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Fostering HOPE

Howard Talenfeld is fighting for Florida's most vulnerable kids

BY HARRIS MEYER PHOTOGRAPHY BY SCOTT WISEMAN



When Mike Dunlavy met Fort Lauderdale attorney Howard Talenfeld, he had left foster care and graduated from college, and was looking for a direction in life.

Talenfeld helped involve him in a group called Florida Youth SHINE, which the lawyer had played a role in launching. Composed of former and current foster children, its mission is to push for improvements in Florida's foster care system. Dunlavy helped the group lobby the Legislature for better funding and education, and even became its chairman.

Then he decided to emulate Talenfeld by becoming an attorney who would fight to protect vulnerable children.

Talenfeld guided him through the law school application process and connected him with a foundation that gave him a scholarship to attend St. Thomas University School of Law in Miami. Dunlavy, 29, is entering his third year.

"Foster kids like me struggle with trusting what people say," Dunlavy says. "A lot of people had made me a lot of promises, but Howard really came through. I'll always have to live up to what he showed me."

Talenfeld, 58, a partner at Colodny, Fass, Talenfeld, Karlinsky & Abate, has reached out to help many foster children and others in need. He has built a remarkable record of reforming Florida's foster care, juvenile delinquency and mental health systems, while winning large class action and individual verdicts

and settlements on behalf of children and adults injured while in those systems.

Litigation is only one of his weapons. Talenfeld says one of his proudest achievements is organizing attorneys, children's advocates and former foster kids into a formidable advocacy force. That group, Florida's Children First—along with its affiliate, Florida Youth SHINE—has helped persuade lawmakers to boost funding for volunteer guardians ad litem working with abused and neglected children. It also trains attorneys and child welfare workers to represent and protect kids.

Sitting in his corner office in a downtown Fort Lauderdale high-rise with a sweeping view of the city's famed waterways, Talenfeld, a trim, athletic man with a graying goatee, speaks quietly and cautiously, befitting someone who has to work with officials of widely disparate viewpoints in representing his politically powerless clients.

Talenfeld's voice fills with emotion when he talks about kids. "The only way advocates can make a difference is from the outside, working through advocacy organizations," he says. "The only consistency is to strengthen the child advocates, give them a unified voice, and teach lawyers how to file cases like we've filed. That's the only way these kids will ever be protected."

Democratic state Sen. Nan Rich, a leader in child welfare legislation, says of Talenfeld, "The work he's done has made a long-term impact on the policies and laws of Florida. He's a very intense person, very passionate and strong-willed, and when he believes in something, look out."

Most recently, Talenfeld, along with Gary M. Cohen of Grossman Roth in Boca Raton, reached a settlement totaling nearly \$3 million with Broward County and various medical providers for a 5-year-old boy. When he was 6 months old, Jace Manning suffered a brain injury due to abuse, after county workers were warned about the risk but failed to intervene. He now suffers from mental retardation, behavior disorders and physical disabilities.

In a Broward foster-care abuse case in 2000, Talenfeld won a class action settlement that nearly tripled the funding for child welfare services in the county; it also led to a state law requiring school boards to transport foster children to the same school

HOWARD M. TALENFELD

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“The work he’s done has made a long-term impact on the policies and laws of Florida. He’s a very intense person, very passionate and strong-willed, and when he believes in something, look out.” –STATE SEN. NAN RICH

even if they are moved to different homes. Around the same time, Talenfeld helped push through a state law establishing a bill of rights for foster children, including a limited right to legal representation.

Over Talenfeld’s desk hangs a courtroom artist’s drawing of himself standing next to Gov. Lawton Chiles in 1992. Back then, he was defending the state against a class action suit challenging the use of waiting lists for foster children who needed therapeutic services; he won approval of an agreement that expanded the state’s foster care and mental health services and maintained the state’s control over the system. At the time, he says, he felt good about his role defending the state because Chiles and his appointed officials were striving to make the social service systems work better for children and adults.

Two years later—after being offered the general counsel job at the state social welfare agency—he stopped representing the state, though that caused a big hit to his firm’s finances, due to differences over what he perceived as a change in the administration’s policy direction.

TALENFELD DIDN’T START OUT IN CHILD

advocacy and social welfare law. After moving with his family from Pittsburgh to Miami in the early 1970s, he transferred to the University of Miami, studied business, and excelled on the debate team. His father, who was in the real estate business, told him the next skill he needed to develop was salesmanship. So Talenfeld started selling office equipment door to door in downtown Miami. That helped put him through college. He sold insurance after entering the University of Miami School of Law. The income was helpful when, during his first year at law school, his father died at age 48.

