

OF COUNSEL

A report to clients and attorneys.
VOLUME 09 - NUMBER 2

Negligent Security at Apartment Complex Blamed for Visitor's Violent Death

Case settled at confidential seven-figure amount

In January 2003, Amparo Vidal and her husband, Aristides Milian, were in Orlando, Florida, visiting Amparo's father. The newlyweds had just recently returned from Italy, where they were married. The family was celebrating the couple's marriage and the good news that Amparo was expecting the couple's first child. In Orlando, Amparo's father lived at an apartment complex that, unknown to the family, was a haven for crime. Even worse, the apartment complex and its management company had turned a blind eye to crime, despite the fact that the police had been called to the complex to respond to criminal activity nearly every day over the previous three years.

On January 16, 2003, the inevitable occurred. Amparo and her father were inside the apartment. Aristides had stepped outside to talk on his phone. A few moments later they heard a "pop." They thought it was probably some fireworks going off nearby. When emergency vehicles began arriving just outside, they became concerned. Amparo and her father stepped outside and found Aristides lying in a pool of blood from a gunshot wound. A few hours later, Aristides was pronounced dead. Amparo was grief-stricken over the sudden loss of her husband, and the knowledge that her baby would never know his wonderful father. She was emotionally devastated and physically suffering. For months, she had to be closely watched because she was in danger of losing her baby. The birth of her son was bittersweet because Aristides was not there.

Belatedly realizing the dangerous environment that surrounded the apartment complex where her father lived, Amparo hired SDSBS attorneys **Chris Searcy, Darryl Lewis** and **Sia Baker-Barnes** to represent her family in an action charging negligence by the apartment complex's management and security companies. A detailed investigation revealed that the apartment complex owners, its management company, and its security company had failed in several ways to maintain the premises in a reasonably safe manner. The owners and the management company admitted that they did not evaluate the level of criminal activity at the complex, that they failed to take any steps to determine the risk of harm to residents and guests of the complex, and that, even after the police were called to the premises every day, they did absolutely nothing to address the problem of safety. *(Continued on page six.)*



When Amparo Vidal and her husband, Aristides Milian, visited Amparo's father, they did not realize they had stepped into a deadly crime zone. Aristides was fatally shot just outside his father-in-law's apartment. The family soon discovered that the apartment complex owners, its management company, and its security company had conspired to hide the dangers of rampant crime throughout the complex. This negligence cost Aristides his life.

**Special insert:
Chris Searcy
named one of
Florida's 'Super Lawyers'**



**SEARCY
DENNEY
SCAROLA
BARNHART
& SHIPLEY PA**
Attorneys at Law

A Passion for Justice

WEBSITE: WWW.SEARCHLAW.COM



2139 PALM BEACH LAKES BOULEVARD
WEST PALM BEACH, FLORIDA 33409
TOLL FREE: 800-780-8607 ■ LOCAL: 561-686-6300
FAX: 561-478-0754



THE TOWLE HOUSE, 517 NORTH CALHOUN STREET
TALLAHASSEE, FLORIDA 32301
TOLL FREE: 888-549-7011 ■ LOCAL: 850-224-7600
FAX: 850-224-7602

ATTORNEYS AT LAW:

ROSALYN SIA BAKER-BARNES
F. GREGORY BARNHART
THERON H. BASS
LAURIE J. BRIGGS
BRIAN R. DENNEY
EARL L. DENNEY, JR.
BRENDA S. FULMER
JAMES W. GUSTAFSON, JR.
JACK P. HILL
DAVID K. KELLEY, JR.
WILLIAM B. KING
DARRYL L. LEWIS
WILLIAM A. NORTON
PATRICK E. QUINLAN
EDWARD V. RICCI
DAVID J. SALES
JACK SCAROLA
CHRISTIAN D. SEARCY
JOHN A. SHIPLEY
CHRISTOPHER K. SPEED
KAREN E. TERRY
C. CALVIN WARRINER III

PARALEGALS:

VIVIAN AYAN-TEJEDA
ALYSSA A. DIEDWARD
MARCIA Y. DODSON
RANDY M. DUFRESNE
DAVID W. GILMORE
JOHN C. HOPKINS
DEBORAH M. KNAPP
VINCENT LEONARD
J. PETER LOVE
CHRISTOPHER J. PILATO
ROBERT W. PITCHER
MARK PONCY
KATHLEEN SIMON
STEVE M. SMITH
BONNIE STARK
WALTER STEIN
BRIAN P. SULLIVAN

MANAGER: JOAN WILLIAMS

EDITORS: DIANE TRUMAN & PAULINE MUELLER
ASSOCIATE EDITOR: ROBIN KRIBERNEY
CREATIVE DIRECTOR: DE CARTERBROWN

Attorney Brenda Fulmer and daughter Molly lobby for Medical Device Safety Act in Washington, D.C.

