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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.

SDS



Palank v. CSXT, Inc.: \$50 Million Awarded In Punitive Damages

Almost six years after a Miami Police Sergeant was killed in a tragic train derailment, a Broward County jury said the accident was caused by a poorly maintained railroad track and awarded the man's widow \$50 million in punitive damages. The jury returned the verdict to Angelica Palank on July 30, 1997.

Punitive damages are awarded for human life and safety in cases where defendants have acted with reckless disregard, and the jury feels that such a verdict would serve as a deterrent to prevent repeat occurrences by the individuals involved or others.

Paul Palank was aboard the Washington D.C.-bound Amtrak Silver Star when a switch malfunctioned and popped open, causing the last five passenger cars of the train to derail in Lugoff, S.C. The train was traveling at 80 m.p.h. when it passed over a faulty mainline switch. A heavily corroded cross pin, determined to be responsible for the malfunction, was found broken into two pieces close to the switch. One piece of the cross pin was buried under rock and gravel that had been laid several months earlier. The derailed passenger cars careened into a set of hopper cars on a nearby track.

Trial testimony revealed that federal regulations require bi-weekly, visual safety inspections of all switches. Evidence showed that proper inspection of the faulty switch had not been performed for ten years prior to the derailment. After deregulation of railroads in 1980, CSXT laid off 50 percent of its maintenance work force, the same group responsible for visually inspecting the tracks. With the cut-backs, testimony showed that it wasn't even humanly possible for the workers to perform the required safety inspections. **Continued on Page Four.**

SO SAY WE ALL THIS July 30th DAY OF 1997.

Atty. Reader
FOREPERSON

*It is hoped that CSX framers
will emphasize need to
inspect both ends of
crosspins.*

IN THE CIRCUIT COURT OF
THE SEVENTEENTH JUDICIAL
CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA.

CIVIL ACTION
CASE NO: 92-22407-13

ANGELICA ROSE PALANK, as
Personal Representative of the
Estate of PAUL JOSEPH PALANK,
Deceased; and as Surviving Spouse
of PAUL JOSEPH PALANK, Deceased;
and as mother, natural guardian
and next friend of TAYLOR ROSE
PALANK, a minor and JOSEF PAUL
PALANK, a minor,

Plaintiffs,

vs.
CSX TRANSPORTATION, INC., a
foreign corporation,

Defendant.

VERDICT

WE THE JURY, RETURN THE FOLLOWING VERDICT:
1. WHAT IS THE TOTAL AMOUNT OF PUNITIVE
DAMAGES, IF ANY, WHICH YOU ASSESS
AGAINST CSX TRANSPORTATION, INC.?

\$ 50,000,000.00

The Meeting Corner:



Todd S. Stewart

Todd S. Stewart is a native Floridian, born and raised in Miami, as well as a second-generation trial lawyer. He does not remember a time when the practice of law was not a part of his life. Mr. Stewart attended Vanderbilt University and then graduated from the University of Florida with a degree in psychology. True to his alma mater, Mr. Stewart attended the University of Florida College of Law and began working for Searcy Denney Scarola Barnhart & Shipley, P.A. upon earning his law degree. He is admitted to practice in both Florida state and federal court (Middle District and Southern District).

During his five years as an associate with the firm, Mr. Stewart has spent a considerable amount of his time with suits involving medical malpractice, products liability and railroad litigation. He has successfully participated in litigating numerous cases culminating in multimillion dollar settlements and verdicts. In addition, he has reestablished benefits for one of our war veterans in litigation against the Veterans Administration.

Active in a variety of organizations, Mr. Stewart is currently Chair of the Young Lawyers Division for the Acad-

emy of Florida Trial Lawyers. He also serves on the AFTL Board of Directors and has held several other offices. He is a State Governor for the Association of Trial Lawyers of America's New Lawyer Division, where he also serves as the Litigation Liaison to the Railroad Section. He has been elected to the Board of the Palm Beach County Trial Lawyers Association and has been selected as a member of the Million Dollar Advocates Forum.

Mr. Stewart believes that volunteerism is the cornerstone to community development. He has been actively involved with many charitable organizations, including the American Cancer Society, Habitat for Humanity, the Miami Project, Harmony House, and WPBT. However, for the past five years he has spent most of his time serving as the Volunteer Coordinator for Palm Beach County Special Olympics.

Mr. Stewart is a frequent lecturer to trial lawyers, a guest lecturer at Stetson Law School and author of many articles in his fields of practice.

