

## Car Insurer Allegedly Backdates Policy

Generally, Florida's "dangerous instrumentality" law makes car owners and car leasing companies responsible for injuries arising from accidents in which their cars have been involved. However, Florida Statute 324.021(9)(b)(1991) states that car leasing companies are exempt from liability if they meet certain criteria. In order to enjoy that exemption, companies must write leases that last at least one year, and must also ensure that the entity leasing the vehicle carries at least \$100,000 in insurance coverage per injured person and \$300,000 per incident.

On April 26, 1996, Sheryl Gruden of Tampa was driving in Clearwater when a driver named Guy Abbanat of Coral Springs negligently struck her. Mr. Abbanat was driving a vehicle he had leased from Nissan, which he insured with State Farm Mutual Automobile Insurance Company. However, at the time of the accident, Mr. Abbanat maintained insurance of only \$50,000/\$100,000. In fact, State Farm, in responding to requests for insurance coverage disclosure, provided two separate sworn affidavits that disclosed limits of \$50,000/\$100,000.

As a consequence of the accident, Mrs. Gruden suffered a severe femur fracture requiring major surgery and the use of metal plates and screws to repair it. Not surprisingly, Mrs. Gruden incurred significant medical expenses for the treatment of her physical and mental injuries. Furthermore, her condition was complicated by the fact that she was already a double amputee, having lost both of her legs below the knee in a prior collision.

Mrs. Gruden sought the assistance of attorney David Kesler in St. Petersburg, who initiated litigation against Mr. Abbanat and Nissan Motor Acceptance Corporation. Nissan took the position that Mr. Abbanat had carried the appropriate insurance coverage of \$100,000/\$300,000 on the date of the accident. State Farm intervened in the action, also taking the position that Mr. Abbanat had purchased appropriate insurance coverage in compliance with Florida Statute 324.021(9)(b). State Farm claimed that it had increased Mr. Abbanat's coverage to the statutorily required limit one day before he crashed into Mrs. Gruden's car. Upon learning of State Farm's assertion, Mr. Kesler referred the case to Chris Searcy.



**Sheryl Gruden and her daughter Kristin.**

Attorneys Chris Searcy and Darryl Lewis took over the active prosecution of the case.

The trial court in Pinellas County bifurcated the case, requiring the parties to first try the sole issue of what coverage was in effect on the date of the accident. Lawyers for State Farm and Nissan argued before the jury that it was purely coincidence that Mr. Abbanat's coverage was increased from \$50,000/\$100,000 to \$100,000/\$300,000 the day before the crash. Mr. Searcy and Mr. Lewis contended that State Farm backdated the documents, falsely increasing Mr. Abbanat's level of coverage in order to qualify Nissan Motor Acceptance Corporation for protection under the statute described above. The jurors rejected State Farm's and Nissan's arguments, concluding that Mr. Abbanat did not have the legally required policy limits on the date of the accident. The jury returned its verdict in less than one hour.

Prior to the trial of the remaining issues in the case, Mr. Searcy and Mr. Lewis negotiated a \$1.1 million compensatory damage settlement with State Farm on Mrs. Gruden's behalf. Subsequently, Mr. Searcy and Mr. Lewis initiated a claim in Broward County, Fla., against State Farm, alleging that the company committed fraud by backdating documents in an attempt to deny Mrs. Gruden her full legal remedies. The State Farm agent and agency office have also been named in the lawsuit, which remains pending. ■