



El Milagro de Eduardo

By Donnelly Wright Hadden

Attorney Carlos Fuentes Gutierrez pushed himself back in his leather executive chair to put more distance between himself and his irate client, who had arisen from his own chair and thrust his upper body onto the desk. Fuentes's right hand dropped surreptitiously to a position in which he could reach into the upper right corner drawer where there was a snub-nosed revolver. He didn't think he'd need it, but Eduardo

was certified as afflicted with a mental disorder. So far, Eduardo's behavior, apart from leaning across the other side of the massive desk, was confined to a stream of Spanish profanities.

"*¡Hijo de puta!*" he screamed. "*¡Chingate!*" was his response to Fuentes's every effort to explain to him that he could not have his money because it was in a trust.

Eduardo's wife and mother-in-law, seated on chairs flanking Eduardo, were tugging at his sleeves and trying to persuade him to sit down and listen. Eduardo would have none of it.

"I won the case, the jury awarded the money to me, why can't I have it?"

"We won the case," Fuentes said, anxious that the client not discount the considerable genius he had put into the victory.

How do you explain to a man with a mental disorder that he has a mental disorder?

He restated the case again in Spanish, slowly with pauses to make sure it sank in. The motor vehicle collision was slam-dunk liability; the operator of the double-bottomed truck was driving distracted, texting a response to a message from the company's dispatcher, when he lost control and flipped the rig. The airbags on Eduardo's old pickup truck were incapable of protecting him from sustaining a closed-head injury in the ensuing collision.

Eduardo sat back, finally, and listened. His wife patted his arm as if to say, "*That's right, be a good boy now.*" Fuentes noted her gaudy jewelry: rings, bracelets, pearl necklace, and brooch. She'd not worn that kind of stuff before. Her mother, too, was decked out in expensive garb. They'd checked their long fur coats with his secretary. Eduardo came in wearing a quilted down jacket, a little frayed at the collar and sleeve ends, jeans, and a sweatshirt. They were there to discuss the first annual accounting of the conservatorship.

"I see you have moved from southwest Detroit to Birmingham," he said, speaking to Eduardo. Eduardo just growled.

"Yes," Señora Hinojosa said, "I want my husband to have the best."

And yourself, too, Fuentes thought. He noted the new car, a big Lincoln Navigator on the assets list, along with an expensive health club membership.

"Do you enjoy the gym?" Again, Fuentes addressed Eduardo, who only grunted, and again the wife answered for him.

"We try to get him to exercise like the doctors recommend, but it's difficult."

"I hate it there," Eduardo said, his first words since his outburst.

Fuentes looked at the wife. "And you quit your job at Xochimilco?"

"Yes, I need to be able to devote all my time to taking care of him."

"And going shopping and to the beauty parlor and her club and God knows where else," Eduardo mumbled, "and the casino."

"I should warn you," Fuentes said in his stern tone of voice, "that the no-fault wage loss benefits expire in less than two years and he'll lose that income. After that, you'll have to parse out the big settlement to last his lifetime."

The "big settlement" was \$2.6 million Fuentes achieved from a \$2.25 million jury verdict plus case evaluation sanctions. They settled the attorney fee sanctions after the verdict to avoid the delay of an appeal. They all wanted the money right away.

"Even the wage losses are not a sure thing, you know," Fuentes continued. "The insurance company wants another follow-up psychiatric exam on the 14th of next month to make sure he is still unable to work."

"I don't like their doctor," Eduardo said. "Why can't I go to Dr. Mandelbaum? I like her."

Indeed you should, Fuentes thought. She's the one that made your case.

"You'll see them both."

Fuentes had arranged for Eduardo to be seen by Dr. Ruth Mandelbaum soon after he'd been retained. Out of the hospital and wounds healed, Eduardo had reported back to work at the steel mill. But there was "something wrong upstairs," his foreman reported. "Been forgetting things. We can't have that on this job around molten metal. Too dangerous to himself and others." So Eduardo had hired *abogado* Carlos Fuentes to make a claim. Dr. Mandelbaum's testimony made it a big one.

