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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



\$8 Million Jury Verdict For Profoundly Retarded Woman Raped In Group Home

A Ft. Pierce jury awarded \$8 million on March 28 to the father and legal guardian of a mentally handicapped woman who was raped and impregnated eight years ago while in the care of a state licensed group home.

Jane Doe, a 29-year-old profoundly retarded woman, is nonverbal, mostly incontinent, and has the mental capacity of a two-year-old. In January 1992, she was raped and found to be almost five months pregnant. Her family removed her from the now defunct Schenck Group Home in Ft. Pierce and moved her to Tallahassee to live with them.

Jane was born in 1971, appearing to be normal in every way. However, as she aged, she failed to reach normal developmental milestones. By the time she was 10-years-old, state authorities and health care providers advised the family to place her in a group home where better and more intensive services would be available.



Jane Doe and her father in West Palm Beach in 1998.

Jane was removed from her first state licensed group home four years later when it was discovered that she had been physically abused. In 1985, she was transferred to the Schenck Group Home by the State of Florida Department of Health & Rehabilitative Services. **continued on page two**

Baby Client Receives Large Settlement Despite State Caps

In June, attorneys Chris Searcy and Chris Speed were able to effect a settlement of \$4.6 million on behalf of their client, Baby Jason. This case was filed several years ago in the State of Maryland for medical negligence, which occurred during the time frame of Jason's birth.

On Jan. 19, Jason's mother arrived, in labor, at the Defendant hospital. All signs indicated that she was carrying a healthy fetus. The family looked forward to the birth of a healthy, normal baby.

Tragically, the attending physician and the nursing staff at the Defendant hospital failed to recognize significant distress that the fetus was experiencing. From 7:00 p.m. until 12:00 a.m., the fetal monitor strip exhibited less and less reactivity, which was a clear indication that Baby Jason was struggling in the uterine environment. Instead of taking Jason's mother for immediate C-Section surgery, the nursing staff and the attending doctor did the unthinkable--they took Jason's mother from the labor and delivery suite and, without any further monitoring, transferred her to another room in the labor unit for the next eight hours.

The next morning, Jan. 20, fetal monitoring was restarted and it showed that the fetus was still in distress. The monitoring **continued on page two**

Continued from page one:

\$8 Million Jury Verdict For Profoundly Retarded Woman Raped In Group Home

In late 1991, school officials reported concerns of abuse and neglect to HRS case workers and to the group home. No one acted, however, until the school's principal wrote a letter to HRS officials.

Though Jane was diagnosed as being 14-weeks pregnant, she received no follow-up prenatal care for almost two months, until her parents were finally contacted by HRS officials in late January 1992. When her family arrived to see her the next day, Jane was sick with pneumonia and she had to be hospitalized and rehydrated. Her parents were soon awarded legal custody of her and she returned with them to Tallahassee where she now lives.

During the early months home, Jane displayed bouts of anger, frustration and showed signs consistent with post traumatic stress disorder. With the help of a behavioral psychologist and a loving environment, Jane soon improved. However, leaving state custody caused an immediate decrease in services which were once available to Jane. As a result, Jane only receives assistance from a part time aide who tends only to her most basic needs. Jane receives virtually no therapies, nor does she have a day program or recreational program to attend.

A multi-count complaint was filed alleging negligence on the part of the Department and the group home, as well as violations of Jane's rights as a developmentally disabled person under section 393.13(3) and (5), Florida Statutes, known as the "Bill of Rights for the Developmentally Disabled." The case was tried for six days before a jury of four women and two men. Shortly before trial, the state admitted fault, but continued to defend causation and the damages.

At a charge conference, the trial judge required the plaintiffs to elect between two theories of liability--simple negligence or the bill of rights. Because of the potential legal importance of the case, the Doe's elected to proceed under the bill of rights theory.

The jury returned a verdict of \$8 million, \$5 million of which was for economic damages for habilitative care and \$3 million for the mental pain and suffering Jane endured.

Post trial motions for new trial and remittitur were denied, and the appeal deadline has recently expired. A claims bill will be filed before the 2001 legislature.

Lance Block and Harry Shevin were the attorneys who tried this case. ■

Continued from page one:

Baby Client Receives Large Settlement Despite State Caps

continued for almost five hours before the correct decision was finally made to perform a C-Section and deliver Jason. Jason's profound injury became apparent soon after his birth. Jason will never develop intellectually beyond the level of a one-year-old. Although he has the ability to crawl and scoot around on the floor, he's unable to walk. He has virtually no communication skills and requires 24-hour care. Despite these debilitating injuries, Jason is very healthy and is expected to live well into his 60s.

