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OF COUNSEL

QUARTERLY REPORT TO CLIENTS AND ATTORNEYS - VOL. 97, NO. 1

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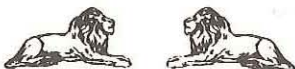
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NOTE: The accounts of recent trials, verdicts and settlements contained in this newsletter are intended to illustrate the experience of the firm in a variety of litigation areas. Each case is unique, and the results in one case do not necessarily indicate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

SDBS



On December 20, 1996, at the conclusion of an eight week trial, a Jacksonville, Florida jury awarded \$25,418,500 in compensatory damages to the guardianship of 46 year old Therese Hunter as a result of the brain injuries she suffered in a 1991 automobile collision. The verdict is the largest compensatory damage verdict for a single personal injury case in Florida.

Therese Hunter and her family were represented by Chris Searcy and Lance Block from our firm, and Howard Coker of Coker Myers Schickel & Sorenson,

a Jacksonville law firm, who presented the claims of Mrs. Hunter's former husband, Sidney Hunter, and their two teenaged boys, Richard and Damien Hunter.

The incident occurred on March 3, 1991, as Mrs. Hunter, then 41 years old, was driving her two sons from their home in Jacksonville to a swim meet in Palatka, Florida, when the driver of a pick up truck failed to yield the right of way and struck the left front corner of Mrs. Hunter's 1990 Chevrolet Astro van. **Continued on Page Eight.**

Firm Involved In Recent Airline Disaster Litigation

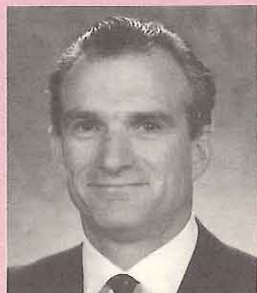
Airline tragedies and their accompanying publicity, investigations, and initial lawsuits have been mainstream news in recent months. The local crash of ValuJet flight 592 into the Everglades created weeks worth of headlines. As news of that tragedy waned, the mysterious crash of TWA flight 800 off Long Island, New York became the new front page topic.

Enormous work continues to be done by attorneys representing victims and their families, even after the Federal National Transportation Safety Board closes its books on its portion of the investigation. That

work leads to the initial court proceedings regarding the liability of potential defendants responsible for each of those crashes. Major transportation disasters are handled in a different manner from individual tort claims. Because there are multiple claimants, the courts typically consolidate the claims of all passengers for purposes of assessing liability.

The liability trial of the crash of USAir flight 1016 in Charlotte, N.C., which occurred on July 2, 1994, went to trial on **Continued on Page Three.**

The Meeting Corner:



Christopher K. Speed

Christopher K. Speed joined the firm as a partner in October, 1994. Prior to that, he had been a trial attorney in the Northern Virginia/D.C. area for 21 years. His primary practice both there and since joining Searcy Denney Scarola Barnhart & Shipley, P.A. has been the representation of severely injured plaintiffs in suits involving personal injury, medical and legal negligence, airline disasters, and defective products. His last fifteen years in Northern Virginia were with the firm of Arthur & Speed, Ltd., of which he had been a founding partner.

Mr. Speed is a 1969 graduate of Georgetown University in Washington, D.C. He subsequently attended the National Law Center at George Washington University where he graduated in 1973. He was licensed to practice law in Virginia that same year, and in 1974 became licensed in the District of Columbia. He was admitted to the Bar of the State of Florida in 1992. He is a member of the Academy of Florida Trial Lawyers, the Virginia Trial Lawyers Association, and the Association of Trial Lawyers of America. He was also a founding member of the Northern Virginia Plaintiff's Bar, an organization of plaintiffs lawyers dedicated to improving the ability of injured persons to be sufficiently compensated for their losses. He has lectured on frequent occasions regarding civil jury trials in the field of plaintiff personal injury and medical negligence. As a private pilot and former aircraft owner, Mr. Speed has be



Ted Kulesa

Ted Kulesa is a Paralegal/Investigator with Searcy Denney Scarola Barnhart & Shipley, P.A. Having joined the firm in 1991, he works primarily with Christopher K. Speed assisting in the investigation, evaluation and negotiation of settlements, as well as with trial preparation.

Mr. Kulesa graduated from the State University of New York at Buffalo in 1971 and completed some graduate work at Florida International University in Miami, Florida. His claim handling experience began in 1975 as a claim representative for Allstate Insurance Company. He held various claim representative and claim management positions in his 15 years with Allstate.