He lives with his dog, Dakota in Jupiter, where he enjoys biking, windsurfing and growing orchids. ■



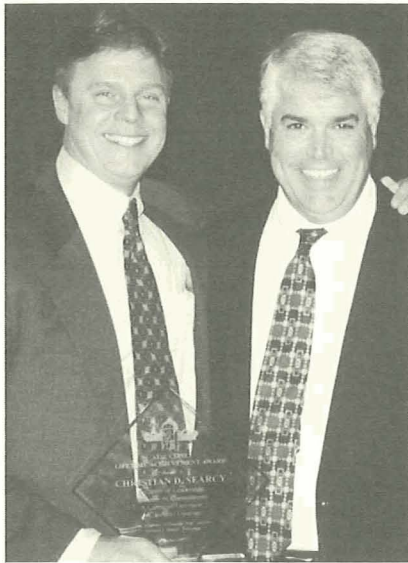
Judson Whitehorn

Judson Whitehorn was born in New York City and grew up in Sarasota, Florida. After graduating from the University of Florida with a B.S.B.A. in Finance in 1987, he moved to Palm Beach County and went to work for Allstate Insurance Company. He worked as a casualty claims adjuster for Allstate for three years, handling predominantly catastrophic injury and fatality claims. He left Allstate and joined the firm in 1991.

Mr. Whitehorn is a member of the Plaintiff Paralegal Association of Palm Beach County and the Academy of Florida Trial Lawyers. His areas of expertise include case analysis and negotiation in medical malpractice, motor vehicle, insurance/bad faith, nursing home, scuba diving and admiralty cases. ■

"The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little."

--Franklin Delano Roosevelt,
Second Inaugural Address



***“Christian D. Searcy,
a career of Leadership;
a career of Commitment;
a career of Devotion;
a career of Courage.”***

The Al J. Cone Lifetime Achievement Award was presented to Christian D. Searcy by John Romano, Past President of the Academy of Florida Trial Lawyers at the AFTL's Annual Convention, October, 1997. This prestigious award is presented annually to an individual for a lifetime contribution to the preservation of the Civil Justice System. ■

**SEARCY
DENNEY
SCAROLA
BARNHART
& SHIPLEY^{PA}**
*Attorneys
at Law*

**PERSONAL INJURY
AUTOMOBILE ACCIDENTS
MEDICAL MALPRACTICE
WRONGFUL DEATH
AIRLINE & RAILROAD DISASTERS
COMMERCIAL LITIGATION
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UPDATE:

USAir Crash In Charlotte, N.C. Settlement Reached

Chris Searcy and Chris Speed recently reached a settlement on behalf of Adisa Young, a surviving victim of the USAir crash in Charlotte, N.C. in July, 1994. Trial had been set for the first week in September in Federal District Court in West Palm Beach. After the second full day of mediation with representatives of the airline and its insurance carrier, a confidential settlement was reached. It is believed that the settlement amount is the second largest payment made by USAir concerning any single passenger.

As a result of the tragic crash of Flight 1016, Adisa suffered extensive second- and third-degree burns to almost a quarter of his body, necessitating extensive surgery and skin grafting. He suffered through many weeks of hospitalization and difficult and traumatic therapy afterwards.

As is common with many accident victims, Adisa experienced substantial post-traumatic stress disorder from the horror of this disaster. Some of the funds generated from the settlement will be used for extensive therapeutic care to help Adisa deal with the psychological impact that this event caused.

In a previous consolidated trial in federal court in South Carolina, a jury determined that USAir was responsible for the crash of Flight 1016. The trial scheduled in West Palm Beach was to have determined the extent to which Adisa was to be compensated. ■



Client Angel Palank with (left to right) Professor W. McKinley Smiley, Jr.; Greg Barnhart; Chris Searcy; Joel Padgett; Todd Stewart.

Palank v. CSXT, Inc., \$50 Million Awarded *Continued from Page One.*
 Every employee in that division testified that after the crash no one was reprimanded, disciplined or re-trained to keep this type of disaster from happening again and there was no expectation of corrective measures to be taken. Testimony was heard from the switch inspector, lead inspector, road master, division engineer, assistant division engineer and chief operating officer.

After three months of testimony, the jury deliberated for close to six hours before returning the \$50 million dollar verdict. On the verdict

form, the jury included a hand written note that said, "It is hoped that CSXT trainers will emphasize need to inspect both ends of crosspins." With this punitive verdict, perhaps a change of attitude will take place and preventive measures will be implemented.

This \$50 million verdict is in addition to a separate July 1995 verdict of \$6.1 million in compensatory damages awarded to Mrs. Palank, Mr. Palank's estate and their two children.

Mrs. Palank was represented by Chris Searcy, Greg Barnhart and Todd Stewart. She plans to use the money to start a charitable foundation. ■

UPDATE:

Palank Verdict Upheld

On October 10, just before we went to press, Angelica Palank's faith in our justice system was re-enforced when a Broward County Circuit Court judge upheld a jury verdict of \$50 million in punitive damages against CSXT, Inc.