The doctor's testimony was devastating. She diagnosed Eduardo with major neurocognitive disorder due to traumatic brain injury with behavioral disturbance. "It's a classic case," she testified, "all right there in the DSM 5 at page 624." No skull fracture, but he'd been unconscious in a coma for three days and had amnesia for a week after that.

"When I first examined him," she said, "he had difficulties in the domain of complex attention, executive



ability, learning and memory, slow speed in information processing, and disturbances in social cognition. He complained of fatigue, inability to resume his normal occupation, and seemed totally apathetic. I interviewed his wife, who reported deterioration in interpersonal relationships.”

Dr. Mandelbaum could not be shaken on cross-examination. “I noted he repeated himself in conversation, could not keep track of a short list of items, nor perform mental calculations. He needed assistance to do normal things like paying bills and managing his medications.”

The kicker was in the prognosis. “It is permanent. I foresee for him a lifetime of neurocognitive deficits: irritability, fatigue, mood changes, depression, anxiety, hostility, or apathy.”

The defense sent him to Dr. Aaron Goldman, who confirmed the diagnosis and opined that Eduardo was incurable by any means known today. He could manage his basic functions OK—dress himself, shave, eat, and so forth—but would never be able to perform executive functions such as planning or managing.

The judge asked, “Could he manage a large sum of money?”

“Absolutely not,” both psychiatrists testified.

So Judge Wisniewski ruled Eduardo did not need a guardian of his person but had to have a conservator of his estate. It seemed the best person for that was his loving wife, Consuela, with her mother, Eduardo’s *suegra*, as back-up conservator. Fuentes was attorney for the conservatorship.

Eduardo hated the arrangement. His voice rose, “I hate Birmingham. I want to live in my old neighborhood, by my friends. I want to go back to work. I don’t do nothing all day.”

Fuentes foresaw another mood swing coming. Eduardo tried to stand; the women held his arms, but he shook them off and leaned over the desk again. “It’s my money. Why can’t I have it?”

Two days later, Fuentes received a panicked call from Consuela. “Eduardo is gone. We can’t find him. Totally disappeared and all our cash from the house is gone, too.”

Fuentes fell back on the standard trick he’d learned from his lawyer grandfather: When the client is unhappy with the results, blame it all on the judge.

“Because Judge Wisniewski said so, that’s why.”

“How long before I can get my money?”



Fuentes repeated his stock answer. “Until you’re cured; but there is no cure, so for the rest of your life.” He spread his hands outward in a gesture of hopelessness. “Just follow the doctor’s orders, take your medications, and you’ll be calm and happy.” The wife was nodding affirmatively.

“I don’t want to be calm and happy!” Eduardo shouted. “I want my money!”

“Did you hear what Dr. Mandelbaum said? She said it would take a miracle to cure you. You understand, nothing less than *un milagro*.”

“He heard,” his wife said. “He walks twice a week to Holy Name Church and prays. It doesn’t help, but it doesn’t do any harm, and it gives him something to do. I wish we could quiet his mood swings. He’s so unpredictable, I’m afraid to take him anywhere.”

Eduardo had settled back in his chair. His elbows on the armrests, his head bowed and cradled in his hands, he moaned, “Jesus has abandoned me, God has forsaken me,” over and over.

“He has an appointment with the psychiatrists in less than three weeks. Maybe they can prescribe something,” Fuentes suggested as they left. Fuentes then regarded the report he must file; how to sell such extravagance to the court?

Two days later, Fuentes received a panicked call from Consuela. “Eduardo is gone. We can’t find him. Totally disappeared and all our cash from the house is gone, too.”

“What happened?” Fuentes asked, jotting notes.

Eduardo had walked away, saying he was going to mass as usual. The women went shopping and to the beauty salon, as they usually did, because Eduardo would be gone a few hours and the priest would be at the church if Eduardo needed help. When they returned home, he was not there. They called the church. He'd not been there.

"Did he have any money with him?" Fuentes asked.

"Well, we give him \$20 for the church and he buys his lunch afterward at the Coney Island. We thought that's all he had."

