

FAILURE TO TEST FOR GENETIC DISORDERS RESULTS IN SECOND CHILD WITH SEVERE BIRTH DEFECTS

Aiden Estrada was born in Tampa, Florida on June 28, 2002, to parents Amara and Daniel Estrada. Almost immediately, the anticipated joy at seeing their first-born child was overcome by the tragedy and sadness of realizing that the child suffered multiple, severe birth defects. Aiden had a cleft palate, an abnormally-placed urethral opening, undescended testicles, and other severe abnormalities. Concerned about the possibility of birth defects that might recur in future pregnancies, the Estradas sought advice from Dr. Boris Kousseff, chief geneticist at the University of South Florida (USF). Dr. Kousseff examined Aiden three days after his birth, and conducted numerous other examinations over the next several months. The doctor, however, did not reach any diagnosis for Aiden's condition. The Estradas told Dr. Kousseff that they would not have a second child if that child could have the same birth defects as Aiden. The doctor told the Estradas that Aiden's abnormalities did not indicate any genetic disorder, and they could expect pregnancies with normal children. He also told them they could "make sure" there would be no recurrence by performing ultrasounds during the next pregnancy.

After Aiden's birth, the Estradas moved from Tampa to Orlando for Amara's new veterinary job. In November 2002, when Aiden was being evaluated for the Early Intervention Program in Orlando, another geneticist did a brief exam. Dr. Lynda Pollack was the pediatrician in charge of the program. Dr. Pollack also failed to



Aiden Estrada and his baby brother Caleb

diagnose Aiden's condition as a genetic risk for future pregnancies. The new job in Orlando proved to be too rigorous to manage with Aiden's considerable need for care weighing on the family. The Estradas decided to move to Gainesville, Florida, where they both found jobs with more flexible hours at the University of Florida. Amara became pregnant for the second time. During this pregnancy, she saw an obstetrician who specialized in performing ultrasounds. That doctor performed his own ultrasound evaluation on every prenatal visit with Amara, per Dr. Kousseff's advice.

Aiden's brother, Caleb, was born on November 18, 2004, at Shands Hospital in Gainesville. Like a recurring nightmare, the Estradas quickly realized that Caleb had been born with the same birth defects that afflicted his brother. Within an hour of his birth, doctors at Shands diagnosed Caleb as

(Continued on page seven.)

**Over
\$23.5 Million
Verdict:
MEDICAL NEGLIGENCE**

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DEFECTIVE SEAT IN SUV CAUSES PERMANENT INJURIES

**In spite of safely wearing a seatbelt, driver's
faulty seat put her in danger during crash**

In July 2000, Donna Grimes purchased a 2000 Ford Explorer and assumed she was getting a properly designed vehicle that would serve her well for safe and reliable transportation. A little over a year later, on October 30, 2001, she found that she was wrong. Driving her Ford Explorer south on Dixie Highway in Deerfield Beach, Florida, Donna was wearing her seatbelt with shoulder harness and operating the vehicle in a proper and reasonable manner. She came to a stop near the entrance to Pioneer Park. Suddenly, an automobile driven by Charles Kravitz rear-ended Donna's Ford Explorer. At the impact, the seat reclining mechanism failed and her seatback collapsed onto the rear seat. As a result, Donna was thrown backwards, striking her head and shoulder on the rear seatback. In an instant, the active and athletic 60-year-old suffered permanent damage to the C5-6 level of her spine. She is now a quadriplegic confined to a wheelchair. She will require round-the-clock nursing care for the rest of her life.

Donna Grimes and her husband Richard sought representation by SDSBS attorney David White, and co-counsel James Lowe, a partner in Lowe Eklund Wakefield & Mulvihill in Cleveland, Ohio. The attorneys brought action against Ford Motor Company and Wallace Ford, LLC d/b/a Maroone Ford of Delray for knowingly

designing, manufacturing, and selling a vehicle that was in a dangerous and defective condition.

Following a six-week trial in the Circuit Court of the Fifteenth Judicial Circuit in Palm Beach County, the jury deliberated for almost two days and on May 31, 2007 found in favor of the plaintiffs. The jury found that Ford Motor Company and Maroone Ford of Delray were liable for selling a defective vehicle. The Grimeses were awarded \$10,373,552. "We trust our lives to automobile makers every time we set foot inside one of their vehicles," said David White. "It is hoped that, at those moments where we need our safety restraints the most, we can rely on them to function properly. But in this case, a jury unequivocally agreed that Ford allowed a vehicle with defects to enter the market." ■



OF COUNSEL

NEWSLETTER
VOLUME 07 NUMBER 2

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.

YOUNG MOTHER KILLED IN CRASH CAUSED BY DRIVER DISTRACTED BY CELL PHONE CALL

Errant driver had made cell call to her husband at time of crash

On the morning of November 19, 2004, Lesley Beers was on her way to work. The 32-year-old Parkland, Florida mother of two drove her Honda Accord south on the Sawgrass Expressway in Broward County, Florida. Ahead of her, the early morning rush-hour traffic began to slow down, and she slowed down as well. On the highway behind Lesley was Sheila Hulick, also on her way to work, driving a Ford Taurus owned by her husband's employer, Reynolds & Reynolds. Evidence later showed that Hulick had placed a call on her cell phone to her husband at 8:05 a.m., the moment Hulick's car slammed into the rear-end of Lesley's car with enough force to send the Honda careening across the median and into northbound traffic, where it slammed head-on into an SUV and then struck another car. Lesley died at the scene as a result of her injuries.

Lesley Beers' small family was thrown into crisis. Her husband, Stephen, a stay-at-home dad, had lost not only the family breadwinner, but his loving soul-mate, the person who had turned his difficult early life into a nurturing, happy world. Their son, Zachary, age three at the time of the accident, began suffering from an obsessive worry that his father would also disappear.