The egregious medical care provided, coupled with the significant injury suffered by Jason, led Jason's family to hire Mr. Searcy and Mr. Speed as primary trial counsel for the case. Mr. Searcy and Mr. Speed hired more than a dozen expert witnesses, all of which were unanimous in their opinions that negligent care was provided, thus causing the significant injuries to Jason.



Young Jason

Expert testimony notwithstanding, Baby Jason's family would face another hurdle in the case. Maryland has laws which curb the amount of damages a victim can collect, even if it is proven that the medical care providers were negligent. Injured victims can only collect \$350,000 for pain, suffering, loss of enjoyment of life, and the mental anguish that goes with significant disability. Maryland law does not place a cap on economic damages, but it does allow a trial judge to adjust the amount of damages if they are made periodically into the future instead of all at one time.

After nearly fifty depositions, and with the trial just around the corner in July, the parties agreed on a settlement of \$4.6 million. The majority of this money will be used to provide a lifetime of medical care and benefits for Jason. It will also allow Jason's family to purchase an appropriately equipped vehicle and to receive home health care to alleviate some of the burden on the family. It also frees Jason's family from the psychological worry of who will take care of Jason when they have passed on.

It is the firm's position that caps, such as the one in Maryland, only profit big business and insurance companies. Families who can least afford medical care and do not have any financial resources to pay for it, are forced to bear the burden. The political issue of tort reform is not reform in any way. It is simply extra profit in the treasuries of companies that are already profitable.

According to the mediator in Jason's case, this was the largest medical negligence settlement he had seen in that area of Maryland in twenty years. Mr. Searcy and Mr. Speed were delighted that they were able to help Baby Jason and his family. ■

Young Woman's Legacy Lives On

On Oct. 9, 1997, the lives of Marjorie and Tom Anliker were forever changed. On that day, the Anlikers lost their 25-year-old daughter, Margaret, in a horrible tractor-trailer accident. Attorneys Chris Searcy and John Shipley would later show that this tragedy should never have happened to this bright and promising young woman.

Margaret was the Director of Orientation at Florida International University in Miami. She was traveling northbound on I-95 to attend a homecoming and college reunion at her alma mater, the University of South Carolina.

Around 9:45 p.m., Margaret had made it as far as Daytona when a van changed lanes, causing a minor fender bender accident with Margaret's car. The two cars, plus a third bystander car, pulled over to the right shoulder of the I-95 overpass. Two firefighters arrived on the scene and checked on the well-being of all the parties.

***At the time of the accident,
Mr. Weaver's logs reflected that he
had been driving for four days
without substantial rest.***

While traffic on I-95 continued to pass by the accident scene, Michael Weaver, driving a leased truck for Tandy Corporation, was fast approaching at an unsafe speed of 74 miles per hour. He lost control of his 64,000 pound truck, jackknifing it to the right, and directly mowing through Margaret and the four other people who were standing on the shoulder of the road. Rescue workers tried frantically to extricate Margaret from the frame of the truck while she suffered in pain and anguish. Minutes later, Margaret succumbed to her traumatic injuries and died.



Margaret Elizabeth Anliker

Scott Ballard of Ballard & Ballard in Fayetteville, Ga., referred the case to attorneys Mr. Searcy and Mr. Shipley. Through their investigation, Mr. Searcy and Mr. Shipley uncovered numerous shoddy and deplorable operating procedures by Tandy Corporation.

Tandy had increased the allowable average speed for its drivers, while discontinuing log audit procedures on leased drivers such as Mr. Weaver. In addition, Tandy's fleet of trucks was old and had numerous mechanical problems. At the time of the accident, Mr. Weaver's logs reflected that he had been driving for four days without substantial rest. Furthermore, he was operating a truck in which the braking system was out of compliance with federal and state standards. He also had an unauthorized female passenger in the truck at the time of the accident. In April 2000, the case was settled on behalf of the Anlikers for an undisclosed amount.

Since the accident, the Anlikers and their other daughter, Catherine, have struggled to put their lives back together. The University of South Carolina established a scholastic endowment in Margaret's name, and in March 1998 an auditorium was named after Margaret at Florida International University. The Anlikers have found some solace in the fact that Margaret was loved, respected, and admired by hundreds of friends, college classmates, and professors. Margaret's untimely death was a loss for all, and she will be truly missed. ■

**VISIT OUR WEBSITE AT:
<http://www.searcylaw.com>**

Information about
Searcy Denney Scarola
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and legal news is only a
keystroke away on our website.

