYL: Yeah.

DAVE: And Dr. Jim Chesnutt and I--Dr. Chesnutt is at OHSU, and he is a sports rehabilitation and the absolute wonderful expert on concussions and the treatment of concussions, just a great friend and someone who I just respect to no end. Jim was involved with Max's Law, as was I, and we started talking about the fact that Max's Law is great, but it only requires concussion education for high school athletic coaches. People like Jenna, who are not in the high school system; they're kind of in the club system or the rec system or the intramural system or whatever it might be. And yet they were just as susceptible to concussions as any kid in high school playing football or soccer or lacrosse is.

CHERYL: Right.

DAVE: And we said you know, we had to do what we had to do with Max's Law for political consideration. We couldn't paint with the broadest brush possible and require that everybody had concussion training. So we focused on what we could do politically. Remember, this was a brand new law; nobody had done this in the country before. And then took the kind of the pioneering, lead spirit here, and we got Max's Law pushed through. But it was a limited law. It only required the high school coaches to get that training. With Jenna's Law, we have now expanded that. And we've expanded it to say that if you are going to coach any of our kids in the state of Oregon, at whatever level--Pop Warner football, rec league soccer, ski coaching down at Sisters or down at Mt. Bachelor--you the coach are going to get concussion symptom training or awareness and education.

CHERYL: Oh, great. Mmhmm.

DAVE: And you also are going to make sure that your parents understand it, and if the kids are over the age of 12, they're going to understand it.

CHERYL: Mmhmm, wow!

DAVE: Well, that law--believe it or not, we ran into some political wrangling. So first of all, out of the whole process, you and I we've talked about the way that a bill becomes a law. But you think well, where does a bill come from? And so the bill germinates, it starts with in our case, Dr. Chesnutt and I getting together a number of times and saying, "Here's what we have to do. Here's how we're gonna do it. Let's fix this situation so that now everybody's gonna get this concussion training." So it was literally two guys sitting in a coffee shop or sitting in my office or sitting in Jim's office, hammering out what are

the pros and cons, what are we trying to accomplish here, politically what can we do? And kind of germinating this little kernel of an idea until it started sprouting a little bit. And then, we went to the wonderful Senator from the Beaverton area, State Senator Elizabeth Steiner-Hayward, who saw the merit to this law or this proposal and took our little plant--at this point--our little barely surviving little idea, and took it to legislative council, which are basically the lawyers for the legislators. And sure enough, legislative council came out with language that was really solid and really good, and basically the rest is history. We got it through the Senate. We had a little bit of trouble in the House because there were some concerns about liability issues, which quite frankly, were valid concerns. And so we addressed those through an amendment process. We got the bill to where everybody would agree that this is something they can support, and they did, in fact, support it. And on June 24th, the Governor signed it into law. OHSU right now is working on a program that will kind of be the educational format that these coaches will use--coaches and parents and the players will use--to learn about concussions. It's gonna be a very short course, like I said, about a half an hour. And again, it's our effort to educate everyone out there, especially those people in the "front lines" who may witness a player of theirs suffering a concussion.

CHERYL: That's wonderful.

DAVE: And it will tell them what to do.

CHERYL: Yeah.

DAVE: And so I think with Jenna's Law we have expanded upon Max's Law and, I think, really done a great job of expanding our effort to educate everybody about concussions, which because of the nature of the injury, is going to be a benefit to everyone out there, especially those people who suffer the concussions.

CHERYL: Absolutely, yeah. And thank you for explaining the process. Because as you and I talked about before, Schoolhouse Rock doesn't go into that much detail about where laws come from. And I will admit, I was listening to every word you said, but I was picturing you and Dr. Chesnutt and that little singing scroll. But it is really good, you and I talked before about your interest in demystifying the process and letting people know this is what civic engagement looks like. This is how you come up with an idea and work toward policy and legislation. And it is very mysterious for us, especially those of us raised on Schoolhouse Rock. We think we have the whole story.

DAVE: But Schoolhouse Rock does a heck of a job. They get the basics down pretty darn good. And here you are how many years later, remembering that little singing scroll.

CHERYL: Yeah, a lotta years later.

