

# VETERAN'S RETIREMENT DREAMS PERMANENTLY SMASHED BY NEGLIGENT TANK TRUCK DRIVER

**Defendants used denial and delay in an effort to avoid justice for crash victim.**

**B**R is a decorated Vietnam War veteran having served with distinction in the 101st Airborne Division. He survived some of the heaviest fighting during the war, including battles during the Tet Offensive, and was awarded both a Purple Heart and Bronze Star for his valor. After his service, he became a professional truck driver and worked for many years driving rigs for trucking companies. His dream was to save enough money to purchase his own rig so that he and his wife could travel together and generate income for themselves well past the usual age of retirement. On an early summer morning, BR's plans and dreams were shattered in an instant when another truck smashed into his vehicle.

That morning, BR was driving his employer's tractor-trailer rig southbound on a road in Kissimmee, Florida. As he scanned the roadway ahead of him, he noted that his lane was partially blocked by the rear of a vehicle which

*The resolution of the case restored BR's faith in what he had risked his life to defend - America and its system of justice.*

had stopped by the side of the road in an area being used by a school bus for loading and unloading children. Recognizing the potentially hazardous situation

ahead of him, BR brought his rig to a full stop with adequate safe distance separating him from the parked vehicle. As BR sat waiting for the parked vehicle and bus to leave the area, a 40-ton tractor-trailer slammed into the rear of BR's rig. The rig that rear-ended BR was a tractor driven by its owner, JG, pulling a tank trailer filled with sludge water. The tank trailer was owned by AWS.

Immediately after the collision, BR called his employer to notify them of the accident. The employer sent a representative to the scene of the accident to assess damages and to provide BR transportation back to the office. As they drove away from the accident scene, the employer's representative became increasingly concerned about BR's physical condition and he drove BR to a local emergency room for evaluation. BR was released to the care of his personal physician for further evaluation.

BR's condition required three surgical procedures, two of which were massive and complex. He underwent an anterior cervical fusion and spinal surgery in the lumbar area. His left shoulder also required surgery. BR's physician stated that BR will need additional fusions in the cervical and lumbar areas. In the physician's opinion, BR will remain under orthopedic and neuro-surgical care for the remainder of his life. BR will always require prescription medications including narcotic pain killers and anti-inflammatory medication.

The liability for damages in this case appeared to be clear from the outset. However, JG, the defendant driver, claimed that the brakes on the tank trailer had failed. JG asserted that other drivers had experienced problems with the particular tank trailer he had been towing. AWS, owner of the tank trailer, argued that there was no specific record of the defects alleged by JG, and noted that JG had been driving for a fair distance before the brakes allegedly failed. Further, both defendants denied that BR had incurred any significant injury as a result of this collision, as evidenced by photographs of the physical damages to the trailer of BR's rig. BR sought representation by SDSBS attorney Greg Barnhart. Mr. Barnhart promptly filed suit against JG, the driver/owner of the tractor that hit BR, as well as AWS, owner of the tank trailer being towed.

BR had filed a disability claim with the Social Security Administration (SSA). That agency quickly determined that BR was permanently and totally disabled from the date of the accident. Despite this determination, the defendants continued to avoid their responsibility for BR's medical condition. They ignored the opinions of doctors assigned by SSA to examine BR. Those doctors not only confirmed the disability, but reported that the patient was in almost constant, at times intractable, pain. The defendants asserted that these findings were unrelated to the collision and were long-standing degenerative problems. Extensive discovery into BR's past medical and employment history was launched by the defense. Experts in accident reconstruction and human factors were retained by the defense to explain how this collision between two massive motor vehicles could not be the cause of BR's injuries. **(Continued on page eight.)**

**Confidential Settlement**

**VEHICLE NEGLIGENCE RESULTS IN SIGNIFICANT AND PERMANENT DAMAGES**

## Family Awarded \$30.6 Million For Crippling Birth Injury.

*(Continued from page one)*

“Our healthcare system cannot tolerate the kind of egregious malpractice that occurred at Health Park Hospital in September 1997,” continued Mr. Searcy.

Despite irrefutable evidence that Lee Memorial’s rules and regulations were violated, no healthcare provider involved in Mitzi’s labor and delivery has been subsequently punished or even reprimanded.

*“Our justice system is not an ideal - it is a living reality.”*

- - Gregory Peck as character Atticus Finch, in “To Kill a Mockingbird.”

“Here we have a healthcare institution that claims to have never been successfully sued for malpractice in its history, then refuses to acknowledge such an obvious lapse in care that destroyed a child’s brain and the life of a family,” Mr. Searcy said. “The lack of disciplinary action and reckless disregard for the dangers to mother and baby from over-stimulation with Pitocin, combined with a sense of itself as perfect, created a culture of no accountability to the patient for the past 9½ years. They remained intransigent to any resolution. We refused to let it be buried. Through our justice system, Lee Memorial Health System will finally be held accountable to the patient and the public.” ■



## Veteran’s Retirement Dreams Permanently Smashed by Negligent Tank Truck Driver.

*(Continued from page three.)*

Despite the best efforts by the defense to deny, delay, and then defend the claims being made against them by BR, a trial date was secured and mediation was ordered by the court.

At mediation, Mr. Barnhart demonstrated the strength of his case and the appeal that the case would have on a jury in Orange County, Florida. He also demonstrated the psychological impact the accident had made on BR’s life, and the impact made on BR’s family. This proud, independent man was now sidelined, his wife forced to obtain employment outside of their home, and their dreams of traveling together in ruins. Mr. Barnhart argued the lack of support for the theory of defense, and illustrated the credibility that BR and his treating physicians would exhibit before a jury. Mediation took over eight hours. Eventually, the parties reached a confidential settlement in BR’s favor. The settlement will provide him with the certainty of future income and access to medical care for the remainder of his life. The resolution of the case also restored BR’s faith in what he had risked his life to defend - America and its system of justice. ■

## SPEAKING OPPORTUNITIES



**Chris Searcy**



**Greg Barnhart**



**Sean Domnick**



**Karen Terry**



**John Hopkins**



**Pat Quinlan**

**Chris Searcy** spoke on “Opening Statements” at the Law Education Institute’s 24th Annual National CLE Conference held in January 2007 at Snowmass Village, Colorado. ■

**Greg Barnhart** spoke on “Trial Skills: Opening, Closing, and Trial Motions” at the Florida Bar Civil Trial Certification Review Course Seminar in February 2007 in Tampa, Florida. ■

**Greg Barnhart** and **Sean Domnick** participated in the Academy of Florida Trial Lawyers’ Mediation Techniques and Strategies Seminar held in December 2006 at the Omni Orlando Resort, Champions Gate, Florida. Mr. Barnhart’s topic was “Bringing the Weight of the Plaintiff’s Case to Mediation.” Mr. Domnick provided the welcome and introductory remarks. ■

**Karen Terry** and **John Hopkins** spoke on “Tobacco Litigation” at the Florida Alliance for Retired Americans’ Board of Directors meeting in December 2006 at the Doubletree Hotel in Palm Beach Gardens, Florida. ■

**Pat Quinlan** and **John Hopkins** spoke to area high school students on pursuing careers in the legal field during “Career Day” held in November 2006 at the Palm Beach County Convention Center. ■