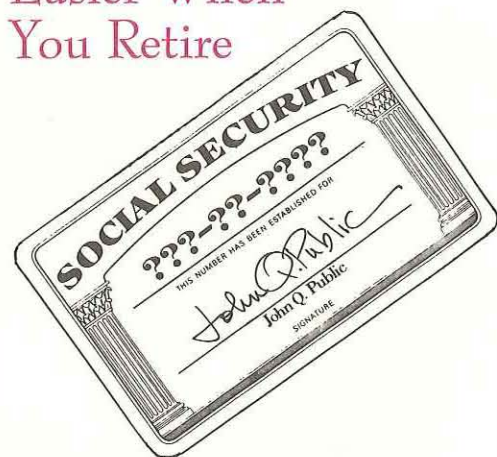
Mr. Kulesa works extensively in the areas of personal injury, medical malpractice and aviation disasters. Prior to joining the firm, he handled personal injury and commercial litigation cases with another firm. ■

(Speed, Continued.)

come involved in a number of cases involving aircraft injuries and fatalities. He is presently involved in litigation regarding U.S. Air flight 1016 which crashed in Charlotte, N.C. and the ValuJet crash occurring this past year in Miami.

Since 1983, Mr. Speed has been recognized nationally as a preeminent practitioner in the field of personal injury in a book entitled *The Best Lawyers in America* which is the result of an independent study and survey by several Harvard law professors. ■

Keeping Track Of Your Social Security Benefits Can Make Life Easier When You Retire



It's never too soon to check on your Social Security benefits. Taking a few minutes to request the information and check it for accuracy could save you from worry in the future.

*Call 800-772-1213 and ask for Form 7004-SM, the Request for Earnings and Benefit Estimate Statement. On the form, you will need to estimate your average annual salary between now and retirement.

*About six weeks after you return the form, you will get a statement estimating the benefits you will collect. The figure will be in today's dollars, not inflation-adjusted. So although earning \$25,446 today and retiring in 2015 means you're predicted to get about \$10,615 a year, the actual amount may be more like \$25,594.

*The statement will also list your past earnings — make sure they're correct. You may be noted as having earned nothing during a year that you were employed if the employer had your Social Security number wrong. If you find such discrepancies, call the toll-free number on the statement. ■

Firm Involved In Recent Airline Disaster Litigation

Continued from Page One.

January 21, 1997, two and one-half years after the event. The jury returned its verdict on March 7th. It determined that the negligence of USAir was a cause of this tragedy. It further determined that USAir had not acted in a reckless manner, thereby denying the claim for punitive damages.

Chris Searcy and Chris Speed represent the interests of Adisa Young, a teenager from Martin County, who was a passenger on USAir flight 1016. He was one of twenty passengers who survived the mishandled landing at Charlotte. He suffered extensive third degree burns covering a majority of his body, necessitating multiple operations and skin grafts. He was hospitalized for many weeks, and experienced significant rehabilitation thereafter. Adisa's trial on the issue of his damages will be tried in Palm Beach County later this year.

Mr. Searcy and Mr. Speed also represent the interests of two surviving children of Dennis Sabo who tragically died when ValuJet Flight 592 crashed in the Everglades last year. In that case, the NTSB has concluded its public hearings and is prepared to release its final report. Fault is being directed at both ValuJet and another company, Sabre Tech, for the negligent handling, storage and shipping of air canisters, which contributed to the on-board fire leading to the crash. Greg Barnhart also represents the family of



Aerial photograph of USAir #1016 crash site.

one of the flight attendants who was killed in that crash.

Mr. Speed has been interested in aviation cases for many years. In 1979 he became a licensed pilot for private planes and purchased his first plane in the same year. He became an instrument rated pilot the following year and was very active flying throughout the Washington, D.C. and Mid-Atlantic area prior to relocating to Florida. His flying experience and familiarity with flight procedures has been exceedingly helpful in representing the interests of those involved in these disasters.

Mr. Speed and Mr. Searcy are both involved in two other private plane crashes in which all plane occupants died. One of those crashes occurred in Martin

County where witness testimony seems to indicate that the aircraft appeared to break apart in flight. The other crash occurred in Maine due to what appears to be pilot error. In these private plane accidents, there is also an investigation by the NTSB, who takes possession of all initial evidence and attempts to resolve the issue of why such tragedies occurred. The purpose behind these investigations is to reach some consensus as to why accidents occur, and to hopefully institute rules and procedures which will make the skies safer for all of those who fly. The lawyers representing the families of those who perished in these crashes often work closely with federal investigators as part of a collective effort to enhance aviation safety. ■

***"Nothing's
as good as
holding on
to safety."***

--Euripides

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INSURANCE AND YOU...