DAVE: It's still marching through. But there is a lot more to it, and there is a lot of politics that gets involved, especially in bills that are perceived to be controversial in any way. And why this bill was deemed controversial was unfortunately, I believe, because of liability issues. And we appreciated that. It was not our intent to create a law that was a way to generate lawsuits. That was not ever our intent. And so when the legislators brought up the issue of what about the dad who is asked to be a ref because the regular ref didn't show up? Oh, and that is another aspect: referees are included in this as well. If you're gonna be a referee for a youth athletic sport, you need to also have that concussion awareness training.

CHERYL: Great.

DAVE: A question was raised, and it's a valid question. I used to coach my daughter's soccer team, and I did that for five years. And I know that there were games where the ref didn't show up. And so I, as coach, had to ask one of the dads, "Hey, could you go out there and be a ref for us? Kinda keep things in control a bit." And sure enough, they'd say, "Oh, absolutely. Yeah." But the question that was raised is well, what if that dad goes out there, and he doesn't have the training because he's not a regular ref? Is he gonna be liable?

CHERYL: Ah.

DAVE: Let's say a kid gets a concussion, and he doesn't recognize what's going on, and God forbid, Second Impact Syndrome occurs. Is that poor dad who just was going out there to make sure that the game could go on, is he gonna be now legally liable for the unfortunately giant injuries that this kid has suffered? And quite frankly, upon reflection, our bill was silent on that issue. And it was never our intent that that would be the case. But because of that silence, there was a whole contingency that said, "We can't support it unless it's clearly spelled out that that dad is not gonna be liable."

CHERYL: Right.

DAVE: "Shield him so that the game can go on." And so we agreed to do that. I think it was a wise thing to do because our intent here is not to shut down the sport. Our intent is to educate the parents, the coaches, the referees, and the players themselves so that, God forbid, an injury should occur like that--a head injury should occur--that the people will know what to do. Demystifying it. And at the same time that we demystify it, we're knocking the legs right out from underneath those idiot coaches--and I'm sorry I'm direct with it--but those coaches who say, "Oh, you just got your bell rung. Shake it off and get back in there. Go rub some dirt in it." That whole attitude, that kind of macho mentality has no place at all when we're dealing with our, literally, our precious kids, especially if you have any awareness of Max Conradt, what Max has gone through and Jenna Sneva as well. You know that's not a future you wish on anybody compared to what those futures could've been, had they been maybe a little bit differently approached in their athletic careers. Jenna has a really nice website called [TakingItHeadOn](#).

CHERYL: Oh. Oh, that's clever.

DAVE: Yeah, yeah, and if you Google Jenna Sneva, it should come right up. It's S-n-e-v-a and Jenna with a J: J-e-n-n-a. But she is in her own way doing what you are doing. She's out there. She is, like you, she's spreading the word, and she's doing it in her own way where you're doing it in so many wonderful things with your art, with your movies, with this podcast. You're out there spreading that word. You're educating people, and that's essentially what Jenna's doing, and that's essentially what Dr. Chesnutt and I really thought was important to do with what is now Jenna's Law. Really great to see people like yourself out there, kind of fighting the fight in public, shining the light on it and saying, "Look. It's here. Let's recognize it. We wish we didn't have this injury, but we do. So now, here's who we are. And here's how we can best interact with you. Here's what our limitations are, but here's what we bring to the table that's so positive and so important."

CHERYL: Absolutely, mmhmm.

DAVE: Yeah, so I haven't said it yet, but I just wanna take this opportunity to say thank you to you.

CHERYL: Oh!

DAVE: Thank you for all you're doing. I really think it's great. I really just enjoyed being a viewer/participant, seeing your films and hearing you speak and listening to your podcast. It's just been wonderful.

CHERYL: Oh, thank you. Thank you.

DAVE: You know, I bought your DVD at the premiere a few months back.

CHERYL: Mmhmm.

Cheryl's current work

DAVE: Speaking of: are you working on anything else at this point? Any films coming up?

CHERYL: I am working on the feature-length documentary, which you also have supported when I had that big fundraiser whenever that was [laughs].

DAVE: That's right.

CHERYL: I don't know when that was, but you are one of the supporters of the documentary. So that is still going on. We started shooting in November. Things are sort of slow because we can only shoot for a few hours at a time, and I need to stop cuz it's a bit much for me. And frankly, most of the people we're filming need to stop too, after a few hours. I think the crew finds it sort of silly and bizarre. It's on hold at the moment because we're writing some grants to get more funding. We've used up all the funding we had, and so we're just in a little holding pattern at the moment.

DAVE: OK.