In May 2009, U. S. Congresswoman Ileana Ros-Lehtinen (R-Florida), along with Representatives Frank Pallone (D-New Jersey) and Henry Waxman (D-California), cosponsored the Medical Device Safety Act (MDSA), a bill that protects patients from dangerous and defective devices. The bill gives consumers the ability to seek compensation for their injuries, medical expenses, and lost wages caused by defective FDA-approved devices. Over 80 other House representatives joined in sponsoring the bill, which would reverse a February 2008 Supreme Court decision in *Riegel v. Medtronic* that gave total immunity to device manufacturers who fail to adequately warn consumers about device risks. With passage of this important legislation, patients will again be able to hold negligent device manufacturers accountable. The bill would reinstate industry standards for maintaining product safety and disclosing newly-discovered risks to patients and physicians.

The Women's Caucus of the American Association for Justice (AAJ) has lobbied hard for passage of the Medical Device Safety Act. SDSBS client Janie Diamond also participated in the lobbying, as did representatives from the Florida Justice Association. In support of AAJ's lobbying efforts, SDSBS attorney Brenda Fulmer was scheduled, along with other female lawyers from Florida, for a meeting with Congresswoman Ros-Lehtinen on the issue. In the meantime, Brenda's daughter, Molly Fulmer, age thirteen, was looking for a project to complete for her school civics class, and she chose to do a presentation on this particular piece of legislation. Molly did her homework on the issue and prepared a comic strip to explain the very complex concept of federal preemption to her class. As



(l-r) Brenda Fulmer, Julie Braman Kane (attorney, Colson Hicks Eidson), U.S. Congresswoman Ileana Ros-Lehtinen, Molly Fulmer, and Ted Hutchinson (American Association for Justice)

the meeting with Congresswoman Ros-Lehtinen neared, Ms. Fulmer asked if her daughter could accompany her to the meeting, and the AAJ Women's Caucus agreed.

Earlier lobbying efforts had been unsuccessful in obtaining Congresswoman Ros-Lehtinen's sponsorship for this type of legislation. During the meeting, Congresswoman Ros-Lehtinen turned to Molly and asked why she was there. Molly told her she had selected the bill as her civics project, and then offered the congresswoman the presentation she had prepared for her class. The detailed and well-presented arguments in support of the bill, along with Molly's presentation for her civics class, were very impressive, and Congresswoman Ros-Lehtinen then agreed to become a cosponsor of the bill, one of only a few Republicans who have signed on so far. ■

**The bill gives consumers the ability to
seek compensation for their injuries,
medical expenses, and lost wages caused by
defective FDA-approved devices.**

**In the Senate,
the Medical Device Safety Act bill is S. 540.**

**In the House of Representatives,
the bill number is H.R. 1346.**

**Additional information on supporting this legislation
can be found at
www.searclaw.com**

"PROTECTING JUSTICE – SPEAK OUT FOR YOUR RIGHTS"

OF COUNSEL

NEWSLETTER
VOLUME 09 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.

Statistics Show Medical Malpractice Cases Are Not an Easy Windfall for Plaintiffs

The Advocate, newsletter of the Trial Lawyers Section of The Florida Bar, recently printed an article on medical malpractice information for physicians, "The Law: Trial Lawyers Tell All" (Vol. XXXVIII, No. 4 – Spring 2009).

The author, Shirley Grace, is a senior writer for *Physicians Practice*. An excerpt from her excellent article is reprinted here.

A Picky Profession

Believe it or not, reputable trial lawyers who specialize in litigating malpractice cases do not relish taking every case to court. Why? Because "we're likely to lose," says (Jeff) Kimmel (partner in the law firm of Salenger, Sack, Schwartz & Kimmel). He estimates that 80 percent of medical malpractice cases that go to trial rule for the defendant – much worse odds than most other personal injury cases.

The U. S. Department of Justice numbers differ only slightly. According to government data from 2003 (the latest available), medical malpractice is the second-toughest type of tort case for plaintiffs to win at trial, with defendant physicians prevailing in 63.3 percent of verdicts.

The Justice Department's data reflect trials in federal court; most malpractice claims are heard in state court, and states vary widely in terms of verdicts for plaintiffs. Still, the majority of cases don't even get that far: According to a 2006 Harvard School of Public Health report, 61 percent of medical malpractice suits are settled out of the courtroom. And it takes a sizeable chunk of change for lawyers to prepare for such cases – \$50,000 would

be a "normal" outlay, says Kimmel. Meanwhile, with many states passing laws capping damages for pain and suffering (often at \$250,000), and the amount of any judgment that attorneys can take home, the potential payout for plaintiffs' lawyers is greatly reduced, without any reduction in their risk.

According to a 2001 study conducted by the Bureau of Justice Statistics, medical malpractice plaintiffs win only 27% of trial cases – compared to 52% for all other plaintiff-won tort trials.

"It's nowhere near what the public thinks," says Kimmel. "In New York there's no huge payout (for attorneys). Statutorily, it's less than a third (of the award). It goes down to 10 percent . . . on a sliding scale once you collect over \$1 million."