"Undoubtedly, the public has the right to feel confident that it can go anywhere, from here to there on a public carrier without being maimed or killed," Judge Arthur J. Franza said in the 19 page order upholding the jury's verdict. "In too many instances, transportation carriers rely upon old or antiquated equipment."

"These inspections were not professional, not reasonable and did not comply with CSXT or FRA regulations," Judge Franza continued. "It should have been known to eventually lead to, and end in, tragedy."

"Industry, especially carriers, must first be safe and then profitable. Not the other way around," Judge Franza concluded. "Nonetheless, the relentless pursuit of big money has led many chief operating officers to lose their sense of duty, morals and ethics to do what is right so that a big enough sting or smart is needed." ■

Our Website Soon To Be On-Line

Very soon, information about Searcy Denney Scarola Barnhart & Shipley, P.A. and breaking legal news will be only a keystroke away! We are putting the finishing touches on our website and will be on-line shortly. Your feedback and recommendations for future articles will be most appreciated. ■

Punitive Damages v. Corporate Defendants

BY JACK SCAROLA

As children, we have all had more than one experience with a parent or teacher who dealt with misbehavior through what psychologists today call “negative reinforcement:” a variety of punishments intended to make us think twice about repeating our misconduct. And these punishments were often administered in ways that sent a message to siblings or classmates that they too faced unpleasantness and embarrassment if they broke the rules. While the civil law cannot put wrongdoers in jail for their intentional misdeeds or even seat them in a corner with a dunce cap on, centuries of experience have confirmed the value of punishing and deterring intentional, malicious and recklessly dangerous conduct with the sting of financial penalties.

In an age of increasing depersonalization — when almost every aspect of our lives is subject to the scrutiny, influence or control of some nameless, faceless executive or bureaucrat fed information by all-knowing computers and too often motivated by an insatiable appetite for corporate profits — the civil justice system stands as an important guardian of personal freedom and safety. And in this battle against the abuse of corporate power, the concept of punitive damages is the civil justice system’s most potent defensive weapon.

Countless examples exist of circumstances in which corporations have abused the power of technology, raped the environment, recklessly and even purposely endangered human lives with untested and knowingly defective products, and in other ways sacrificed the interests of innocent victims on the altar of corporate profits. The exploding gas tanks of the Ford Pintos, the rollover-prone Jeep CJ-7, the birth deforming Dalkon Shield, the toxic Rely tampon and the wanton profiteering of the asbestos and tobacco industries readily come to mind as instances of corporate callousness that would have gone undetected, undeterred and unpunished were it not for the vigilance of private litigants who undertook to do a job that government could not or would not do. Understandably, big business interests, lacking a social conscience and willing to sacrifice safety concerns to maximize profits, have worked very hard in the past and continue forceful ef-

forts to limit their punitive damage exposure by lobbying for fundamental changes in legal concepts that have been protecting innocent victims for centuries. Those well-financed lobbying efforts have managed to knock some large pieces out of the protective wall of punitive damages and in many jurisdictions the wall is threatened with destruction.

In Florida, big business led a successful campaign to limit the effectiveness of punitive damages in a variety of ways and their campaign to impose even greater restrictions continues. These efforts must be diligently resisted to hold in check the potential for the evil abuse of power. One Court speaking almost 100 years ago eloquently expressed the value of punitive damages in words that ring as true today as ever:

“A corporation is an imaginary being. It has no mind but the mind of its servants; it has no voice but the voice of its servants; and it has no hands with which to act but the hands of its servants. All its schemes of mischief, as well as its schemes of public enterprise, are conceived by human minds and executed

To summarize by paraphrasing a less eloquent but equally applicable quotation:

“When you grab them firmly by their [purse strings], their hearts and minds will follow.”

by human hands; and these minds and hands are its servants’ minds and hands. All attempts, therefore, to distinguish between the guilt of the servant and the guilt of the corporation; or the malice of the servant and the malice of the corporation; or the punishment of the servant and the punishment of the corporation, is sheer nonsense; and only tends to confuse the mind and confound the judgment. Neither guilt, malice, nor suffering is predictable of this ideal existence, called a corporation. And yet under cover of its name and authority, there is in fact as much wickedness, and as much that is deserving of punishment, as can be found anywhere else. And since these ideal existences can neither be hung, imprisoned, whipped, or put in the stocks, — since in fact no corrective influence can be brought to bear upon them except that of pecuniary loss, — it does seem to us that the doctrine of exemplary damages is more beneficial in its application to them, than in its application to natural persons. If those **Continued on Page Ten.**

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

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

BETANCOURT v. CASTANEDA

In April 1992, Will and Annie Betancourt welcomed their third son, Logan Daniel Betancourt, into the world. The Betancourts were active, involved parents who devoted almost all of their free time to their children's activities. Mrs. Betancourt worked at the Ocean Grand Hotel in Palm Beach in the evening so that she would be able to spend as much time as possible with her boys.

