

# Of Counsel

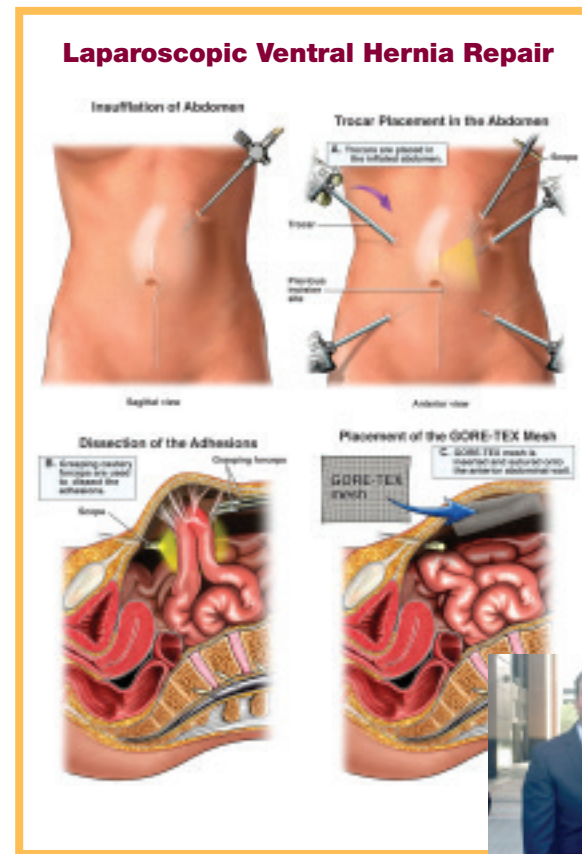
A REPORT TO CLIENTS & ATTORNEYS VOLUME 17, NUMBER 2

## \$1.55 million jury verdict won against negligent surgeon

**Patient suffered perforated bowel during routine abdominal surgery because of doctor's failure to check for injury**

On June 20, 2017, SDSBS attorneys **Matthew Schwencke** and **Ed Ricci** obtained a \$1.55 million jury verdict on behalf of their client, Linda Jones (not her real name to respect her privacy). Mrs. Jones suffered a perforated bowel during abdominal surgery performed in September 2010 by the defendant doctor, a general surgeon. The attorneys established that the defendant failed to be reasonably careful by failing to inspect Mrs. Jones' bowel to check for injuries prior to concluding the surgical procedure. As a result of this failure, Mrs. Jones suffered an abdominal infection followed by septic shock. She required emergency surgery two days later. Despite a prolonged stay in the hospital and in-patient rehabilitation, Mrs. Jones never regained her full strength and balance and was never the same again.

The case was litigated for six long years. It was hotly contested by the defendant surgeon who denied that he was negligent. He also denied that Mrs. Jones had any long-term sequelae resulting from



the septic shock. Before trial, the defendant had offered to settle for a mere \$15,000.

During the trial, Mr. Schwencke and Mr. Ricci educated the jury regarding the law requiring a surgeon to exercise care and avoid cutting corners. After a five-day trial, the jury agreed with the plaintiff, finding that the defendant was negligent and therefore responsible for \$176,484 in past medical expense and \$917,785 for future medical care. In addition, the jury found that Mrs. Jones was entitled to \$400,000 for pain and suffering in the past, and \$60,000 for pain and suffering that will be incurred in the future. ♦

**Right: Attorneys Matthew Schwencke and Ed Ricci.**



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**Chris Searcy** included in Top Ten Florida Super Lawyers

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**\$1 million settlement** for neck injuries after traffic accident  
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**SEARCY DENNEY SCAROLA BARNHART & SHIPLEY PA**

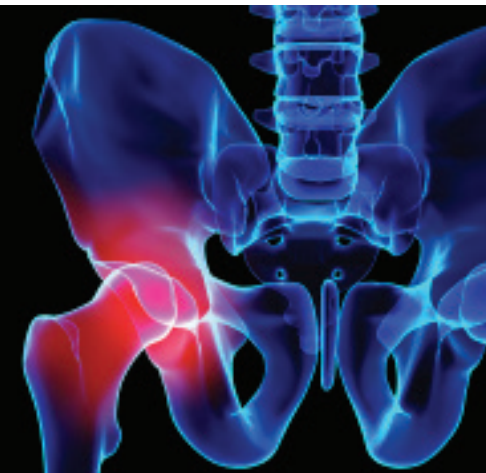
ATTORNEYS AT LAW

# Serious hip fracture in slip-fall accident results in long, difficult recovery

## Gas station was negligent in cleaning pavement

In July 2016, Ken Lewis (not his real name) pulled into a gas station to fill his car with gasoline. He got out of his car and walked toward the rear of the vehicle to reach the pump. As he did so, he stepped into a greasy substance and slipped, falling to the ground. Unable to move, he lay there until an ambulance came and transported him to a local hospital. He was diagnosed with a displaced hip fracture. His surgeon said that it was the worst type of hip injury – 90% of patients suffering that type of fracture eventually need a hip replacement. Due to Ken’s young age, however, the surgeon was able to perform an open reduction and internal fixation to give Ken his best chance to completely heal. The surgery was very complex with multiple screws inserted to secure the hip. Following surgery, Ken endured weeks of physical rehabilitation and months more of home care and therapy. He was unable to walk for four long months.

The surgeon placed Ken on light-duty restrictions. Ken is employed in the medical field, but he has not returned to work because he is still unable to stand for long periods or to bear any significant weight. His duties include lifting and helping patients which he can no longer do. He struggles every day to improve his physical capabilities so he can return to work. Because of the fracture, he is now at higher risk for developing early-onset arthritis. His future will likely involve more pain and future impairment of his daily living activities.



