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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.

Hotel Fails to Warn Family About Ocean's Deadly Undertow

On June 7, 1999, Keith and Jackie Oglesby, along with their daughter, Jennifer Shriver, and son-in-law, Todd Shriver, visited Hutchinson Island, Fla. They lived in Greenville, N.C. and thought a vacation in Florida would be just what they needed. Since Mrs. Oglesby worked for a hotel corporation, a room at the resort was arranged for them.

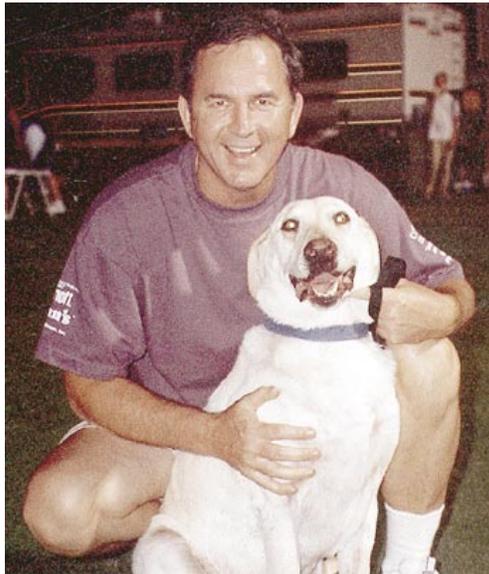
The family arrived at the resort around 2:00 p.m. and had lunch. At around 4:30 p.m., Mr.

Oglesby and Mr. Shriver decided to go for a swim in the ocean. The ocean is located off the private beach, which was owned and maintained by the defendants. They walked through the pool area at the resort, across the wooden walkway, and onto the beach.

Mr. Oglesby and Mr. Shriver swam for approximately 20 minutes, not realizing they were in an undertow or rip current. Mr. Shriver was finally able to break free from the current using every ounce of strength he had, but Mr. Oglesby was unable to break free. When Mr. Shriver got to the beach, he stopped an employee, who then called 911. They found Mr. Oglesby floating in the surf in front of the resort and began CPR. The emergency crew arrived, but despite their attempts, Mr. Oglesby was pronounced dead. He left his wife, daughter, son-in-law, and son, Matthew.

The defendants in this case owned, operated, maintained, and controlled the operation of two resorts, as well as the adjoining walkways, pool

areas, and private beach. The defendants were aware of the dangerous surf conditions, including undertows and rip currents. There was a sign posted by the towel hut in the resort #1 area, which is directly north of resort #2, where the Oglesbys stayed. The sign at resort #1 warned guests about the dangerous conditions, including rip currents. Unfortunately, the guests at resort #2, where the Oglesbys stayed, did not have any kind of warning signs posted.



Keith Oglesby with his dog, Chief.

The case was referred to John Shipley from Robert Sellars of Sellars, Marion & Bachi, P.A., in West Palm Beach. Although the law on these types of cases is not favorable for plaintiffs, Mr. Shipley successfully argued that the defendants in this case undertook the duty to warn their guests and patrons of the hidden dangerous conditions. Once they undertook that duty, they had to perform the duty non-negligently. He argued they failed in that duty to Mr. Oglesby by not warning guests at res-

ort #2. Mr. Oglesby's death was directly attributable to the defendant's failure to warn.

Mr. Oglesby was a postmaster in Greenville. On July 6, 2000, President Bill Clinton signed into law (HR 2952) renaming the Orchard Park Station post office to the Keith D. Oglesby Station. This honor was due in part, to the insistence of fellow postal employees, who respected and admired Mr. Oglesby so much, and wanted to honor his memory.

The case was resolved for a confidential amount with the defendants shortly before trial. ■