About a month after Logan's birth, Mrs. Betancourt had a routine pap smear which indicated abnormal findings. Her gynecologist, Jose Castaneda, M.D., told Mrs. Betancourt she needed to have a colposcopy, a procedure involving a cervical biopsy taken in the physician's office. The procedure was performed on June 4 and the results showed severe cervical dysplasia. Since cervical dysplasia sometimes precedes endocervical cancer, Dr. Castaneda then performed a cone biopsy. A cone biopsy is a surgical procedure performed in the hospital and yields a definitive diagnosis if cancer is present.

Mrs. Betancourt's cone biopsy was performed on June 24 at Bethesda Memorial Hospital. The biopsy was read by Matthew DiBiase, M.D., of Bethesda Pathology Associates, the hospital's base pathology group. Dr. DiBiase examined the specimen and diagnosed mild dysplasia. Dr. Castan-

eda reported the good news to Mrs. Betancourt, recommending that she return for pap smears every three months for the next year. Dr. Castaneda performed the first two pap smears, which came back normal.

When it was time for the third pap smear, Mrs. Betancourt was told that she needed another referral from her HMO gatekeeper doctor. The gatekeeper refused to refer her back to the gynecologist, insisting that he could perform the pap smears. Mrs. Betancourt did not feel comfortable having her gatekeeper perform the pap smears, so she decided to wait until it was time for her yearly examination with her gynecologist.

Mrs. Betancourt returned to Dr. Castaneda's office in August 1994 for another pap smear. It was returned with a diagnosis of adenocarcinoma of the cervix. Mrs. Betancourt was scheduled immediately for exploratory surgery and the results were devastating: The cancer had spread throughout Mrs. Betancourt's abdomen. She began radiation and chemotherapy treatments.

Over the next two years, Mrs. Betancourt had several surgeries and an excruciating course of radiation and chemotherapy treatments, which continued from the date of the diagnosis until her death in August 1996.

When Mr. and Mrs. Betancourt originally came to this firm through their personal attorney, there was no clear theory of liability. However, after a diligent investigation by attorney William A. Norton which involved a re-examination of Mrs. Betancourt's surgical pathology, it was determined that the cone biopsy performed on June 24, 1992 was misread. The specimen was riddled with adenocarcinoma in situ, which extended beyond the margins of the biopsy. In-

explicitly, Dr. DiBiase had interpreted the specimen as being basically benign. Had the diagnosis been made correctly, Mrs. Betancourt — who had a tubal ligation after her final pregnancy — could have had a hysterectomy, giving her an almost 100 percent chance of survival.

In addition to experiencing the devastation that such an illness and death can wreak on a family, the Betancourts were faced with one of the true inequities of Florida law. The defendants, Matthew DiBiase, M.D., Bethesda Pathology Associates, and Bethesda Memorial Hospital, admitted liability. Florida Medical Malpractice Statutes provide for defendants to admit liability and cap the plaintiffs' noneconomic (pain and suffering) damages at \$250,000. This statute has the effect of giving the most egregious malpractice offenders economic protection. However, testimony was developed that Mrs. Betancourt — employed as a Banquet Captain at the hotel — would have progressed to a management position within six years. This testimony, along with a unique theory that the defendants were operating as a partnership and not subject to the cap, enabled attorney William A. Norton to settle the case far in excess of the statutory caps. Matthew DiBiase, M.D. paid his policy limits of \$2,000,000, Bethesda Pathology Associates paid \$750,000 and Bethesda Memorial Hospital paid \$250,000. The case is ongoing against Dr. Castaneda and is scheduled for a 1998 trial.

Mrs. Betancourt waged a brave and valiant fight against a terrible disease. The tragedy is that her suffering could have been avoided if she had received even marginally-competent medical care. This case is an example of how the most serious malpractice

Continued on next Page.

offenders can avoid responsibility for their mistreatment of patients.

Searcy Denney Scarola Barnhart & Shipley, P.A. has worked diligently with the Academy of Florida Trial Lawyers in an effort to change this law, which benefits only physicians to the detriment of Florida's families and children. You can help by contacting your State Representative and supporting our effort for medical malpractice statutes that are fair to the physicians and patients alike. ■

JANE DOE v. XYZ, INC.
Toxic Shock Syndrome
Can Still Kill

When doctors had done everything they could for 13-year-old Jane Doe, her mother and father were called to her bedside to say goodbye. Medical staff had brought the young woman back from the brink of death several times in the past few days. Despite prayers of family members and friends, it seemed that Jane was going to lose her battle with the disease called Toxic Shock Syndrome (TSS).

