

Despite Catastrophic Injuries, Man's Indomitable Spirit Inspires All

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Settlement:**
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On Monday evening, January 20, 2003, around 8:00 p.m., Robert Smith and several friends were playing their regular game of basketball in the gym of a local church. Mr. Smith, 41 years of age, was in excellent physical shape. He had graduated in 1999 from a college in Texas with a Bachelors Degree in Physical Education, and had been working two part-time teacher assistant jobs in south Florida. He had worked as a physical education instructor in a school in Washington, DC and in other schools in south Florida. He was fit, muscular and athletic, and stayed that way by working out regularly and participating in sports such as his Monday evening and Saturday morning basketball games. Robert's sister had remarked how extremely athletic Robert was. "He found the love of basketball and he used to practice more than Michael Jordan ... I used to tell him Michael Jordan doesn't practice as much as you do." The church gym is a full-length basketball court with linoleum tile flooring and padding covering parts of the walls at each end of the court. The padding on the wall begins nearly 13 inches above the floor. On this particular evening, the game had been going for over an hour. Mr. Smith saw the ball heading out of bounds at the west end of the court and leaped to catch it. While throwing the ball back into play, the momentum of his leap caused him to fall and slide toward the wall. His head struck either the concrete wall or the bottom of the padding on the wall. Depositions from witnesses at the scene of the accident varied in stating exactly where Mr. Smith's head struck the wall. Regardless, the impact shattered Mr. Smith's cervical spine with a burst fracture at the C-5 level. In one quick moment, Mr. Smith was rendered a quadriplegic.

Two and one-half months later, Mr. Smith was discharged from the Florida hospital and airlifted to Texas, where he was admitted to a nursing home. He was now suffering from severe bedsores, malnutrition, feeding difficulties, urinary dysfunction, chronic nausea, anxiety, depression and neuropathy. He devel-

oped pneumonia and, on April 10, 2003, he stopped breathing and was rushed to a local hospital. Mr. Smith remained at the hospital for a little over two weeks, under treatment for respiratory failure and the persistent bedsores. His condition was listed as serious and the prognosis was poor. He was transferred to another nursing center in Texas that specializes in care for individuals with respiratory problems. As his respiratory condition deteriorated, and his spinal wounds worsened, with bedsores forming on his heels and hip, Mr. Smith was transferred to the hospital again and, when he briefly improved, he was returned to the nursing center. His care and medical treatment would be intensive for the remainder of his life. Mr. Smith's will to



live was at its lowest ebb for weeks after the accident. However, his deep faith and loving family allowed him to believe that tomorrow would be a better day. His spirit became strong and he had a positive outlook. Robert defied the odds and willed his way off his ventilator. He truly believed that someday he would walk and play basketball again.

Robert's case was referred to Chris Searcy and Lance Block of Searcy Denney Scarola Barnhart & Shipley

by Jeff Walker, a former Fort Lauderdale attorney who now practices in North Carolina. A legal team was assembled which included Chris Searcy, Darryl Lewis, William King and Jeff Walker, to prosecute claims on behalf of Robert and his children.

Suit was filed against Company A, the manufacturer of the wall padding, and Company B, the Florida distributor of the wall padding, for products liability including claims of strict liability and negligence. Suit was also filed against the general contractor and the architect for negligence, and claims were filed against the church for negligence and premises liability. A claim for negligence was also instituted against Company C, a wall pad installer who had later installed padding adjacent to the padding struck by Robert.

During the investigation of the case, it was determined that the wall padding itself **(Continued on next page.)**