According to a 2001 study of the 75 largest U. S. counties, conducted by the Bureau of Justice Statistics, medical malpractice plaintiffs win only 27 percent of trial cases – compared to 52 percent for all other plaintiff-won tort trials. Even winning a case is no guarantee the plaintiff will see any real cash forthcoming.

Another Justice Department study, using data collected on 43,000 closed cases between 2000 and 2004 from Florida, Illinois, Maine, Massachusetts, Missouri, Nevada, and Texas (all of which are required by state law to submit information on closed medical malpractice claims), found that most plaintiff-won claims closed with no compensation to a claimant at all. ■

When Cases Go To Trial, How Often Do Plaintiffs Win?

Type of Tort Case	Number of Jury and Bench Trials	Percent found for Plaintiff
Federal employers' liability	68	69.1%
Motor vehicles	311	56.9%
Marine	128	53.9%
Other personal injury	419	46.3%
Airplane	16	43.8%
Assault/libel/slander	34	38.2%
Medical malpractice	147	36.7%
Product liability	194	33.5%

Source: Federal Judicial Center, Integrated Data Base (Civil), Fiscal Years 2002-03

When Plaintiffs Win, How Much Are They Awarded?

Type of Tort Case	Number of Trials With Awards to Plaintiff	Median Amount Awarded for Plaintiff
Federal employers' liability	43	\$124,000
Motor vehicles	152	\$164,000
Marine	55	\$203,000
Other personal injury	156	\$ 90,000
Airplane	7	Insufficient data
Assault/libel/slander	10	\$115,000
Medical malpractice	49	\$600,000
Product liability	55	\$350,000

Source: Federal Judicial Center, Integrated Data Base (Civil), Fiscal Years 2002-03

The entire article can be found in the newsletters at the Florida Bar Trial Lawyers Section website, www.flatls.org.

Failure to Monitor Oxygen Level During Surgery Results in Permanent Blindness

Mary and John Smith (not their real names) enjoyed a quiet life in Florida. John had retired from his work at a service organization, and Mary was continuing her work as an associate pastor at her church, a job that was truly a labor of love. Together, over 35 years of a happy marriage, they had raised three children who were now adults getting married, having children, and doing well themselves. The Smiths were an exemplary, humble couple who looked forward to enjoying the rest of their lives together.

In June 2003, Mary was admitted to X Medical Center for elective back surgery. It was an ordinary, scheduled procedure that was expected to take three to five hours. Instead, it took 11 hours, two to three times as long as planned. When Mary woke up from the surgery, she was totally and permanently blind. No treatment could give Mary her vision back. She will never see again.

For the first seven hours of surgery, Mary's anesthesia care was handled by an unlicensed, unsupervised provider undergoing on-the-job training. He failed to perform or monitor any of the tests that would have revealed the inadequate blood pressure and anemia.

The defendants' negligence caused posterior ischemic optic neuropathy (PION) – the death of the optic nerve due to poor blood and oxygen delivery – which blinded Mary. PION has been known in medicine for many, many years. In fact, by the 1990's, blindness resulting from spine surgery had become such a problem that the American Society of Anesthesiologists began a database to track patients who had become blind while having non-eye surgery. The vast majority of the cases of blindness occurred after lengthy spinal surgery.

Many factors work together to cause PION. Blood loss during surgery causes anemia, a reduction in the red blood cells that carry oxygen to the optic nerve. Thus, anemia results in less oxygen delivery to the optic nerve during surgery. In many surgeries, including spine surgery, the surgical team lowers the patient's blood pressure during surgery. Lowering the patient's blood pressure too far – failing to maintain a safe and acceptable level of blood pressure – results in a low blood flow to the optic nerve. Combining low blood pressure and anemia (low blood flow and decreased oxygen-carrying capacity in the