**Ms. Terry also established that gas station managers received bonuses based on controlling expenses . . . this station had been too understaffed to maintain a safe environment for its customers.**

Ken contacted SDSBS attorney **Karen Terry** and asked for help in obtaining accountability from those responsible for his severe injuries. Upon investigation, Ms. Terry found that the policies and procedures at the gas station were very clear: spills must be cleaned up immediately. It was the responsibility of gas station personnel to make sure the pavement was always free of gasoline and oil. Guest safety was of the utmost importance. Ms. Terry also established that gas station managers received bonuses based on controlling expenses and staying under budget. This gas station had been understaffed such that it was unable to maintain a safe environment for its customers.

Ms. Terry filed a court action against the gas station management asking for damages resulting from their negligence. Shortly before a jury trial was scheduled to begin, the parties reached a confidential settlement. The settlement will help Ken move forward with his life and hopefully improve his physical capability in order to return to his work. ♦



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A REPORT TO CLIENTS & ATTORNEYS **VOLUME 17, NUMBER 2**

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NOTE: The accounts of recent trials, verdicts and settlements contained in this newsletter are intended to illustrate the experience of the firm in a variety of litigation areas. Each case is unique, and the results in one case do not necessarily indicate the quality or value of any other case. Omitting clients' names and/or defendants' names are the result of requests for anonymity.



**Brian and Rosemary Denney noted as 'power couple' in local magazine**

Brian Denney and his wife Rosemary were the subject of an article in *Palm Beach Magazine*, Summer 2017 edition, on Palm Beach County's "power couples." Brian is an attorney and shareholder at SDSBS, and Rosemary is CEO/chief brand strategist of Wealth Matters Consulting.

## **\$1 million settlement for neck injuries suffered for years after traffic accident**

### **The at-fault company's insurance company failed to take responsibility for driver's accident**

In late 2013, Jane Doe (not her real name) and her daughter were driving down a highway in their hometown. Just after they came to a proper stop at a red light, a large dump truck owned by a waste company rear-ended their vehicle. After the collision, Ms. Doe was taken to a nearby hospital for examination and treatment for neck injury. Her daughter also reported suffering neck pain after the accident. When Ms. Doe's pain did not diminish following her initial treatment, she went to another doctor for further evaluation. The doctor ordered a magnetic resonance imaging which revealed cervical disc herniations at several levels. Although Ms. Doe endured prolonged conservative therapy, including epidural steroid injections, the pain did not subside. In 2015, it was determined that her pain might be relieved by a C5-6 anterior cervical discectomy and fusion surgery. The surgery initially provided some relief, but the pain returned. In 2017, she was forced to endure a second cervical discectomy and fusion.

Because of the injuries, Ms. Doe missed work and suffered years of pain. The insurance carrier for the waste company failed to take any responsibility for the driver's accident. They offered nothing for Ms. Doe and her daughter's injuries and medical expenses. Ms. Doe contacted SDSBS attorney **Brian Denney** and asked if he would represent her in a legal action against the waste company. Just prior to trial, the case was settled for \$1 million. ♦



**The insurance carrier for the waste company failed to take any responsibility for the driver's accident... they offered nothing for the injuries and medical expenses.**

## Meeting Corner: David P. Vitale, Jr.



Please welcome our newest attorney, **David P. Vitale, Jr.** Mr. Vitale brings to SDSBS a broad range of experience and has litigated commercial, personal injury, and probate cases. He has also represented clients in both state and federal courts and is particularly passionate about representing individuals on issues brought against large corporations, insurance companies, and government agencies. In a recent case, Mr. Vitale served as part of an SDSBS team that successfully resolved a civil rights claim on behalf of the surviving family members of an unarmed African-American man who was killed during an encounter with law enforcement.

Prior to becoming an attorney, Mr. Vitale enjoyed a successful career as a certified public accountant. He received his juris doctor from Boston College Law School where he graduated second in his class. During law school, Mr. Vitale met his wife, Berkley, who is also an attorney in the south Florida area. Together, they are the proud parents of a one-year-old son, Tripp, as well as a yellow Labrador retriever, Riggins. ♦

## Rapid IV replenishment of sodium results in baby's death

### Proper procedure should have taken at least 48 hours, not 20 hours

Baby Gabrielle was born in May 2013 to Irene and Harry Jones (not their real names). Prenatal care was normal. Irene went into labor somewhat early and the baby was delivered by cesarean section. Follow-up visits to the pediatrician indicated a healthy infant who was gaining weight. In August, the pediatrician administered three routine vaccinations with no adverse reaction. Following a fourth vaccination, Irene noticed that Gabrielle seemed a bit “fuzzy” and there was a slight decrease in the amount of time she would nurse.

As the days went by, Irene noticed that Gabrielle nursed with less vigor and for shorter periods of time. Because Gabrielle’s appetite had previously been very good, Irene became concerned and took her baby to the pediatrician. Based on Gabrielle’s loss of appetite and weight loss, the pediatrician thought she was suffering from acid reflux and prescribed an antacid. Gabrielle did not improve and continued losing weight. Irene and Harry were referred to a pediatric gastrointestinal (GI) clinic for further examination. The next day, doctors at the GI clinic examined Gabrielle. A stool specimen revealed a trace of blood consistent with a milk intolerance. Gabrielle was also dehydrated, so the pediatric gastroenterologist decided to admit her to the children’s hospital for additional bloodwork and IV fluid treatment to address her dehydration. By the time Gabrielle was admitted, it was after 6:00 p.m. Staff nurses performed the bloodwork ordered during her admission. However, despite several attempts to start an intravenous (IV) line, the nurses were unsuccessful. Several more hours went by and Irene and Harry were getting frustrated that a doctor had not been by to check on Gabrielle.