Little attention has been focused on TSS in the past two decades, but tampon-related TSS continues to occur, largely induced by industry advertising to utilize super-absorbency products with synthetic fiber components. Young teens, like Jane, are particularly susceptible to the potentially fatal bacterial infection. The technical language and inconspicuous warnings on tampon boxes go unnoticed by most young women, who focus, instead, on advertisements that stress protection from menstrual leakage with super-absorbency products.

As Jane's mom sat at her daughter's bedside during what she thought were her child's final moments, her anguish turned to anger. She tearfully scolded and yelled at her daughter, telling her that she was not allowed to die. To the astonishment of everyone in the



room, Jane responded to her mother's voice and her vital signs began to improve.

The fighting spirit in Jane and her mother that helped keep the teenager alive sustained them through a painful rehabilitation and difficult battle against a tampon manufacturer. Jane, now 16 years old, continues to make remarkable progress in overcoming the effects of the multiple organ system failures she suffered.

Jane's case was resolved at mediation, shortly before trial, for a confidential multi-million dollar settlement. She and her family were represented by Jack Scarola, referring attorney Kathleen Kozinski and associated counsel Tom Riley and Charles Brown of Idaho. ■

QUINN v.
BOWERY MANAGEMENT CORP.,
D/B/A COUNTRY NIGHTS

Kevin Quinn and his wife Tracie decided to spend an evening out during a family vacation in West Palm Beach in November 1995. The Tallahassee couple arrived at Country Nights, a country western nightclub, close to 11:30 p.m. on Nov. 21, 1995 and had several drinks.

As the night progressed, the Quinn's fought about a woman with whom Mr. Quinn had been dancing earlier in the evening. When the couple's fight became physical, bartender Michael Crowder jumped over the bar and, with the assistance of two other bouncers, hustled Mr. Quinn out the front door of the club. A club manager prevented Mrs. Quinn from following her husband. When the bouncers returned, they told her that her husband had fallen and hit his head. Mrs. Quinn left Country Nights through the back door to find Mr. Quinn sitting by the car, holding his head in his hands.

On the drive home, his condition deteriorated, so his wife stopped at Palms West Hospital. His injuries were so severe he had trouble getting into the hospital and began vomiting blood. After immediate x-rays showed blood on his brain, Mr. Quinn was flown by Traumahawk to St. Mary's Hospital, where surgery was performed. He remained in a coma for several weeks but made a 95 percent recovery after six months.

Eyewitnesses outside Country Nights told police that, even though Mr. Quinn wasn't making a fuss about leaving, Mr. Crowder took a large flashlight from his back pocket and struck Mr. Quinn on the left side of his head. Several bouncers followed him to his car, shouting and swearing.

With the help of attorney John A. Shipley, Mr. Quinn filed suit against Country Nights and Michael Crowder. He was awarded \$15 million by a Palm Beach County jury on Aug. 25, 1997. ■

Decisions...Continued on Page Eight.

