

## Business Tennessee Names Donati One of Best Lawyers in State

Donald Donati, a partner at the Donati Law Firm LLP, recently was honored by Business Tennessee magazine as being one of the "150 Best Lawyers in Tennessee";

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### DONALD DONATI

Position: Partner

Firm: Donati Law Firm LLP

Basics: Donati recently was honored by Business Tennessee magazine as being one of the "150 Best Lawyers in Tennessee";

Donati practices in the areas of employment, workers' compensation and personal injury. He has been recognized in every edition of The Best Lawyers in America since 1989 in the area of labor and employment law. He also was named one of the Top 100 Lawyers in Tennessee in the 2006 and 2007 editions of Mid-South Super Lawyers.

Donati is a member of the Memphis and Tennessee Bar Associations, the Tennessee Trial Lawyers Association, the National Employment Lawyers Association and the American Inns of Court.

Donati practices with his wife, Wanda, his sons, Robert Donati and Billy Ryan, his daughter, Ellen, and his daughter-in-law, Allison Ryan.

Q: You've inspired others to consider law as a career. What inspired you to practice law?

A: I grew up in the time when there were young lawyers who were using the law to affect social change, civil rights lawyers who were trying to implement equal access to justice through the law, and I was inspired by lawyers who were doing that. I admired the work they were doing, and probably that inspired me to become a lawyer and change the world.

Q: You argued a case before the U.S. Supreme Court, Burlington Northern & Santa Fe Railway Co. v. White, a sexual harassment and retaliation case. Can you discuss how the outcome of this case was precedent-setting?

A: In that case, the Supreme Court established a national standard for determining whether retaliation exists under Title VII under the Civil Rights Act of 1964, and that had never been decided by the Supreme Court. So we were able to establish a very liberal standard for determining what constitutes retaliation, and we're very proud of that success. It has been applied now to almost all of the employment and discrimination statutes: age discrimination in employments, Americans with Disabilities Act. It's becoming the national standard for determining when an action is adverse under the retaliation provision. (It also deals with) whistleblower claims. It was a very important decision by the Supreme Court. We were very fortunate to be the law firm that argued it.

Q: What was one of the most important things you learned when arguing before the Supreme Court?

A: I learned that the advocacy before the Supreme Court is like no other advocacy a lawyer will ever encounter. You're not citing, necessarily, precedent to the Supreme Court; you're telling the Supreme Court what you think the national standard should be, and they're concerned about what the implications are of that standard that you're advocating, and what the effect will be. That's a different way than lawyers typically approach appellate advocacy. (Normally,) you're looking for something that appears to be like the case you're arguing, or a precedent that sits in your favor, but the Supreme Court, in many instances, they make the law — at least they interpret and establish standards. So it was a different way of thinking about appellate advocacy. The other thing I learned is how many people around the country will support you in the effort that you're making. We had tremendous support from civil rights lawyers and groups throughout the country in helping us get prepared for the argument.

Q: Has the economy affected the numbers or types of clientele you see on a regular basis?

A: Actually, our practice has increased substantially in light of the economic downturn. We represent employees exclusively, and we see a lot of people who have been laid off who are trying to determine if there's any kind of discrimination in the layoff; quite a few people working when they're actually disabled, or they think they may be disabled, and then they're laid off and they apply for disability benefits. So it's affected us with more business.

Q: On your Web site, you say that "in many cases, our clients are not required to pay any attorney's fees if we are unable to make a recovery." What inclined you to make that a practice at your firm?

A: Probably 80, 90 percent of our practice is that way. People can't afford lawyers; and the contingency fee is one way that people have access to justice. With Social Security disability benefits, that's in the statute itself; you can't charge unless you're successful. In the employment cases, we typically represent individuals who are unable to pay a rate of \$300, \$350 an hour, and the law envisioned that attorneys would take these cases on a contingency basis, and if successful, the employers would be required to pay our fees. We've always stuck by that intention of Congress in passing that statute. We recognize, especially in bad times, people don't have money to take care of basic necessities, much less to pay lawyers thousands of dollars to pursue a meritorious claim. Really, sort of philosophically, we've never charged most of our clients by the hour. It's contingency-based.

Q: Do you do any pro bono work?

A: We do a lot of pro bono work. We have traditionally handled (Veterans Administration) cases on a pro bono basis; we're now starting a greater number of VA cases, not necessarily all pro bono. We handled a lot of cases over the years for veterans who have had post-traumatic stress disorder; we did a lot in that area, and we handle a lot of employment cases on a pro bono basis.

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