Zachary's sister, 17-month-old Olivia, was so traumatized by the loss of her mother that she stopped talking for three months. Stephen suffered chronic nightmares, and the whole family sought therapy to ease their pain.

The family asked SDSBS attorneys Chris Searcy and Jack Scarola to file a wrongful death suit against Hulick and the corporation that owned the car. This would be the first time, in 30 years of practice together, that the attorneys would try a case to conclusion as a team. They were also joined by firm member Bill King. The suit filed on behalf of the family sought compensation for the loss of Lesley's wages, medical and funeral expenses, the loss of her support and services, and the pain and suffering inflicted on the family. The defendants declined the opportunity to settle the case for roughly \$12 million and the case went to trial.

During the almost two-week trial, attorneys for Hulick and the company argued that, although Hulick had acknowledged the rear-end collision with Lesley Beers' car, that collision was not the cause of Lesley's death. Rather,



Stephen and Lesley Beers

they contended that, following the minor rear-end crash, Lesley had mistakenly hit the accelerator instead of the brake, and that Lesley's own alleged driving error together with the failure of the driver of the SUV to take proper evasive action were the causes of the head-on impact with Lesley's car. Further, despite records of the call, Hulick denied she was talking on her cell phone at the time of the accident, and Hulick's attorney argued that the cell phone call did not distract Hulick from her driving responsibilities. In closing arguments, Jack Scarola responded that what distracted Hulick was not the issue. "It doesn't matter if she was checking her makeup in the mirror or trying to find her favorite radio station, fumbling in her purse for a piece of paper or dialing her cell phone and trying to reach her husband," he said. "Her failure to pay attention sentenced Lesley Beers to her death, and sentenced Stephen and Zachary and Olivia to live every day of the rest of their lives with a jagged, gaping hole in their hearts."

After less than two hours of deliberation, the jury rejected the defense efforts to place the blame for Lesley's death on others and found in favor of Stephen, Olivia, and Zachary Beers. They awarded the family \$21.6 million. Because the earlier settlement offer had been turned down, Florida law will permit the Beerses to transfer responsibility to the defendants for payment of a substantial portion of the Beerses' attorney fees and court costs. "This tragic death of a young mother of two small children was preventable," said Mr. Searcy. "It is a horrible example of the dangers of using a cell phone while driving." ■

**\$21.6 Million
Verdict
WRONGFUL DEATH**

HOSPITAL'S LACK OF TIMELY CARE AND PROPER TREATMENT CAUSES BRAIN DAMAGE

Despite hospital policy that requires a 24-hour admission for trauma patients, crash victim was sent home

On the evening of April 21, 2001, Mrs. X was driving her car on a Florida highway when another vehicle ran through a stop sign and crashed into her car. The force of the impact caused her head to hit the windshield of her car, cracking the glass. The force of her body bent the steering wheel. First-responders to the accident scene documented Mrs. X's multiple injuries, including a large skin injury to the top of her head. They called the local hospital for a medical evacuation helicopter. The helicopter arrived and delivered Mrs. X to the emergency room at 9:30 p.m., where she was examined by the hospital's medical personnel. They took x-rays of her chest, ankle, and wrist, but did not perform a CAT scan of her head. Despite hospital policy that requires a 24-hour admission for observation of trauma patients, the hospital did not admit Mrs. X but instead sent her home.

Mrs. X was discharged with a prescription for pain medication. Hospital personnel lifted Mrs. X into her mother's car and her mother drove her home. Because Mrs. X was unable to walk, her mother wheeled her into the house using an office chair. She was placed on the living room sofa where she remained throughout the night. Early the next morning her husband found her having seizures and called for emergency help.

The paramedics arrived and she was returned to the hospital. A CAT scan revealed a 1 x 6 x 2 cm hematoma on the left frontal lobe of her brain. Mrs. X suffered four more seizures but anticonvulsant medication was not administered in a timely fashion, nor in a sufficient amount.

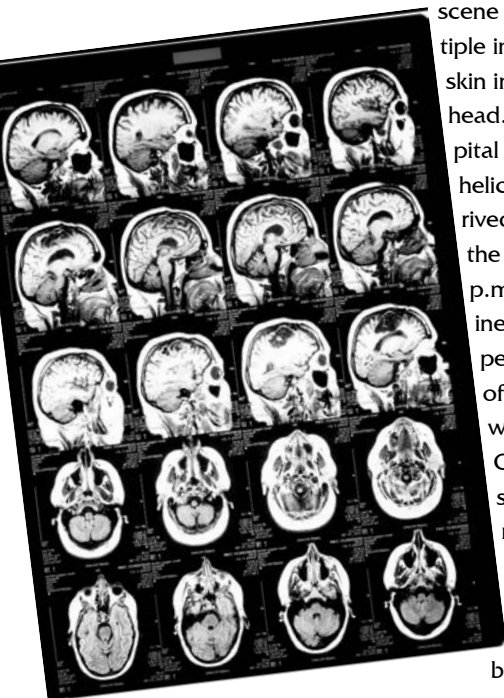
An in-hospital neurosurgical consultation required by hospital policy within one hour of admission did not occur until the next day. With continued lack of physician care, Mrs. X suffered increased intracranial pressure and ongoing intracranial bleeding. She went into paralysis and became comatose. The next day, the neurosurgeon finally arrived to examine Mrs. X and performed emergency surgery on her at 9:20 a.m. This was, however, too little, too late.