Decisions...Cont. from Page Seven

**KILLINGSWORTH v.
NURSES PRN**

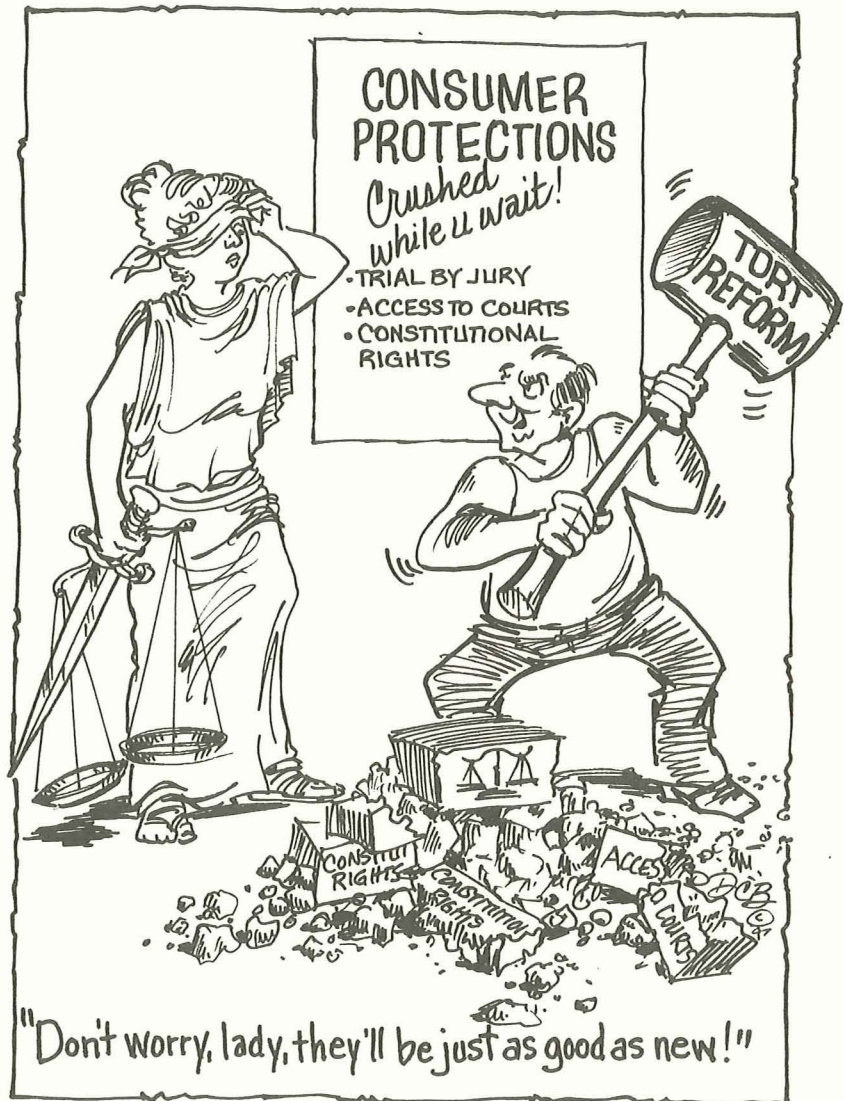
Daren Killingsworth and his son Marcus recently received a settlement of \$495,000 for the unfortunate death of Angelia Killingsworth in January 1995. Several years prior to her death, Mrs. Killingsworth had been diagnosed with a progressive degenerative case of multiple sclerosis. Her condition had deteriorated to the point where she was ventilator-dependant. She needed mechanical assistance in filling her lungs because her own body could no longer control that function.

In the fall of 1994, Mrs. Killingsworth was hospitalized for more than a month, and subsequently received rehabilitative care for another month. She was released to go home when her condition stabilized in late December 1994. She required twenty-four hour nursing care consisting of three nurses working eight hour shifts per day. Unfortunately, the nurse assigned to work with her on New Year's Eve was unfamiliar with the respirator equipment. She was unable to respond appropriately to Mrs. Killingsworth's needs when suctioning of her airway was needed.

As a result, Mrs. Killingsworth went into respiratory arrest and was comatose when she arrived at the hospital. She remained in a coma for about three weeks before she died.

Although Mrs. Killingsworth's condition had unfortunately deteriorated, and although her life expectancy was probably no more than several years, Mr. Killingsworth did lose his wife prematurely and Marcus Killingsworth lost his mother from this unexpected and unnecessary death.

Chris Speed was able to reach a settlement in pretrial mediation. Marcus Killingsworth's share of the proceeds has been placed in an annuity to provide him with future income. ■



INSURANCE AND YOU...

**New Law Allows Direct
Access To Dermatologists**

Florida patients who belong to managed care organizations no longer have to get a referral from the primary physician in order to see a dermatologist. A new law, which took effect May 30 of this year, gives patients direct access to dermatologists for office visits, minor procedures and testing. ■

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

OF
COUNSEL

QUARTERLY REPORT TO CLIENTS AND ATTORNEYS - VOL. 97, NO. 3

Sport Utility Vehicle Rollovers Continue To Claim Lives

(Reprinted with permission from the law offices of Shamborg, Johnson and Bergman in Overland Park, Kansas).

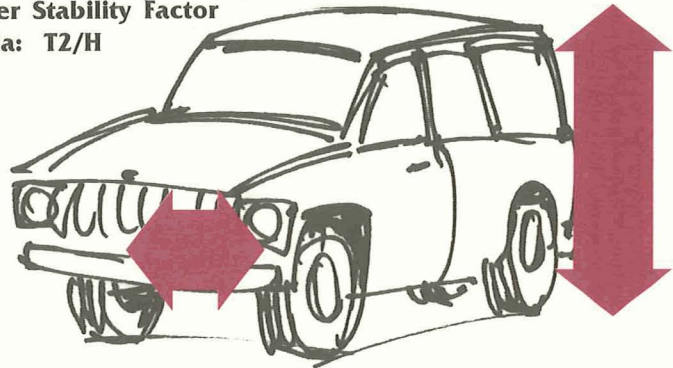
Recent eight figure verdicts in Missouri and Indiana have emphasized the danger with certain sport utility four wheel drive vehicles. These verdicts bring to light what automobile manufacturers have known for decades: Sport utility vehicles rollover from 5 to 11 1/2 times more often than passenger cars. Vehicles such as the Bronco II, Suzuki Samurai, Toyota 4Runner and Isuzu Trooper have a much greater propensity to roll over than other passenger vehicles because of their short wheel bases, narrow track widths and high centers of gravity.