Point Of Service

The affordability and accessibility of health care insurance has become one of the most important domestic issues of this decade. The cost of traditional indemnity insurance policies has become unreachable for many families. HMO plans offer lower costs, but offset the value of lowered premiums by reducing the policyholder's freedom of choice in seeking health care. Many feel that this feature of an HMO plan compromises the level of care provided to their enrollees. Consumers have become disgruntled and are demanding change. In response to the current dissatisfaction with the health insurance products widely available, many companies are now offering a hybrid or "Point of Service" plan, designed to bridge the gap between the two types of plans.

The Point of Service plan is similar to an HMO plan in that it offers insureds a list of doctors and hospitals from which to choose. However, unlike an HMO, patients have the option to choose to visit doctors or hospitals not on the list. In addition, they do not require the primary physician to approve treatment by a specialist. Patients who exercise this option, however, pay an additional charge. A Point of Service enrollee who chooses a doctor or hospital that is not on the preapproved list, however, must pay an out-of-pocket deductible that could equal several hundred dollars, plus co-



payments that typically amount to 20% to 30% of the total treatment charges.

Point of Service plans are indeed designed to control costs, yet offer a choice in health care providers. These plans offer more of a security blanket for those who desire lower costs than those associated with typical indemnity plans, and they offer security by providing a method to skip the referral process typically encountered within a Health Maintenance Organization. However, as with all purchases, the consumer should closely examine his or her personal situation to determine if this increased flexibility is worth the added cost. Recent studies have shown that while people desire the

ability to "opt out" of the network of preferred providers, they rarely do.

One of the best places to search for information on managed health care plans is The National Committee for Quality Assurance in Washington, D.C. This independent non-profit organization measures, assesses and reports on the quality of care and services delivered by managed health care plans. For the organization's accreditation status list and information on other services designed to help business owners make better health plan selections, you may visit the group's site on the Internet worldwide web at <http://www.ncqa.org>, or call them at (202) 955-3500. ■

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Crashworthiness Of "Mini Vans"

Crash tests conducted on nine passenger vans last fall revealed that only one model performed well enough to earn a favorable overall safety evaluation from the testing organization. The tests were conducted by the Insurance Institute for Highway Safety, a non-profit organization wholly supported by automobile insurance companies. The purpose of the tests were to evaluate the crashworthiness performance of these popular vehicles, commonly referred to as "mini vans", which now account for a substantial share of the new passenger vehicle sales market.

The models tested were:

- Ford Windstar
- Mazda MPV
- Dodge Grand Caravan/
Chrysler Town & Country/
Plymouth Grand Voyager
- Honda Odyssey/Isuzu Oasis
- Nissan Quest/Mercury Villager
- Chevrolet Astro/GM Safari
- Ford Aerostar
- Toyota Previa
- Pontiac Trans Sports/
Oldsmobile Silhouette/
Chevrolet Venture

These and other passenger vans have become a favorite family transportation vehicle, all but making station wagons obsolete. Of course, the Chevrolet Astro van/GM Safari was the vehicle at issue in

**"Cheat me in price,
but not in the
goods
I purchase."**

--Spanish Proverb

the *Carmona/ Hunter v. General Motors* case featured on the front page of this newsletter.

The Insurance Institute's crash tests were 40 mph frontal offset crash tests involving a barrier made of aluminum honeycomb. When the impact occurs, the forces in the tests are similar to those involved in a frontal offset crash between two vehicles of the same weight, each traveling approximately 40 mph. Forty percent of the total width of each vehicle strikes the barrier on the driver's side.

Each passenger van's evaluation was based on performance of the vehicle's structure, injury measures, and restraints and dummy kinematics. Structural analysis data indicated how well the front end crush zone managed the crash energy and limited damage to the occupant compartment. Injury measures involved assessments of fiftieth percentile male dummies in the driver's seat. Each dummy was equipped with electrical measurement devices to determine the likelihood of an occupant sustaining significant injury to various body regions, including the head, neck, chest, legs, and feet. The restraint/dummy kinematics (occupant movement) evaluation assessed the injury risk from undesirable occupant movements, such as partial ejection from the occupant compartment, even though injury measurements were not recorded. This aspect of performance assesses how well safety belts and airbags interact with the other vehicle parts to control the dummy's movement.

The crash data demonstrated significant differences between the various models. Only one van, the Ford Windstar, earned a "good" overall evaluation from the Institute. As a result, the Institute has recognized the Windstar as a "best pick" for crashworthiness performance.

