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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.

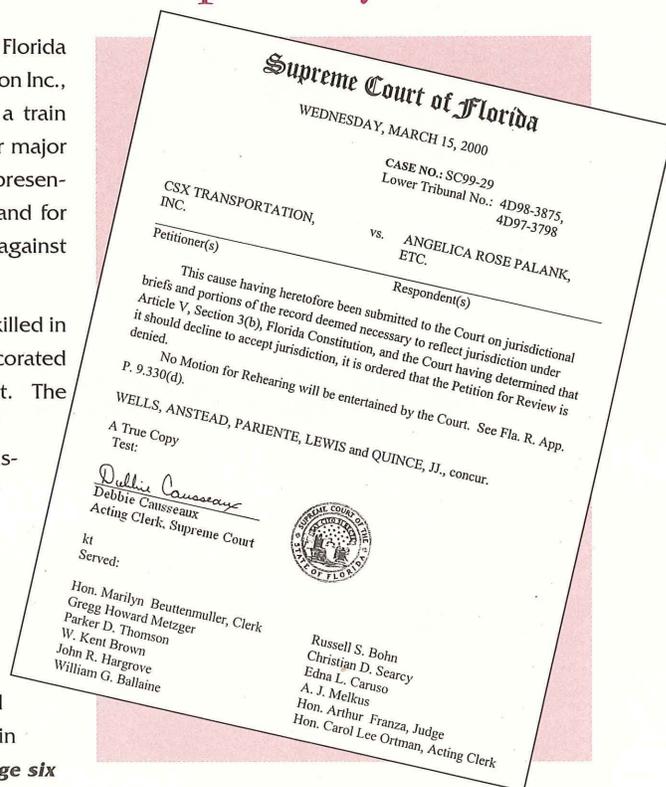


Florida Supreme Court Affirms \$50 Million Verdict For A Cooper City Woman

On March 15, 2000, the Supreme Court of Florida handed down a decision to CSX Transportation Inc., refusing to accept jurisdiction to review a train derailment case. This became yet another major victory for Angelica Palank, the personal representative of her deceased husband's estate, and for attorneys Chris Searcy and Greg Barnhart, against the railroad giant.

In 1991, Mrs. Palank's husband, Paul, was killed in a train derailment accident. Paul was a decorated officer with the Miami Police Department. The Florida Supreme Court wrote, "...the Court having determined that it should decline jurisdiction, it is ordered that the Petition for Review is denied. No Motion for Rehearing will be entertained by the Court."

After the Florida Supreme Court's ruling, CSX was hit with another blow. In April, *The Associated Press* and *The Washington Post* reported that the Federal Railroad Administration (FRA) began a safety audit in February on CSX tracks. **continued on page six**



Attorneys Greg Barnhart and David Sales Battle for Client's Share in Father's Estate

Roger Dean was the father of three daughters: the oldest, Susan "Suzie", the middle, Jane "Janie", and the youngest, Patricia "Patty". Mr. Dean built his fortune by owning and operating 21 automobile dealerships. In addition to his dealerships, Mr. Dean had financial interests in more than 70 companies throughout the United States. At the time of his tumultuous divorce from his wife, Ruth, in 1993,

Mr. Dean's fortune was reported to be more than \$80 million.

Toward the end of his life, Mr. Dean suffered from the late stages of stomach and liver cancer. As a result, he was heavily medicated and incapable of making decisions regarding his estate. On April 3, 1999, Mr. Dean died in his home. He was 83-years-old. **continued on page two**

The Meeting Corner:



Brian P. Sullivan Joins SDSBS

Brian P. Sullivan is from Lowell, Mass. He earned a Bachelor of Arts Degree in English and History from Salem State College in Salem, Mass.

Following graduation, Mr. Sullivan obtained his private investigator's license and opened an investigative agency specializing in legal defense of major product liability and property claims for the Traveler's Insurance Group. In 1993, he earned his law degree from the Massachusetts School of Law and is admitted to the practice of law in the states of Massachusetts, New Hampshire, and Maine, including their respective federal courts. Mr. Sullivan will work primarily with attorney David Kelley, assisting with medical malpractice, product liability, and personal injury cases.

Mr. Sullivan resides in West Palm Beach. His hobbies include jogging and visiting the parks and beaches in the Palm Beach area. ■



David R. True Becomes Executive Administrator

David R. True was appointed to the position of Administrator at Searcy Denney Scarola Barnhart & Shipley, P.A. Mr. True will oversee the day-to-day operations and management of the firm's 140 employees as well as implement policies for the firm's Board of Directors. Mr. True replaces Linda Pearce, who retired from the firm in January after 20 years of service.

