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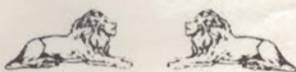
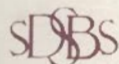
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NOTE: The accounts of recent trials, verdicts and settlements contained in this newsletter are intended to illustrate the experience of the firm in a variety of litigation areas. Each case is unique, and the results in one case do not necessarily indicate the quality or value of any other case.



Hospital Tragedy Results in Fire Code Revisions

(Earl Denney and Chris Searcy Negotiate Largest Medical Malpractice Settlement in Palm Beach County History)

On a rainy, ugly day in South Florida, our client, a young man, was involved in a very serious automobile crash. Admitted to a South Florida hospital, he underwent successful surgery to evacuate a subdural hematoma. Although recovering nicely from the head injury, he was placed in the Intensive Care Unit due to the severity of his chest injuries. While there, he was given a drug which paralyzed him so they could place him on a ventilator. The young man was showing improvement.

One afternoon, a hospital kitchen worker taking a smoke break, inadvertently leaned against a fire alarm setting off the alarm throughout the hospital. The hospital's rules and regulations and the fire code, required all hospital doors be closed, including doors in the Intensive Care Unit. Responding to the fire alarm, the young man's nurse closed his door and left him unattended while she went to the bathroom. For a three to six minute period, he was alone.



Meanwhile, a nurse at the monitor station noted that his heart beat had slowed to a dangerous level. Rushing to the room, she found him disconnected from the ventilator, the ventilator alarm screeching, and our client in complete cardiac arrest. Because the doors had been closed, no one heard the ventilator alarm begin to sound indicating he had become disconnected.

The man was resuscitated but had suffered severe brain damage. He is no longer able to walk, talk or even swallow.

As a result of this incident, the man will require constant medical care and therapy for the rest of his life. He is unable to care for himself in any

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Prudential Securities Reaches Settlement With SEC



On October 21, 1993, Prudential Securities reached a settlement with State and Federal securities regulators over charges that Prudential Securities improperly sold approximately \$8 billion worth of limited partnerships in the 1980's. As a result, Prudential agreed to deposit \$330 million in a claims fund for the benefit of investors who purchased Prudential limited partnerships. Over 700 limited partnerships are affected by the fund.

Bill Norton, a partner in our firm, together with co-counsel, Robert H. Rex of Dickenson, Murdoch, Rex and Sloan in Boca Raton, presently represent several hundred clients with claims against Prudential. Over the past year we have

pursued these cases in State and Federal courts and in arbitration proceedings before the National Association of Securities Dealers. Many successful settlements have already been reached. Recently, Prudential has requested the opportunity to reach settlements on all of the firm's pending cases.

In many of these cases, the clients are elderly, retired and had entrusted Prudential with most or all of their retirement "nest eggs." Many were encouraged to sell certificates of deposit and blue chip stocks in order to purchase these limited partnerships which, in many cases, are now virtually worthless.

Investors were routinely misled as to the anticipated income and safety of these limited partnership investments. Due to the failure of these investments, many of these elderly investors have experienced devastating financial consequences and now find it impossible to meet living and health expenses.

The firm continues to be available for consultation and representation with respect to limited partnership cases. ■

The Meeting Corner:



Earl L. Denney, Jr.

Earl Denney is Vice President and a partner of the firm Searcy Denney Scarola Barnhart & Shipley, P.A. in West Palm Beach, FL. He is a graduate of Florida State University. In 1967 he graduated in the top 25% of his class from the University of Mississippi Law School. For twenty-five years, Mr. Denney has been practicing law in West Palm Beach.

He is a Board Certified Civil Trial Lawyer and designated in the areas of Trial Practice — Personal Injury and Wrongful Death. He is a member of the American Society of Law and Medicine, the American Judicature Society and the National Board of Trial Advocacy. He was also chosen to be included in the First Edition of *Who's Who in American Law*.

Mr. Denney is especially committed to improving the quality of education. He is past-president of the Education Partnership of Palm Beach County and has served on the President's Council of Florida Atlantic University and the Board of South Florida Science Museum and Planetarium. Frequently, he lectures for statewide Continuing Legal Education seminars and to students in local Palm Beach County schools about the importance of staying in school. ■



Deane L. Cady

Deane L. Cady is a Paralegal/Investigator at Searcy Denney Scarola Barnhart & Shipley, P.A. Deane is a graduate of Florida Atlantic University with a bachelor's degree in political science. Deane was a drill sergeant in the Army and received the Commandant's Award while attending the Drill Sergeant Academy.