Rollovers account for 20% of all motor vehicle deaths, but they are involved in 80% of deaths in single-vehicle crashes of small utility vehicles. Only head-on collisions involving alcohol rival deaths associated with rollover accidents. In 1990, 9,565 persons were killed in passenger vehicle rollovers. Small utility vehicles have, by a wide margin, the worst rollover fatality record with 5.7 occupant deaths for every 10,000 registered vehicles. These vehicles far outstrip automobiles and pickups in their fatality experience.

Nevertheless, manufacturers continue to produce utility and other vehicles with poor stability characteristics because no vehicle manufactured or sold in the United States is required to meet any type of minimum stability standard.

In 1973, the National Highway Traffic Safety Administration ("NHTSA") is-

Sports Utility Vehicle Rollover Stability Factor Formula: $T/2H$



Track width, (side to side between the tires), divided by Height of the vehicle's center of gravity. Any result less than 1.2 is considered unreasonably prone to rollover.

sued two Advance Notices of Proposed Rule Making: one on rollover resistance and the other covering steering control while braking and turning. After strong opposition by automobile manufacturers, neither standard was pursued, and no rules were passed. In 1992, nearly two decades later, NHTSA issued another Advance Notice of Proposed Rule Making for rollover resistance. Automobile manufacturers again opposed any such standards and none were developed even though NHTSA's own engineers concluded that "a high degree of correlation exists between the risk of vehicle rollover and the vehicle rollover stability factor."

The vehicle "rollover stability factor," adopted by many as an accurate indicator of whether a vehicle has an unreasonable tendency to roll over, is derived by the mathematical formula $T/2H$, where T is the vehicle's track width (measured side-to-side between the center of the tires), divided by H (the height of the vehicle's center of gravity). Any vehicle whose stability factor is less

than 1.2 is considered unreasonably prone to rollover. Numerous studies demonstrate the statistical relationship between $T/2H$ and both the number of rollover accidents and the incidence of rollover fatalities.

Automobile manufacturers continue to ignore the growing rate of rollover accidents when design remedies as simple as proper tires or widening a vehicle's track width by 1/2 inch can make dramatic differences. It appears the problem will only get worst as manufacturers expect that the new class of mini-sport utility vehicles will become the leader in sales to younger drivers.

If past trends continue, numerous lives will be needlessly claimed despite overwhelming evidence of the unreasonably dangerous tendency of certain sport utility vehicles to roll over in foreseeable driving conditions.

(ED NOTE: Searcy Denney Scarola Barnhart & Shipley, P.A., are currently handling cases involving crash worthiness actions including sport utility vehicle rollovers). ■

Taking... *Time to Care*

BRAIN INJURY ASSOCIATION OF FLORIDA

BIAF is a statewide non-profit organization dedicated to improving the lives of survivors of traumatic brain injury and their families. BIAF provides a variety of resource services to survivors of traumatic brain injury and their families, including guides, manuals and a lending library of books and videotapes. For the professional, a selection of articles, books and conference reports is available on the legal issues of litigation, custodial planning and the financial challenges of brain injury cases. When a consumer contacts the resource center, the resource specialist chooses appropriate items from the collection to send and/or a follow-up phone call is made by the family services specialist.

Support groups throughout the state are available for both survivors and their families. BIAF does not sponsor these groups but serves as a liaison between groups and their members. The association also publishes a newsletter to inform members of items of interest and events sponsored by the association. BIAF presents conferences and forums for professionals, families and survivors of brain injuries, serving to inform and support those people who deal with brain injuries on a daily basis.

Three BIAF-sponsored Family Support Centers are available in the Ft.

Lauderdale, Miami and Orlando areas for those cases needing special assistance. These centers provide a crucial link between participants and any programs or resources in the community that might be appropriate for their unique situation and support. Another branch of the association offers prevention information and community awareness. With the help of Helmutt, the helmet safety dog, BIAF is reaching out to schools and safety programs to spread the word that helmets prevent brain injuries.

BIAF works to provide resources, services and information specific to each consumer's needs, be it a lawyer needing advice for a case or a family seeking a facility for a brain injured child.

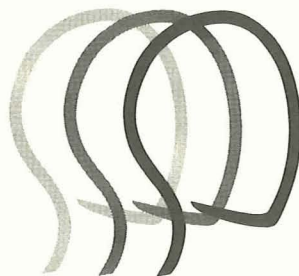
To become a member, or to find out more, contact the association by phone:

800-992-3442; 954-786-2400,

by fax: **954-786-2437,**

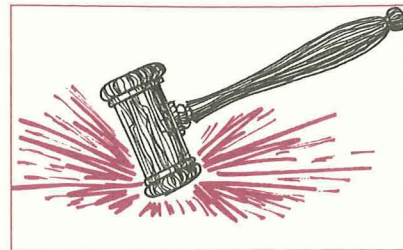
or by computer **BIAFL@AOL.com,**

to receive more information. ■



Punitive Damages

Continued from Page Five.