Mr. True previously worked for the firm from 1985 to 1987 as attorney Chris Searcy's paralegal. He then held the position of President of Palm Beach Medical Consultants, Inc., until January 2000. Mr. True is an associate member of the Association of Trial Lawyers of America and The Florida Bar Health Law Section. He has also lectured at Florida Workers' Compensation Institute (FWCI) educational conferences and Academy of Florida Trial Lawyers conventions. ■



Janie Dean with her father Roger Dean in 1995.

Battle for Client's Share in Father's Estate...

(Continued from Page One.)

Mr. Dean had always planned to leave everything to his three daughters equally. Five months prior to his death, he executed a will and trust which equally divided all his assets among his three daughters. Unfortunately, those plans may have been derailed by some of the people he trusted most. Four days prior to his death, aided by his daughter, Patty, and his attorneys, Mr. Dean purportedly executed an Amendment to his Amended and Restated Revocable Trust Agreement.

The Amendment named Patty the sole trustee of the Trust at the time of Mr. Dean's death. Under the terms of the Amendment, all of the stock in Roger Dean Enterprises was to be distributed to Patty. The Amendment also conveyed bequests to two people unrelated to Mr. Dean, specifically to Mr. Dean's maid and to the son of one of the attorneys who drafted the will and trust. Essentially, Patty would receive all of the assets of Mr. Dean's estate. The effect of the Amendment was devastating to Janie and Suzie.

Janie retained the services of attorneys Greg Barnhart and David Sales, as well as co-counsel Frank Chopin. On July 2, 1999, Janie filed a complaint against her sister, Patty, and her father's attorneys to revoke the Amendment and for interfering with her inheritance rights. Mr. Barnhart and Mr. Sales were able to uncover evidence showing how Patty and the lawyers made radical changes to the Trust. Additionally, Mr. Barnhart and Mr. Sales waded through thousands of documents to determine the true value of Mr. Dean's estate.

On February 4, 2000, after three long days and nights of mediation, Mr. Dean's three daughters were able to come to an amicable and confidential settlement agreement. While the agreement was in the best interest of all three daughters, it is unfortunate that the legacy of Mr. Dean's life has been tainted by such actions. ■

SDSBS Client Featured on CBS *Early Show*

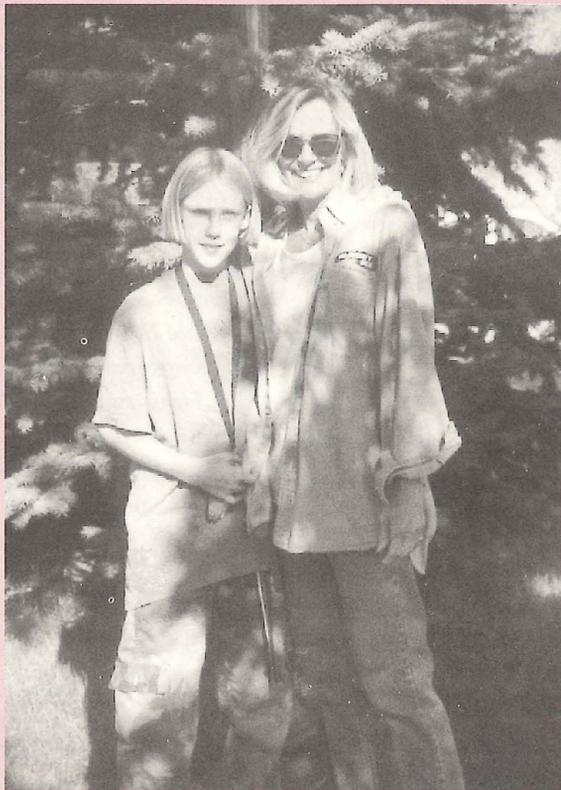
The *Early Show* on CBS with Bryant Gumbel and Jane Clayson (Monday - Friday, 7:00 a.m. - 9:00 a.m.) aired a segment on attorneys Greg Barnhart and Sean Domnick's client, Martie Wrock-Ryland. Ms. Wrock-Ryland had a melanoma which was misdiagnosed.

On Sept. 3, 1999, she filed a complaint against SmithKline Beecham Clinical

Laboratories, Inc., the doctor who actually misread Ms. Wrock-Ryland's slide, and Humana Medical Plan, Inc.