In contrast, the other eight passenger models tested performed either marginally (Mazda MPV, Dodge Grand Caravan/Chrysler Town & Country/Plymouth Grand Voyager, Honda Odyssey/Isuzu Oasis, and Nissan Quest/Mercury Villager) or poorly (Chevrolet Astro/GM Safari, Ford Aerostar, Toyota Previa, Pontiac Trans Sport, Oldsmobile Silhouette/Chevrolet Venture). The Chevrolet Astro/GM Safari, which was the vehicle at issue in the *Carmona/Hunter v. General Motors* case, did not perform well in the Insurance Institute's 40 mph frontal offset crash tests. "The Insurance Institute attributed the poor test performance of the Astro van primarily to the lack of front end crush zone, as we proved in Therese Hunter's case," said Chris Searcy, who along with Lance Block, recovered a \$25.45 million verdict from General Motors due to the van's lack of crashworthiness.

In its report, the Institute noted that as a group, passenger vans have very good on-the-road crash statistics compared with other passenger vehicles, principally because they are large and are driven more often by low risk drivers at times when, and in places where, crash risk is low. The Institute notes that results of the frontal offset tests demonstrate the injury risk in these vehicles could be even lower if all nine performed as well as the Windstar. ■

For more information about these and other vehicles, you may contact the Insurance Institute for Highway Safety's Home Page on the Internet: <http://www.hwysafety.org> or write to the:
Insurance Institute for Highway Safety, 1005 North Glebe Road, Arlington, VA 22201, Phone: 703-247-1500.

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

**REPORTED
"DECISIONS"
OMITTING CLIENTS'
AND/OR
DEFENDANTS' NAMES
ARE AS A RESULT OF
REQUESTS FOR
ANONYMITY.**

BABY GIRL DOE v. DR. SMITH, DR. JONES AND HOSPITAL X

At the end of the summer of 1990, John and Jane Doe were overjoyed to learn they were going to become parents once again. Mrs. Doe decided during her pregnancy to have a VBAC (vaginal birth after caesarean) delivery. This is a popular choice today for women who have previously had a caesarean section and now wish to experience natural child birth. Mrs. Doe's due date was April 30, 1991.

On April 29, 1991, Mrs. Doe arrived at Hospital X at 6:30 a.m. and was admitted under the care of Dr. Smith. Mrs. Doe's progress through the remainder of that morning was worrisome at best. In fact, at approximately 5:00 p.m., the nurses at Hospital X noted mild to moderate signs of fetal distress. Yet when they were sued and their depositions were taken under oath, these same nurses admitted these signs were actually moderate to severe fetal distress and ominous signs for the baby. Despite this ongoing problem, Dr. Smith chose to leave the hospital to play in a league softball game, gambling that this baby would not experience problems or even be delivered at all in his absence.

Unfortunately, the ominous signs continued until Dr. Smith returned some three and a half hours later. Shortly thereafter, Mrs. Doe's uterus ruptured, significantly decreasing the oxygen and blood supply to this already stressed baby. Nevertheless, Dr. Smith failed to recognize and appreciate the seriousness of this situation.

It was not until almost a half hour later that Dr. Smith called for a crash C-Section. However, due to a breakdown in the lines of communication, the on-call anesthesiologist (who was at home) was not told of the emergent nature of this procedure. Thus, though every second counted as this baby was being asphyxiated, Dr. Smith and the staff at Hospital X allowed this condition to continue substantially longer than necessary.

Baby Girl Doe was born at 10:49 p.m. via C-Section. Due to the heroic efforts of Dr. Jones, her pediatrician, Baby Girl Doe was resuscitated and survived this event. Unfortunately, Baby Girl Doe's brain was injured during these delays, resulting in cerebral palsy. Through the tremendous efforts of her parents, Baby Girl Doe has made a remarkable recovery, but has been left with noticeable motor problems.

Neuropsychiatrists examined Baby Girl Doe and noted physical limitations. She will never run or walk like a normal little girl.

Greg Barnhart and Todd S. Stewart were set to try this case, but on the eve of trial the case settled for \$1.475 million. This money will be placed in a guardianship account to care for this adorable little girl for the remainder of her life. ■

HUNT vs. THREE DOCTORS AND A HOSPITAL

Mr. Hunt, a 40 year old mildly mentally challenged and schizophrenic man, suffered a seizure at which time his shoulders were dislocated. Even though Mr. Hunt continued to complain of arm and shoulder pain and had difficulty moving his arms (which eventually turned black and blue), three doctors and a hospital failed to identify his dislocated shoulders for approximately two weeks. By this time, the heads of the upper arm bones had degenerated and needed to be replaced with implants/artificial joints. Mr.



Hunt has undergone bilateral shoulder replacement procedures, and as a consequence has a 36% whole body impairment and a 40% functional impairment.