By 11:00 p.m., Gabrielle had become increasingly agitated and began vomiting. Irene and Harry were growing more anxious and began yelling for the staff nurses to find the doctor to come and check on Gabrielle. In the next few minutes, a team of nurses and a doctor came to the room. They placed the IV line on the first try and said they would have the attending doctor come see Gabrielle. Just after midnight, the attending doctor arrived. He explained that the blood tests done on admission (the previous evening) had shown a life-threatening low sodium level of 105 mEq/L. They had planned to recheck the original blood work to verify the low sodium level. Irene told the doctor that no one had come to draw blood since her admission. She asked why they had not done the second blood test right away. The doctor replied, “Well, we didn’t think it was accurate so it wasn’t urgent.” The medical personnel then did another blood test and it revealed that Gabrielle’s sodium level had dropped even lower, to 100mEq/L.

Sodium is a critically important electrolyte. Everyone, from newborn infants to senior citizens, requires the right amount of sodium within their blood-

stream in order to regulate the amount of water that's in and around your cells. The medical term for low blood sodium is called hyponatremia. The normal range for an infant's sodium level is 135 to 145 mEq/L. When a person is suffering from hyponatremia, the body's water levels rise, and cells begin to swell. The swelling can cause many health problems, some of which are life-threatening. Hyponatremia can easily be corrected with proper IV fluid administration containing sodium. However, the most important part of replenishing very low sodium levels is to do it over a 48-hour period of time to allow the body time to absorb the sodium without causing dangerous inflammation of the brain. The more rapid the fluctuations in the sodium level, the greater the risk of devastating brain swelling.

At 3:00 a.m., Gabrielle was moved to an intensive care unit (ICU) at the children's hospital where she was sedated and intubated. A central line was inserted and it began replenishing her fluids. At 9:00 a.m., a doctor reported that she was doing well and that replenishing Gabrielle's sodium must be done slowly over the next 48 hours to allow her body time to absorb the sodium safely. However, after only 12 hours, a nurse reported that Gabrielle's sodium level was now up to 120 mEq/L. Medical records would later reveal that only 20 hours after the doctors started the sodium replenishment, Gabrielle's sodium count was at 138 mEq/L.

**The most important part of replenishing very low sodium levels is to do it over a 48-hour period of time to allow the body time to absorb the sodium without causing dangerous inflammation of the brain.**

The next morning, Gabrielle began crying and screaming as if in pain. Irene noticed that Gabrielle's eyes did not follow people moving around her and had no real focus and her gaze appeared to be fixed toward the left. The following afternoon, doctors asked Irene to feed Gabrielle from a bottle. She consumed very little, very slowly. When doctors tried to feed her using a nasogastric tube, her heart rate soared to 220 beats per minute (bpm). After removing the tube, her heart rate dropped slightly. Later that day, while being held in Irene's arms, Gabrielle had a seizure.

At this point, Irene and Harry were extremely concerned that their baby was not being properly cared for by the medical personnel and asked to have Gabrielle transferred to another children's hospital. There, Gabrielle was placed in a Special Care Unit where the new team of doctors immediately began a complete examination of her *(Continued on page seven.)*



**Above: Jim and Josie Gustafson; Right: Laurie Briggs with Chris Searcy.**



## **SDSBS participates in Florida Justice Association's Annual Convention**

In June 2017, members of SDSBS participated in presentations at the Florida Justice Association's Annual Convention held at the Don CeSar Hotel in St. Petersburg Beach, Florida.



**Chris Searcy** was recognized for his significant contribution and support of the Association. ♦



**Jim Gustafson**, president of FJA, provided the "Annual Review Seminar: 2017 Legislative Changes and Case Law Update." ♦



As part of the seminar "Advanced Trial Skills: Perfecting Your Competitive Edge," **Brenda Fulmer** spoke on "Effectively Dealing With Difficult Witnesses and Clients." ♦



**Laurie Briggs** received her fourth consecutive "FJA Cornerstone Award" for her tireless efforts in membership recruitment and retention. ♦



And paralegal **Bonnie Stark**, program co-chair for the FJA's "Civil Litigation for Paralegals and Legal Assistants," spoke on the topic "Knowing Your Jury: Conducting Jury Research." ♦

## Speaking Opportunities



**Chris Searcy** spoke on “Proof and Argument of Damages for Loss of Various Senses – Sight, Smell, Hearing, Touch (or Physical Feeling), or Taste” at the Florida Justice Association’s Workhorse Seminar held in March 2017 at the Wyndham Bonnet Creek Resort, Orlando, Florida. ♦



In April 2017, **Jack Scarola** spoke at the PEACE Nehemiah Action Assembly held at the Palm Beach County Convention Center in West Palm Beach, Florida. Approximately 3,000 attendees gathered, including local elected officials, to address commitments on three significant social justice issues affecting the community – the crisis of homelessness in Palm Beach County, particularly involving an estimated 3,750 children; arresting children for first-time misdemeanor offenses, in lieu of civil citations; and finding funding for a Community Identification Program to help immigrants find acceptable forms of identification to use in acquiring driver licenses. Mr. Scarola has spent many years actively supporting The Lord’s Place, a shelter providing support for the homeless in West Palm Beach, Florida. He currently serves on its board of directors. ♦



In May 2017, **Sia Baker-Barnes** was a panelist at the Palm Beach County Bar’s “Diversity Summit” held at the Marriott Hotel, West Palm Beach, Florida. The topic for the panel was “How to Improve Diversity and Inclusion in the Future.” Ms. Baker-Barnes also spoke to a group of second grade students at Westward Elementary School’s Career Day. She described to the students what it is like to have a career as a lawyer. Career Day is designed to educate, inform, and encourage students in selecting future careers. In June 2017, Ms. Baker-Barnes was selected to introduce the keynote speaker at the Florida Bar Foundation’s Gala, held during the Florida Bar Convention at the Boca Resort & Club in Boca Raton, Florida. ♦