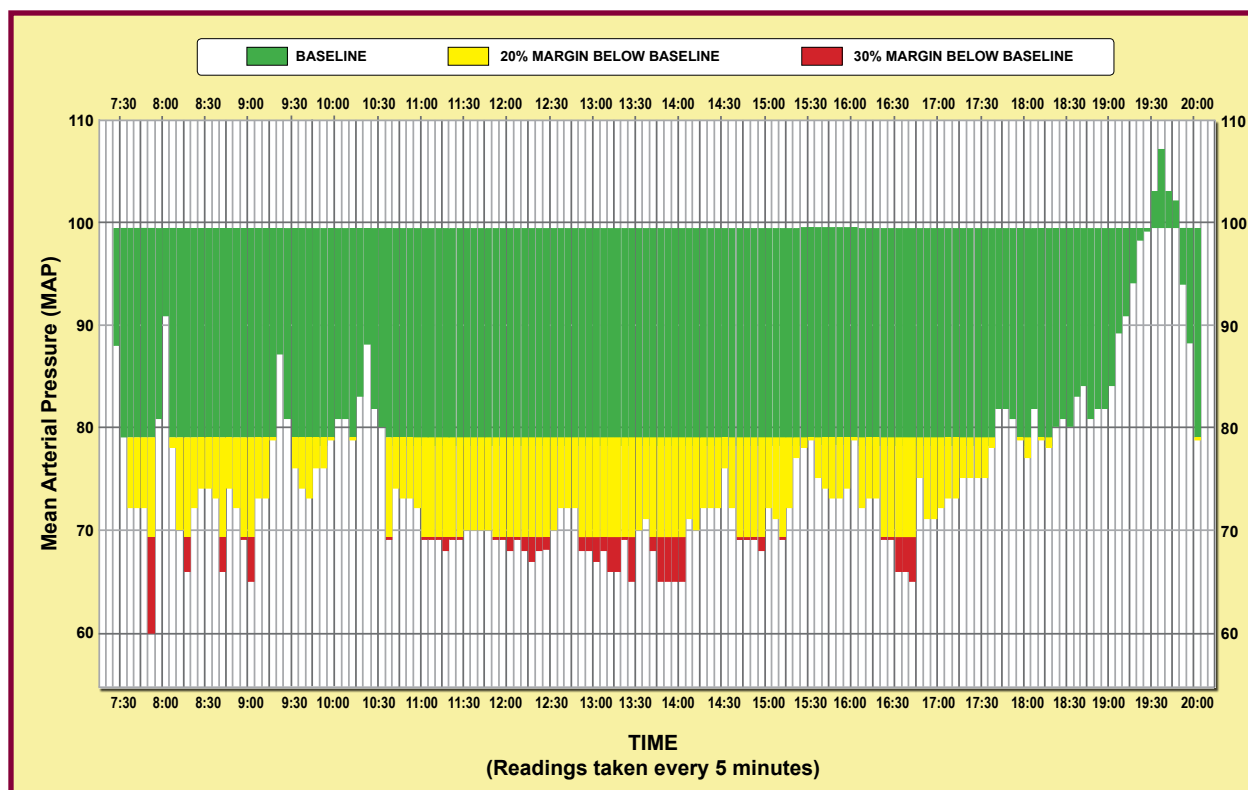
blood) results in a lack of oxygen delivery to the optic nerve. If the optic nerve does not receive an adequate amount of oxygen for long enough, the optic nerve dies. Leaving a patient in the face-down position for a long time results in swelling of facial and orbital tissue. The increased tissue pressure in, around, and behind the eyes restricts blood flow to the optic nerve. Coupling long operating time with anemia and low blood pressure places the optic nerve at risk for PION. For this reason, the most prevalent factor in ischemic optic neuropathy is a long operating time, where the patient is subjected to a face-down, prone position for long periods of time, with the blood pressure lowered and a decreased red blood cell count.

The human body has an incredible ability to overcome ischemic insults that occur naturally or even when caused by medical care. But when Mary Smith was subjected to 11 hours of these insults with few, if any, efforts on the part of medical personnel to avoid or minimize her body's distress, the result was total blindness.

There was no question or dispute in this case that Mary suffered a lack of blood and oxygen flow to her optic nerves during her 11-hour ordeal. The real dispute in the case was whether Mary's blindness could have been prevented, because the defendants claimed that the cause of PION is a "mystery."

It was clear, however, that the choices made by Mary's health care providers while she was unconscious caused Mary's PION. During the back surgery, X Medical Center personnel chose to maintain Mary's blood pressure 27% - 30% below her normal blood pressure, and allowed her blood pressure to drop 34% below her normal blood pressure for extended periods of time. The X Medical Center personnel chose to obtain just one arterial blood gas during the entire surgery, which showed that Mary was acidotic – another sign of inadequate oxygen delivery. Her health care providers chose not to correct it. X Medical Center personnel also chose to ignore Mary's decreased urine output during the lengthy surgery – another sign of inadequate oxygen delivery. Her health care providers chose not to correct it. Eight hours into the surgery, medical personnel obtained the first and only hematocrit test on Mary to measure the percentage of red cells in Mary's

(Continued on next page.)



blood – an indicator of whether the blood has sufficient oxygen-carrying capacity. This test indicated profound anemia, an inadequate oxygen-carrying capacity. Mary’s health care providers chose not to correct it. Finally, X Medical Center personnel grossly underestimated Mary’s blood loss during the surgery, and failed to transfuse additional blood to replace what she had lost.

Departures from the standards of medical care were both institutional and individual in nature. X Medical Center allowed a revolving door of five different anesthesia care providers to treat Mary during the surgery, such that the only continuity of care was the continuity of substandard care. For the first seven hours of surgery, Mary’s anesthesia care was handled by an unlicensed, unsupervised provider undergoing on-the-job training. He failed to perform or monitor any of the tests that would have revealed the inadequate blood pressure and anemia. He did not know what conditions to look for, how to look for them, or even why he should be looking for them.

Mary’s back surgeon could not provide any credible explanation why a three to five hour surgery took 11 hours. He indicated that Mary had significant “scarring” in her spine, but Mary had never undergone spinal surgery before or had any kind of back trauma in her life. There was no scarring, and the preoperative radiology studies

(Above: Mean Arterial Pressure chart.) Health care providers kept her blood pressure dangerously low (yellow and red) during the lengthy back surgery, which resulted in permanent total blindness.

proved it. Adding insult to injury, even after more than four years had passed since Mary was blinded during the scheduled back surgery, none of Mary’s health care providers had ever reported Mary’s case to medical literature, or even to the American Society of Anesthesia’s database that was created specifically for cases like Mary’s. Instead, they chose to do nothing and to pretend it never happened.