"What do you mean, 'thought?'"

"Well, we keep cash in the house for emergencies or special occasions. We hide it in the kitchen. Later, we looked and it's gone, too. We thought maybe somebody broke in and stole it and he was there and tried to fight with them and they killed him. Or maybe he took the money and somebody robbed him."

"When did this happen?"

"Yesterday in the early afternoon, around 1:30."

"And you're calling me now? Why? Did you call the police?"

The police, she assured him, had been called and were investigating. Inspection of the house showed no signs of a break-in and nobody had reported any robberies. The investigation was ongoing as a missing persons case.

"I called you because Eduardo trusts you, and maybe he might call you or even come to see you."

"I've heard nothing," Fuentes said. "How much money did you have lying around?"

"Two thousand four hundred and thirty-eight dollars. We counted it the evening before. It was what was left from cashing his monthly insurance check that we use for groceries and supplies for the month." There was a pause. Then she asked, "Could we get a warrant to have him arrested for stealing? Maybe the police would look harder."

"For stealing his own money? Doubtful, *señora*. If I hear anything, I'll let you know."

Fuentes thought that was quite a bit for groceries for three.

He drove to the Birmingham police station, identified himself, and asked if he could be of any assistance. He learned that the wife had not been totally candid; she'd reported that Eduardo's gym bag and a quantity of clothing were missing. While Fuentes was at the station, a detective came in with a report of a survey of taxicab drivers. Yesterday, one had picked up a man matching Eduardo's description for a fare to Metro airport. He'd paid cash and had been dropped off at the U.S. Airways terminal. The detective called the airport police. A few minutes later, he reported back to the lieutenant in charge, who was chatting with Fuentes.

"Case closed. Our man boarded the flight to Mexico City. He's out of our jurisdiction."

"He won't stop there," Fuentes said. "I know he has cousins near Gomez Palacio."

"Where's that?" the lieutenant asked.

"It's across the river from Torreón."

"Thanks a lot."

"He's probably deserting his wife and mother-in-law. It's a dumb thing to do, leaving them with all his money at their disposal. But then, he's not a rational man."

When Fuentes reported to the wife, her first question was not about Eduardo. "What about his money? Can he get at it down there?" Assured that the money would stay in her custody she said, "OK, let him stay." But when Fuentes said if he didn't show up for his psychiatric exam the insurance company might terminate his benefits, she grew anxious again. "How can we get him back for that?"

"I have the addresses for his next of kin there. Maybe if he shows up I can get him examined by a psychiatrist in Mexico. Meanwhile, I'll see if I can get the appointment up here postponed."

* * *

There was only one contact from Eduardo, a week later. It came to Fuentes from Eduardo's cousin in the form of a video clip. It showed a pilgrim, clearly Eduardo, on the steps of the Old Cathedral of the Virgin of Guadalupe on Tepeyac Hill in Mexico City. He was dressed in simple white cotton pants and shirt. He was on his hands and knees near the doors along with dozens of other penitents. Some were in wheelchairs while the others were all groveling and praying to the Virgin as they crawled on their knees across the rough-hewn paving stones of the plaza. Many carried burdens on their backs.

When Eduardo reached the top he prostrated himself, arms outstretched, as his cousin zoomed in. The knees of the white trousers were bloody and his hands oozed blood. He pleaded, "Holy Virgin, pray for me, a sinner, and beseech the Lord to heal my infirmities." It was the same litany he'd been reciting all the way. There was a text with the clip, *Ya hizo cuatro dias, y hará tres mas*. Nothing more. Fuentes tagged it for evidence. "This makes four days; he'll do three more."

Carlos called Consuela to tell her Eduardo was OK. Her only question was whether the money would still be coming



to her. When Carlos reminded her that she was merely the conservator and supposed to use the money to take care of him, her response was, “I’ll send \$600 to his cousin’s house for him. That’s plenty for a month in Mexico. He can stay as long as he wants.”

The doctor’s call came a week later. “Mr. Fuentes? Your client, Mr. Hinojosa, is here in my office. He wants to see you. Can you come by?”

