

Bruno the Kosovar

In 1993 Bruno, a highly educated, multi-lingual circus performer in the former Albania, decided that the wars and instability of his religiously bifurcated native land were more than he could stand, so he took his life savings out of the family circus business, which had been the traditional livelihood of the members of his family for generations.

Bruno was a relatively small man, an expert on the high wire and trapeze, which required superb fitness, agility and acuity of vision. His physical training had resulted in a well-muscled and toned body which persisted into late middle age. Bruno was 58 when he emigrated to the US to build a new life. An avid interest in photography became a new profession in the US, and Bruno had a thriving practice doing photo shoots for professionals such as interior designers and architects. His studio was in downtown Dallas and he and his wife, whom he met on arrival in the US and married when he settled in Dallas, lived comfortably in east Dallas with their two children. Bruno spoke fluent English, had a thriving business and family life.

In 1995, Bruno decided to build a swimming pool in his back yard, getting an architect client to design it for him, and doing most of the work as his own contractor. Bruno was talented in many ways, and had no qualms about performing much the work himself. As he was putting the finishing touches on his pool, installing the flood lamp located under the diving board, Bruno's wiring got tangled up generating a voltage surge which resulted in an exploding high wattage lamp. Bruno's left eye was destroyed resulting in a glass replacement, and his right eye was severely impaired leaving him with mostly peripheral vision, but up close, he was able to see sufficiently well to perform many tasks unaided. His "sixth sense" resulting from thousands of handoffs and catches on the trapeze enabled him to sense the presence of others, and he developed acuity of sound to enable him to recognize people by their voices coupled with an adaptive peripheral vision that also enabled him to make out their physical dimensions.

Bruno had been working out at a major fitness center near a downtown hospital ever since it opened for business. He maintained top physical condition, but he had an unfortunate gift as well - an excessive libido. He and his wife had divorced over his many affairs while he was a photographer,

and Bruno's blindness (legally and nearly factually), was more than she could bear. Bruno was very lonely.

When Bruno recovered from his accident, he resumed his intense workout schedule and one day, the manager took him into his office and asked him if he thought he could be a trainer. Bruno quickly seized upon the opportunity, because he was sure he could function well, and his low social disability income was really pinching and his savings were exhausted. The Manager tried him out with the staff assisting in orienting Bruno sufficiently such that he could function, and he attracted older people as his clients, people who could identify with his age and be inspired by his nearly incredible physique despite his visual disability. Many of the trainers were female, ranging in age from twenties to fifties. Bruno had several middle aged female clients, and had made inappropriate remarks (he said in jest only) to them, which a couple of them reported and for which he was admonished by the Manager.

Following the second warning, he was working with a male client one day, and as the client was performing his repetitions on one of the machines, Bruno "observed" a female form on an adjacent treadmill, and casually said to her, "you know you are an inspiration to other women - you have a fantastic body." Turns out she was another trainer using her day off to do some conditioning for herself. Aware of Bruno's history, she went straight to the manager's office and reported it. A short while later, Bruno was called in, told immediately to clean out his locker, and was escorted by security out of the building. Bruno was very upset, and not paying his usual acute attention, while on his cell phone trying to call a cab, he stepped off a curbing outside the building and was hit by a passing car, knocking him to the pavement, crushing his glass eye, and giving him scrapes and bruises elsewhere.

Several of Bruno's clients were lawyers, and though unwilling to represent Bruno themselves, they recommended a well-known personal injury lawyer, who was eager to take the case against the hospital and the PT Center (the accident took place on their property), and in addition urged Bruno to sue for discrimination under the ADA in connection with his employment termination. Suit was duly filed in the Dallas District Court, several depositions were immediately taken of the Manager and other employees familiar with Bruno's discharge, and the driver of the car that hit Bruno. The judge assigned to the case referred it to a **non-attorney mediator** who had a lot of experience in employer/employee cases, but no

specific training under the Americans With Disabilities Act and not a great deal of experience in personal injury cases. After investigation, he discovered that he had once been a member of the PT Center, but now worked out at a different gym. He had met the Manager who called him to renew his membership, and he knew some of the other trainers. He did not believe these prior contacts created a conflict of interest. He disclosed these matters, however, to the parties' counsel.