Prior to this seizure episode and the ensuing improper medical care, Mr. Hunt was a strong, physically healthy man. He worked a full time job and was also quite talented as an artist and musician. He was a tremendous help to his 71 year old mother and was extremely proud of his ability to earn money to assist with the family finances.

The case was prepared and settled by David Kelley for \$650,000 just before the trial was due to begin. Pre-trial assistance was provided by Chris Speed. A Special Needs Trust was established to protect Mr. Hunt's existing health care coverages. ■

STEADMAN v. MENKE

On March 11, 1994, Tim Steadman, age 23, drowned while learning to scuba dive on a reef just off the Breakers Hotel in Palm Beach County. Tim joined several other students at the Kissimmee Pro Dive Shop in Kissimmee, and the group traveled to West Palm Beach for their dive. Tim intended to complete the first two of four dives he would need to earn his Open Water dive certification. Ronald Menke, owner and operator of Kissimmee Pro Dive, was his instructor.

After arriving in West Palm Beach and boarding the dive boat, Tim and five other students in his group divided into pairs, or "buddies." Since Tim was the only diver who had not yet completed any of his open water dives, Ron Menke assigned himself as Tim's dive buddy. Mr. Menke was the only instructor for the six students that included Tim.

Once in the water, Mr. Menke separated himself from Tim as the divers in the group began to make their descent. Mr. Menke neglected his buddy and drifted between other divers in the group. Unfortunately, while Mr. Menke concentrated on the other divers in the group, Tim was in distress on the surface, signaling to the boat captain for help. The captain maneuvered the boat toward him and sent a crew member into the water in an attempt to rescue him. However, the crew member could not get there in time and Tim sank to the ocean floor. His body was recovered approximately two hours later.

After Tim's body was recovered, the equipment was seized by investigating authorities. Testing of the buoyancy compensator (BC) performed at the medical examiner's office revealed that the BC was not operable. An O-ring was missing that prevented the BC from holding air. The BC, a rental, had been provided to Tim by Mr. Menke at the dive shop back in Kissimmee.

Tim Steadman was born in Emporia, Kansas, and he was on his way to earning a bachelor's degree in Business Administration at Emporia State University. He was one semester away from earning his degree, and was half way through a semester job at Disney World on a work study program. Tim is survived by his parents, Harold and Shirley Steadman, as well as two brothers and a sister.

The defendants continued to deny responsibility for Tim Steadman's death for over two years of litigation. After defendants' expert had to admit negligence on the part of the dive instructor, a mediation was set where the case was settled for \$1,000,000 in October, 1996. Attorney Bill Norton handled the case, and he has continued to press for an investigation of the incident by the organizations that certify the dive instructor, Mr. Menke, to teach students. It is his intent, and the family's wish, to have Mr. Menke's dive instruction certification revoked so that he may no longer instruct scuba diving students seeking Open Water and other certifications. As a firm, and in conjunction with this case, we are continuing to draw attention to the fact that there is little, if any, regulation within the scuba diving industry. ■

RIZZO v. DR. FREDERICK HERMAN

In February of 1992, 21 year old Shannon Rizzo detected a mass in the area of her right groin. She felt it might be related to a muscle pull she had previously experienced at work.

She sought the services of Dr. Frederick Herman, a general surgeon in Broward County. He felt it was probably a hematoma and performed surgery the following month. It was determined by the pathologist that she had a tumor, known as a desmoid fibromatous. This non-malignant tumor is known to recur, be

very fast growing and quite lethal if allowed to grow in the abdominal cavity.

Dr. Herman did not properly inform Shannon of the characteristics of her tumor. He did not do adequate follow-up or testing. Despite her complaints of discomfort in that area, no CT Scans were done.

By the time Shannon switched doctors the following year, the tumor had regrown to about the size of a grapefruit. Very extensive and disfiguring surgery was needed to remove the desmoid tumor. Significant follow-up radiation therapy was necessary, adversely affecting her reproductive organs.

John Shipley and Chris Speed spent two weeks in trial on this case in Fort Lauderdale. The jury returned a verdict in Shannon's favor for \$400,000. The final verdict exceeded the doctor's insurance policy, but nevertheless was paid in full. ■

JANE DOE v. FLAGLER MUSEUM

Jane Doe, while exiting the Flagler Museum, stepped into a large crack on the steps outside the main entrance. This crack was not easily seen by visitors of the Museum due to its location on the steps. This hazardous condition was well known to the Museum. In fact, through investigation it was determined that the Museum attempted a makeshift repair prior to this fall. However, they did not fix the condition and it remained dangerous. It was not a matter of if someone would be injured, but simply when. As a result of her fall, Ms. Doe suffered an intertrochanteric fracture of her left femur, as well as having a chipped avulsion on the dorsum of the neck of her right talus. She required months of therapy and incurred substantial medical expenses. Todd S. Stewart was able to resolve this matter for \$135,000 prior to the suit being filed. ■

Taking... Time to Care

Our employees volunteer and/or contribute to many wonderful charities throughout the year. In 1996, they personally assisted over 77 organizations. "Giving back to our community" is encouraged and supported at our law firm. We would like to take this opportunity to thank our employees for taking ...

