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NOTE: The accounts of recent trials, verdicts and settlements contained in this newsletter is 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.

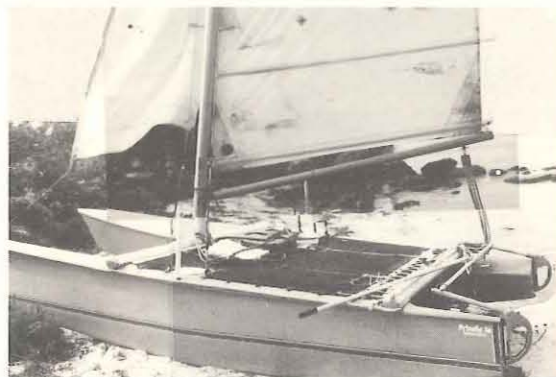
Favorable Verdict In Tampa Despite Bad Law

(CLIENT POLACKWICH AWARDED
5.6 MILLION DOLLARS AGAINST FP&L)

Earlier this year, Chris Searcy and John Shipley of our law firm successfully tried a six week case in Tampa against Florida Power and Light. During the trial, the lawyers proved that FP&L had strung its power lines dangerously close to the water's surface in an area adjacent to the Gulf of Mexico. Dr. Bob Polackwich and his stepson, Jonathan Richards, were caught by the wind and currents and their rented catamaran was blown into these lines. They died as a result of their electrocution injuries.

The wife and mother, Mrs. Polackwich, recovered 5.6 million dollars in economic damages, but, due to a quirk in maritime law, no damages were allowed for the widow for the mental anguish of losing her husband and son. In addition, no damages were allowed for mental anguish for the children of Dr. Polackwich. BUT had this case occurred as a result of an incident on land, all of the non-economic damages (i.e.; mental anguish; pain and suffering, etc.) would be allowed under Florida law.

Maritime law is the law of the sea which has evolved from ancient times and is based on a policy that favors shipping interests. Although the issue has not been finally settled by Florida's



Supreme Court, at least one district court of appeal has ruled that various claims including mental anguish will not be allowed in cases when loved ones die in water related incidents. In a state that is surrounded by water and in which much of the recreational activity is related to the water, the injustice of this law screams for a change. The judge's ruling to limit the damages in the Polackwich case to economic damages only is being appealed. We are hopeful that the Appellate Court will see that there is no logic or fairness in the distinction between cases that occur on the Florida sands versus those that occur in Florida waters. ■

Greg Barnhart Assumes Presidency of The Academy of Florida Trial Lawyers

*"No man's life, liberty or property is safe
while the Legislature is in session."*

The Honorable Gideon J. Tucker, 1866

In November, Greg Barnhart begins a one year term as Academy President. Greg follows Chris Searcy's footsteps, having served many years as a director, officer and this past year as President-Elect. Although he has worked hard in the past, the coming year presents Greg's biggest challenge. "It's a big, tough job, but I am really looking forward to assuming the gavel," said Greg.

For those unfamiliar with the Academy, it is a well organized group of very dedicated lawyers whose primary goal is the protection of victims' constitutional rights. A noble pursuit but no small task given the opposition. Some doctors, insurance companies and big businesses tirelessly seek ways to insulate themselves from legal responsibility for wrongdoing. The lure of

bigger profits motivates these groups to annually lobby for new laws capping and eliminating damages, protecting at fault parties and granting immunity. Their annual "rights assault" is well organized and funded and often too well received by some lawmakers. Fortunately, the Academy is always one step ahead.

Most citizens and lawyers don't even know these groups are planning another legislative onslaught. Unfortunately, even if citizens knew, they would be no match for the high paid, well-connected lobbyists retained by our opponents. Each year the Academy shoulders the burden of carefully monitoring the special interests activity. Academy leaders go toe-to-toe with the opposition and historically have been very successful.



Greg
Barnhart

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The Meeting Corner:

Christian D. Searcy



Chris Searcy is president and a partner of the firm of Searcy Denney Scarola Barnhart & Shipley, P.A. of West Palm Beach, Florida. He is a graduate of the University of Virginia where he received his B.A. with Distinction in 1969. In 1973 he graduated in the top 10% of his class from Stetson University Law School. In 1978, at age 30, he was honored as the youngest lawyer in the United States to achieve a verdict of one million dollars for a single personal injury lawsuit.