The Smiths, however, could not pretend it had never happened. Mary and John sought representation from SDSBS attorneys **Chris Searcy, Jim Gustafson,** and Howard Coker, an outside attorney. A negligence claim was filed against the medical center and the medical personnel involved in Mary’s surgery. Just before trial, the case was settled for a confidential amount. ■

Total and permanent blindness was caused by the failure of medical personnel to monitor the patient’s blood pressure, blood oxygen, and other vital signs during an 11 hour surgery that ordinarily takes three to five hours. No explanation was ever given for the departure from ordinary standards of care.

Speaking Opportunities



Chris Searcy

Chris Searcy spoke at the Florida Justice Association Workhorse Seminar held February 27, 2009, at Walt Disney World, Florida. His topic was "Voir Dire, Opening Statement, and Summation: Proof and Argument of the Element of Damages of Loss of Enjoyment of Life."

On March 5, 2009, Mr. Searcy spoke at The Florida Bar "Topics in Evidence" Seminar, in Tampa, Florida. His topic was "Cross Examination."

On June 12, 2009, Mr. Searcy spoke at the 2009 Annual Seminar of the American Board of Professional Liability Attorneys, held in New Orleans, Louisiana. His topic was "Medical Negligence: A Perspective on Litigation." ■



Greg Barnhart

On February 10, 2009, **Greg Barnhart** presented "Trial Skills: Use of Experts, Frye Motions, and Trial Motions" during the Florida Bar Civil Trial Certification Review Course Seminar held in Tampa, Florida. ■



Brenda Fulmer

In June 2009, **Brenda Fulmer** presented the topic "Overview of Various Hot Mass Tort Projects" to the 2009 Annual Conference of InjuryBoard.com, a community of personal injury law firms, attorneys, safety industry experts, and consumer advocates committed to making a difference by helping

people avoid injury and recover their lives after an accident. The organization is supported by a carefully selected membership of legal professionals concerned about public safety and the preservation of the civil justice system through public education.

Ms. Fulmer also spoke at the Florida Justice Association's 2009 Annual Convention held June 17-19, 2009, in Miami, Florida. She spoke at the Convention's session on "Tools for Proven Results: Advanced Skills for Top Paralegals and Legal Assistants – Advanced Track." Her topic was "An In-Depth Analysis of the Wyeth v. Levine Decision and the Impact on Your Client's Case." ■



Darryl Lewis

On February 11, 2009, SDSBS attorney **Darryl Lewis** spoke at the American Association for Justice Convention held in New Orleans, Louisiana. Mr. Lewis' topic was "Cross of Defense Damages, Witnesses and Damages in Closing." ■



John Hopkins

SDSBS paralegal **John Hopkins** spoke at the Florida Justice Association's 2009 Annual Convention held June 17-19, 2009, in Miami, Florida. Mr. Hopkins spoke on "Tools for Proven Results – Advanced Skills for Top Paralegals and Legal Assistants – Intermediate Track." His topic was

"Exploring and Conquering Your Case from Intake to Investigation and Discovery." ■

Negligent Security at Apartment Complex Blamed for Visitor's Violent Death

(Continued from page one.)

In fact, the apartment's entry gate, designed to prevent criminals and other unauthorized persons from entering the complex, was broken on the day that someone entered and killed Aristides Millan. The gate had been broken for some time. Yet the complex continued to charge residents for remote devices that were supposed to operate the gate. The defendants admittedly failed to take any steps to have the gate repaired in a reasonable time frame. Apartment managers also admitted that when prospective renters were given tours of the complex, rental associates had been instructed not to discuss the history of crime at the complex, and to address it "only if they were asked."

In addition, when the owners and the management company hired a security company prior to this incident, they admitted that the security company was specifically instructed not to protect the residents and guests, but only to look after the "goods of the company," i.e., laundry room change machines. Despite the fact that the contract called for the security company to be on duty seven days per week, no security guard was on the premises when Aristides was shot and killed. SDSBS attorneys obtained the budgets for the apartment complex and management company which detailed the company's policy of profits over safety – including a large budget for landscaping and ground maintenance and a minimal allotment for security.

The owners and management company failed to take any steps to determine the risk of harm to residents and guests of the complex. Even after the police were called to the premises every day, they did absolutely nothing to address the problem of safety.

