



# ALL THE JUSTICE MONEY CAN BUY

Corporate Greed on Trial

**Snigdha Prakash**

RECIPIENT OF THE GENE ROBERTS BOOK AWARD

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**KAPLAN**

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**ALL THE  
JUSTICE  
MONEY  
CAN BUY**

*For the thousands injured and killed by a medicine  
that claimed to soothe, for their families,  
and for Carlene Lewis (1954–2006) who had the  
courage and imagination to fight back.*

*"Hey babe, I have a pain in my chest and it won't go away."*

## PROLOGUE

*Boise, Idaho, September 18, 2001*

AT FIRST MIKE HUMESTON blamed the big, dead, heavy pain in the middle of his chest on the Chips Ahoy cookies. He'd grabbed a bag of the chocolate chip cookies and a glass of milk after supper and was eating them as he relaxed in his red leather recliner and watched the TV news in the family room at the back of the house. It was still all about the September 11 attack and very grim. Maybe he hadn't chewed the cookies enough, Mike thought, and he had heartburn. But he'd only eaten two. The pain wouldn't back off. It was a dull, hard pressure right under his rib cage—it felt like something was squeezing his heart.

Mike was 56 years old and he had lived with pain almost every minute of every day of his adult life. He had been a 20-year-old Marine in 1967, when an incoming mortar round on a hillside in Vietnam implanted so much shrapnel into his left knee that, even decades later, the jagged edges of metal fragments would pierce through his skin and catch on his Levis. When the Corps decided his injured knee wouldn't hold up on the front lines, Mike, who had won two Purple Hearts in just over a year of combat, took an honorable discharge.

Mostly Mike pretended the pain wasn't there. Pain is an old friend to me, he would say. The pain had worsened with time. Mike had brought home, buried deep inside his knee, a spray of dirt from

the explosion, and over the years he lost most of the cartilage in that knee to infections set off by the dirt.

What cartilage the infections didn't take from Mike's knee, the post office did. For 18 years, Mike had spent his days unloading 70-pound bags stuffed with mail from post office trailers and lugging them across the Boise postal facility's hard concrete floors, to be loaded onto other trailers and sent to their final destinations. The cartilage in his left knee was so worn out that when Mike put the weight of his 6-foot 225-pound frame on it, the bones inside rubbed against each other. Some days Mike could see the bones grinding and his knee would be hot and swollen from pain. Mike blunted the pain's edges with ibuprofen pills every day. A few months earlier, he had torn a ligament in his *good* knee, and the pain was bad enough that the doctor had him on a prescription painkiller.

But Mike had never felt anything like the pain in his chest. It frightened him. He waited for it to go away. When it didn't, he started to think maybe he was having a heart attack.

It passed through Mike's mind that he should tell Mary. She was in the kitchen, cleaning up after supper. But he didn't want to get his wife excited for nothing. Maybe a shower would help. He remembered seeing on TV that if you take aspirin when you're having a heart attack, the heart attack isn't so bad. On his way to the bathroom, he grabbed three aspirins from a kitchen cabinet. He chewed hard and swallowed.

Mary thought it was strange that her husband was heading for the shower when the news was still on. She was almost done in the kitchen—just sweeping the crumbs into a dustpan—when Mike called for her. She could hear in his voice that something was wrong, and found him in their bedroom, putting on a clean undershirt.

"Hey babe, I have a pain in my chest and it won't go away," he said. "I think I'm having a heart attack."

“Get in the car!” Mary ordered, before she remembered the car wasn’t there.

Seth had borrowed it to go to a friend’s house. Mary called her son to tell him his father had to go to the hospital and to bring the car home. By the time she pulled on her Levis, Seth had pulled up outside the house.

People, mostly out East, would ask her later, “Why didn’t you call an ambulance?” Western independence, she would say, and denial. Calling an ambulance would have meant admitting that Mike was having a heart attack. And though he’d said the words, he didn’t believe them, and she didn’t either.