In late August 1996, Ms. Wrock-Ryland noticed a dark growth on the nape of her neck. On Aug. 27, she visited her doctor about the growth. He did a biopsy, and pursuant to Humana's rules, sent a sample of the tissue to SmithKline. Dr. John Karroum was employed by SmithKline to review the sample tissue. He examined the biopsy sample and rendered a diagnosis of basal cell carcinoma. No further treatment was required. On Jan. 28, 1997, Ms. Wrock-Ryland returned to her doctor about another growth at the site of the first growth. Another biopsy was taken, and this time, SmithKline determined that the growth was a malignant melanoma. By then, the melanoma had metastasized to her lymph nodes.

Since the misdiagnosis, Ms. Wrock-Ryland spends her spare time researching new melanoma vaccine treatments and conversing with other melanoma patients over the internet. Ms. Wrock-Ryland also posted her story on an internet Melanoma Patient Information page to warn people about such misdiagnoses. Her story came to the attention of CBS producers in December of last year. On March 10, a film crew came to videotape Ms. Wrock-Ryland in her Boynton Beach, Fla. home. The feature focused on Ms. Wrock-Ryland's misdiagnosis, inadequacies in the managed care system, and what can be done to prevent such tragedies. The segment aired on Thursday, March 23 during CBS's *Health Watch* with Dr. Emily Senay.



Martie Wrock-Ryland with her son Sean, in 1998.

ABC's "20/20" has also done a similar feature regarding the problems associated with SmithKline, managed care rules and regulations, and the misdiagnosis of melanomas.

To date, Ms. Wrock-Ryland has undergone five surgeries to remove malignant tumors. The most recent was in March, when a malignant tumor was removed from her lung.

Ms. Wrock-Ryland is the mother of a 14-year-old son, two grown stepchildren, and two grandchildren. On Thursday, July 13, Ms. Wrock-Ryland, attorneys Greg Barnhart and Sean Domnick, and attorneys for SmithKline, Dr. Karroum, and Humana, will meet in an effort to resolve this case at mediation. ■

SEARCY
DENNEY
SCAROLA
& SHIPLEY, P.A.
*Attorneys
at Law*

OF
COUNSEL

QUARTERLY REPORT TO CLIENTS AND ATTORNEYS - VOL. 00, NO. 1

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

FAILURE TO MONITOR MOTHER DURING LABOR CAUSES BABY'S DEATH

Mr. and Mrs. X were thrilled with the news that they were going to have another baby. Mrs. X did everything possible to ensure the health of her new baby. She followed her doctor's instructions to the letter, refraining from coffee and alcohol, and taking vitamins to supplement her diet. Mrs. X was taking perfect care of herself during her pregnancy.

On Nov. 16, 1997, Mrs. X was admitted into labor and delivery at Hospital Z. Dr. B was her doctor and Nurse G and Nurse H were on duty as well. Mrs. X was hooked up to a fetal heart monitor. Eventually, Dr. B went home for the evening. As the night went on, the fetal heart monitor strip began to show signs of fetal distress. There were significant changes for the worse, and Nurse G should have become concerned and notified Dr. B.

At 4:00 a.m., instead of advising Dr. B of the late and variable decelerations in the baby's heartbeat, Nurse G advised the doctor that the baby was okay.

At 4:45 a.m., the nurse called Dr. B to report the late decelerations. At that point, Dr. B prepared to leave her home for the hospital. However, before Dr. B left her home, Nurse G called back to tell her that the fetal heart tracings had cleared up when, in fact, the fetal heart strip continued to show signs of distress. By 5:30 a.m., the changes in the strip were ominous.

OMITTING CLIENTS' AND/OR DEFENDANTS' NAMES ARE RESULTS OF REQUESTS FOR ANONYMITY.

Another obstetrician, Dr. S, was present in the hospital, performing surgeries between the hours of 7:00 a.m. and 8:30 a.m. During that time, Nurse H monitored Mrs. X. Nurse H also failed to communicate the seriousness of Mrs. X's condition. Mrs. X and the baby continued to worsen and Mrs. X ultimately suffered a uterine tear. Finally, an emergency cesarean section was performed, but Mr. and Mrs. X's daughter was severely asphyxiated and therefore suffered global brain damage. Had the two doctors and the two nurses paid closer attention to the monitoring strip, Mr. and Mrs. X's little girl would have been born healthy.