Time to Care.

Adopt-A-Family
African Wildlife Federation
Alzheimer's Association
American Cancer Society
American Heart Association
American Lung Association
(ARC) Association for Retarded Citizens
ASPIRA (Drop Out Prevention Program for Latino Youth)
The Benjamin School
Board Marketplace
Cardinal Newman High School
Care, Inc.
Catholic Laity in the Marketplace
Catholic Lawyers Guild
Center for Children in Crisis
Children's Home Society
Children's Place/Connor's Nursery
Communities In Schools
Cornell University
Cub Scouts
Darcy Hall Patient-Care
Defenders of Wildlife
Disabled American Veterans
Dreher Park Zoo
Firefighters Association
Florida Easter Seal Society
Florida Rural Legal Services
Food For Families
Georgetown University; Law Center
GFWC Florida Federation of Womens Clubs
GFWC West Palm Beach Junior Womens Club
Greenpeace
Growing Together
Guatemalan Literacy Board

Guatemalan Mayan Center
Guatemalan Tomorrow Fund
Habitat for Humanity
Hope Rural School
Hospice Patient-Care
Humane Society of the United States
Kennie Edwards Foundation
Kiwanis (Palm Beach County; Florida; International)
Leadership Palm Beach County
The Lord's Place
(MADD) Mothers Against Drunk Driving
Make-A-Wish Foundation
March of Dimes
Maurawood Residence
Mental Health Association
Muscular Dystrophy Association
National Wildlife Federation
The Nature Conservancy
Ocean Impact Foundation
One Thousand Friends of Florida
Palm Beach County Board for Fair Housing
Palm Beach County Literacy Coalition
Paralyzed Veterans
Police Benevolent Association
PRIDE, Inc. (Criminal Justice Alternative)
PUPS (Finds Homes for Abandoned Puppies)
Salvation Army
Save-The-Manatee Club
Seminole Boosters
Shriners Childrens Hospital
Snug Harbor Foundation
South Florida Science Museum
Special Olympics (Palm Beach County)
St. Paul of the Cross Church
Unicef
United Cerebral Palsy
United Way
Veterans of Foreign Wars
Vietnam Veterans Association
WAY-FM (Christian Radio Station)
Wellington High School Baseball Booster Club
Win for the Kids
World Wildlife Fund



HUNTER v. GMC

Continued from Page One.

The impact deflected the front end of Mrs. Hunter's van into a 20 inch concrete utility pole at approximately 30-35 mph, causing the steering column to rise up into her face. As a result, the steering wheel hub and spokes violently fractured multiple facial bones, ripped her left jaw from the skull, sliced a through-and-through laceration to her cheek, and left Therese Hunter severely brain injured. Her boys were rendered temporarily unconscious but suffered no permanent injuries as a result of the collision. On the other hand, Therese Hunter was comatose for approximately one month and spent the next one and one-half years in hospitals and rehabilitation centers. Mrs. Hunter presently lives in a nursing home facility in Miami and requires full time supervision.

Mrs. Hunter's father and legal guardian, Dr. Jesus Carmona, brought suit against General Motors Corporation, the manufacturer of the Chevrolet Astro van, Jerry Hamm Chevrolet, Inc., the dealership that sold the van to the Hunters, and James Hagen, the driver of the pick up truck that caused the collision. The jury found that General Motors was liable for defective design, negligence and willful and reckless disregard for human safety. The jury also found that Jerry Hamm Chevrolet sold a defective product. The jury determined that the driver of the pick up truck, James Hagen, did not cause Mrs. Hunter's brain injuries and was therefore not liable, which was the plaintiffs' position as well.

The parties called more than a dozen expert witnesses and General Motors engineers during the course of the eight week trial. Thousands of pages of documents and hundreds of crash tests were sifted through during the trial, including frontal crash tests of the Astro van by

Continued on next page.

(Continued from previous page.)

General Motors and the National Highway Traffic Safety Administration. "We proved through the crash tests and GM's own internal studies that there is a 60-95% chance of brain injury to the seatbelted drivers of Astro vans in 35 mph crashes when there is no airbag available on the driver side," said Lance Block, who presented the liability portion of the case.

