

## MARINER vs. ARTHUR YOUNG & COMPANY

The Fourth District Court of Appeal affirmed a jury verdict obtained by Greg Barnhart for Mariner Corporation against the national accounting firm of Arthur Young & Company. The appellate court upheld the \$4 million award, including interest and attorneys fees, finding Arthur Young liable to Mariner for violations of Florida and Federal Securities law, common law fraud and negligence.

The case involved Arthur Young's representation of the sellers of Dielco in Mariner's buy-out of Dielco. Acting as an agent, the accounting company took an undisclosed contingent fee for its assistance with the sale of Dielco, a company it was also auditing. The jury felt the accountants' anticipated contingent fee impaired their ability to be independent and impartial in conducting the audit. The audit was flawed in several respects, including an overstatement of net worth. The jury found that the irregularities and misrepresentations in the audit were responsible for the sale of the company and its eventual downfall and liquidation. ■