The defense argued vehemently against any liability in the case. The apartment complex owners and the management company argued that the plaintiffs could not prove their case because the perpetrator had never been identified. They further claimed that the rental contracts precluded any liability. The security company claimed that its responsibility was limited to protecting "the goods of the company," and that no security guard was scheduled to be on duty on the evening of the shooting. Following three years of hard-fought litigation, and just before the trial was to begin, the case was settled for a confidential seven-figure amount for Amparo Vidal, her baby son Aristides II, and Aristides' daughter, Alexa Millan. ■

After 42 Years, Kevin Sidaway Finally Found Justice

In early April 2009, SDSBS and co-counsel Sheldon Stevens announced that a settlement had been reached in the case of Kevin Sidaway v. The Archdiocese of Miami, bringing to an end a struggle that began in 1967 when Kevin was an 11-year-old altar boy.

Kevin's story of abuse by a pedophilic priest is, unfortunately, not entirely unique. During a two-week trip, Kevin was repeatedly sodomized by Rocco D'Angelo, a priest with whom Kevin's family had shared their home on numerous occasions. What makes the Sidaway case so unusual is that Kevin had sued the Archdiocese of Miami a dozen years ago for that abuse and the subsequent cover-up by the Church hierarchy. That case was settled in 1998 for monetary compensation as well as a series of reforms that the Church had agreed to enact "as soon as reasonably possible." The record is replete with testimony confirming the importance which Kevin attached to those reforms, for they would effect changes in Church policy that would make it much more difficult for abusive clergy to remain undetected and unpunished.

In 2003, following the major international scandal surrounding pedophilic abuse in the Boston-area Catholic Church, Kevin learned that the Archdiocese of Miami had done nothing to effect the policy changes they had promised in their agreement with him. By the time some of the reforms had been adopted four years later (in response to the scandal in Boston), at least five priests from the Miami Archdiocese had been identified in charges of abuse that occurred after Kevin's bargained-for safeguards should have been put in place. It is extremely likely that these crimes would not have occurred had the Church followed through on its commitment to the reforms. Many children's lives would have been spared the horrors of this most heinous of crimes.

Kevin sued the Archdiocese again, this time for fraud in the inducement. It was apparent that the Church never intended to follow through on the policy changes – they had merely capitalized on Kevin's desire to protect other children, promising reforms as an incentive to reduce, by millions of dollars, the amount of money for which Kevin was willing to settle.

Attorney Stevens, seeking help with the case, approached SDSBS in 2008. Attorney **Jack Scarola** and case analyst

Courage and persistence by a plaintiff, even ten years after settlement for damages, finally compel the Archdiocese of Miami to follow through with their commitment to reform that would hold pedophiles in the clergy accountable for abuse.

Mark Poncy worked tirelessly to help bring about justice for Kevin Sidaway. While the settlement has been kept confidential to protect Kevin's financial privacy, attorney Scarola noted, "This was a case involving very substantial issues of cover-up and fraud, and the money paid to Kevin properly reflects that seriousness and the very substantial injury Kevin sustained."

The case presented some challenges for the SDSBS team – both Scarola and Poncy are Catholics who received their educations from Catholic institutions, including Georgetown University, and each continues to practice his faith. While regretting the state of affairs within the Church hierarchy that led to the suit, they were motivated by a commitment to achieve justice for Kevin and a desire to air the problems that have beset the clergy-dominated closed society that enabled such abusive behavior. "The Church continues to do so many good works, works that are often obscured by the taint of scandal that hopefully will be eradicated by the courageous stepping forward of victims like Kevin," they said.

Kevin Sidaway himself believes that the Church may finally be learning its lesson. "It is up to the members of the Catholic Church to take charge of their own institution," he said. "People need to realize that the clergy is made up of human beings, just like any other segment of society, and there will be failings on their part. Only by holding them accountable will the laity be able to ensure that the principles of the Church are upheld, rather than compromised."

Thanks to the courage and persistence of one very determined individual, those principles took a significant step toward reestablishment with the resolution of the case of Kevin Sidaway. ■





Chris Searcy

Chris Searcy in '2009 Top 100 Lawyers'

Eight SDSBS attorneys named 'Florida's Super Lawyers'

Two SDSBS attorneys named as 'Rising Stars'

(The Super Lawyers article on Chris Searcy is inserted in this issue of SDSBS newsletter Of Counsel.)



Earl Denney



Jack Scarola



Greg Barnhart



John Shipley



Darryl Lewis



Chris Speed



Cal Warriner



Karen Terry



Sia Baker-Barnes

SDSBS attorneys **Chris Searcy, Earl Denney, Jack Scarola, Greg Barnhart, John Shipley, Darryl Lewis, Chris Speed,** and **Cal Warriner** were named to the list of "Florida's Super Lawyers for 2009," the annual consumer guide published by Law and Politics. Only five percent of Florida attorneys have been named to the list. Chris Searcy was also named to the "List of Top 100 Lawyers." The Super Lawyer selection process is based on peer nominations, blue-ribbon panel reviews, and independent research. The publication also named **Karen Terry** and **Sia Baker-Barnes** as "Rising Stars." ■

Accolades

Senators Nelson and Martinez invite Chris Searcy to serve on Southern District Judicial Nominating Commission for two-year term