As a result of the global brain injury, Baby X remained on a respirator and required round-the-clock nursing care. Eventually, Baby X lost her struggle with life shortly after her second birthday. After approximately a year and a half of difficult litigation, attorneys Greg Barnhart and Chris Searcy settled the case against Dr. B, Dr. S, and the hospital on behalf of Nurse G and Nurse H. ■

CLIENT'S VIDEOTAPE PROVIDES PROOF

All parents dream of bringing home a healthy new baby from the hospital. Unfortunately, that dream did not come true for Jason and Fabiola Azuaje-Smith. In May 1994, the Smiths learned that they were about to become parents for the second time. Residing in Key West, Fla., the Smiths decided to seek prenatal care from a local physician, Dr. Frank Ferrin, and made arrangements to eventually have their baby at the Lower Florida Keys Health System Hospital.

On Feb. 18, 1995, Mrs. Smith went to the Lower Florida Keys Hospital, where she



was found to be in early labor. Mrs. Smith was considered an "at risk patient" due to complications she had with her first pregnancy. Although Mrs. Smith had informed her physician of her previous complications, Dr. Ferrin allowed her to progress through an arduous labor. Dr. Ferrin eventually performed a vacuum-assisted delivery of the child. In the medical community, this kind of delivery is known to be very dangerous and can result in serious complications.

The Smiths had a baby boy named Alejandro. Unfortunately, Alejandro began experiencing problems immediately after he was born. Dr. Ferrin and the hospital nurses failed to recognize that

Alejandro was completely unresponsive and that he was not breathing. Alejandro went for more than four minutes without breathing. The nurses finally called a code, but the damage to Alejandro was already done. The loss of oxygen to his brain caused severe damage.

The Smiths were told that Alejandro had suffered a stroke during labor and delivery. Dr. Ferrin and the nurses also told Mr. and Mrs. Smith that it was "God's will." One of the nurses wrote in Alejandro's medical chart that he was "born normal and spontaneously stopped breathing four minutes after birth."

In 1996, Mr. and Mrs. Smith took Alejandro to Children's Hospital in Miami for a routine check-up. While there, they learned that the denial of oxygen to Alejandro's brain was not caused by an intra-uterine stroke. They then retained the services of attorney David Kelley.

Mr. Kelley requested all the medical records from the hospital. For two years he litigated the case against the hospital, the doctors, and the nurses. The turning point of the entire case came when Mr. Kelley showed a videotape of Alejandro's birth. Mr. Smith, like many fathers, videotaped the birth of his son. On the video, viewers attending a courtroom proceeding could clearly see that Alejandro was lifeless and limp, exhibiting a dusky color and no signs of crying or squealing. Mr. Smith stopped the video recording when he heard the code called by the nurses. This videotape is shockingly different from what the nurses had written in the medical records and what had been told to the Smiths.

In March 2000, Mr. Kelley was able to effectuate a substantial recovery on behalf of Alejandro and his family. The settlement proceeds will aid the Smiths in giving Alejandro the best medical care, now and into the future. ■

ATTORNEYS FIGHT FOR PARAPLEGIC MAN

In January 1998, things were going great for Lynn Eaton. He had just taken his life savings and purchased ten acres of land in Indian River County, Fla. A successful construction supervisor for a local builder, Mr. Eaton planned to build his dream home on the land. During his spare time, he was an avid outdoorsman and enjoyed riding his horse, Raven.

On Jan. 10, 1998, Mr. Eaton's world came to a halt. Mr. Eaton was riding his horse Raven, with a guide, westbound on the north shoulder of County Road 510 in Fellsmere. It was around dusk. Thomas and Cathy Hinkle were driving in their Chevrolet Suburban and pulling a horse trailer when the side view mirror of the Suburban struck Mr. Eaton's horse. Mr. Eaton was slammed to the ground. Mr. Hinkle later testified that he had never seen the horse prior to impact. Eyewitnesses, however, said the horse could be clearly seen from more than 200 feet away.

Mr. Eaton fractured his back in the fall and was rendered a paraplegic. Mr. Eaton, no longer able to work, lost the land on which he was going to build his dream home. A once independent man, Mr. Eaton came to rely on friends and family to help care for him.