CHERYL: The other thing I'm doing is I have a grant from the Regional Arts & Culture Council, which I have very happily already overspent. And that project is--I should have an elevator speech for it. Basically, I'm working with three individuals with brain injury to create their own films. Because I honestly don't imagine it's too terribly empowering for you to star in my film. I wrote your lines, I told you what to do, you showed up in my film. And people have expressed a lot of excitement in being in my films and felt very good, but it's limited because they are my stories that I wrote. So I'm working with these three individuals, and we're filming everything on a tablet computer. So it's super portable. It's something that so many people could do because it's just so simple and straightforward to operate the camera. And basically, one of the, I think, novel, unique things about it is that each of these three people came up with their own story idea, wrote their own script, they're directing it, and they're directing my editing of it. So I consider myself just the technician. They're telling me what to do to edit it. And that's really novel. I was not a participant in editing my first two films. I had some feedback in the second, but not a ton. And I am doing this project because someone once said to me, "Cheryl, thank you for being the voice of brain injury" [laughs]. So ludicrous. But "thank you for making films and being the voice out there to speak for people who can't speak." And I was so offended by this compliment. I know it was meant as a compliment. The way I see it, people who have cameras make films; people who don't have cameras don't make films. It's not that other people can't tell their story or don't have a story to tell. My statement is, I have access to the resources and some of the skills to do this. I had access to getting this grant. So I'm going to go into your house and facilitate you making a film because I know that you can. And it's been a really rewarding experience, and I'm almost halfway done editing one of them. I finish shooting another one next week, I think. So very exciting.

DAVE: That is incredible. And it's funny when you said how you would be complimented--and it was meant as a compliment--thanks for being the mouthpiece out there, the activist out there, for you to understand that yes, because this is I'm able, what I have, this is the training that I have that makes me able to do this. But you also have that ability, or let's see if that ability. Don't rely on me. Go out there and do something yourself.

CHERYL: Yep.

DAVE: And that's what you're bringing to this dialogue that we're having as a society. You're saying, "Yeah, I'm doing it. I'm out there doing it, but I know you can do it as well. Or at least you can try to do it as well."

CHERYL: Absolutely.

DAVE: And I was just listening to you tell that story, and I was just getting kind of chills because it's exactly right. You're not a victim; you're a survivor. I love the word "survivor." Maybe that's not right, but I really love it. And as a survivor, go out there and let's see what you can do and make it better and push yourself and make that effort. And I think through your efforts of not only by example, doing it yourself, but now recognizing that for an actor to get up there, and as you were saying, just read your lines, yeah sure, they're the talent, as they say. They're the actors, and there will be a lot of actors who say that's a tremendous skill. And it is, obviously. But what you're saying is create it from, essentially, get out your hammer and your chisel, walk up to that big piece of granite, and let's see what you can make from scratch. Rather than polishing that statue, let's see you actually chisel that statue out of the rock.

CHERYL: Mmhmm.

DAVE: And by that metaphor, I mean let's see if you can figure out a plot, a storyline. Now, if that's the case, now let's see if you can add dialogue that's going to, and first of all, characters and the dialogue that's gonna progress that story and get to where you wanna be, that ultimate message, whatever that message is going to be in that person's film. And I would imagine that you're very supportive of those people as they undoubtedly struggles.

CHERYL: Oh, sure.

DAVE: Because it's hard, no matter what. It's hard to be creative to that level under any circumstance. Let alone with an impairment that causes problems. So it's just a tremendous approach and also very empowering for the people who do it.

CHERYL: That's definitely my hope. And one of the fun things, the one that's almost done--well, I can't say almost, but maybe halfway done being edited--and this storyteller is coming to my house, and we're editing on my pro software. Because the software or the app I tried to put on the tablet was so terrible, it was so unusable. My original idea was that we'd film together on this tablet, and we'd edit together on the tablet. But it's just so atrocious, I'm having him come to my house. And it's gonna be an obstacle because my house is completely inaccessible to wheelchair users. So one of these storytellers will not be able to come over. I'm still trying to problem solve that. But what's so exciting about this one--and the storyteller's name is Joel--is that I screw up all the time, and he corrects me. I'll have the camera, I'll have the tablet facing the wrong direction. He's like, "Cheryl! Actually, the scene's over here." Or I will trim a scene in a certain way and say, "Well, that looks good." And he'll say, "No, you trimmed the wrong part out. Let's go back and do it again." And he struggled a lot on set because we filmed the