The major design defects contributing to the steering column hazard were the shortness of frontal crush zone, the mounting of the steering column onto the fire wall, the lack of energy absorption material on the steering wheel, and the failure to equip the vehicle with a driver's side

airbag. Because of these design defects, the Chevrolet Astro van steering column has a tendency to forcefully rise up into the seatbelted driver's face in a 30-35 mph frontal collision.

Block said that General Motors documents indicated that GM engineers knew of the defect before the first Astro van was sold to the public in 1985; however, no design changes specifically aimed at reducing the risk of head injury was implemented until 1992, when Federal Motor Vehicle Safety Standards required such changes.

GM defended the case in part by claiming that the van has a good on-the-road crash record. Those statistics, however, are misleading as to the crashworthiness of the vehicle according to Searcy and Block. "Minivans in the 90's are to the family transportation market what the station wagon was in the 60's and 70's," said Block. "They are driven by mothers and fathers in the suburbs and carry life's most precious cargo - our children,"

Block said. Statistics show that the drivers of minivans are one of the safest driving markets and are considered to be low risk accident drivers, Block points out, "In designing minivans, the automobile manufacturers have been counting on the safe driving habits of minivan operators rather than building safer, more crashworthy vehicles."

Searcy and Block argued that General Motors failed to improve the crashworthiness of the Astro van as a cost cutting measure, and that the auto giant relied



on the safe driving profile of minivan drivers until federal safety standards required more crashworthy features.

Therese Hunter's damage verdict is the largest in Florida and one of the largest in the nation. "This is an enormous tragedy and it caused Therese Hunter to lose everything - her family, her intelligence, her ability to communicate, her independence and her dignity," said Searcy, who presented Therese Hunter's damages and the punitive damages issues. "It is simply an unimaginable catastrophe, and the verdict accurately reflects the magnitude of all that Therese has lost," said Searcy. The six woman jury found that

Therese Hunter's human damages, which include bodily injury, pain and suffering, mental anguish, disfigurement, and loss of enjoyment of life, to be \$15,000,000. The jury also awarded Mrs. Hunter \$10,000,000 in future care costs, and \$418,000 for past economic losses, including medical care.

The punitive damage phase of the trial began on January 29, 1997. After nearly three days of evidence presented by both sides, the entire case was settled for a confidential amount. Therese Hunter's

father and guardian, Dr. Jesus Carmona, a Miami dentist, made the decision to accept the confidential settlement. "I believe it was in Therese's best interest to secure a settlement now so that she will have the funds for her much needed therapy and

care," said 78 year old Dr. Carmona. "Now I know Therese will be properly taken care of, as she deserves."

Since the verdict, the case has been the subject of intense media coverage, including network television news segments, the Associated Press and Reuter's Wire Services, and newspapers from around the country, as well as numerous legal publications, including the National Law Journal and the Foundation for Public Justice.

The case was the longest civil trial in Duval County history and was presided over by Senior Judge Lawrence Fay. ■

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QUARTERLY REPORT TO CLIENTS AND ATTORNEYS - VOL. 97, NO. 1

Announcements



Jack Scarola

has been appointed by The Florida Bar Board of Governors to the Board of Directors of Florida Rural Legal Services, Inc. This agency provides legal services for civil matters (except family law) to agricultural and rural workers/residents. ■



Greg Barnhart

has been appointed to the Board of Trustees of the Florida Lawyers Action Group (FLAG).



FLAG oversees the political functions of the Academy of Florida Trial Lawyers (AFTL). The AFTL is the organization to which most plaintiff trial lawyers belong in the State of Florida. It is a professional association located in Tallahassee that works in the legislative and public opinion arenas to protect the constitutional rights of consumers, preserve and defend the jury system, and improve public safety.

Greg recently spoke at Stetson University Law School on the subject of "Closing Arguments." ■