Mr. Searcy 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 Board of Overseers of Stetson University Law School. He is listed as one of the best lawyers in America in a book entitled, *The Best Lawyers in America*, which was the result of an independent study and survey by several Harvard law professors. He is also featured in *Who's Who in American Law*. In 1983, he was selected by the Trial Advocacy Society of Stetson University Law School as the *Outstanding Trial Lawyer of America*. His personal philosophy incorporates a strong commitment to serving his clients and the community. He is widely recognized for personally and professionally supporting non-profit organizations that are committed to the disabled, improving education, and supporting the arts. ■

Kathleen Simon



Kathie Simon, a paralegal at the firm, began her career in law in 1967 working for a personal injury defense law firm in Pittsburgh, PA. While living in Pittsburgh, she also managed the Insurance Company of North America House Counsel offices. When she relocated to Florida in 1979, she began working as a legal secretary. In 1982, she joined Searcy Denney Scarola Barnhart & Shipley working directly for Chris Searcy. She continues to assist Mr. Searcy in the organization, maintenance and control of files; training and supervising secretaries; giving personal attention to clients and witnesses; assisting in trial

(continued on page 3)

OF COUNSEL

WINTER 1993 - QUARTERLY REPORT TO CLIENTS AND ATTORNEYS

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

JANE DOE, a minor, vs. DOE HOSPITAL and ROW OBSTETRICIAN

At week 29 of her first pregnancy, Jane Doe's mother began leaking amniotic fluid. Her obstetrician did not feel she was leaking fluid. However, he told her to insert a tampon to determine if it was amniotic fluid or urine. The next morning, Jane's mother began feeling cramps and noticed that she had lost additional fluid. Her obstetrician, already at the hospital, told her to come in. Upon arrival the admitting department was dark. It took forty five minutes before they arrived in labor and delivery. Unfortunately their obstetrician had left for the dentist to have his teeth cleaned. For thirty minutes, the nurses mistakenly interpreted a heart tone of 60 as being the mother's, instead of that of the fetus. When the physician finally arrived, a sonogram was performed showing an agonal fetal heart rate in the 40's and an emergency C-section was performed. The child was born profoundly depressed and suffers from significant brain injury. Christian Searcy, Greg Barnhart and Todd Stewart negotiated a settlement on the eve of trial for \$5.5 million. ■

ARCH vs. CITY OF PALM BEACH GARDENS

Plaintiff, a 47 year old power company employee, was arrested and charged with trespass and robbery. The victims identified the suspect as a 5'9", 250 pound clean-shaven man with an Italian accent. Mr. Arch is 6'2", 210 pounds and has worn a beard for 20 years. The investigating detective told prosecutors both victims positively identified Mr. Arch. This was denied by the victims. In addition, the detective failed to follow-up on significant leads, confirm Mr. Arch's alibis and interview people who knew Mr. Arch had worn a beard for nearly 20 years. Based on the detective's sworn allegation, Arch spent the night in jail and was electronically monitored while awaiting trial. Mr. Arch was suspended from his employment without pay during this time. Both victims attended a suppression hearing and upon seeing Mr. Arch for the first

time told prosecutors they had the wrong man. \$20,000 was spent defending the criminal charges. Jack Scarola and David Sales obtained a verdict against the detective and the City of Palm Beach Gardens for \$601,000. Defendant's pretrial offer was \$50,000. ■

JANE DOE, a minor, vs. DOE HOSPITAL

Two year old Jane Doe suffered from well-controlled asthma. On the date in question, she had asthma-like symptoms which progressively worsened. She was taken to the emergency room and upon arrival, was wheezing, retracting, tachycardiac and cyanotic. A proper dose of epinephrin was given. However, the child was not immediately started on oxygen and no intravenous access was gained. The standard of care requires close monitoring following the initial dose of epinephrin and a follow-up dose of orally inhaled albuterol. Approximately an hour later, an additional dose of epinephrin was given and there was significant dispute over the actual dosage. The medical records indicated 1.5 milligrams of epinephrin were given—ten times the indicated amount. Jane immediately suffered a respiratory arrest which resulted in severe brain injury. In this case, the subsequent treating neonatologist testified that Jane did not receive standard medical care. Christian Searcy, John Shipley and Todd Stewart negotiated a settlement immediately prior to trial for \$6.5 million dollars. ■