scenes out of order, and that was hard for him to visualize for him what was going on. But then, when I put the camera in the wrong place, that was a strength of his to point out that I had done it wrong. And so it's been a beautiful partnership. And one thing that I've found, especially when I visit a bunch of friends I have who live at KMS, they actually know exactly what they would do with that piece of granite if they had that chisel in their hand. They tell me all the time, "I have a story to tell. I know exactly what I wanna do. I have this idea." The issue that so many people face, the obstacle, is again it's the access to the resources. And it's other people's limiting attitudes, "Well, they couldn't. They live at KMS. They couldn't possibly have an idea for a story. Or you couldn't possibly coach them through generating a story and characters and dialogue." And that's what I got in that comment is that "you're the voice for people who can't speak." But [giggles] it's just simply not true. I mean, plenty of people with or without a brain injury, you put the granite there, they have no idea what to do. I don't know what to do with a big block of granite. But it is amazing how many of these folks I meet who know exactly what they wanna do, and they are stuck without the resources, without the access, and without the social support of other people showing up and saying, "Oh, yeah. I bet you could. I'll help you hold the chisel, if that's the problem. What's the problem? Let's just solve it." And so it's a little bit of all those things.

DAVE: My mind immediately goes to the old adage of give a man a fish, and he eats for a day. Teach a man to fish, and he eats forever.

CHERYL: Absolutely. And the third one to that is he's fished before. Ask him the best way to go about fishing now.

DAVE: You know what? Exactly right. It's not even teach at that point. It's just invite them to do it again.

CHERYL: Absolutely. Invite. You gotta make accommodations, they're not question. But that invitation needs to be there.

DAVE: I'm sure that there's a lot of intimidation just because of the kind of beat down that these survivors have endured. "Oh, I'm sorry, but there are things in your life that you'll just never do again." Right? How many times have you heard that?

CHERYL: Oh, absolutely. I was told that. Oh my gosh.

DAVE: Right? Right?

CHERYL: "You can't. You can't. You can't."

DAVE: And the other thing is, don't listen to those people, and let's at least try!

CHERYL: And let's try, and let's show them.

DAVE: And let's see what happens.

CHERYL: Yeah, and I can promise you, I'm not gonna win any awards for this project for set design or sound design or directing. I mean, the point of the project is not to make some slick, hi-def, Hollywood-quality films. It was to go out there and say, "But we can share these stories." And one of the most exciting things about this project is that none of them are telling brain injury stories! Which is what I expected because I told them I chose them because they're people with brain injuries. And none of them have a storyline focused on brain injury. In fact, two of them are fiction.

DAVE: Interesting.

CHERYL: And that really opened my eyes. I can be a very rigid thinker. I thought, well, they have a brain injury; I invited them to do this thing I'm calling "Brain Injury Shorts." Do they wanna do something fictionalized, or are they gonna recreate the injury? Nope.

DAVE: Uh-uh.

CHERYL: Absolutely not. They are just having fun being artists. And none of them ever has considered themselves a filmmaker before, and they're loving it. And they're telling the story they wanna tell, which has nothing to do necessarily. Well, hmm, I can't say nothing. All three stories are very different, but they are not centered around, "Hi. My name is Cheryl. My identity is brain injury survivor. Now you know me." They're showing the richness and depth of humanity that we still have, even if there's an injury to the brain.

DAVE: What a wonderful surprise that must've been for you.

CHERYL: It was. I was very embarrassed when I realized it. Like oh gosh, I really underestimated these folks. I really thought they would only wanna do a brain injury story. So I was very embarrassed but very pleased and have told them, "I'm so glad that you're doing an original story." And Joel said his next film he may wanna do a brain injury story. But he's just excited to do what I am hoping is a fiction piece. I don't know [laughs]. I hope his story is fiction.

DAVE: [laughs]

CHERYL: It is about a person who's obsessed with cats.

DAVE: OK.

CHERYL: So I'm not gonna reveal the plot twist. I'll just leave it that I hope it's fiction [laughs].

DAVE: I'll wait for the interview on Letterman.

CHERYL: [laughs] Good gracious!

DAVE: No, that's really inspiring.