Had the hospital performed a proper examination of Mrs. X at her initial arrival in the emergency room, a scan of her brain would have revealed slight damage caused by the accident. Had Mrs. X been admitted to the hospital on the night of her accident, as was prescribed by hospital policy, the seizures would have occurred when skilled medical care could have been administered by personnel at the hospital. Because of the persistent lack of timely care and proper treatment, Mrs. X was left with permanent brain damage, right-sided paralysis, and associated medical problems. She required extensive rehabilitation.

Had the hospital performed a proper examination in the emergency room, a brain scan would have revealed slight damage caused by the accident. Had she been admitted to the hospital on the night of her accident, the seizures would have occurred when skilled medical care could have been administered.

Since discharge, Mrs. X has suffered multiple fractures due to falls, intractable migraine headaches, onset of diabetes due to inactivity, incontinence, severe pain and mental and psychological difficulties including depression and post-traumatic stress disorder. Her ability to function normally has deteriorated and she is dependent upon others to help care for her.

Mrs. X and her husband asked SDSBS attorney David Kelley to represent them in a medical malpractice action against the hospital and its medical personnel. Prior to the scheduled trial date, the parties reached a settlement in the amount of \$5.75 million for Mrs. X. The settlement included an annuity which will help care for Mrs. X's financial needs for the rest of her life. ■



NURSING HOME IGNORES PATIENT'S END-OF-LIFE DIRECTIVES AND WISHES

Florida's first trial and one of the first in the nation to successfully seek damages

Years before Madeline Neumann became debilitated by the onset of Alzheimer's disease, she thought carefully about what she wished to have happen at the end of her life, and she signed a living will and an advanced directive that she be permitted to die naturally, with no resuscitation attempts or forced feeding. Madeline had watched the long, lingering deaths of two daughters and her husband, and she knew she did not wish to prolong her own suffering. It was a thoughtful and very personal decision communicated to her family and to medical personnel charged with her care. Madeline was eventually diagnosed with Alzheimer's disease and, in the advanced stage of the disease, was cared for at the Joseph L. Morse Geriatric Center in West Palm Beach, Florida. Her living will and directives were provided to the Center and the staff was aware of the do-not-resuscitate provisions. However, on October 17, 1995, 92-year-old Madeline was found unresponsive. Center personnel called the medical director, who ordered Madeline Neumann's transfer to a hospital by ambulance.

For the previous three years, however, the Center had failed to place a Do Not Resuscitate Order on Madeline's nursing home chart—an order that was necessary to give effect to Madeline's end-of-life wishes. As a result, the paramedics who arrived to transport Madeline had no choice but to interrupt the process of her peaceful passing by initiating a full regimen of life-saving procedures. Those procedures included inserting a breathing tube in her throat. At one point, Madeline's arms had to be tied down to keep her from tearing the tube out. She was transported to the hospital where, for six days, she was subjected to a variety of invasive procedures. Finally, after being disconnected from a respirator, Madeline was allowed to die.

Madeline's granddaughter and healthcare surrogate, Linda Scheible, brought suit in 1997 on behalf of Madeline's estate against Morse Geriatric Center, charging breach of contract and medical negligence. SDSBS attorney Jack Scarola represented Ms. Scheible, along

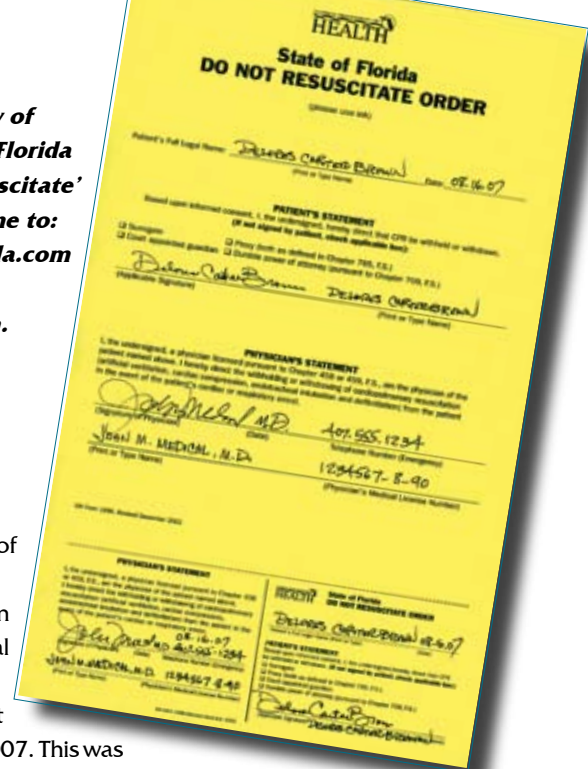
To find a copy of the State of Florida 'Do Not Resuscitate' form, go online to: www.myflorida.com type in: 1896 on the search.

with Marnie Poncy, executive director of the Bioethics Law Project for the Palm Beach County Legal Aid Society. The suit eventually went to trial in February 2007. This was

Florida's first trial, and one of the first cases in the nation, to successfully seek damages for wrongfully prolonging the process of dying. It garnered a great deal of public and media attention. Court TV reporters attended the trial and provided excerpts from the trial on their programs aired in August 2007. Ms. Scheibel's attorneys did not request a specific monetary award. Education and awareness—not money—were at the heart of this case, according to Mr. Scarola and Ms. Poncy. In his statements to the jury, Mr. Scarola stated that everyone has a constitutional right to control decisions about health care and death, and that Madeline Neumann's clear directives were ignored by the Center, resulting in unnecessary suffering at the end of her life.

Mr. Scarola stated that everyone has a constitutional right to control decisions about health care and death, and that Madeline Neumann's clear directives were ignored by the Center, resulting in unnecessary suffering at the end of her life.