Mary told herself to be careful as she sped down neighborhood streets. People were out walking their dogs, grabbing the last bit of light. She heard the high school band practicing in the distance. Mike was slouching in his seat with his hands on his knees. I can get him to St. Al’s in 15 minutes, Mary thought, as long as we don’t hit traffic.

As she drove, Mary went through all the reasons Mike couldn’t be having a heart attack. He wasn’t overweight or sedentary, he wasn’t a smoker, and no one in his family had heart disease. But then there was a list of reasons on the other side, Mary thought: he’s a man, and men have heart attacks more than women, and if this wasn’t a heart attack, what was it?

Their route to the hospital took them within a few blocks of where Mike’s doctor, Greg Lewer, lived, and Mike asked Mary to swing by Lewer’s house. They were friends, and Mike was hoping Lewer would say the pain was just heartburn and Mike didn’t have to go to the hospital after all. Mary balked at Mike’s request, then relented, thinking Mike would get to a doctor sooner that way.

They found Lewer in his backyard, stargazing through his telescope. Mary explained that Mike was having chest pains. Lewer looked at Mike, standing doubled over, with his hands on his knees,



trying to breathe. He took Mike's pulse, felt his clammy touch, and told Mary to rush Mike to the hospital.

There was a knot in Mary's stomach as she weaved her car through end-of-the-day neighborhood traffic along Boise's wide, clean streets. Her teeth were clenched so hard her jaw hurt. She pushed away the thought that Mike was having a heart attack, because it was followed by another one—people died from heart attacks. My task right now, she told herself, is to get him to the hospital. He's conscious, he's talking to me. He's not dying.

When they got to the hospital, she dropped Mike off at the entrance to the emergency room and prepared to park the car. As she watched her husband's graying head disappear behind the smoky glass doors of the emergency room, Mary was gripped by panic. I have just seen my husband alive for the last time, she thought. Mike was nine years older than she, and Mary had always thought he'd die before her. They had talked about it before they got married, and she'd made her peace with it. But the thought that he might die, alone, while she was parking the car was intolerable, and she ran out, leaving the key in the ignition. Somebody will move the car if it's in the way, she thought. Or else they'll steal it. She didn't much care what they did.

Mary caught up with Mike just as the nurses were wheeling him out of the triage area and onto the emergency ward for an EKG. When a doctor asked the nurses to give Mike a nitro pill, Mary heard her husband react with shock.

"What, am I having a heart attack?" he asked.

The doctor patted Mike's forearm.

"Yeah, man, you are," he said. "You're taking a heavy hit to the lower half of your heart."

Mary saw Mike sink into himself as he heard that. It was as if he'd had the air knocked out of him. The nurses were rushing to

prepare Mike for the cath lab, where doctors would insert a catheter—a thin plastic tube—up his groin and into his coronary arteries in search of the blood clots that had caused the heart attack. Mike watched the bustle, consumed with anger. This was about the stupidest thing that had happened to him. He had four children—the youngest, Seth, was only 17. His own father had died of lung cancer when Mike was 16.

“I eat right. I’ve never smoked in my life. I don’t drink,” he thought. “This isn’t right. I haven’t brought this on.”

He didn’t understand why the doctors and nurses weren’t talking to him. They were mostly talking to Mary.

“Am I going to die?” he thought.

He knew one thing, he wouldn’t go easy.

“They’ll have to drag me off the planet, one piece at a time,” he thought.

Mary wasn’t too sure herself if Mike would make it. The nurses were talking in low whispers.

One of them asked her, “Is there a minister or someone I can call?”

They’re treating me like a widow, Mary thought, and began to call the children.

She thought of Seth first, who was home alone, waiting for word. But she didn’t want him to hear of his father’s heart attack over the phone. She called Dr. Lewer to ask if he would go break the news to Seth. Then she called her daughters Amanda, 24, and Olivia, 21, saving the call to her oldest, 27-year-old Rachel, for last. Rachel lived clear across the country in Boca Raton, Florida, with her husband.