Creativity endures

DAVE: And quite frankly, I think it's the direction that we are gonna continue to evolve into as a society where we do recognize that just because parts of a person's brain have been shut down, other parts are still wide open. And in fact, parts may have been opened up from the experiences that led to the shutting down of other parts. To not just toss people away or categorize everybody in one, big, broad brushstroke that brain injury, well, this is how they're going to be.

CHERYL: Mmhmm.

DAVE: On the contrary. People are still people. People still have their own individual talents, their own desires, their own skill set. Maybe some parts of it are diminished in certain respects, but let's appreciate and kind of dig and look for those parts that are still there that want to, in this case, tell a story.

CHERYL: Absolutely. And if there are areas that are diminished, that's OK too. It's still a valuable--you know, the person's value is not diminished.

DAVE: Right. Very much, very much.

CHERYL: Yeah, and you see that when you say, "No, this person has skills and talents and things about them that I'm going to engage." And you can engage so many different aspects of a person when you have the basic premise that I think you're a person. That's the basic premise that you start with that a lot of people, amazingly, don't. Well, you're less of a person because you have a brain injury. So I'm not sure it's gonna be worth it to try to engage you. And I see that too often. And I see it with people with brain injuries referring to themselves as "half a person." I recognize from first-hand experience and from observation that we have, many times, fewer skills than we did before or more difficulties than we did before. But I would like to see more people say, "No, I'm still a whole, complete person. Maybe I have some impairments. I'm still a valuable, whole person." So.

DAVE: Yeah, yeah. I think that that's certainly the message that you're putting out there with all of your work. That is very much the message that I give to my clients when I consult with them because oftentimes I am in a position to be more than just a "lawyer."

CHERYL: Mmhmm.

DAVE: We also are called "counselors." And I think we're called counselors for a reason. We've kind of been given this great education and this great opportunity and life experiences to have this knowledge, and now it's my, I think, an obligation to impart that knowledge to my clients.

CHERYL: Right.

DAVE: And I'm getting a lot of inspiration out of this conversation today, just to remember that and to try to encourage my clients to do as much as they possibly can.

CHERYL: Mmhmm.

DAVE: Even if they think they maybe aren't able to, still get out there and give it a try.

CHERYL: Right.

DAVE: And also, through my work, I can get them the resources, the financial resources that they need to do that type of exploring of what they're still able to do. I think that's just a great perspective to have and certainly one that I have done my best to incorporate into my practice, and quite frankly, into my life.

CHERYL: You know, I never hear anything from you about oh pity, pity these folks. You recognize the sadness and the grief and the tragedy and the loss, but you recognize that those are pieces of it, and that that's not the complete story. And basically, people shouldn't be pitied. Let's work together, get some resources, and get you back going.

DAVE: Thank you for saying that. I appreciate that very much.

CHERYL: I wouldn't have had you on my radio show if you were one of those judgmental, pitying kind of people. I'm very choosy about who's on my radio show [giggles].

DAVE: Well, thank you.

Empowerment

DAVE: I think the word that I really bring to my practice and to my advocacy is "empowerment."

CHERYL: Mm, mmhmm.

DAVE: And empowerment takes so many different forms, but ultimately, for me, what matters most is that that person understand that they still have gifts. They still have things, parts of their life that they can be happy for, and hopefully by extension, that they can share with others and spread the happiness.

CHERYL: Absolutely.

DAVE: Because if we're not trying to do this on that planet, what are we truly trying to do? I wrote recently that--talking about some life lessons, and I wrote something to my brother not too long ago--and one of the life lessons was that it all matters. It all matters. It was just a very short declarative sentence that encompasses basically everything. But the reality is that it does all matter. And if we are going into life with that kind of pity attitude, I think that we are not recognizing what does matter. And what matters in this context, that there still are opportunities. There still are ways to create and spread joy and not to lose focus, that those opportunities are out there. And do your best to look for the positive. And I think everybody, whether they have a brain injury or not, asks themselves that same question at some point: what am I gonna bring to the day? Am I going to look back and say, "Man, this is just a terrible day. I've got so many problems. Everything's collapsing." Or am I gonna say, "You know, it's still a good day, and here's why it's a good day." And yeah, I'm gonna deal with these problems. Of course I am. I've got my problem. Everybody's gonna deal with their own problems, but how are we gonna deal with them, and what are we gonna take from it at the end of the day? And just be inspired by what you're doing, what others in the community are doing really helps to empower me to recognize that, not only in my own life but also certainly in the lives of my clients.

CHERYL: Thank you.