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QUARTERLY REPORT TO CLIENTS AND ATTORNEYS - VOL. 00, NO. 2

The Meeting Corner:



Robert W. Pitcher

Robert W. Pitcher was born in Plainfield, N.J. He moved to Florida when he was six-months-old so his father could attend law school at the University of Florida. Mr. Pitcher graduated from the University of Florida with a Bachelor of Arts Degree in Criminal Justice in 1988. He has worked for Allstate Insurance Company in West Palm Beach and Boynton Beach since 1989.

Mr. Pitcher presently holds a 620 (Adjusters) License, a 220 (General Lines) License, a 214 (Life) License, and a Florida Real Estate License. He will work primarily with John A. Shipley, assisting him with medical malpractice, product liability, and personal injury cases.

Mr. Pitcher and his wife, Christy, have been married since 1997. They both enjoy riding horses, playing volleyball, and going to the beach. Mr. Pitcher's other hobby is golf, which he has played since he was eight-years-old. He has a 12-handicap. ■

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

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

CAR ACCIDENT TURNS COSTLY FOR DEVELOPER

In February 1998, Mr. X, a land developer, was driving his car southbound when a rental vehicle crossed the center line and collided head on with his car. The force of the impact was so great that it spun Mr. X's vehicle 180 degrees and pushed it into the northbound lane. When approached by witnesses seconds after the accident, the offending driver sat in her vehicle with her head bobbing, mumbling incoherently. Fire Rescue personnel at the scene discovered evidence of prescription drug overuse and the at-fault driver was taken away to have her stomach pumped.

Mr. X was cut out of his car using the "jaws of life" and was rushed to the hospital. His injuries included fractures of the ribs, the left hip, and the right femur, tibia, and fibula. Mr. X underwent several surgeries, but some had to be postponed indefinitely because Mr. X's condition was determined to be unstable. Mr. X experienced multi-system organ failure and was placed on life support for five weeks. Throughout this time, Mr. X's wife visited him daily, while keeping his land development business operating.

Mr. X eventually regained consciousness and was released from the hospital in April. He regained his ability to walk, but encountered another setback in September when doctors were required to perform a second total hip replacement. At the end of 1998, Mr. X returned to work, though in a very limited capacity.

Prior to the accident, Mr. X played a significant role in the building and selling of his homes. He would work right alongside the other workers and climb onto roofs



Scene of accident in February 1998.

to check the integrity of each man's work. Mr. X realized, upon his return from the hospital, he could no longer perform the functions of builder, construction manager, sales executive, and marketing executive. Mr. X's inability to return to his prior pace of activity forced him to sell his development business at a loss estimated to be more than \$1 million.

The woman who caused the accident had a long-standing history of prescription drug abuse. Witnesses described her driving the day of accident as erratic and out of control. They recounted that she was weaving left and right across three lanes of traffic, and she even drove over a median barrier. Shockingly, it was discovered that the offending driver had rented her vehicle just 10 minutes prior to the accident. This raised many questions about the rental agency's knowledge of her condition and their lack of responsibility in allowing her to drive in such an intoxicated state.

Attorney Cal Warriner represented Mr. and Mrs. X and recovered for them a very large, confidential settlement. Mr. and Mrs. X will use the money to pay for Mr. X's constant medical needs, as well as enjoy financial stability for the remainder of their lives. ■

TREATABLE NECK INJURY TURNS INTO PARALYSIS

On July 4, 1996, Richard Blackledge of Cocoa, Fla., was celebrating the holidays with his family. He was riding on an all-terrain vehicle when it flipped, threw him to the ground, and knocked him unconscious. An emergency unit was called. Richard was placed on a backboard with a neck brace and was transported to Wuesthoff Hospital Emergency Room in nearby Rockledge. While at Wuesthoff, diagnostic studies were taken of Richard's neck. Through the use of a CT Scan, doctors determined that Richard did not suffer a brain injury or any internal bleeding.

Unfortunately, what the attending neurosurgeon, emergency room doctor, and radiologist failed to recognize was that Richard's neck could not be cleared. The x-rays were poor quality, yet they still suggested that some kind of injury had occurred. At 3:00 a.m., Richard's neck brace was removed and he began receiving treatment as if no neck injury had ever occurred.

Eighteen days later, on July 22, an MRI was ordered by a subsequent neurologist. The MRI showed that Richard had a severely broken neck which had resulted in a substantial spinal cord injury and paralysis. To this day, Richard has no function from his chest down and has limited use of his arms and hands.

When Chris Searcy and Chris Speed reviewed the original medical chart, it showed that Richard had movement in his hands, shoulders, and lower extremities following the trauma. Evidence of movement continued for several days after Richard's accident, but was never reflected again in the chart. It became clear that following the removal of Richard's neck brace, the ongoing movement of him (as part of normal hospital care) caused a treatable neck injury to become permanent paralysis.