Mary walked alongside Mike’s gurney through the maze of corridors that connected the emergency room to the cath lab. He was only half conscious when she kissed him goodbye. Their friends, Helen and Duke Bersema, had arrived at the hospital in time to make the walk with her. All three got on their knees to pray out loud in the

waiting room. They would accept God's will, they said, but asked that it be the outcome they wanted—that Mike would live.

Both of Mary's daughters brought their boyfriends to the hospital. Amanda's face, usually rosy, was white. How could her healthy, active, careful father have had a heart attack, she asked Mary. He wasn't overweight, he didn't smoke. Olivia was in shock and couldn't speak. She would open her mouth, but there were no words. All she could do was cry. Seth was too agitated to sit with them when he got there. He found the room where Mike was being catheterized and stood outside its doors, looking lonesome and brave in his cargo shorts, t-shirt, and sneakers.

"Is this all I am going to get with him? Twenty-seven years?" Mary thought bitterly, as she sat in silence with her family.

She had met Mike through a mutual friend in February 1973. She was 19, he was 28, and she had known quickly that she wanted to marry him. His clear green eyes had a depth and intensity she trusted. They married a few months later. The children had followed quickly: Rachel in Florida; then Rebecca, who died when she was a day old; Amanda, in North Dakota where Mike worked as a beekeeper; and finally Olivia and Seth, here in Idaho, where the family had moved in 1979. Mary was 47 now, not an age at which she'd expected to become a widow.

IT WAS SETH WHO ran into the waiting to tell them he'd seen Mike being brought out of the procedure room. Unbeknownst to him, his father had spied him too, as orderlies carried Mike in a gurney down the long hospital corridor to the intensive care unit. The sight of his son's running back filled Mike with emotion.

He said to the man in scrubs who was pushing his gurney, "When you are a man, daughters make you want to live, but sons make you want to live forever."

With Seth leading the way, the family hurried to the intensive care recovery room. This is surreal, Mary thought, when she saw her husband lying sedated and semiconscious. But Mike's made it this far, she thought. I think he's going to live.

Seth reached Mike's bedside first. He held his father's hand, and at last, he cried. Mary took Mike's other hand and kissed his forehead. Olivia was still too upset to speak. She just sobbed.

All the attention made Mike uncomfortable, and he searched, groggily, for a way to change the subject. He spotted Amanda's boyfriend, Tom, in the group, and remembering that Tom had just bought a new camera, he made an effort at small talk.

"Tom, did you get that camera working?" he said.

The cardiologist came into the room a few minutes later with a picture of Mike's heart. He showed Mary the clot that had caused Mike's heart attack. Then the cardiologist said something that confounded her.

"I really envy this guy's heart," he said. "He's got huge arteries. They're like garden hoses."

Mary stared at him, nonplussed. My husband's had a heart attack, she thought, and this guy's telling me he envies his heart?

The cardiologist told Mary he saw no reason for Mike's heart attack. He stood near her, his arms crossed, one index finger tapping his lips, and asked her matter-of-factly what drugs her husband was on.

"What are you talking about? My husband's a straight arrow," she thought, until she realized the doctor wasn't asking about street drugs.

"Nothing," she said, "He just takes aspirin, ibuprofen, and Vioxx."

Dr. Lewer had prescribed the Vioxx for pain after Mike tore a ligament in his good knee at work.

The cardiologist stopped tapping his lip and held up his index finger, as soon as Mary said, "Vioxx."

“Don’t let him take that anymore,” he told her.

Confused again, Mary asked why.

“There’s a little-known study that shows Vioxx can cause heart attacks,” he said.

Mike Humeston had taken 56 Vioxx pills over the course of five months before his heart attack.

Years later, Mary could still remember her shock.

“You could have knocked me over with a feather,” she said.

She knew the government had to approve drugs before they could be sold. How could Vioxx be on the market if they knew it caused heart attacks? She came to believe the cardiologist had saved her husband’s life by alerting her to Vioxx’s potential risks long before they were generally known. Other doctors at the hospital were also apparently unaware of them, and continued Mike’s daily Vioxx for two more days. When they got home, Mary made sure her husband never took a Vioxx again.