In May 2017, **Brenda Fulmer** spoke with a group of attorneys, marketing consultants, and industry insiders attending the American Association for Justice’s annual Marketing and Management Seminar held in New Orleans, Louisiana. In April 2017, Ms. Fulmer spoke to students at the Bak Middle School of the Arts, West Palm Beach, Florida, on the legal profession and her career fighting to make pharmaceutical products and medical devices safer for consumers. ♦



The Florida Justice Association’s Workhorse Seminar was held in March 2017 at the Wyndham Bonnet Creek Resort, Orlando, Florida. **Brenda Fulmer** and **Cal Warriner** offered a presentation on the topic “The Handling, Litigation, and Trial of a Hip or Knee Medical Device Product Liability Case.” Jim Gustafson spoke on “Proof and Argument of Damages for Spousal Loss of Consortium.” ♦



In May 2017, **Mariano Garcia** gave a presentation to a group of students at Belvedere Elementary School in West Palm Beach, Florida, as part of the Palm Beach County Bar’s “Law Week Program.” He spoke with the students about his experience in coming to the United States from Argentina when he was eight years old, the importance of pursuing a college education, and career planning. ♦



In February 2017, both **Jack Hill** and **Kelly Hyman** spoke to a class at the Palm Beach Atlantic University’s School of Nursing in West Palm Beach, Florida. Their subject was “The Legal Aspect of Nursing Negligence Claims.” In March 2017, Mr. Hill gave a presentation to the American Postal Workers Union retirees at their spring seminar held in Daytona, Florida. He updated the group on cases involving pharmaceutical products and medical devices, and changes in auto insurance. Ms. Hyman also spoke at the 360 Advocacy conference held in March 2017 in New Orleans, Louisiana. The subject of the conference was “Trial Skills from a Woman’s Perspective.” Her topic was “Under the Bright Lights: Trial Tips from the Stage.” ♦



In May 2017, **Ed Ricci** participated in a mock trial with the fifth-grade class at Forest Hill Elementary School in West Palm Beach, Florida. Mr. Ricci described how the legal system is used to resolve disputes. Students volunteered to role-play all the different jobs in a courtroom and presented the actions of an actual trial. The students listened to testimony from witnesses, heard arguments from lawyers, deliberated as a jury, and rendered a verdict. They completed the presentation with a group discussion about responsibility and fault. ♦



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*Pasión Para La Justicia*

**Rapid IV replenishment of sodium results in baby's death**  
*Continued from page five.)*

hospital course. The doctors were concerned about how quickly Gabrielle's sodium level was replenished at the previous hospital and suspected the seizures were causing the eye gazing and crying. They put her on an electroencephalogram (EEG) and administered some anticonvulsive medications. The EEG showed multiple seizures during the day. The doctors also ordered magnetic resonance imaging (MRI) scans of Gabrielle's brain. The imaging revealed that Gabrielle had suffered severe brain swelling at the other hospital caused by the doctors correcting her low sodium level too rapidly.

To stop the seizures, the doctors had to place Gabrielle in a medically induced coma. After a number of days, she was brought out of the coma, but the seizures resumed. The doctors scheduled more MRIs and EEGs. The results confirmed that Gabrielle's brain had suffered severe damage from the rapid correction of her low sodium level. Her parents were told that she would never function normally and would not survive off the ventilator. In a heart-wrenching decision, Irene and Harry agreed to have Gabrielle removed from the ventilator. Their four-month-old daughter died immediately while they held her in their arms.

The grieving parents contacted SDSBS attorneys **Chris Searcy** and **Cameron**

**Kennedy** and asked for their help in determining if negligent care had caused the death of their child. Mr. Kennedy conducted a detailed review of the medical records with experts in the fields of pediatric critical care and nephrology. The review confirmed that the actions of the healthcare providers at the first children's hospital were negligent and clearly departed from the standard of care known to all pediatric specialists. The medical records revealed that the healthcare providers that ordered the sodium replacement had failed to titrate the dosage (meaning continuously checking labs and adjusting the amount of sodium concentrate in the IV fluids) to allow for a safe and gradual increase over a 48 hour time period. Instead, the healthcare providers ordered a rapid sodium infusion and within 20 hours had corrected the sodium level to normal, and the results were devastating. The rapid fluctuation caused by the failure to properly titrate the sodium replacement resulted in severe brain swelling and damage that killed Gabrielle.

Ultimately, Mr. Searcy and Mr. Kennedy were able to reach a confidential settlement for Gabrielle's parents. No settlement, or court judgment, could ever compensate Irene and Harry Jones for the loss of their daughter. But justice did insure that the healthcare providers were held accountable for the incompetent care provided to Gabrielle. ♦

In June 2017, SDSBS attorney **Sia Baker-Barnes** was sworn in as president of the Palm Beach County Bar Association.