DAVE: Yeah.

CHERYL: And I think one of the things that I've taken is that we need to work together more and connect with each other more so that for those folks who aren't starting the day with, "Wow, what do I bring today?" that we give more supports when needed so that folks do come to that place of saying, "Oh, I do have something to give. I do have choices and control in this day. I am gonna make something of this day." Oftentimes what's missing is the resources and the support. When you go out and you do your advocacy, and you do your education and show more people about this, there are more people willing and available to come into those support circles so that we can all start the day that day with, "What can I bring today?"

DAVE: Good. That's excellent to hear, and that, quite frankly, is exactly why I do what I do

CHERYL: And it's sorta like a potluck. I'm going to bring the cookies today. I'm gonna bring the cookies every day to the potluck [laughs].

DAVE: I love that. That's a great way to look at it.

CHERYL: Yeah, except I don't eat cookies. So I'll probably be the one bringing the chips. But that's OK because most people bring cookies and brownies, and it's gonna be too much dessert anyway.

DAVE: Yeah, I peg you as a salad person, actually.

CHERYL: Yeah, yeah. But it's so expensive for a potluck to buy all that fresh stuff. I usually get the chips for the potluck.

DAVE: OK [laughs]. Very good, very good.

CHERYL: Now, everyone who's listening knows to never invite me to a potluck cuz I always go the cheapest route.

BOTH: [laugh]

CHERYL: That's OK. I don't get invited anyway because I hate being around people. So it works out. It's a good accommodation.

DAVE: Oh, I don't believe that for a second.

CHERYL: It's very hard. It's very hard for me to be in groups of people because of my distractability and over-stimulation, and it's hard for me to follow a conversation if there are multiple people talking. So I tend to spend most of my time alone just to avoid the over-stimulation and being triggered. I can get fussy if I'm over-stimulated. So I skip potlucks.

DAVE: And it's a recognition of what your limitations are. You've adapted to those, but at the same time, I also know that you are able to overcome that because I've seen you in public, in front of people, and presenting ideas and concepts in a very coherent and very organized manner, and without any indication to the audience that you have any type of anxiety about it.

CHERYL: It's not so much anxiety so much as really sort of straightforward over-stimulation, and sort of ah! I can't keep up! I can't keep up! I do work extremely hard to hide these things in public because they are so unacceptable to run and hide and get under the table and cry and scream that things are too loud. So I definitely hide them, and then they come out when I get home. And it's something that I'm both proud of and very embarrassed about, that I hide these things. But people don't take it well, so.

DAVE: Well, I think that even just discussing it like you have just done is empowering to the person who's listening to this podcast--

CHERYL: The person. Cuz there's only one [laughs]! It's true.

DAVE: That's not what I meant. To a person who listen to this podcast--

CHERYL: No, but it's true!

DAVE: --who maybe has those same fears or anxieties, whatever you wanna call them, or actual problems with over-stimulation, and then to hear how you do, in fact, cope with it, I bet that person listens to that story and gets some power from it and says, "OK, Cheryl did it. Let me give it a try."

CHERYL: Yeah, cuz a lot of people I know who have sensory over-stimulation like I do completely avoid these triggering environments. And you know what, if you don't desensitize yourself, you will never get

any coping strategies for that over-stimulation. You will always be overly sensitive to lights and sounds and movement. So I put myself out there, and I do it in small chunks, and then I go home, and I cry and go to sleep and all that. On that very cheerful note, I do have to wrap up the show a few minutes early cuz I wasted some time in forgetting to call you and then the internet going down.

Wrap-up

DAVE: OK. Well, I wanna thank you for giving me the opportunity to be on your podcast. I'm honored. I appreciate it very much. Certainly a great opportunity for me to explain what we've done legislatively and what I do as an attorney and also the thank you and to hear your wonderful stories. So with that, I would just wanna say thanks. I hope I get the chance to do it again and look forward to seeing you sometime soon, I hope. And good luck with all of your various projects.

CHERYL: Thank you. And thank you for opening up so much about the different things that you do work-wise, but also just your personal experience with all of these things. It's very eye-opening, and it's wonderful stuff to share. All right. Thanks so much, Dave.

CHERYL: Join us the first and third Friday of the month at 1:00 pm. This has been Cheryl Green of StoryMinders. Email me at info@storyminders.com if you've got topics you'd like to hear on upcoming show.

[music]