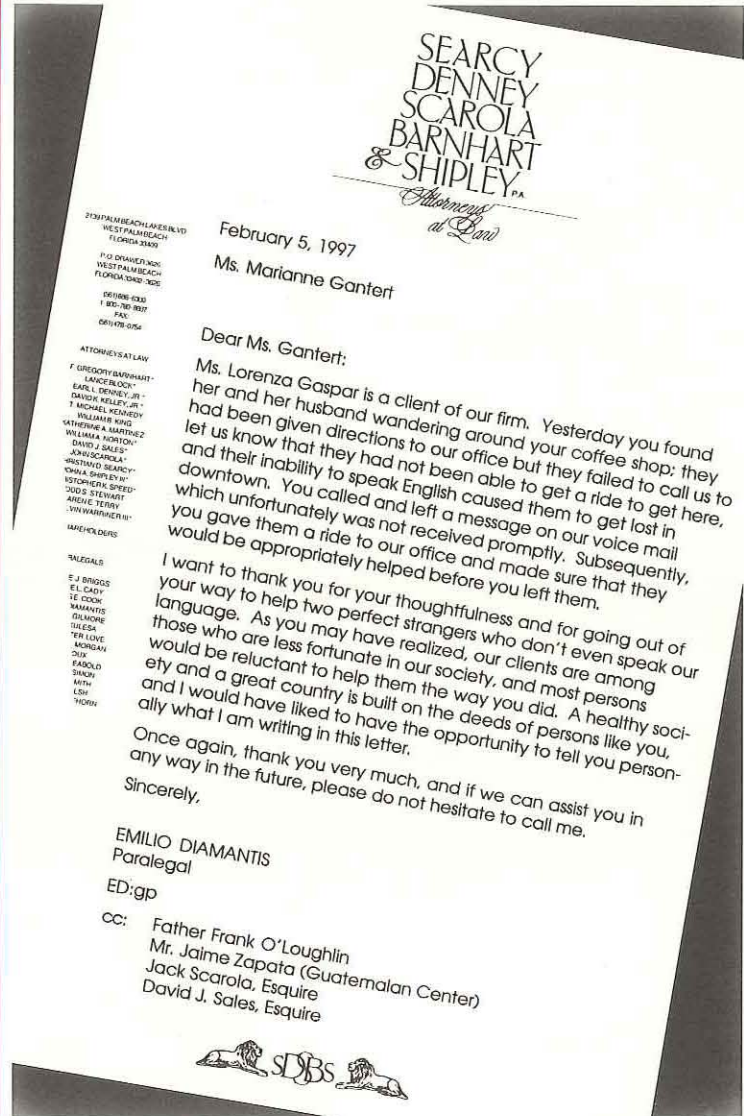
Todd Stewart

has been elected Chair Elect of the Young Lawyers Section of the Academy of Florida Trial Lawyers (AFTL). ■



An Act Of Kindness

(Our paralegal, Emilio Diamantis, recently wrote this letter to thank this lovely lady for an "act of kindness" — it's nice to know they still exist in the world.)



Para atender mejor a nuestros clientes que hablan Español hemos instalado un numero de telefono 800 que será contestado en Español por nuestro personal.

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IN ORDER TO BETTER SERVE OUR SPANISH-SPEAKING CLIENTS, WE HAVE INSTALLED A TOLL-FREE NUMBER THAT WILL BE ANSWERED BY OUR SPANISH-SPEAKING PERSONNEL.

Did you know ?

CONTRACT AND PROPERTY CASES

--most of which involve businesses--
comprise more than one-third of all civil cases in state courts. Domestic relations cases were the next most frequent type of proceeding, representing nearly 25 percent of all civil cases. By comparison, product liability cases accounted for only 0.21 percent of all civil cases.

(National Center for State Courts, 1995)

A STUDY OF CIVIL CASES

in the 75 largest U. S. counties found that product liability cases accounted for just 1.67 percent of all civil cases.

(U. S. Department of Justice, 1995)

Air Bag Warning!

FOR BABIES AND CHILDREN

1. **Teach Children to ride buckled up in the back seat.**

The back seat generally is the safest place to ride in any car. Drivers and passengers riding in the front seat can be seriously injured by the explosive force of air bags, even in minor collisions, if they are sitting too close to the front of the car, leaning forward, or not correctly buckled up.



2. **Never put an infant in the front seat if the car has a passenger-side air bag.**

In a crash, the air bag explodes from the dashboard at 200 mph, smashing through the safety seat into the back of the baby's head. The back seat is the only safe place for the baby to ride.



3. **Always buckle up infants facing the rear of the car.**

Even when they ride in the back seat, babies must not ride facing forward until they are one year old, sit up well, and weigh at least 20 pounds. The rear-facing safety seat supports baby's head, protecting the neck and spine from injury in most crashes.



For more information about car safety seats and vehicle belts:
SafetyBeltSafe U.S.A., P.O. Box 553, Altadena, CA 91003
Phone: (310) 673-2666 or (800) 745-SAFE.

Drawings courtesy of Air Bag Safety Campaign

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Once again, Chris Searcy, Greg Barnhart and Chris Speed have been named in the most recent edition of *Best Lawyers in America* in the personal injury field. Since attorneys must be voted onto the list by their peers, and listings cannot be purchased, inclusion in "Best Lawyers" is widely regarded as a notable honor in the legal profession.

SEARCY DENNEY SCAROLA & BARNHART SHIPLEY PA

*Attorneys
at Law*

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