On March 16, 2007, the jury returned a verdict in favor of Madeline Neumann's estate, finding Morse Geriatric Center liable for \$150,000 in damages. Ms. Scheibel said that the verdict tells those who care for the elderly and infirm that they need to pay attention to patients' end-of-life directives and wishes. "We undertook this case because of those legal issues," Mr. Scarola said. "The verdict confirmed the accuracy of this message." ■



\$150,000 Verdict:
MEDICAL NEGLIGENCE

ANNOUNCEMENTS



Chris Searcy appointed to PBC Bar Association Committees

Chris Searcy was recently appointed to the Circuit Court Civil Law Practice Committee of the Palm Beach County Bar Association. He is one of approximately 25 attorneys that serve on the committee. Members initiate and consider improvements in the area of civil law practice, and assist in coordinating the agenda for the annual Bench Bar Conference. Committee members also participate in the Speakers' Bureau addressing community organizations as requested. Mr. Searcy was also appointed to serve on the Judicial Relations Committee of the PBC Bar Association. This committee serves as liaison between the Bar and the Judiciary, planning, implementing, and coordinating programs for better understanding and relations. ■



Brian Denney joins SDSBS as Associate

SDSBS recently announced that attorney Brian Denney became an associate at the firm. Mr. Denney currently works with Chris Searcy on cases involving personal injury, medical malpractice, and product liability. Prior to joining SDSBS, Mr. Denney was a shareholder in a Tampa law firm where he successfully represented medical professionals and manufacturers in medical malpractice and product liability litigation. He also represented medical professionals in Department of Health investigations. He brings a unique perspective to SDSBS, having defended clients in all facets of civil litigation. Mr. Denney is a native of West Palm Beach. He received his undergraduate degree from Stetson University, and was recognized with the Outstanding Senior Award for Academic Excellence in Sociology. He went on to graduate school at Stetson University College of Law, receiving his juris doctor degree with honors. Mr. Denney was also awarded the Victor O. Wehle Trial Advocacy Award. ■



Harry Shevin becomes SDSBS Shareholder

SDSBS recently announced that attorney Harry Shevin has become a shareholder at the firm. Mr. Shevin's work focuses on personal injury, toxic torts, medical malpractice and wrongful death litigation. Prior to working for SDSBS, Mr. Shevin was an Assistant State Attorney in Miami-Dade County, where he prosecuted numerous first-degree felonies and was recognized by Mothers Against Drunk Driving (MADD) for outstanding DUI prosecutions. Mr. Shevin is president-elect of the Palm Beach County Justice Association, and has previously served the Association as treasurer, secretary, and member of the Board of Directors. Mr. Shevin graduated with honors from the University of Florida College of Law, where he served as a member of the trial and moot court teams and as an appellate advocacy instructor. "I am proud to share the same pursuit of justice as my partners, and honored by the recognition," said Mr. Shevin. ■



Linda Wells promoted to SDSBS Paralegal

Linda Wells was recently promoted to the position of paralegal at SDSBS. Ms. Wells began her career as a legal secretary, working for several personal injury law firms in Miami while attending the University of Miami's Paralegal Program. In 1982 Ms. Wells passed the national exam and became a certified paralegal. In 1985 Ms. Wells began working with SDSBS attorney David White, at that time a founding partner in the law firm of Proenza, White & Roberts, P.A., in Miami. In 1996 Ms. Wells relocated to West Palm Beach and began work at SDSBS as a legal secretary. She works primarily with Mr. White and has been involved in the preparation of a wide variety of personal injury cases. She is a native of Colonial Heights, Virginia, and attended John Tyler Community College in Chester, Virginia. Ms. Wells is affiliated with the National Association of Legal Assistants and the Florida Justice Association. ■

Failure to test for genetic disorders results in second child with severe birth defects

(Continued from page one.)

suffering from Smith-Lemli-Opitz syndrome, and told the Estradas that their older son likely suffered from the same thing. Smith-Lemli-Opitz syndrome was first diagnosed in 1964. It is a genetic disorder that affects newborns who are unable to produce enough cholesterol for healthy development, and often results in a variety of birth abnormalities.

Dr. Kousseff had worked 23 years at USF and had seen this syndrome in at least seven patients before the Estradas. He had even written an abstract on a patient with the genetic disorder. Despite this, USF, through its employee Dr. Kousseff, failed to properly test for a genetic disorder, failed to exercise a prudent level of care, skill, and treatment, and, tragically, failed to warn the Estradas of the 25 percent risk that the syndrome would recur in another child.

The Estradas now face the enormous burden of caring for two special-needs sons. The children are sustained with feeding tubes because they cannot eat on their own. They cannot speak. While Aiden recently began walking, doctors are not sure if Caleb ever will. Both children are mentally retarded. Neither child will ever be able to care for himself. The family asked SDSBS attorneys Chris Searcy and John Shipley to represent them in a complaint filed against the University for wrongful birth.

Because USF is a government agency, damages are capped. USF will only be required to pay \$200,000 of the total \$21.1 million verdict. Caleb will require lifetime care. "This case makes a strong argument for removing the damages cap for unresponsive government agencies," said Chris Searcy.