In 1969, he began his career as a Claims Representative with an insurance company and was promoted to management. His experience in claims extends over 25 years. Deane works primarily with Earl Denney assisting Mr. Denney with the overall development and management of their cases, helping clients and trial preparation. ■

OF COUNSEL

SPRING 1994 - QUARTERLY REPORT TO CLIENTS AND ATTORNEYS

Decisions...Decisions...Decisions...

DOE FAMILY vs. LAUTREC, LTD. AND DEERFIELD LAKE MOBILE HOME COMMUNITY

A 12 ton garbage truck owned by the defendant collided with the Doe family car after the truck's brakes failed. The two month old twin children both suffered closed head injuries. Their 31 year old mother sustained injuries to her head and ankle. The defense argued that the mother was negligent in operating her car and that she failed to properly use the car seats for her children. The defense also maintained that the mother and one of the children did not suffer any head injuries. Chris Searcy and Lance Block negotiated a \$6.9 million settlement for the family two days before trial was to begin in Broward County. ■

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. ■

MCCARTHY vs. CHASSE

Plaintiff, a 52 year old woman, was involved in a head on collision when the defendant's truck crossed into her

lane on US 27, a two lane highway. She suffered numerous injuries, including reflex sympathetic dystrophy to her left hand and aggravation of a previous back injury. Most devastating was the mental anguish she suffered due to the death of one grandchild and the injury to another grandchild who were passengers in the automobile. She has continuing psychological damage. Lois Frankel and Moses Baker negotiated a \$684,000 settlement for the woman at mediation. ■

JOHN DOE vs. DOE HOSPITAL

John Doe, a minor, was born with a congenital heart condition. Shortly after birth, the defendant doctor performed a successful heart operation. Following this procedure, John was thriving and reaching all developmental milestones. Despite the fact that John, at two and a half, was doing well and had not deteriorated physically, the defendant doctor decided to perform a risky and experimental heart operation. Plaintiff's experts testified that performing this procedure on John, given his age and weight, fell below the standard of care. Predictably, the surgery failed, requiring the performance of yet another surgery, exposing John to 46 minutes of increased risk of brain damage. Post-operatively, the doctors and nurses failed to properly assess and treat John's brain damage. At discharge, John had regressed to the level of a one month old and had developed an involuntary movement disorder. On the first day of trial, Jack Scarola and Kathy Martinez negotiated a \$2.5 million settlement. ■

EMBRY vs. WIGGINS

Plaintiff, a 77 year old man, was killed on I-95 in North Carolina when a flatbed trailer became detached from an oncoming vehicle, came across the median and struck his car. The cause of the accident was a failed weld on a self-made hitch that had no safety chains. The deceased was survived by a wife in a nursing home suffering from Alzheimers and three partially dependent children, ages 38 to 48. Greg Barnhart negotiated a settlement for \$800,000. ■

HALLIBURTON COMPANY vs. JOHN DOE CORPORATION

A local product distributor was sued by Halliburton Company, an international engineering and manufacturing firm. Halliburton claimed the local company had failed to pay \$150,000 that was owed as the purchase price for equipment the distributor ordered. Jack Scarola, Greg Barnhart and David Sales defended the local company and brought a counterclaim against Halliburton for profits lost when Halliburton's equipment failed to perform as specified. Halliburton tried to limit its liability with a written contract provision capping damages at the amount of the contract price. There was also the practical problem of proving lost profits for a new business venture that lacked an established track record of profitability. These major obstacles were overcome. After two separate jury trials and a successful appellate proceeding, the local company achieved a major victory. Not only was Halliburton's claim for payment defeated on the basis that the equipment was defective, but Halliburton was also found liable for over \$4 million in losses the local company claimed. ■

BANKS vs. OPAS

Plaintiff, a 43 year old woman, was run over by an automobile while she was taking a morning walk through her residential community. She suffered multiple facial injuries requiring surgery. Investigation revealed the cause of the accident was the 18 year old driver's inexperience and poor maintenance of the windshield wipers. The case was complicated by the existence of conflicting insurance policies. James Nance negotiated a \$225,000 total settlement from three insurance policies. The settlement was \$25,000 more than the amount one of the underinsured motorist carriers claimed as the limit of coverage. ■