IT WAS A FEW MINUTES after noon, on Sunday, September 15, 2002 in Waupaca, Wisconsin, when 15-year-old Kyle Hermans knocked on the door of his father’s second-floor apartment. The Green Bay Packers were about to start playing the New Orleans Saints, and Kyle and his father were diehard Packers fans. But his father didn’t answer the door, and Kyle went back downstairs. He wasn’t carrying his key. He only spent weekends at the apartment; his parents had been divorced since he was a baby, and he spent the week at his mother’s.

His father’s van was parked outside and it was unlocked. Kyle tuned the radio to the football game and waited. At half-time, when there was still no sign of his father, Kyle borrowed a neighbor’s ladder. He made his way around the side of the house to where he had noticed an open window, and climbed up the ladder.

He saw his father through the window—lying face down on the floor in black warmup pants, a t-shirt, and white socks with the TV on. Kyle hoisted himself into the room, and knew as soon as he put his hand to his father's back. His father was dead.

"You have to come over right now," he told his mother on the phone, but he didn't say why.

He was sitting on the steps outside, shaking, when Kim Spoerl pulled up.

"Dad," he said, when she asked him what was wrong.

Spoerl found her ex-husband sprawled on his living room floor with a clear fluid oozing out of his mouth and nose. Brian Hermans was pronounced dead later that afternoon by the Waupaca County deputy coroner. In addition to his son, Hermans was survived by three siblings, Kathleen and Kevin, both of Green Bay, and Matthew of Saukville, Wisconsin; and by his parents, Vincent and Doris, also of Green Bay.

Many years later, Vincent Hermans recalled how he and his wife learned of their son's death on September 16, the day after Brian Hermans's body was found. The elder Hermanses had been away for the weekend and arrived home to find their children Kevin and Kathleen in the driveway. They had come to break the news to their parents.

"My wife went in the house first... and I heard her scream," Vincent Hermans recalled. "And then I went in, and they told me too."

An autopsy revealed that a "firm," "red-black" blood clot had lodged in one of Brian Hermans's arteries to cause an "acute myocardial infarction." Hermans, 44, had died of a massive heart attack.

The finding shocked his family.

Brian Hermans had been the fittest of his siblings. He had played racquetball competitively in college and had played a mean game until he died. He was an avid biker and an all-round athlete. His golf

clubs were next to the couch when he died, ready for the early morning round he had hoped to squeeze in before the football game. The only health problem his family knew Brian to have was pain from a high-school knee injury, which had troubled him for many years.

The coroner's report noted that Brian Hermans was on two medications when he died: the antidepressant Fluoxetine, better known by its brand name, Prozac; and Vioxx, for the knee pain. His brother Matthew found the Vioxx prescription bottle next to the phone in Brian's kitchen with four pills remaining.

By the time Brian Hermans died, several large studies had shown that Vioxx could cause heart attacks. But it would be a long time before his family thought to ask if the pills played any part in Brian's death.



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*"This is a bad drug. We've got to do something about it."*

## CHAPTER I

# The Beginning

THE LAWSUITS BEGAN WITH a phone call from a saleswoman at a Houston department store to a lawyer named Carlene Lewis. The saleswoman knew Lewis through Lewis's mother, who shopped at the department store. It was the fall of 2000, and Louise Bell, then 73, told Lewis of a car accident the year before in which she had banged up her knee. She was given a prescription painkiller, Bell said, and soon after she started taking it, her blood pressure shot up. It went so high that at the store's Estee Lauder counter, where she worked, the girls would say to her, "Louise, what's wrong with you? You're beet-red."

Eight months later, on her way to a formal dance, Bell had the worst headache of her life. She started babbling, and her date brought her home. Later that evening, Bell suffered a seizure. A cardiologist said it had been brought on by high blood pressure. He blamed the painkiller. Bell was forced to cut back her hours at the department store and was in debt. Could Lewis do anything to help, Bell asked. The painkiller, of course, was Vioxx.

Lewis, a soft-spoken woman who crackled with energy, promised to investigate. Vioxx was still a new drug, and in the United States, the most public controversies over its safety lay in the future. But