After two weeks of testimony, Circuit Judge William Levens ruled that USF's negligence resulted in Caleb's wrongful birth. The jury was directed to decide how much was due to the family for the cost of Caleb's care for the rest of his life, and for the family's pain and suffering. The jury took 2 ½ hours to award the Estradas a total of \$23,553,000. The jury assigned USF 90% of the liability for the mistake, and assigned Dr. Pollack (not named in the lawsuit) 10% of the liability. The quest for the Estradas' relief, however, is not yet over. Because USF is a government agency, damages are capped and the University will only be required to pay \$200,000 of the total \$21.1 million verdict against it. The Estradas' attorneys will seek a claims bill for the remainder of the verdict at the next session of the Florida legislature. The process could take years. "This case makes a strong argument for removing the damages cap for unresponsive government agencies," said Chris Searcy. ■



EARL DENNEY ELECTED TO AMERICAN BOARD OF TRIAL ADVOCATES

SDSBS attorney **Earl Denney** was recently elected to membership in the American Board of Trial Advocates (ABOTA) and the Palm Beach Chapter of ABOTA. Mr. Denney was elected by the National Board of Directors at their June 30, 2007 meeting. ABOTA noted that Mr. Denney's election "further evidences [his] high personal character, honorable reputation, and proficiency as a trial lawyer." Membership is by invitation only. ABOTA has a membership of more than 6,300 trial lawyers representing equally the plaintiff and defense bars, as well as judges, with 93 chapters in the United States. Its primary mission has been the preservation of the civil jury trial rights guaranteed by the Seventh Amendment to the U. S. Constitution. ■

*"I consider trial by jury
as the only anchor
yet imagined by man
by which a government
can be held to the principles
of its Constitution."*

- - Thomas Jefferson

THE FORGOTTEN CHILD

Today, more than ever, safety sells. And major automakers such as Ford, GM and Honda, have raced to launch safety-for-all ad campaigns or make announcements that a new safety feature will be standard on all models. But one population has been consistently left out of manufacturers' plans for improved safety: children between the ages of 4 and 8 years old. The safety community calls these youngsters "The Forgotten Child." But they are not so much forgotten as systematically ignored by industry and regulators alike. In fact, the historical landscape is dotted with missed opportunities to close the safety gap and warnings about the failure to do so.

Today, motor vehicle crashes remain the leading cause of injury-related unintentional death among children aged 14 and younger; children between the ages of 5 and 14 account for two-thirds of those deaths. In 2005, 585 children ages 5-9 died in motor vehicle crashes; 74,000 suffered injuries. About 8,000 of those injuries were incapacitating including traumatic brain injuries caused by head trauma and cervical spine and severe abdominal injuries associated with restraint misuse.

These tragic statistics reflect more than benign neglect. They are the result of manufacturers' conscious decisions to exclude young children in their restraint designs, abetted by the National Highway Traffic Safety Administration's inconsistent and ineffective regulations. Regulators have been slow to require automakers to install the basic equipment necessary to make child safety seats effective such as rear lap/shoulder belts particularly in the middle position. They have failed to promulgate standards for child restraints that cover the probable weight ranges for passengers in the 4-8 year-old age range. Astoundingly, there are still no dynamic requirements to test dummies of any size in rear seats, a fact which has contributed to public ignorance of just how unsafe rear seats can be.

Even the legal community remains unaware of the dangers posed by putting children in the rear seats of vehicles equipped with only adult seat belts, which puts them at unnecessary risk of injury and death. We are interested in investigating any case of serious injury to a child who was a rear seat passenger during an automobile accident. Families of such children (and their lawyers) need to be alert to the possibility that serious injuries in this setting may be the result of defective restraint systems (i.e., the seatbelts and the seats themselves). ■



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ACCOLADES



Greg Barnhart on Fourth District Court Commission

Greg Barnhart was appointed by Florida Governor Charlie Crist to the Fourth District Court of Appeal Judicial Nominating Commission. Mr. Barnhart was nominated for this position by the Florida Bar Association. The Commission nominates all appellate court judges for the Fourth District, covering Florida from Broward County to Indian River County. ■



Lance Block chairman of new commission on disabilities

On July 26, 2007, Florida Governor Charlie Crist appointed SDSBS attorney Lance Block chairman of the newly created Governor's Commission on Disabilities. The 19-member commission will advance public policy and work with state agencies and organizations on behalf of Floridians with disabilities. The announcement came on the 17th anniversary of the Americans with Disabilities Act. "Lance Block has a long career in advocating and defending Floridians with disabilities," stated Governor Crist. "I am honored he has agreed to serve the people of our state in this important position." ■



David Kelley on Palm Beach County Sports Commission

SDSBS Attorney David Kelley was recently appointed to the Palm Beach County Sports Commission, a private, nonprofit organization that serves the County by promoting and marketing sporting events and activities in the area. ■



Sean Domnick elected to Board of Governors of the American Association for Justice

SDSBS attorney Sean Domnick has been elected to serve a two-year term on the Board of Governors of the American Association for Justice. The Association promotes fair and effective justice and provides support for the efforts of attorneys to ensure that any person injured by the misconduct or negligence of others can obtain justice in America's courtrooms. ■



Sia Baker-Barnes chair-elect of the Florida Justice Association's Young Lawyer Section

Sia Baker-Barnes was elected chair-elect of the Florida Justice Association's Young Lawyer Section. She has served on the Board of Directors of the Young Lawyer Section since 2002. Ms. Baker-Barnes previously chaired the Publication Committee and was co-chair of the Annual Mock Trial. The Association (formerly the Academy of Florida Trial Lawyers) is dedicated to upholding Florida's civil justice system and protecting the rights of citizens and consumers. ■

Sia Baker-Barnes on Board of Directors of the Florida State University College of Law Alumni Association

Sia Baker-Barnes was recently elected to serve on the Board of Directors of the Florida State University College of Law Alumni Association. Ms. Baker-Barnes earned her law degree from the FSU College of Law, where she was awarded the Virgil Hawkins Fellowship for academic achievement. ■



Richard Lueders and Beth Thomas with Greg Barnhart.