## MASS TORT PROJECTS OF INTEREST

### **Abilify**

Pathological Gambling

### **Bair Hugger Warming Blankets**

Infections

### **Benicar**

Chronic Diarrhea

### **Essure**

Organ Perforation

### **Fluoroquinolone Antibiotics (Levaquin, Cipro, Tequin, and Avelox)**

Peripheral Neuropathy  
Aortic Aneurysm

### **Invokana and Farxiga**

Kidney Failure  
Ketoacidosis

### **IVC Filter**

Embedment  
Heart and Lung Perforation  
Migration  
Pulmonary Embolism

### **Januvia, Janumet, Byetta, and Victoza**

Pancreatic Cancer  
Thyroid Cancer

### **Laparoscopic Power Morcellator**

Uterine Cancer

### **Lipitor**

Diabetes

### **Metal-on-Metal Hip Implants (DePuy, Zimmer, Biomet, and Wright Medical)**

Device Failure and Loosening  
Inflammatory Response  
Metallosis

### **Proton Pump Inhibitors (Nexium, Prevacid, Prilosec, Aciphex, Protonix, Zegerid, and Dexilant)**

Renal/Kidney Failure

### **Propecia and Proscar**

Sexual Dysfunction  
Male Breast Cancer

### **Risperdal**

Gynecomastia

### **Roundup Weed Killer**

Non-Hodgkin Lymphoma  
Leukemia  
Multiple Myeloma  
Soft Tissue Carcinoma  
Bone Cancer

### **Stöckert 3T Heater-Cooler System**

Non-tuberculous mycobacteria infection

### **Stryker Rejuvenate, ABG II, LFT V40, and Accolade Hip Implants**

Premature Device Failure  
Metallosis  
Inflammatory Response

### **Talcum Powder**

Ovarian Cancer

### **Taxotere**

Permanent Hair Loss

### **Testosterone**

Blood Clots  
Heart Attacks  
Stroke

### **Viagra and Cialis**

Melanoma

### **Xarelto, Eliquis, and Pradaxa**

Uncontrollable Bleeding  
Death

### **Zimmer Biomet Shoulder**

Fractures

### **Zofran**

Birth Defects

# SEARCY DENNEY

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### **Stryker Hip Stems and LFIT-V40 Heads**

**USE:** Modular, metal-on-metal hip implant.

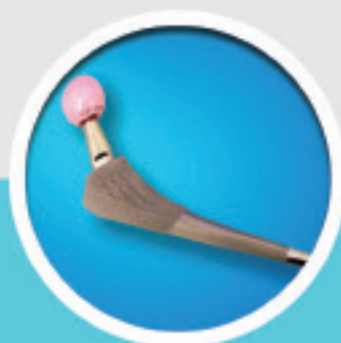
**HARM:** Dissociation of femoral head resulting in catastrophic injuries; metallosis; elevated cobalt and chromium; pseudotumors; bone and tissue damage; and need for revision surgery.



### **Xarelto, Eliquis, and Pradaxa**

**USE:** Treatment for atrial fibrillation, and post-operative blood clot prevention.

**HARM:** Inability to reverse impairment of blood clotting, which causes uncontrollable GI bleeding, intracranial hemorrhaging, and death.



### **Modular Hip Implants**

**USE:** Modular, non-metal-on-metal hip implant.

**HARM:** Modular components corrode leading to metallosis; premature device failure; elevated cobalt levels; pseudotumor formation; and osteolysis.



### **Stöckert 3T Heater-Cooler System**

**USE:** Control a patient's body temperature during surgery.

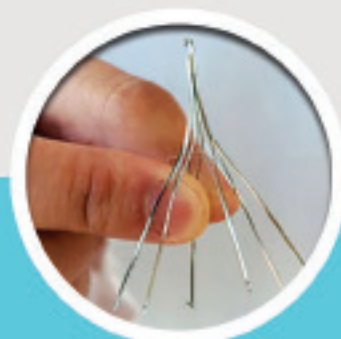
**HARM:** Non-tuberculous mycobacteria infection



### **Metal-On-Metal Hip Implants**

**USE:** Hip implant devices with metal head and liner.

**HARM:** Breakdown of metallic surfaces; abnormal wear; premature device failure; elevated cobalt and chromium; metallosis and pseudotumor formation.



### **IVC Filters**

**USE:** Temporary use to prevent blood clots.

**HARM:** Hemorrhage; migration; pulmonary embolism; stroke; and death

# SEARCY DENNEY

SEARCY DENNEY SCAROLA BARNHART & SHIPLEY, P.A.

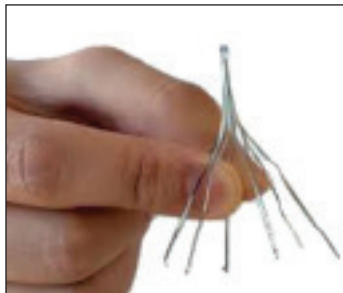
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## Mass Tort highlights for 2nd quarter 2017



### IVC Filters

Judge Richard L. Young of the U.S. District Court for the Southern District of Indiana is scheduled to hold the first IVC multidistrict litigation bellwether trial in October against Cook Medical.

This coordinated litigation includes nearly 2,000 individual lawsuits against the IVC filter manufacturer. Retrievable IVC filters are implanted in the vena cava, the body's largest vein, in patients that are at risk for developing blood clots, but cannot use blood thinners. A number of patients have been injured by these defective IVC filters due to migration, fracture and perforation of the devices, which can cause emboli, organ damage, and in some cases, death. ♦



### Stöckert 3T Heater-Cooler System

Stöckert 3T Heater-Cooler Systems are used during cardiothoracic surgeries to control the body temperature of patients, which is thought to improve the success of surgical outcomes. However, these devices have been linked to non-tuberculous mycobacterium (NTM) infections by the FDA. The tanks of these systems can contain water contaminated by mycobacterium chimera, which is then released into the air of the operating room through the equipment's exhaust system. Patients with weakened immune systems, such as someone undergoing heart surgery, are particularly susceptible to contracting NTM infections from contact with this mycobacterium. Numerous lawsuits are being filed against LivaNova, the manufacturer of this device, for patient injuries and deaths attributable to the design defects in this medical equipment. Numerous hospitals around the country have notified patients of a potential issue with their Stöckert 3T systems and have urged patient testing and monitoring for signs of a NTM infection, which may not be diagnosed for years after exposure. ♦

