

## 'Most Effective Lawyers 2012'



Chris Searcy



John Shipley

SDSBS attorneys **Chris Searcy** and **John Shipley** were chosen by the *Daily Business Review* as its "Most Effective Lawyers 2012" in the category of personal injury. *DBR* is an information source and communication forum for south Florida lawyers and business professionals. In its December 2012 edition, *DBR* noted the attorneys' efforts on behalf of plaintiffs in a truck crash that resulted in the death of two people in November 2006. (See archived SDSBS newsletter, *Of Counsel*, Vol. 12 – No. 1.) Vince and Judy Modica were heading south on I-95 near Jacksonville, Florida, when they came to a stop due to a traffic backup caused by an accident. A tractor-trailer truck owned by the Tree of Life, a health-food distributor, and driven by employee Michael Wright, slammed into the back of the Modicas' car, crushing the car and causing a fire. The Modicas suffered a horrific death. The couple's adult sons engaged Mr. Searcy and Mr. Shipley to represent them in a wrongful death case. The attorneys hired a trucking industry expert and an accident reconstructionist to establish that the driver had fallen asleep at the wheel after driving well beyond maximum weekly hours, and that his employer, Tree of Life, had provided incentives for its drivers to dangerously exceed the federal limitations on driving hours. By the end of the testimony for the plaintiffs, the defense's "shadow jury" all had tearful eyes. The defense's insurance company agreed to a settlement of \$17.5 million. This settlement was noteworthy because of the difficulty in obtaining large pain and suffering awards for survivors who are adults, well-established in the world, and no longer dependent upon their parents. "They just wanted somebody to take notice," said Mr. Shipley. "They just wanted somebody to care." ♦

## U. S. Supreme Court denies Big Tobacco's request to reverse SDSBS wrongful death case

On November 26, 2012, the United States Supreme Court denied *certiorari* on *R. J. Reynolds Tobacco Co. et al. v. Clay*, rejecting Big Tobacco's request that it reverse a Pensacola, Florida, jury's 2010 award of over \$21 million to the survivors for the wrongful death of a lifelong cigarette smoker. SDSBS attorneys **Bill Norton**, **Brian Denney**, and **Hardee Bass** tried the case on behalf of the family of Janie Mae Clay who began smoking at the age of 14, and continued to smoke until quitting four years before her death in 2003 from chronic obstructive pulmonary disease.

The Clay case against R. J. Reynolds Tobacco and Liggett Group LLC was one of thousands of cases resulting from the landmark *Engle* state-wide class action suit filed against major cigarette manufacturers in the United States. Under the standards set by *Engle*, plaintiffs have to show that victims were addicted to nicotine, and that the nicotine addiction caused their deaths. Juries found that Big Tobacco not only knew of and ignored the dangers of nicotine, but that the companies made every effort to hide the risk from smokers.

Earlier in the year, the First District Court of Appeal in Tallahassee, Florida, had affirmed the jury's judgment on behalf of Mrs. Clay's family. The same Court also delivered a *per curiam* affirmation of a 2011 verdict and judgment on behalf of Anna Huish against R. J. Reynolds Tobacco and Philip Morris-USA, Inc., for \$3.4 million in compensatory and punitive damages for the wrongful death of her husband, John Huish, who died of lung cancer after 45 years of smoking Lucky Strike, Camel, and Marlboro cigarettes. Mrs. Huish was represented by SDSBS attorney **Jim Gustafson**.

Also in 2012, Big Tobacco suffered yet another loss after lengthy appeals and delays. SDSBS attorneys **Bill Norton** and **Laurie Briggs** represented Franklin D. Campbell, Sr., in a suit brought against R. J. Reynolds Tobacco, Phillip Morris-USA, and Liggett Group to hold these companies responsible for the death of his wife, Betty, from COPD. After three years of appeals, Big Tobacco was ordered to pay the original \$7.8 million judgment issued in 2009 by a Pensacola jury. SDSBS has won several other *Engle* progeny cases as well.

SDSBS attorneys noted, again, that while thousands of *Engle* cases wind their way through the courts, nicotine continues to claim the lives of over 400,000 Americans each year. ♦



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