SDSBS CLIENTS PRESENTED WITH FJA'S "CHAMPION FOR JUSTICE AWARD"

On June 14, 2007, the Florida Justice Association presented SDSBS clients **Richard Lueders** and **Beth Thomas** with its 2007 "Champion for Justice Award" for their "selfless efforts to protect the safety of the citizens of Florida and the many tourists who annually visit the state." The presentation took place at FJA's annual convention held at the Breakers Hotel, Palm Beach, Florida. Mr. Lueders and Ms. Thomas were instrumental in lobbying the Florida legislature for a bill that would mandate carbon monoxide detectors in all public lodgings. The bill would also require detectors to be installed in homes and apartments built after July 1, 2008 with adjoining garages, gas heaters, fireplaces, or similar appliances. Florida Governor Charlie Crist signed the bill into law on July 29, 2007.

Richard Lueders' and Beth Thomas' son, Thomas, died from carbon monoxide poisoning while he was vacationing with his father at the Doubletree Grand Key Resort in Key West, Florida. Both father and son were poisoned by emissions from a boiler room near their hotel room. Richard survived the incident, but 26-year-old Thomas, an aspiring writer, did not. The legislation is an effort to prevent the nearly 500 deaths that occur each year due to non-fire-related carbon monoxide poisoning.

Richard Lueders and Beth Thomas are represented by SDSBS attorneys **Chris Searcy** and **Greg Barnhart** in a suit brought by the parents against Doubletree for shoddy repairs and adjustments made to the fourth floor boiler room. There are 26 other suits filed against the hotel by guests that stayed in the same hotel room. "I think this is an excellent case," Mr. Barnhart said. He added that the hotel's actions crossed the boundaries of negligence, and could easily constitute recklessness. The suit is scheduled to be heard in April 2008, a few months shy of July 1, 2008, the date the new law will go into effect to protect other patrons of public lodging. ■

VEHICLE COLLISION RESULTS IN PERMANENT SPINAL CORD INJURY TO CONSTRUCTION WORKER

Complicated traffic accident results in significant settlement.

Mr. C and a friend moved to Florida after the 2004 hurricane season to work for some of the building contractors and craftsman in Indian River County. The devastation caused by Hurricanes Frances and Jeanne had created numerous opportunities for construction workers experienced in restoration work. Mr. C and his friend had operated a reconstruction business in Ohio. Despite being new to the area, Mr. C quickly developed a strong working relationship with one of the biggest general contractors in the Vero Beach area. The contractor had been in business in Indian River County for over 68 years. Mr. C's work ethic, skills and diligence insured that he would have all of the work opportunities that he could possibly want. His bright future was suddenly interrupted on August 4, 2005.

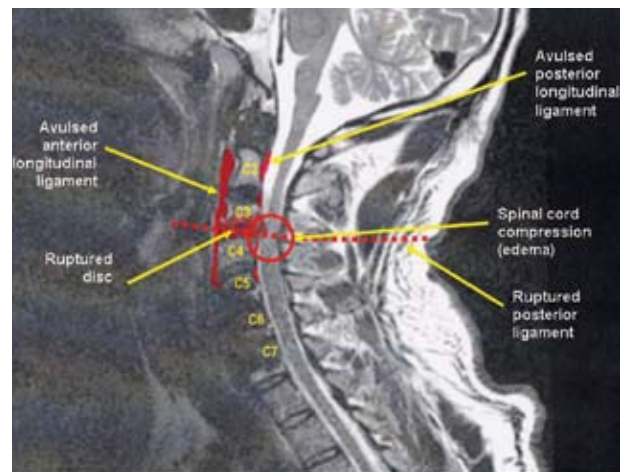
That day, Mr. C and another subcontractor working on the same projects, Mr. W, had been driving to job sites they had to inspect. The men had worked together on many projects and enjoyed their friendship. After they completed the inspections they stopped by the Fraternal Order of Eagles and spent about an hour at the bar. When they left the bar, Mr. W was driving his company's truck and Mr. C was seated in the front passenger seat. They headed south on Old Dixie Highway. Mr. W prepared to make a left turn at the intersection with 12th street. At that moment a northbound vehicle, a Mazda sedan owned and driven by Mr. B, was traveling toward the same intersection. As Mr. W began his left turn, Mr. B's vehicle slammed nearly head-on into Mr. W's truck. Mr. C suffered severe injuries and was quickly transported to Holmes Regional Medical Center, the local community's trauma hospital. At the hospital, Mr. C was diagnosed with a severe cervical spinal cord contusion. The injury was complicated by the fact that Mr. C had undergone a cervical fusion approximately three years earlier. Mr. C was hospitalized for twelve days. Under an emergency protocol, the doctors administered a high dose of corticosteroids in an effort

to prevent further damage to the spinal cord in hopes that they could salvage as much tissue as possible. Unfortunately, a central spinal cord injury can progress, and, in this case, Mr. C's injury worsened. As his condition deteriorated he was referred on an emergency basis to a spinal surgeon.

The spinal surgeon, Dr. Z also immediately prescribed a strong dose of intravenous corticosteroids. He then performed an emergency fusion to stabilize Mr. C's spine and to prevent further cord damage. Unfortunately, Mr. C's spinal cord was more prone to injury because of the earlier cervical fusion. He went on to develop myelomalacia, or scarring to the spinal cord caused by the collision. Indeed, Mr. C was at risk for becoming a quadriplegic. He would never again be able to perform the physical rigors required by his profession. For the rest of his life he would not be able to lift more than ten pounds at a time. His life now in tatters, Mr. C asked SDSBS attorney Greg Barnhart to represent him in an action seeking relief for his injuries.