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## Noteworthy Mass Tort Settlements in Early 2017

**\$170,000** settlement for a Nevada plaintiff from a medical device manufacturer

**\$770,000** confidential settlement for Texas plaintiff from manufacturer of Actos

**\$400,000** settlement from medical device manufacturer for Florida plaintiff

**\$240,000** for medical device manufacturer client in Nebraska

**\$430,000** settlement from drug manufacturer for Florida plaintiff

**\$150,000** for medical device hip implant manufacturer for an Ohio plaintiff.

**\$480,000** confidential settlement for Wisconsin plaintiff from drug manufacturer

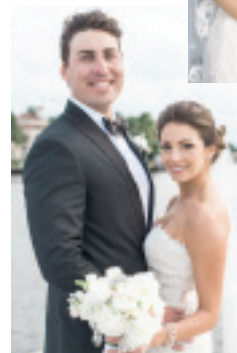
## On a personal note...

Four of SDSBS' attorneys were recently married, proving love was in the air! We congratulate them.

**William Price and Karen Terry.**



**Matthew and Kristen Schwencke.**



**Donald and Abbey Ward.**



**Above: William and Andrea Lewis.**

# Horrific accident kills grandparents; three-year-old sole survivor suffers severe trauma for years

## Settlement ensures support for child as he heals

Bobby Smith (not his real name) was born in July 2010 to a very young mother and father, not much beyond being children themselves. The young parents knew their shortcomings and their inability to provide the best home for their beautiful son. As a result, Bobby's grandparents, Carl and Denise Smith (not their real names), adopted Bobby and took him home to love and care for him as their own. To Bobby, they were Mommy and Poppy. They loved and adored the baby, providing him the same joyful life, stability, and protection that they had provided for all of their children.

In 2013, all of that changed, tragically and abruptly. As Carl and Denise drove down a local highway, with Bobby in his car seat in the back, they approached an intersection. Suddenly, a delivery truck crossed the highway into the oncoming traffic, crashing into the left rear of the Smiths' car. The car careened across the highway, toppled onto its side, and crashed into roadside trees with such force that the vehicle was crushed. Three-year-old Bobby was the only survivor, now trapped in the wreckage, calling for his Mommy and Poppy to help him. He continued to cry for them after emergency services arrived on the scene and removed him from the car. He was taken to a nearby hospital for examination and treatment. Carl and Denise were declared dead at the scene of the accident.

Earl and Frank Smith, sons of Carl and Denise, took Bobby to their homes and cared for him in the aftermath of the accident. Eventually, Earl and his wife, Amy, were allowed to adopt Bobby and to care for him as their own child. Bobby's traumatic suffering made it a great challenge. His trauma and loss, caused by the horrifying and gruesome accident, resulted in the diagnoses of Post-Traumatic Stress Disorder (PTSD), depression, and anxiety. Relatively manageable physical injuries took second place to concerns for Bobby's emotional and mental damage. As he grew older (he is now seven years of age), his difficulties grew more pronounced.

He eventually required special educational assistance to get through his early school years. Now, when his new mother, Amy, drops him off at school or at doctor appointments, Bobby experiences panic attacks and fear of being separated – yet again – from someone who loves and cares for him. He suffers from nightmares and lack of sleep. He has had to be removed from classrooms early in the day



because of his disruptive behavior. Every day is a coordinated effort between Bobby, his parents, his school teachers and guidance counselors, and his doctors and therapists.

Bobby's family contacted SDSBS attorneys **Cameron Kennedy** and **Carter Scott** to ask for their help in finding support from those responsible for the ghastly accident that left the family's patriarchs dead and Bobby in considerable need of life-long functional support. From the outset, the trucking company denied liability and also denied that it was liable for its contract driver. After years of litigation, Mr. Kennedy and Mr. Scott were able to defeat the trucking company's legal defenses. The question remaining – the key to Bobby's ability to succeed throughout his life – was damages.

Following resolution of the trucking company's legal defenses, the parties began negotiations. They eventually reached a confidential settlement that will ensure support for Bobby and his family as he continues to deal with the fears and anxieties caused by the horrific loss of his family and enable him to grow into a confident and capable young man. ♦

## SDSBS Websites

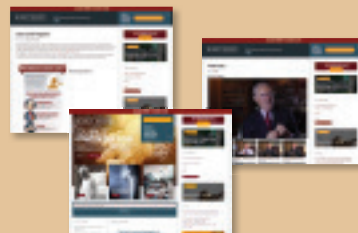
Log on to...

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have been harmed in a similar way, usually by  
a drug, medical device or a product).



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[www.SearcyLatino.com](http://www.SearcyLatino.com)  
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## Accolades



**Sia Baker-Barnes**



**Brenda Fulmer**



**Karen Terry**



**Laurie Briggs**



**Kelly Hyman**



**Andrea Lewis**



**Jack Hill**



**Hardee Bass**



**John Hopkins**



**Olga Patterson**



**Angela Eckman**

*Right:  
Group photo of  
AAJ's Women's  
Caucus Lobby Day,  
in which three  
SDSBS attorneys  
participated.*

The Spring 2017 edition of *Best Lawyers – Business* announced the selection of **Sia Baker-Barnes**, **Brenda Fulmer**, and **Karen Terry** as 2017 Women in the Law, Best Lawyers in Florida, in the categories of Personal Injury, Product Liability Litigation, Mass Tort Litigation/Class Actions, Medical Malpractice Law, and Professional Malpractice Law. Congratulations to these three for the notable recognition of their accomplishments. ♦