JONES vs. DOE LIFE INSURANCE COMPANY

After three days of trial, Doe Life Insurance Company increased its pretrial offer ten-fold to meet the settlement demand of their former independent sales agent, Jones. The terms of the settlement were agreed to be kept confidential. Jack Scarola and referring lawyer, Ken Scherer, represented Jones in his claims for breach of contract, tortious interference and defamation. The cause arose out of the insurance company's termination of Jones and subsequent efforts to recapture life insurance clients who followed Jones to a new company. ■

BABY DOE, A MINOR vs. THE UNITED STATES OF AMERICA

Baby Doe was born in an Okinawa, Japan, U.S. Naval Hospital during her father's naval assignment. She was born profoundly brain injured and the parents suspected negligence on the part of the military physicians. When they returned to Jacksonville, they sought legal representation to no avail. They were referred to our firm. At the time, case law suggested a Federal Tort Claims Act case could be brought in the United States. However, a United States Supreme Court case quickly ended that possibility. Cal Warriner, experienced with Federal Tort Claims malpractice cases, sought help in the Military Claims Act of the United States Code. On its face, the act seemed to provide only administrative remedies, offered no potential for appeal and seemed to limit recovery to \$25,000. Research indicated, however, that the administrative remedy could be fruitful and that the government paid little attention to the \$25,000 limitation. The claim was prepared and presented following all governmental rules and regulations. After two and one-half years of consideration, the government paid \$1 million to settle the claim. ■

"All men have equal rights to liberty, to their property, and to the protection of the laws."

— Voltaire

Revised Fire Code

(Continued from page 1)

capacity. His home had to be totally modified to accommodate all the necessary medical equipment and nursing care.

The case was ultimately resolved for a confidential amount which represents the largest medical malpractice settlement in Palm Beach County history. The settlement assured this client of lifetime medical and financial support.

In addition, the hospital recommended their fire codes be changed to protect patients' safety.

Earl Denney is hopeful that modifications in hospital fire codes will ensure that tragedies such as this will not occur in the future.

(NOTE: The identity of the parties and defense counsel remain confidential in compliance with settlement terms of this case.) ■

**Taking...
Time to Care**



SEARCY DENNEY SCAROLA BARNHART & SHIPLEY, P.A. HONORED AS OUTSTANDING PHILANTHROPIC ORGANIZATION

At a recent ceremony marking National Philanthropy Day, our law firm was awarded the Outstanding Philanthropic Organization Award. Chris Searcy accepted the award on behalf of the firm for its financial and service support of community charitable organizations.

We were recognized for our financial contributions to 124 charities in Palm Beach and Martin counties, our donations of television and radio air time to 65 different local not-for-profit organizations, and the volunteer work our employees do in the community to help others.

The award was given to our firm by the National Society of Fundraising Executives, a national educational association that has over 14,000 members in 130 chapters in the U.S. and overseas.

We are deeply honored to receive this award. In his acceptance speech Chris Searcy stated "we believe it is so very important to give back to our community and to try to improve the quality of life for people who are less fortunate — we will continue our commitment." ■



An important message to Holmes Regional Medical Center patients who developed post-surgical infections:

- We currently represent numerous families who have claims against Holmes Regional Medical Center after having sustained injuries or death from infection after heart surgery.
- Investigation is continuing and we are very interested in any information Brevard area residents may have to offer.
- If you, a family member, or a friend received treatment at Holmes Regional Medical Center and acquired an infection, please call us.
- Your call will be kept confidential.

1-800-780-8607

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

Breast Implant Cases Update

After months of intensive negotiations among breast implant defendant and plaintiff negotiators, three leading health-care companies recently announced their agreement to pay more than \$3.7 billion towards a proposed global settlement. Negotiations are continuing in an attempt to include all manufacturers and to bring the settlement pool to \$4.7 billion.

The global settlement agreement is still subject to federal court approval by Judge Pointer. The value of individual cases is unknown at this time. Most likely some sort of administrative process will be used to process claims. Dissatisfied claimants will have the opportunity to opt out of the agreement and pursue their cause of action in the appropriate judicial forum.

Lois Frankel is heading the firm's breast implant team working with women who have been harmed by silicone and saline breast implants. ■