In August 1998, attorneys Sean Domnick and Chris Searcy filed a complaint on behalf of Mr. Eaton. Listed in the suit were Mr. and Mrs. Hinkle, as well as Wesley and Tonya Davis, owners of the horse trailer the Hinkles were pulling. On March 23, Mr. Domnick and Mr. Searcy settled Mr. Eaton's case for the policy limits, which were \$3.025 million. Because of the settlement, Mr. Eaton can now afford state-of-the-art equipment for paraplegics and is gaining back his independence. ■

Internet Websites

Besides SDSBS's own informational website (www.searcy.com), internet users are invited to visit these pages for information and fun.

FLORIDA DEPARTMENT OF STATE - DIVISION OF CORPORATIONS

<http://ccfcorp.dos.state.fl.us>
Provides complete list of corporations registered in the state of Florida, principle addresses, and the names of their registered agents.

FLORIDA REPORT ON PHYSICIAN DISCIPLINE AND MALPRACTICE

<http://www.fdhc.state.fl.us/hpcc.hpolicy.malpractice.medrpt.html>
Provides historical summary of disciplinary actions and medical malpractice claims involving physicians in the state of Florida.

DEPARTMENT OF INSURANCE

<http://www.doi.state.fl.us>
Find out all you need to know about your insurance, including coverage, rate increases, sales abuses, etc.

CITIZEN'S GUIDE - ONLINE SUNSHINE - THE FLORIDA LEGISLATURE

<http://www.leg.state.fl.us/citizen>
Learn about the legislative process, including who your legislative leaders are, House and Senate information, and how to get your voice heard.

ALTA VISTA'S LANGUAGE TRANSLATION

<http://babelfish.altavista.com>
Translates text into other languages.

FLORIDA LOTTERY

<http://www.flalottery.com>
Feel like a winner? Visit this website for information about the lottery, including your winning numbers.

MAPBLAST

<http://www.mapblast.com>
Map your way to your next destination by visiting this interactive road map, with complete driving instructions.

ENCYCLOPEDIA BRITANNICA

<http://www.britannica.com>
Research made easy when you and your family visit this website, with the latest information.

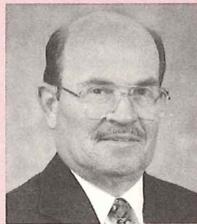
Accolades:



Greg Barnhart Nominated as 2000 Chamber Board Member

Greg Barnhart was nominated as a member of the Chamber of Commerce of the Palm Beaches Board of Directors. He joins 27 other industry leaders in advancing the economic, industrial, and civic interests of the Palm Beaches. The Chamber strives to support projects that lead to a stronger economy and improve the quality of life for the more than one million residents of Palm Beach County. He will serve a three-year term.

Mr. Barnhart is a past president of the Academy of Florida Trial Lawyers and the Federal Bar Association. He is a Board member of 1000 Friends of Florida, an environmental protection organization, and a Board member of The Legal Aid Society, which provides free legal services to the poor in Palm Beach County. ■



Dan Calloway Joins Hispanic Chamber of Commerce

On March 2, paralegal Daniel J. Calloway became a member of the Hispanic Chamber of Commerce. As a member, Mr. Calloway will support the goals of the Chamber, which serves more than 97,000 Hispanics in Palm Beach County. The Hispanic Chamber of Commerce is committed to fostering growth and development of Hispanic businesses. It also supports those enterprises which serve the Hispanic community.

Mr. Calloway began working at the law firm in 1997. He works primarily with attorney David White on personal injury, product liability, wrongful death, and medical malpractice cases. Mr. Calloway speaks, reads, and writes Spanish fluently. He is also an active member of the National Association of Legal Investigators (NALI). ■

Florida Supreme Court Affirms \$50 Million Verdict

(Continued from Page One.)

The audit found a 60 percent increase in track-caused accidents over five years on CSX's 22,700 mile system.

The nine-year battle between Palank and CSX began on July 31, 1991, when eight people, including Paul Palank, were killed in Lugoff, S.C. The last six passenger cars of a Miami-to-New York Amtrak train switched to a sidetrack and smashed into nine parked freight cars. Federal Safety Regulations required railroads to carefully inspect mainline switches at least twice a week. A faulty mainline switch, which was known by CSX to be broken for at least 7 months, opened and caused the train to derail. In essence, CSX, a Jacksonville based company, made a very deliberate decision not to maintain their tracks, putting profit before human safety. Records showed that an audit done by the FRA as early as 1987 showed gross deficiencies in CSX's staffing and inspection practices.

In 1993, Mrs. Palank filed a complaint against CSX.