In May 2017, **Brenda Fulmer**, **Laurie Briggs**, and **Kelly Hyman** participated in the American Association for Justice's Women's Caucus Lobby Day. They joined 155 other women trial lawyers from across the country that met with members of Congress to discuss two House bills of great concern. HR 985 would essentially eliminate class action and mass tort cases. HR 1215 would limit medical malpractice and personal injury cases, including placing a cap on damages suffered by nursing home patients who are raped, or injuries caused by drug- or alcohol-impaired physicians. ♦

Attorney **Brenda Fulmer** and Paralegal **John Hopkins** each received a "2017 Readers Choice Award" from JD Supra, a website that provides news, advisories, and commentary on numerous topics of the day from the nation's leading lawyers and law firms. The recognition acknowledges top authors and firms for their excellent communications. Specifically, Ms. Fulmer was recognized

as a JD Supra Top Author, selected from among thousands of authors who were published by JD Supra in 2016, for her level of visibility and engagement with readers on the issue of medical device and product liability. Mr. Hopkins was recognized as a Top Author on eDiscovery matters. ♦

In June 2017, **Andrea Lewis** was sworn in as president of the Palm Beach County Bar's Young Lawyers Section. In April 2017, she was elected to the 2017/2018 Executive Team of the Junior League of the Palm Beaches. ♦

**Jack Hill** received Board Certification in Civil Trial Law from The Florida Bar. ♦

**Laurie Briggs** was reappointed to The Florida Bar's "Student Education and Admissions to the Bar Committee" for a second term which will end June 2020. The Committee monitors law schools to ensure that students are being adequately prepared for the practice of law. ♦

**Hardee Bass** was selected as a member of the American Board of Trial Advocates in June 2017. Membership to ABOTA is by invitation only. ABOTA fosters improvement in the ethical and technical standards of practice in the field of advocacy. ♦

Paralegals **Olga Patterson** and **Angela Eckman** were sworn in as First Vice-President and Secretary, respectively, of the Palm Beach County Chapter of the Paralegal Association of Florida, Inc. ♦



# Uninsured motorist policy helps recovery for neck injuries in traffic accident

## SDSBS obtains full coverage from injured driver's insurance company

*You probably have seen our blogs, newsletter articles, and television commercials emphasizing the importance of obtaining uninsured motorist coverage. This case is a prime example of why it is so critical that vehicle owners obtain this coverage.*

John Smith was a manager at an appliance service and repair company in Palm Beach Gardens, Florida. His duties required performing some labor-intensive jobs often involving use of his hands, back, and knees. His work required physical strength and balance. John was employed with the company for a long period of time. He enjoyed the work and relied upon his job to properly care for his wife and their children.

On an afternoon in March 2015, John was driving home from work, heading west on Kyoto Gardens Drive. As he approached the intersection at Military Trail, he came to a complete stop at a red light. Suddenly, another driver crashed into the back of John's work van. His body was abruptly thrown back, his head hitting the headrest. His body then snapped forward. The back of the van was severely damaged. He suffered immediate and very intense pain. John knew right away that he was seriously hurt. In prior years, John had suffered neck and back injuries resulting from work. He had two surgeries to repair herniated discs. After recovering from those surgeries, he had occasional pain. However, the pain resulting from this accident was far more intense.

John stayed home for several days after the crash, trying to manage the pain in his back and neck. After a short while, he realized he needed medical attention. For the next year and a half, John tried medications, physical therapy, and epidural steroid injections. He received only temporary relief from these treatments and was having difficulty doing his job. In December 2016, John had major surgery to repair the damage to his neck. A surgeon removed the herniated disc at the C4-5 level and fused the two bones together. He wore a surgical collar for eight weeks, and then began extensive physical rehabilitation.

John contacted SDSBS attorney **Sia Baker-Barnes** and asked her to pursue a legal action for the injuries he had suffered because of the accident. Her investigation quickly revealed that the other driver had no insurance. Fortunately,



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**Ms. Baker-Barnes was able to file a claim against John's insurance company to recover damages due to the accident. The proceeds have helped John pay for his medical expenses, lost wages, and continued rehabilitation.**

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John had purchased his own uninsured motorist coverage. Ms. Baker-Barnes was able to file a claim against John's insurance company to recover damages due to the accident. Uninsured/underinsured motorist insurance coverage is available when the at-fault person either has no insurance, or does not have sufficient insurance coverage to compensate a person for the full value of their claim.

John's policy had \$250,000 available in uninsured motorist coverage. But the insurance company fought vigorously against paying John's claim, arguing that he already had had multiple neck injuries and surgery, and that it was not the car crash that had caused the injuries but his rigorous job. The insurance company emphasized that John had not gone to the hospital right away and that the surgery did not occur until over a year after the crash. Ms. Baker-Barnes provided a detailed analysis of medical records, MRI studies, and the nature of the crash, and was able to demonstrate that the crash was, in fact, the cause of John's injuries. Just prior to the deadline under Florida statutes for civil remedies, the insurance company agreed to pay the policy's full coverage. The proceeds have helped John pay for his medical expenses, lost wages, and continued rehabilitation.