FERGUSON vs. NORTH AMERICAN VAN LINES

Joe Ferguson had been a major top-producing exclusive agent for North American Van Lines in Broward County for over 20 years. In 1985 North American met secretly with another mover and granted a contract allowing them to compete for Broward business. Unfortunately for Ferguson, he had just completed a major capital expansion and consolidation of his operations requiring substantial capital outlay. Competition for his

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Simon (Continued from page 2)
preparation and attending jury selection and trials. She studied Business and Psychology while attending the University of Pittsburgh. ■

David W. Gilmore



David Gilmore is a paralegal / investigator at Searcy Denney Scarola Barnhart & Shipley. He is a graduate of the University of Florida with a B.S. degree in zoology (pre-med). In 1971, he began a career in the insurance industry in which he served in various managerial capacities. Prior to joining the firm, he was Vice President / Partner in an all lines insurance agency. His knowledge of the insurance field is thorough and extensive. David assists all of the attorneys with investigating the complex issues of medical malpractice, personal injury and products liability cases. His duties include: trial preparation, liaison between attorney and witness, assisting clients with special needs and overseeing all aspects of case development. ■

Barnhart (Continued from page 1)

This past year Greg and many Academy members locked horns with special interests on several key issues, including workers' compensation, collateral sources and limiting an injured person's choice of doctors. The Academy was instrumental in passing a consumer friendly collateral source law which prevents insurance companies from deducting benefits the consumer paid for himself from a personal injury jury verdict.

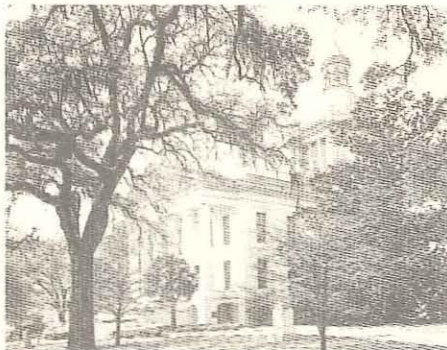
Raise the topic of last year's session and Greg will smile briefly. His mood changes as he quickly turns the conversation toward the future. "This coming year Florida citizens face one of the most organized and vicious attacks we have ever seen," he says. "Our opponents have the money and resources to come back year after year seeking favorable legislation at consumers' expense. "We are prepared and we expect to win because justice is on our side, but it will be one tough fight," according to Greg.

Heading the medical communities' agenda in 1994 is a proposed new law allowing contract immunity. If passed, doctors and other professionals could condition treatment and services upon the signing of a contract which waives patients' rights to sue even before they receive treatment. Current law

Silicone Gel Breast Implant Settlement Imminent

Dow Chemical Company and Corning Corporation have preliminarily agreed to set aside \$4.75 billion dollars to settle breast implant litigation. These settlements will not be restricted to those who have already made claims. Settlements may be available to persons who have implants, but are not currently experiencing complications.

We have a team of attorneys and paralegals working on our existing breast implant cases. They are knowledgeable concerning the legal theories and physiological problems associated with implants. In addition, they know what's happening with the proposed settlements. If you know anyone with breast implants who has not **recently** consulted an attorney about their rights as an implant victim, we would be happy to help. ■



prevents such contracts. "We know it is coming and are prepared to do our best to ensure it doesn't pass," Greg said.

Aside from his legislative duties, Greg will busy himself insuring that the Academy's other functions run smoothly. Keeping members informed and knowledgeable on changes in legislation, case law and trial techniques are other important Academy goals.