Chris Searcy has accepted an invitation from U. S. Senators Bill Nelson and Mel Martinez to serve on the Judicial Nominating Commission, an organization jointly established by the senators for the purpose of reviewing applications and recommending the most qualified candidates to serve as U. S. District Court Judges, U. S. Attorneys, and U. S. Marshals in Florida. The JNC is divided into three conferences, corresponding to each of the three federal judicial districts in the state. Mr. Searcy will serve on the Southern District Commission for a two-year term. ■



Sia Baker-Barnes elected to board of the Florida Justice Association

In June 2009, **Sia Baker-Barnes** was elected to the board of the Florida Justice Association. The FJA is dedicated to strengthening and upholding Florida's civil justice system and protecting the rights of Florida's citizens and consumers. ■

SDSBS sponsors Virgil Hawkins 'Florida's First' Legacy Gala at the Florida Bar Convention

The Virgil Hawkins Florida Chapter of the National Bar Association held its "Florida's First" Legacy Gala on Saturday, June 27, 2009, in conjunction with the Florida Bar Convention. The Gala honored Florida's first black lawyers, a project spearheaded by Florida Supreme Court Chief Justice Peggy Quince. The event featured a historical video and the unveiling of a book that records the history of the pioneers, *Florida's First Black Lawyers (1869-1979)*. SDSBS was a sponsor of the event and attorney **Sia Baker-Barnes** was a member of the research committee, writing several biographies for the book. ■

For archived issues of our newsletter,
Of Counsel,

go online to our website at

www.SearcyLaw.com



Mickey Smiley, Chris Searcy's Law Professor at Stetson University, and Sia Baker-Barnes present the award to Chris.

Chris Searcy receives the Mickey Smiley Award from Young Lawyers Section of Florida Justice Association

At the 2009 Annual Convention of the Florida Justice Association, held June 17, 2009, at the Fairmont Turnberry Isle Resort and Club in Aventura, Florida, **Chris Searcy** was surprised with the presentation of the "Mickey Smiley Award" by the organization's Young Lawyers Section. The award recognized Chris' outstanding dedication to young lawyers across the state, and for being a pioneer with FJA. SDSBS attorney **Sia Baker-Barnes** made the presentation as chair of the Young Lawyers Section. Chris was attending the convention and participating in a CLE seminar with a presentation on opening statements. ■



Karen Terry named 'Top Lawyer: Class of 2009' by South Florida Legal Guide

The *South Florida Legal Guide's* new Midyear 2009 Report recently named **Karen Terry** as a "Top Lawyer: Class of 2009." She was previously listed by the publication as a "Top Up & Comer," and is now recognized as a Top Lawyer for her experience and success. The publication reported on her 14 years of practice in personal injury, medical malpractice, and wrongful death cases. Her largest verdict was \$25.8 million in a 2007 case involving an incorrectly filled prescription. ■



Darryl Lewis



Bill Norton



David Sales

Three SDSBS attorneys selected for membership in The American Trial Lawyers Association, joining six previously selected SDSBS attorneys in ATLA



Chris Searcy



Earl Denney



Greg Barnhart



John Shipley



Brenda Fulmer



Cal Warriner

SDSBS attorneys **Darryl Lewis**, **Bill Norton**, and **David Sales** recently accepted invitations to join The American Trial Lawyers Association. The Association is a national organization composed of the top 100 trial lawyers from each state. Membership is obtained through special invitation and is extended only to those attorneys who exemplify superior qualifications of leadership, reputation, influence, stature, and profile as civil plaintiff or criminal defense trial lawyers. The Association's mission is to promote excellence in the legal profession through practical educational programs, networking opportunities, and publications dealing with current issues facing America's trial lawyers.

The Association is a national organization composed of the top 100 trial lawyers from each state. Membership is obtained through special invitation and is extended only to those attorneys who exemplify superior qualifications.

The selection of these three makes a total of nine SDSBS attorneys selected for membership in The Association. They join SDSBS attorneys **Chris Searcy**, **Earl Denney**, **Greg Barnhart**, **John Shipley**, **Brenda Fulmer**, and **Cal Warriner**. ■

SDSBS teams win in several areas, including T-shirt design, in 2009 Mercedes Benz Corporate Run

SDSBS employees participated in the 2009 Mercedes Benz Corporate Run held April 15th at the Meyer Amphitheater in West Palm Beach, Florida. Proceeds from the annual race are donated to the South Florida Chapter of the Leukemia and Lymphoma Society. The event began in Miami in 1985 and expanded to West Palm Beach in 2005. **Linda Miller** was designated SDSBS Team Captain. In the Male Legal Division, SDSBS runners included **Aaron Ledford, Bobby Marques, Ryan Otero, Pat Quinlan,** and **Curtis Reynolds**. The men won first place in their division. In the Female Legal Division, SDSBS women took second place. Runners included **Diane Dulcie, Amanda Kriberney,** and **Erica Matthews**. The Corporate Run included a walkers' division and **Marilyn Hoffman, Robin Kriberney,** and **Ann Lawley** participated in that portion of the event. Friends and families of the SDSBS runners and walkers came out to cheer the teams on, and SDSBS provided refreshments during the race. Each year the event includes a competition for the Most Original T-Shirt Design. For the second time, SDSBS won first place for their T-shirts, designed for them by Above and Beyond Reprographics and illustrated by Danny Carter. Details on the event can be found at www.mercedesbenzcorporaterun.com. ■



Some of the participants in the 2009 Mercedes Benz Corporate Run and the winning t-shirt design for SDSBS team.