Graduating in 1979, he joined a firm—headed by Michael Colodny and Joel Fass—where he had clerked. He practiced commercial and personal injury law. A

tough competitor who likes to win at racquetball, tennis and in the courtroom, he quickly rose to become a name partner in 1982. It so happened that the state social services secretary contacted Talenfeld to handle a case. After the successful outcome, he continued working with the department, handling class actions and other major litigation. In 1988, Talenfeld began representing the state in suits involving foster care, mental health, juvenile justice, and disability and Medicaid, negotiating change within the state agencies. “I couldn’t defend the system, but I could defend the state’s right to improve the system,” he says.

One of the reasons Talenfeld became drawn to social welfare law is that he grew up with a mentally disabled younger sister. His parents trained him, his brother and their other sister to take care of Bess, preparing for the day when they wouldn’t be around. Pointing to a photo of Bess, who’s doing well in a group home near Talenfeld’s other sister in Gainesville, he says, “She’s had a profound impact on the course of my life, just understanding what it is to have disabilities.”

He takes pride in having switched his field of practice. “I had reached a point in my young career where I just didn’t see a purpose fighting about money in commercial cases,” he says. “I had a chance to start fighting to improve systems for vulnerable persons.”

Talenfeld’s empathy has led him to take many cases on a pro bono basis or with no guarantee of a substantial fee. Florida has a sovereign immunity law that limits liability of the state and local governments to \$200,000 per person and \$300,000 per incident. The only ways plaintiffs who win larger verdicts can collect the full amount are to either persuade the Legislature to pass a claims bill—a special exception waiving the cap for a particular case—or to sue in federal court, under the Civil Rights Act.

IN 2008, TALENFELD OFFICIALLY POKED

a hole in the sovereign immunity policy with a ruling by the 11th U.S. Circuit Court of Appeals allowing federal civil rights actions against state child-welfare workers who fail to protect children from sexual abuse in foster care. (Talenfeld had been using the strategy for years.) That led to a \$3 million settlement with the state. “There had to be a way to hold the system accountable for destroying the life of a child in foster care,” he says.

Talenfeld regards that decision as one of his greatest achievements. “That’s a very conservative group of judges who strictly construe constitutional rights,” he says, recalling his oral argument before the court. “They totally got it.”

Sheri Weissenborn, a Coral Gables attorney who represented the state in opposing Talenfeld’s efforts to override the state workers’ qualified immunity, tips her hat to his strategy. “That was very brilliant of him to look at whether he had a valid case under federal civil rights law,” says Weissenborn, who also did battle with Talenfeld and Cohen in the *Manning* case. “That’s pretty unique.”

Weissenborn maintains a good-natured—if contentious—relationship with Talenfeld, despite years of legal combat. “He pushes a lot, sometimes to a fault,” she says with a laugh. “He’s so passionate that he can come across as intimidating, unless you know him and you know he’s a pussycat.”

Talenfeld is no pussycat on the tennis court near his home in Plantation, where he lives with wife, public relations executive Julie Silver Talenfeld. An ambidextrous player, he chases down every shot despite the humidity of a South Florida evening. But he’s gracious in winning the first set, and equally gracious in losing the second.


Life is good for Talenfeld, who readily acknowledges that his commitment to public service has had the side effect of

helping his career. "I've been fortunate," he says. "In doing good things, it's been good for business."

While he's a zealous advocate, Talenfeld also prides himself on working cooperatively with public officials and lawyers on the other side to meet children's needs. In a case that he worked on for years, Talenfeld persuaded the state to award a young boy born with severe brain damage—who will never walk or talk—an unusually high adoption subsidy so a nurse who had long served as his foster mother could adopt him. When the adoption was finalized, the various participants, including the secretaries of the two state agencies, attended the official adoption ceremony. "There wasn't a dry eye in the house," Sen. Rich says. "That's the kind of thing Howard is able to accomplish."

On the policy front, Talenfeld's big push, together with The Florida Bar and Florida's Children First, is to convince the Legislature to pay for mandatory legal representation of certain groups of high-needs children in dependency court. Florida is one of only 10 states that don't require legal representation for dependent children. "The parents have a lawyer, the state has a lawyer, even the guardian ad litem has a lawyer," he says. "The only party who doesn't have a lawyer is the child, whose life is totally affected."

Talenfeld chaired the bar committee that recommended legal representation. But it hasn't been easy to organize attorneys and child advocates around unified positions on this and other issues. "They all think they know what's best for kids," he says. "It's like the Crusades. Everyone thinks the way they believe in God is the only way to believe in God."

Rich affectionately notes Talenfeld himself is pretty sure he knows what's best. And even though she doesn't fully agree with him on the legal representation issue—largely because of state budget pressures—she believes he couldn't have accomplished all he's done without his passion and intensity. "I'd call him [a] super child advocate," she says. "It takes someone like that to really move the system." 



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