According to a data report from the Insurance Research Council, nearly one in eight drivers were uninsured in 2016, and the state of Florida ranked second in the nation in uninsured drivers. Had John not purchased the uninsured motorist coverage, he would have been left with no means of recovery for the extensive costs of his injuries. ♦

**Taking...**  
*Time  
 to Care*



**The Scarola family and SDSBS staff support The Lord's Place in their annual Sleepout event**

In April 2017, Jack Scarola, his family, and Searcy Denney staff participated in the 10th Annual Sleepout to support The Lord's Place, dedicated to transforming the lives of homeless men, women, and children living in Palm Beach County, Florida. The Lord's Place is dedicated to breaking the cycle of homelessness by providing innovative, compassionate, and effective services for the homeless in the community. ♦



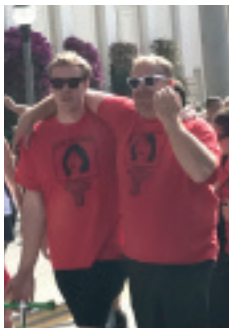
**"A Full Summer" community event helps to feed kids and others with help of SDSBS Tallahassee office**

Staff at the SDSBS offices in Tallahassee also participated in the annual "A Full Summer" community event to help feed local kids and vulnerable other neighbors during the summer months. The event was held at numerous locations around Tallahassee on June 3, 2017. Volunteers at the Second Harvest of the Big Bend's warehouse stuffed backpacks with food for schoolchildren to eat over weekends. Other volunteers helped weed and water community gardens. Others distributed foodstuffs to local churches and other community organizations. Leon County has one of Florida's highest rates of food insecurity due to a slow recovery from recession, high level of rural population, and problems with low employment levels. Fighting hunger in north Florida is a committed effort by numerous organizations. ♦

**SDSBS Tallahassee office in Tails and Trails event to support the Animal Shelter Foundation**

Staff in the SDSBS Tallahassee office participated in the 16th Annual Tails and Trails event held at Tallahassee Animal Services in Tom Brown Park, Tallahassee, Florida, on May 6, 2017. The event involves 5K, 10K, and Half-Marathon – 1-mile runs to raise funds to support the Animal Shelter Foundation. ♦





**Best Buddies Friendship Walk held with SDSBS' "Team Priscilla" in honor of Priscilla Searcy**

Also in April 2017, SDSBS staff participated in the annual Best Buddies Friendship Walk held at City Place in West Palm Beach, Florida. "Team Priscilla" walked in honor of Priscilla Searcy. The event raised a total of \$107,552 in donations. The Walk is your chance to make a real difference in someone's life – someone in need of friendship, community involvement, and a sense of belonging. It raises awareness and funds to support individuals with intellectual and developmental disabilities. ♦



**SDSBS a sponsor for the Pro Bono Recognition Evening held by Legal Aid Society of PBC**

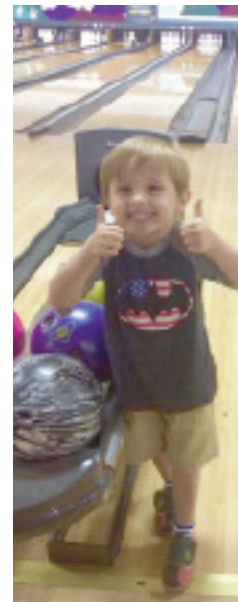
SDSBS was a sponsor for the 29th Annual Pro Bono Recognition Evening held by the Legal Aid Society of Palm Beach County at the Palm Beach County Convention Center in West Palm Beach, Florida, on June 3, 2017. Mariano Garcia was an emcee at the event. A number of other SDSBS staff attended the event. The Legal Aid Society was started in 1949 for the purpose of providing free legal advice to the economically disadvantaged. Over the years, the Society has provided a lifeline and support for veterans returning from wars, retirees and the elderly, and children needing protection and advocacy. ♦

**SDSBS sponsors Jim Sackett Softball Tournament to benefit Friends of Abused Children**

Attorney Laurie Briggs and legal assistant/FRP Angela Eckman participated in the Sixth Annual Jim Sackett Invitational Softball Tournament held April 8, 2017, in West Palm Beach, Florida. SDSBS was a sponsor of the event which benefited Friends of Abused Children, Inc. Ms. Briggs is president of the organization and Ms. Eckman is secretary. ♦

**"Strikes for Seagull" Bowling event benefits Seagull Services with SDSBS a sponsor**

SDSBS was a sponsor for the "Strikes for Seagull," the Fifth Annual Bowling Event held in March 2017. SDSBS sponsored two lanes used to help raise funds for the programs at Seagull Services, and several SDSBS staff participated at the fun event. Seagull provides advocacy and services for teens and adults with an array of developmental disabilities and various barriers to employment. The private, non-profit agency operates a charter school, employment and residential programs, and transportation for its clients. ♦





A REPORT TO CLIENTS & ATTORNEYS VOLUME 17, NUMBER 2

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**Jim Gustafson**



**Jack Hill**



**Darryl Lewis**



**Karen Terry**



**Cal Warriner**



**Laurie Briggs**



**Cameron Kennedy**



**Hardee Bass**



**Andrea Lewis**



**Ed Ricci**



**Matt Schwencke**



**Donald Ward**

## **Nineteen SDSBS attorneys listed as Super Lawyers in 2017**

### **Chris Searcy listed in Top Ten Super Lawyers**

On June 15, 2017, *Super Lawyers Magazine* published its selection of 2017 Florida Super Lawyers. Chris Searcy was included in the list of Top 10 Florida Super Lawyers. Also included in the recognition were SDSBS attorneys **Jack Scarola, Greg Barnhart, Sia Baker-Barnes, Brian Denney, Brenda Fulmer, Mariano Garcia, Jim Gustafson, Jack Hill, Darryl Lewis, Karen Terry, Cal Warriner, and Laurie Briggs**. Selected as 2017 Florida Rising Stars were **Cameron Kennedy, Hardee Bass, Andrea Robinson Lewis, Ed Ricci, Matt Schwencke, and Donald Ward**.

*Super Lawyers* is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high degree of peer recognition and professional achievement. The selection process includes independent research, peer nominations, and peer evaluations. ♦