Taking... *Time to Care*



SDSBS attorney Sia Baker-Barnes, Judge Edward Rodgers, Mrs. Rosalyn Baker and Judge Moses Baker, Jr.

Sia Baker-Barnes attends the 35th Annual Urban League's Equal Opportunity Day Awards Gala

Sia Baker-Barnes attended the 35th Annual Equal Opportunity Day Awards Gala for the Urban League of Palm Beach County held April 24, 2009, at the Palm Beach County Convention Center, West Palm Beach, Florida. The mission of the Urban League is to help African Americans and other minorities attain social and economic equality. The League believes this effort begins with training and developing today's youth to become educated, socially responsible, and economically self-reliant leaders for tomorrow. Additional information on the League's mission and its accomplishments can be found at www.ulpbc.org. ■



SDSBS attorney Brenda Fulmer helped Habitat for Humanity while at the AAJ convention in New Orleans

SDSBS attorney **Brenda Fulmer** participated in the Habitat for Humanity Project sponsored by the American Association for Justice during their Winter Convention, held February 2009 in New Orleans, Louisiana. ■



Above: Participants in the 'SleepOut 2009' fundraiser. Far left: SDSBS attorney Jack Scarola with Diana Stanley, executive director of The Lord's Place. Near left: Jack 'sleeping out' for a good cause.

Scarola family participated in 'SleepOut 2009' fundraiser, continuing 20 years of SDSBS support to benefit The Lord's Place charitable organization

SDSBS attorney **Jack Scarola** and a few of his grandchildren took part in "SleepOut 2009," the annual fund-raising event on behalf of The Lord's Place. The organization is dedicated to transforming lives and ending the cycle of homelessness in Palm Beach County. In addition to providing housing and support services for individuals and families with children, The Lord's Place provides food, job training and placement, life skills education, and personalized support services that promote dignity and economic self-sufficiency. The event was held February 6, 2009, at the Meyer Amphitheater in West Palm Beach, Florida. Continuing over 20 years of active involvement in support of The Lord's Place, SDSBS was a presenting sponsor at the event. More than 350 people attended the event and 153 of them chose to stay the entire night. The 'SleepOut' raised approximately \$90,000 for the organization's programs. ■

SDSBS recognized for their support of the 2009 'Walk Now for Autism' fundraiser event to benefit Autism Speaks, helping reach goal to raise \$275,000



On February 21, 2009, SDSBS was recognized for their support of the 2009 Palm Beach "Walk Now for Autism," the signature fundraising event for Autism Speaks. SDSBS sponsored a walk team for the event and was a media supporter, partnering with West Palm Beach's TV Channel 5. Donna Lane was team captain. Over 4,000 people took part in the event, with 171 teams walking. The organization met their goal to raise \$275,000 for research into the causes, prevention, and treatments for autism, as well as to provide support to families dealing with autism. The Walk is the nation's largest grassroots autism program event, taking place in numerous communities across the United States, Canada, and the United Kingdom. Autism Speaks founders, Suzanne and Bob Wright, also participated in the event in West Palm Beach. Additional information on the Walk and the organization can be found at www.walknowforautism.org. ■



Thanks to walkers, supporters, and pets, among whom were: Saylem, Layla, Maddie, Sally, Majik, Seyonce, Nikki, Thor, Cheeno, LG, Soda, Chip and Skylla.

SDSBS participated in the Eighth Annual Walk for the Animals, helping raise \$46,000 for Peggy Adams Animal Rescue League

SDSBS employees participated in the Eighth Annual Walk for the Animals held February 14, 2009, at John Prince Park in Lake Worth, Florida. The Walk raised over \$46,000 to support the Peggy Adams Animal Rescue League's low-cost spay and neuter programs, rabies vaccine programs, and care for lost, injured, and abandoned animals. Additional information on the organization can be found at www.hspb.org. ■

OF COUNSEL

VOLUME 09
NUMBER 2

**SEARCY
DENNEY
SCAROLA
BARNHART
& SHIPLEY PA**
*Attorneys
at Law*

PRSR STD
U. S. POSTAGE
PAID
ORLANDO,
FLORIDA
PERMIT NO.
1866

P. O. BOX 3626
WEST PALM BEACH
FLORIDA 33402-3626

ADDRESS SERVICE REQUESTED



Cases of widespread death, injury, damage, or loss that stem from negligence often fall into the category of the legal term "mass torts." Mass tort claims arise when unscrupulous individuals or corporations disregard public health or safety and the consequences affect large groups of innocent victims.

Call or email with any questions you may have about a potential case or referral:

www.SearcyLaw.com
800-780-8607

For more mass tort information: www.searcylaw.com www.searcylawblog.com