

# *Reconstruction of Fatal Accident Proves Responsibility*

**Young husband, falsely accused of causing the accident that resulted in his wife's death, was determined to find the truth.**

In September of 2003, life was good to John and Jane Doe. They were very much in love and very happy together. The Does had been married almost one year, and lived comfortably in southwest Florida. Jane, age 30, worked in hotel management, and was making plans to attend graduate school. She was looking forward to earning a master's degree in education. John, 36 years old, owned a small business. The Does had enjoyed a honeymoon which had seemingly lasted a year. Together, they had traveled to Europe and cruised the Caribbean, were avid bicycle enthusiasts, and were active in their church. Their future plans included raising children, which was why Jane would soon begin graduate studies in education. The couple had decided that if she chose teaching as a career, it would enable her to earn a living and still have the flexibility to maximize her time with their children. Needless to say, their future was bright.

In the early evening of September 29, 2003, southern Florida was drenched with torrential rainfall. As was their routine, John picked up his wife after work. While on their way home on this soggy evening, the Does visited John's sister for a short time. Then they began the drive home together in John's pickup truck, traveling northbound over the bridge that connected the resort island they worked on to the mainland. Because of the rain, travel conditions were dangerous. Visibility was affected by the rain and the roads were wet. John traveled at a speed of 20 to 25 miles per hour – considerably under the posted speed limit of 45 miles per hour.

That same day, Employee Y, an unskilled laborer employed by Corporation X, was driving his employer's truck from the opposite direction, southbound on the same state road, approaching the bridge. The heavy rain had halted company operations earlier that day, and Employee Y and his co-workers were rained out from work. Employee Y and his crew were working locally but were not from the area. Because they had been rained out that day, he and several others decided to spend part of the day drinking alcohol in their rooms at a local hotel. A few hours before driving the truck, Employee Y smoked a marijuana cigarette, according to the Florida Highway Patrol Traffic Homicide Investigative Report, although he denied it when his deposition was taken. Late in the afternoon, Employee Y decided to drive

to the resort island for dinner, a place he had never been before. He left the hotel driving one of the company's heavy-duty pickup trucks. The keys to the company vehicle were readily available.

In the meantime, as John Doe drove north over the bridge and through the rain, he suddenly saw the headlights of Employee Y's vehicle. It appeared that Employee Y's truck was in the wrong lane, coming at the Does' truck just as they were departing the bridge and entering the causeway area of the road. With only seconds to react, John heard Jane say, "What's he doing in our lane?" So John abruptly steered his truck into the southbound lane to avoid Employee Y's oncoming truck, figuring the two vehicles would bypass one another in the opposite lanes. However, the right front corner of Employee Y's truck slammed into the Does' passenger door. It was later estimated that despite the severe weather conditions on the road that day, Employee Y was driving in excess of the speed limit, perhaps as much as 50 to 55 miles per hour at impact on a roadway posted at 45 miles per hour.

The impact of the crash was so severe that John's pickup truck was spun partway around, off the road and onto the west shoulder of the causeway-highway. The passenger door was sheared partially off. The right rear cab was crushed inward and the corner panel torn. The rear wheel was crumpled and the tire and rim torn apart. The windows were shattered and the roof line bent downwards almost 12 inches. Employee Y's heavier truck did not fare much better – the front of the truck was crushed into the engine compartment, the hood crumpled and windows shattered. The front tires and wheels were damaged.

Following the impact, John looked over at his wife, who was unconscious. Jane was leaning over in the front seat towards what was left of the passenger door, still restrained in her safety belt. She was totally unresponsive. John got out of the vehicle and approached her from the passenger-side door. He held her in his arms until the emergency personnel arrived. The emergency technicians were still working on his wife when he was taken by helicopter to the hospital for his own injuries, from which he has now fully recovered. Jane died of blunt trauma while being transported to a nearby hospital. (*Continued on page five.*)