There were numerous defenses to overcome. Each driver claimed that the other was responsible for the collision. Mr. W, the driver of the truck Mr. C occupied, insisted that Mr. B was at fault as he was traveling at an excessive speed approaching the intersection. Mr. B asserted that Mr. W was at fault for initiating a left turn directly into his path of travel. Because Mr. C had been partially ejected from the truck as a result of the collision, it was asserted that he had failed to wear his

(Continued on next page.)



**\$2.1
Million
Settlement:
AUTO ACCIDENT**

(Continued from previous page.)

seatbelt and the failure to do so was the cause of the extent of his injuries. The defense also used Mr. C's prior medical record to assert that the damages to his spinal cord existed before the accident.

The color of the intersection's traffic light at the time of the collision was particularly important to determine liability. Greg Barnhart and his team of investigators were able to identify and locate an eyewitness to the crash that was not listed on the crash report. The eyewitness was filling his car with gas at a station on the northwest corner of the intersection at the time of the collision. He noted that both vehicles had their lights on. Importantly, the witness testified directly and unequivocally that the traffic light for the truck driven by Mr. W "had turned from yellow to red."

According to the investigating officer, Mr. B was traveling too fast for conditions and exceeding a safe speed, thereby contributing to the enormity of the crash.

The testimony of Mr. C's treating physicians and surgeons, in conjunction with the medical experts retained by Mr. Barnhart was overwhelming to the defense on damages. Mr. Barnhart was able to demonstrate that Mr. C's previous neck surgery had completely healed but in the event of a second trauma, Mr. C's spinal cord would be more susceptible to injury. Further, the medical experts and treating physicians were able to demonstrate the full extent of Mr. C's injury through a future medical care plan that outlined the need for diagnostic procedures and rehabilitation for the remainder of his life.

Because one of the drivers, Mr. B, was underinsured, carrying minimal bodily injury liability coverage, he was vastly underinsured for the amount of damages suffered by Mr. C. Fortunately, insurance coverage applied to the vehicle occupied by Mr. C. Based on the testimony of the witnesses, the investigating trooper and the medical experts, Mr. Barnhart was able to obtain for Mr. C the benefit of both bodily injury liability coverage and underinsured motorist coverage from the same policy insuring Mr. W's commercial truck. The case was successfully mediated just before the commencement of trial. Settlement resulted in a total recovery of \$2.1 million. ■

SPEAKING EVENTS



Chris Searcy

Chris Searcy spoke on "The War on Medical Expert Witnesses" for the American Association for Justice's 2007 Winter Convention, held in February in Miami Beach, Florida ■



Darryl Lewis

Darryl Lewis represented SDSBS at an Emergency World Summit on Roof Crush sponsored by People Safe in Rollovers Foundation, held in Washington, DC, in July 2007. Mr. Lewis participated in a discussion on the ramifications of the proposed Federal Motor Vehicle Safety Standard No. 216 - Roof Crush Resistance. The Department of Transportation's National Highway Traffic Safety Administration recently extended the comment period for roof crush standards to October 31, 2007. ■



Harry Shevin

In April 2007, Harry Shevin, president-elect of the Palm Beach County Justice Association and chair of the Association's Seminar Committee, served as moderator at a seminar on "How to Build a Trial Practice in a Challenging Economy." In May 2007, Mr. Shevin also served as moderator for a members-only closed forum and panel discussion on various issues facing the legal community. ■



Vince Leonard

SDSBS paralegal Vince Leonard was a guest speaker at the Palm Beach County Justice Association's members-only panel discussion held in May 2007. The panel addressed various issues affecting the legal community. Mr. Leonard also spoke on the subject of "Litigation Skills for Legal Staff" at a seminar held by Lorman Education Services in June 2007. ■



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**Jack
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Lance Block

Two SDSBS ATTORNEYS IN LIST OF "TOP 500 LEADING LITIGATORS IN AMERICA"

SDSBS attorneys Jack Scarola and Lance Block were included in the list of "Top 500 Leading Litigators in America" published January/February 2007 by Los Angeles-based Lawdragon Magazine. Lawdragon is a bi-monthly magazine published to provide consumers of legal services with better information about lawyers. The Lawdragon 500 list is one of the "ultimate guides to the best lawyers in the nation," according to the magazine's website. Fewer than 1/100% of all lawyers in the U.S. will be named a member of the Lawdragon 500. Lawdragon's editorial staff conducts extensive research of data that is gathered from legal professionals and used in ranking judges and lawyers. ■

*"To no one will we sell,
to no one will we refuse or delay,
right or justice."*

- - Magna Carta, 1215



SDSBS ATTORNEYS ATTEND PBC BAR ANNUAL LAW WEEK JUDICIAL RECEPTION

SDSBS attorneys attended the Annual Law Week Judicial Reception hosted by the Palm Beach County Bar Association. The event was held at the Harriet Himmel Theater, City Place, West Palm Beach, Florida. The reception honored all state and federal judges. ■



Top left: l-r, Chris Searcy, Judge Fred Hazouri and Judge Peter Blanc; above: l-r, Bob Bertisch of Legal Aid Society and Jack Scarola; left: l-r, Laurence Scher from the Florida Department of Children and Families and Darryl Lewis.

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TAKING... Time to Care



Top photo: l-r, Daryl Parks, Linnes Finney, Darryl Lewis, Willie Gary, Chris Searcy, David Prather and Sekou Gary.



Middle photo: l-r, Linnes Finney, Sia Baker-Barnes, Dr. Johnetta Cole, Evett Simmons, Tanisha Nunn Gary, Desiree Williams and Louis Gossett, Jr.

Bottom photo: l-r, Tanisha Nunn Gary, Sonya Finney and Sia Baker-Barnes.