Searcy Denney Scarola Barnhart & Shipley, P.A. is proud to continue its leadership role in an organization that serves the interests of our clients and fellow attorneys so well. In addition to Greg and Chris, Moses Baker and Lois Frankel have held leadership positions and Lance Block will be running for the Board of Directors this fall. Please join us in wishing Greg the best of luck during his upcoming year as President of the Academy. ■

Taking... Time to Care

Searcy Denney Scarola Barnhart & Shipley is known for both its successful representation of clients and its generosity and involvement in civic affairs. In 1992 alone, the firm made financial charitable contributions to 124 different not for profit charities and organizations throughout Palm Beach and Martin Counties. These contributions were made to a broad variety of groups which provide a diverse and very necessary array of programs and services to those in need. Some of those included were:

Adopt A Family
Alzheimer's Association
American Cancer Society
American Red Cross
American Heart Association
Association for Retarded Citizens
Big Brothers / Big Sisters
Boy Scouts
Boys & Girls Club
Center for Children in Crisis
Children's Place / Connor's Nursery
Cities In Schools
D.A.R.E.
Deaf Services Center
Dreher Park Zoo
Easter Seal Society
Food for Families
Friendship Connection
Guardian Ad Litem
Hispanic Human Resources
Hope House
Horses & The Handicapped
Jewish Family & Children's Service
Legal Aid Society
Leukemia Society
Lord's Place (Homeless Shelter)
MADD
Make A Wish Foundation
March of Dimes
MarineLife Center
Mental Health Association
Palm Beach County Literacy Coalition
Project Graduation
Special Olympics
Tri-County TEC
United Cerebral Palsy
United Negro College Fund
Urban League

We believe in making our community a better place to live by donating our time and money to those less fortunate. Our commitment persists this year...as it continues to be our privilege to take "Time to Care." ■



WINTER 1993 - QUARTERLY REPORT TO CLIENTS AND ATTORNEYS

OF COUNSEL

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

Decisions...

(Continued from page 2)

exclusive Broward County business significantly inhibited his cash flow and in turn caused his company to experience losses in 1987 through 1989. Ferguson sold his company at a substantial loss in 1989. Ferguson's claims included breach of the exclusivity provision of his contract and tortious interference with Ferguson's business relationships. Jack Scarola and David Sales received a jury verdict for \$15 million including \$1.3 million in compensatory damages and \$13.7 million in punitive damages. ■

JANE DOE vs. DOE

Plaintiff, Jane Doe, was an exceptionally successful businesswoman. She devoted considerable time to sports and physical activity and was in excellent health. On March 2, 1991 she was riding her bicycle, along with others, when the defendant attempted to pass her on his bicycle. As he sped past her, he clipped her handlebar causing her to fall, hitting her left elbow on the paved bike path. She suffered a fracture dislocation of her left elbow. This severe injury required

surgery with internal fixation. Most importantly, it required removal of the radial head. The defendant denied contact between the two bicycles and alleged Ms. Doe fell because of her own negligence. Earl Denney settled this case on the eve of trial for \$640,000, in addition to having all of Ms. Doe's medical expenses paid. ■

LOVITT vs. COUNTY SANITATION

Plaintiff, Mr. Lovitt, was a 55 year old heavy equipment operator. He was operating his automobile on Selvitz Road in Fort Pierce, Florida where he attempted a left-hand turn. Unfortunately, a garbage truck owned by County Sanitation was returning to the maintenance yard to have its lights repaired. The garbage truck crashed into Mr. Lovitt's automobile causing a severe acetabular hip fracture. Mr. Lovitt contended the garbage truck's lights were not operating at the time of the accident. The defendants admitted they were returning to the maintenance yard, but stated the lights were operating at the time of the accident. Mr. Lovitt could not return to his employment as a heavy equipment operator. This case was settled by John Shipley immediately prior to trial for \$750,000. ■

SEARCY
DENNEY
SCAROLA
& SHIPLEY, P.A.

Attorneys at Law

PERSONAL INJURY
AUTOMOBILE ACCIDENTS
PRODUCTS LIABILITY
MEDICAL MALPRACTICE
WRONGFUL DEATH
AIRLINE AND RAILROAD DISASTERS
COMMERCIAL LITIGATION

NIGHT & WEEKEND
AVAILABILITY:

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