***Below: the Does' severely smashed pickup truck.***



# 7-figure Confidential Settlement

## AUTO ACCIDENT CAUSED DEATH

On the night of the accident, Employee Y voluntarily gave a statement to the Florida Highway Patrol. He admitted to having consumed three or four vodka drinks and a "blue" alcoholic drink up to an hour before the accident. He also admitted that he had smoked marijuana probably two or three hours prior to the accident. In his deposition taken in the lawsuit years later, however, Employee Y testified that he had slept all that day and had stopped drinking by mid-morning. He also denied smoking marijuana. The results of Employee Y's blood tests taken on the evening of the crash were .161 grams of ethanol alcohol per 100 milliliters of blood, more than two times the legal presumptive limit for blood alcohol. He was arrested and charged with driving under the influence. He pled no contest to the charges, and his license was suspended for a number of years.

The Highway Patrol conducted a traffic homicide investigation of the accident. Employee Y stated that John had cut in front of him. There were no eye witnesses other than the parties. While it was clear from the physical evidence - scuff marks, vehicle debris, and vehicle resting positions - that the collision occurred in the southbound lane of the highway, the Highway Patrol findings never offered an explanation as to why John was in the southbound lane, nor did the report address the importance of the point of impact on the Does' truck. Despite Employee Y's intoxicated condition, the Highway Patrol's report determined that John was responsible for the accident.

Despite the crushing grief he suffered, John's spirit and resolve were strong. He knew that the Corporation X driver was responsible for the accident and for his wife's death, and was determined to prove it.

So John sought legal counsel from Collier County attorney and former Florida Bar Governor Chris Lombardo of the Woodward, Pierce and Lombardo firm, who then co-counseled the case with SDSBS partner Lance Block of the Tallahassee office.

A team of experts was retained to reconstruct the accident, study the human factor reactions, evaluate alcohol and drug test results and Employee Y's level of impairment, and analyze the personnel and safety practices of Corporation X. The crash study team made multiple trips to the accident scene and supplemented the Highway Patrol's measurements, carefully examined the vehicle crush patterns, and set up a computer-generated reconstruction of the collision. The comprehensive study left no stone unturned, and concluded that the Highway Patrol's accident reconstruction was inaccurate and not possible. More importantly, the study also confirmed John's version of the accident. The forensic evaluation determined that based on crush measurements and the initial points of impact on the two vehicles – the

**Above: an aerial view of the bridge and crash site.**

right front quarter panel of the Company truck and the passenger door on the Doe vehicle – that Employee Y was, in fact, in the wrong lane before the crash, suddenly realized it, and in a panic steered his truck into the Does' vehicle from the wrong lane.

A leading toxicologist evaluated the drug and blood alcohol tests, and he concluded that Employee Y had drunk the equivalent of nine mixed drinks. Because the test was performed hours after the accident, it is likely that Employee Y's blood alcohol level was higher than .161 at the time of the crash. The toxicologist concluded that on the night of the crash, Employee Y was profoundly impaired.

An expert with extensive experience in personnel and employer motor safety requirements for company fleets evaluated Corporation X safety policies and practices, and the drug policies applicable to its drivers. Corporation X admitted during discovery that Employee Y was within the scope of his employment at the time of the accident, and Mr. Block's motion to include a claim for punitive damages was granted by the Court.

Additionally, Mr. Block retained a board certified forensic psychiatrist with extensive experience in the treatment of post traumatic stress disorder, complicated grief syndrome, and grief-related depression. The expert provided a comprehensive evaluation of John's grief response, and referred him for treatment locally.

In the spring of 2006, shortly before a two week trial was to begin, a second mediation was conducted and the defendants, Employee Y and Corporation X, and their insurers, agreed to a confidential settlement in multiple seven figures. John plans to establish a charitable foundation in his wife's memory.

John visits his wife's grave every day. His grief remains intense, but he is mending. When he began his legal confrontation, he not only faced the loss of the most important person in his life – his loving wife Jane – but the outrageous allegation that he was the one responsible for her death. Lance Block and Chris Lombardo set the record straight as to who was responsible for John's loss, and provided the justice he sought for his wife's memory. ■