SDSBS Platinum Sponsor at mid-year conference, with firm attorneys active at the Gertrude E. Rush Awards

SDSBS was a Platinum Sponsor of the National Bar Association's Mid-Year Conference held in May 2007 at the Westin Diplomat Resort & Spa in Hollywood, Florida. At the conference dinner, the Association recognized the recipients of the Gertrude E. Rush Award for the commitment, leadership, spirit and deeds that demonstrate their concern for human and civil rights, and their role as models for excellence in legal education and perseverance in the law, public policy, and social activism. **Sia Baker-Barnes** was co-chair of the Gertrude Rush Dinner Committee. **Darryl Lewis** is a member of the group. Gertrude Rush was the only woman co-founder of the National Bar Association, and her spirit and commitment to law and community service exemplifies the kind of individuals who achieve betterment and progress for their communities by demanding the greater good for all. ■



Attorney Pat Quinlan delegate for Lance Armstrong Foundation

SDSBS attorney **Pat Quinlan** was selected as a delegate for the May 16 "Livestrong Day," for the Lance Armstrong Foundation. He was among 200 volunteers who traveled to Washington, D.C. for the event. He met with Representatives Tim Mahoney, Ron Klein, and Robert Wexler, as well as staff members for Senators Bill Nelson and Mel Martinez, advocating increased funding for cancer research. The "Livestrong Army" is dedicated to making the war on cancer a top national priority. For more information, visit www.livestrong.org. ■



SDSBS is Platinum Sponsor of White Rose Luncheon, a scholarship benefit by the West Palm Beach Chapter of The Links

SDSBS was a Platinum Sponsor of the 29th Annual White Rose Luncheon held by the West Palm Beach Chapter of The Links, Incorporated at the Palm Beach County Convention Center. SDSBS attorney **Sia Baker-Barnes** was president of the Chapter on the date of the luncheon. In May 2007, she completed her two-year term as president. The luncheon is the primary fundraiser for the organization, which provides college scholarships to hundreds of students in need of financial aid to further their education. The luncheon's theme was "Hats Off!! An Afternoon of Fashion and Flair." More than 350 guests attended the event, dressed to express their own personal style as they browsed a silent auction, enjoyed a fashion show, and raised funds to support the scholarships. SDSBS Giving BACK, Inc. was a Signature Sponsor. SDSBS Giving BACK, an employee-run charitable organization whose motto is "Basic Acts of Community Kindness," donates time, effort, and money to numerous charities in the community. ■



L-r: Sia Baker-Barnes, Destinie Baker, Rosalyn Baker and Sandra Powery



SDSBS sponsors fundraiser for restoration of historic building for Tallahassee NAACP

In April 2007, SDSBS sponsored a fundraiser for the Tallahassee branch of the NAACP to provide support for restoration of an historic building which will eventually become the branch's new home. The event was held at The Towle House, home to SDSBS in Tallahassee, and was attended by more than 150 people. Community leaders and elected officials, including Florida's Governor Charlie Crist, Lt. Governor Jeff Kottkamp, and Chief Financial Officer Alex Sink, showed their support for the project. The building, originally owned by Joseph Franklin, opened in 1947 as Modern Day Cleaners, a fixture in the Frenchtown community. In 2002, the Frenchtown Community Development Corporation purchased the historic building and later donated it to the NAACP. The first phase of its restoration required moving the building from its original site to the new site in Tallahassee. The second phase will require at least \$200,000 for repair and restoration. SDSBS donated \$7,000 and is a driving force behind the project. SDSBS attorney Lance Block, honorary chair of the NAACP's building fund committee, said, "The goal of the fundraiser was to inspire community leaders, particularly the legal community." NAACP also recruited financial support from the city and county. Hopefully, the building will be completed within the next two years. The building will house a civil rights museum and will provide facilities for meetings, conferences and community events. ■

OF COUNSEL

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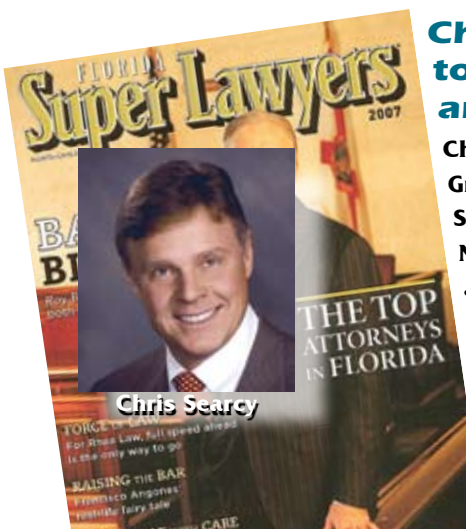
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14 SDSBS ATTORNEYS NAMED "FLORIDA SUPER LAWYERS 2007"



Chris Searcy named top point-getter and on 'Top 10' list.

Chris Searcy, Earl Denney, Jack Scarola, Greg Barnhart, John Shipley, Lance Block, Sean Domnick, David Kelley, Darryl Lewis, Bill Norton, David Sales, Chris Speed, Cal Warriner and **David White** have been named "Florida Super Lawyers 2007" in the annual consumers' guide published by Law and Politics. Chris Searcy was the top point-getter in the review and was named to the list of "Top 10 Super Lawyers in Florida." Both Mr. Searcy and Greg Barnhart made the guide's "Top 100 List." The Super Lawyer selection process combines balloting, blue-ribbon panel reviews, and independent research. Only five percent of Florida attorneys have been selected as Florida Super Lawyers. ■



Earl Denney



Jack Scarola



Greg Barnhart



John Shipley



Lance Block



Sean Domnick



David Kelley



Darryl Lewis



Bill Norton



David Sales



Chris Speed



Cal Warriner



David White

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