Eduardo? Back from Mexico? He kept the appointment?

“Sure,” he answered, “I’ll be there in a half hour.”

He dropped the brief he’d been writing and sped there.

Eduardo was chatting with the two psychiatrists. He was well groomed in corduroy trousers and a ski sweater. “*Hola*,” he cheerfully greeted Carlos, then launched into a discussion about how he was dissatisfied with the way his trust was being invested. Treasury bonds and the like.

“By law it has to be in conservative, low-risk securities,” Carlos told him.

“I know, I know, but that’s because I have a conservatrix. If I had control of my money, I could do better. My portfolio needs to be more diversified.”

Carlos looked quizzically at the two physicians. They shook their heads. Eduardo had come in yesterday for his appointment alone, on time, and perfectly calm and rational. They gave him the MMPI test, the Wechsler Adult Intelligence Scale exam, the Wechsler Memory Scale, the Booklet Categories Test, Trail Making A & B, Test of Memory Malingering, and the WRAST Reading exam. He scored bright, normal, and unimpaired on all of them. Carlos asked what had happened.

“Some kind of spontaneous recovery,” Dr. Goldman said.

“I would say a spontaneous remission,” Dr. Mandelbaum opined. “We can’t know if it will last.”

Fuentes knew what to do.

At the hearing, Judge Wisniewski questioned the two physicians who now testified that Eduardo was unexpectedly perfectly well and capable of handling his own affairs. Mostly, he wanted to know how could they have been so wrong the first time? That, they strongly denied.

“Then how do you explain it scientifically?” the judge asked. “Do you think that pilgrimage had any effect?” Fuentes had put the video clip into evidence.

“Who can say, your Honor?” Dr. Goldman testified. Goldman, as the no-fault insurance company’s hired gun, had a keen interest in seeing Eduardo fully recovered. “It has been posited that on rare occasions, some very powerful physical or emotional experience or a combination thereof may realign defective synapses and undo a

disorder originally caused by similar experiences. We can’t know because we can’t test on humans.”

“And you, Dr. Mandelbaum?”

“I can’t explain it other than to say what Eduardo says. It’s a miracle.”

“Miracle or not,” the judge pronounced, “at law it doesn’t matter. The evidence is that now he’s normal. I’m terminating the conservatorship forthwith. I’m signing the order now.” He banged his gavel. “Court is in recess.”

When the judge left the room, Eduardo faced his wife, his hand extended, palm up. “The checkbook, please. You always carry it in your purse.”

Consuela looked at Fuentes. Her eyebrows were knitted, she bit her lip, then her mouth opened but nothing came out. Her face said it: “*Do I have to?*”

“*Sí, señora*,” Fuentes said.

Eduardo pocketed the checkbook and extended his hand again. “And the credit cards, *por favor*.” Fuentes nodded affirmatively, and the little wallet with the cards was turned over.

“Now,” Eduardo said, “the car key.”

Consuela did as he asked. Her left hand shaking, she clutched the fine pearl necklace at her breast.

“Now are you going to leave me?” she whimpered.

“No. Now we go home. I will put you on a strict budget. We will stay married. That will be your penance.”

Fuentes chuckled to himself walking back to his office. Did Eduardo actually experience a spiritual healing? Or had he pulled off the very best bit of malingering ever seen? He’d fooled his lawyer, two psychiatrists, and even the seasoned judge. Where did Eduardo acquire the smarts and cunning to execute such an elaborate scam so perfectly?

Oh well, either way, it was indeed *un milagro*. ■



Donnelly Wright Hadden has focused his trial practice for the past 50 years on plaintiffs’ environmental and toxic torts, opening his own firm in 1979. Previously, he practiced for four years with George Menendez, legal advisor to the Consul of Mexico in Detroit, and was an artillery officer in Korea for two years. He received a bachelor’s degree in political science from Michigan State University and a JD from the University of Michigan Law School.

***“In Latin America, even the
atheists are Catholics.”***

—Carlos Fuentes Macías