On July 30, 1997, a jury determined that the accident was caused by a poorly maintained railroad track and awarded the estate of Paul Palank \$50 million in punitive damages. On Oct. 10, 1993, Broward Circuit Court Judge Arthur Franza upheld the jury's verdict. In his 19-page order he wrote, "These inspections were not professional, not reasonable and did not comply with CSX and FRA regulations. It should have been known to eventually lead to, and end in, tragedy." Judge Franza went on to write, "This Court finds the evidence to be clear and convincing, sufficiently showing that the Defendant's conduct in breaching its duty, was deliberate, reckless, willful, and wanton, evincing a reckless disregard for the safety of rail passengers and the public at large. This [CSX's] behavior was tantamount to manslaughter."

Shortly after the order was released, CSX appealed the decision.

In August 1999, the Fourth District Court of Appeals, in a seven page opinion, affirmed the six jurors' 1997 verdict and Judge Franza's decision. The opinion was written by the Honorable Judge John Dell, with Honorable Judges Mark Polen and Matthew Stevenson concurring. The Court stated, "We hold that the evidence presented supports Judge Franza's conclusion that the jury properly awarded punitive damages."

Mrs. Palank is the mother of two and a Councilwoman in Cooper City. She maintains a vigilant and steadfast fight against CSX, both as an activist and a political lobbyist, to ensure railroad safety throughout the United States. ■

Taking...*Time to Care*



WXEL TV PLEDGE NIGHT

On Monday, March 6, Searcy Denney Scarola Barnhart & Shipley employees and their family members answered phones to support WXEL TV's Pledge Night. A special edition of the very popular *The Antiques Road Show* was the pledge drive program for the evening. During pledge breaks, local Palm Beach County appraisers valued the antiques of area viewers. While manning the phones for the two hour pledge drive, SDSBS employees and family members collected more than \$7,000 for WXEL TV.

WXEL TV broadcasts from its headquarters in Boynton Beach. The public television station is committed to providing quality programming, community news, entertainment, and education to more than 1.5 million viewers throughout Central and South Florida. The non-commercial television station is financially supported through pledge drives, grants, and local firms such as Searcy Denney Scarola Barnhart & Shipley. ■



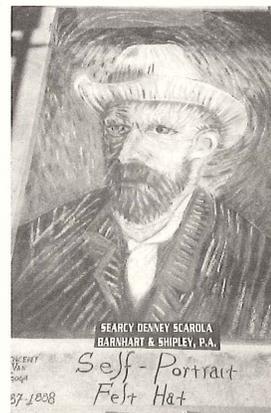
MELANOMA TASK FORCE

On Tuesday, March 14, Searcy Denney Scarola Barnhart & Shipley sponsored a table for the Richard David Kann Melanoma Task Force. During the event, the Task Force displayed their collateral materials about the signs of melanoma and distributed packets of sunscreen. Rae Kann, one of the Task Force's founders, was on hand to talk with participants about the importance of early detection and prevention of melanoma.

Richard David Kann was diagnosed with melanoma in February 1994. In 1995, he lost his battle against the disease and died at the age of 45. The Task Force Members are committed to educating and alerting the community about this deadly disease, especially here in the State of Florida. The month of May is National Melanoma Month. ■

STREET PAINTING FESTIVAL

Searcy Denney Scarola Barnhart & Shipley was a sponsor of the 6th Annual Street Painting Festival. The festival, which was held the last weekend in February, celebrated area artists who put their talents to work on the sidewalks of Lake Avenue in downtown Lake Worth. Using only chalk, masterpieces were created to the delight of the more than 100,000 people who visited the festival. SDSBS's Vincent Van Gogh chalk drawing was created by 19-year-old Travis Shirley of Lake Worth.



Proceeds from the festival will go towards Street Painting Festival Scholarships, awarded to elementary and high school students. Additional proceeds will also help to supply area elementary schools with art supplies. ◆

SDSBS SUPPORTS

NON-PROFIT ORGANIZATIONS

Since January 2000, Searcy Denney Scarola Barnhart & Shipley and its employees have lent their volunteer and financial support to more than 50 charitable organizations. Some of these organizations include:

- American Lung Association
- Boynton Beach Soup Kitchen
- Brain Injury Association of Florida
- Children's Hope
- Children's Miracle Network
- Deaf Service Center
- Easter Seals
- Growing Together
- Jewish Family & Children's Service
- The Legal Aid Society
- Seagull Industries for the Disabled
- Special Olympics

*Thank you to everyone for
Taking...*Time to Care*.*

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MEDICAL MALPRACTICE
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