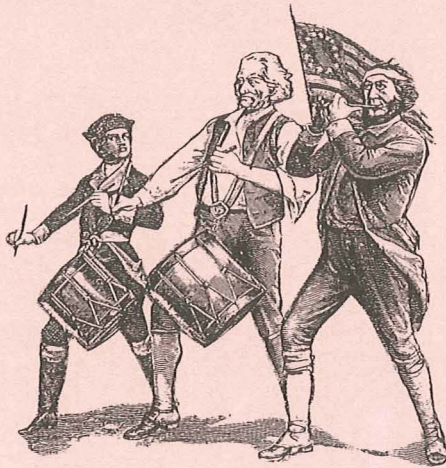


who are in the habit of thinking that it is a terrible hardship to punish an innocent corporation for the wickedness of its agents and servants, will for a moment reflect upon the absurdity of their own thoughts, this anxiety will be cured. Careful engineers can be selected who will not run their trains into open draws;... conductors and brakemen can be had who will not assault and insult passengers; and if the courts will only let the verdicts of upright and intelligent juries alone, and let the doctrine of exemplary damages have its legitimate influence, we predict these great and growing evils will be very much lessened, if not entirely cured. There is but one vulnerable point about these ideal existences, called corporations; and that is, the pocket of monied power that is concealed behind them; and if that is reached they will wince. When it is thoroughly understood that it is not profitable to employ careless and indifferent agents, or reckless and insolvent servants better men will take their places, and not before."

To summarize, by paraphrasing a less eloquent but equally applicable quotation -

***"When you
grab them firmly
by their [purse strings],
their hearts and minds
will follow."***

Announcing...



Jack Scarola

has been Board Certified in Business Litigation by the Florida Bar's Board of Legal Specialization and Education. ■



Greg Barnhart

has been appointed to the Board of Directors of the Legal Aid Society of Palm Beach County. ■



Lance Block

has been elected Secretary of the Academy of Florida Trial Lawyers. ■



Bill Norton

has been included in the Consumer Guidebook, "Law and Leading Attorneys" in the field of commercial litigation. ■



David J. Sales

recently spoke at the Academy of Florida Trial Lawyers seminar on "Bad Faith Litigation." ■



Todd Stewart

has been elected Chair of the Young Lawyers Section of the Academy of Florida Trial Lawyers. ■



Emilio Diamantis

has been elected to the following:
* Secretary of the American Lung Association of Southeast Florida
* State Chairperson for Kiwanis Iodine Deficiency Diseases Project (IDD). ■

ADDRESS CORRECTION REQUESTED

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FLORIDA 33402-3626

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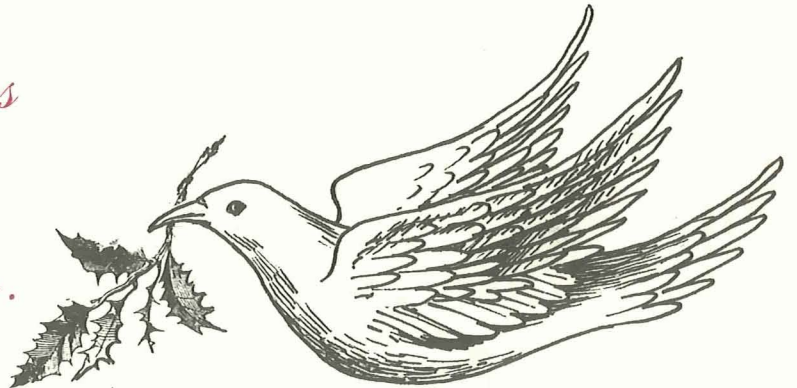
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*Wishing you and yours
a holiday season
filled with
caring and sharing.*



During the holiday season, many like to reach out to those less fortunate and contribute time, money, food, toys, clothes and other gifts.

We know that the following organizations are collecting donations to help make the holidays brighter for those in need.

Your help will be most appreciated.

ADOPT-A-FAMILY

Contact Person: Debbie Lackey (561) 434-4960 x13

CHILDREN'S HOME SOCIETY

Contact Person: Steve Bardy (561) 844-3158

GUATEMALAN-MAYA CENTER

Contact Person: Jaime Zapata (561) 547-9190

MENTAL HEALTH ASSOC.

Contact Person: Renee Constantino (561) 832-3755

TOYS FOR TOTS

Contact Person: Capt. Holden or First Sgt. Sprague
(561) 683-4443 or 683-7057