After the commencement of litigation, and following a number of depositions,



Approximately one year before the accident, Richard and Sandi Blackledge were wed on Oct. 14, 1995.

the treating neurosurgeon who ordered the removal of Richard's neck brace offered a settlement of \$1 million. This was the full extent of the neurosurgeon's liability insurance coverage. In consultation with the Blackledge family, Mr. Searcy and Mr. Speed suggested that making the money available to the family now, before the entire litigation had resolved, would be extremely beneficial.

Since the settlement, Richard has moved from a small apartment to a larger, handicapped accessible home. He has also replaced an older van with a new, fully handicapped equipped van. Richard has also begun receiving better daily home health care. Mr. Searcy and Mr. Speed will continue to try the case against the remaining defendants, which consist of the hospital, the radiology department, and the emergency room department. In the meantime, Richard and his family will be able to enjoy a better quality of life. ■

CAREER WOMAN HINDERED BECAUSE OF CAR ACCIDENT

On April 1, 1995, Deidra DenDanto was driving southbound in the center lane of Military Trail in Delray Beach. She began to stop at an intersection when her 1986 Volkswagen Jetta was struck in the rear by an elderly male driver. Ms. DenDanto was removed from her vehicle by a Fire Rescue team and was taken to Delray Beach Community Hospital. She was treated and released that same day.

Over the next year, Ms. DenDanto suffered with chronic neck, back, shoulder, and jaw pain. Respectively in 1996 and 1999, she underwent arthroscopic jaw and shoulder surgeries to relieve her pain, all of which was precipitated by the accident. During those four years, Ms. DenDanto adhered to a strict and rigid physical therapy schedule.

At the time of the accident in 1995, Ms. DenDanto was employed as an accountant at a large CPA firm. She was a devoted employee who worked long hours. Ms. DenDanto is now the Chief Financial Officer of an internet start up company in Atlanta. Unfortunately, her long work hours and heavy travel schedule have badly exacerbated her injuries.

Ms. DenDanto retained the services of attorney William Norton. After years of pretrial litigation, in June, Mr. Norton settled the case for \$150,000 on behalf of Ms. DenDanto. This money will be used to pay, in part, for the surgeries and physical therapy expenses Ms. DenDanto has incurred since her accident in 1995. ■

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QUARTERLY REPORT TO CLIENTS AND ATTORNEYS - VOL. 00, NO. 2

Courts Make Favorable Appellate Rulings

GROWERS CAN CONTINUE LAWSUIT AGAINST DUPONT

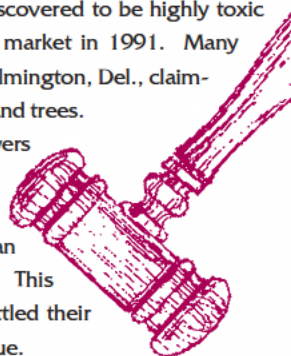
A decision from the Florida Supreme Court will allow growers in Palm Beach, Broward, and Dade Counties, as well as state-wide and international growers, to proceed with lawsuits against chemical manufacturer DuPont. The June 9 decision will allow more than 100 growers to continue with their lawsuits against DuPont for a defect in a fungicide called Benlate, which killed thousands of trees and plants.

Attorney David Sales is the managing attorney who will oversee the team effort in representing the growers.

In the early 1990s, Benlate was discovered to be highly toxic and was eventually taken off the market in 1991. Many growers sued DuPont, based in Wilmington, Del., claiming the chemical killed their plants and trees.

DuPont first settled with the growers beginning in the mid-1990s. However, it was later discovered that Benlate was much more toxic than DuPont originally had conceded. This meant that the Florida growers settled their lawsuits for less than their true value.

Similar lawsuits were filed against DuPont in Hawaii, Georgia, South Carolina, and California. The Florida growers' lawsuit was filed in the 17th Judicial Circuit Court in Broward County on April 23, 1999. ■



Taking... Time to Care



Anita and Jack Scarola chair Legal Aid Society event.

Legal Aid Society Celebrates 12th Annual Pro Bono Recognition Evening

Anita and Jack Scarola served as chairs for the Legal Aid Society's Midsummer Night's Dream Fantasy. The event took place in late May at the Kravis Center for the Performing Arts in West Palm Beach. During the evening, eleven winners took home honors for their service in offering pro bono legal work in the community. ■

Supporters rally to keep hospital open.



Firm Supports Guatemalan Community in Keeping Hospital Open

Attorneys Jack Scarola and Lance Block, along with paralegal Emilio Diamantis, joined 300 supporters in a march to keep St. Mary's Medical Center in West Palm Beach open. The firm representatives, as well as many supporters from the Guatemalan community, turned out on June 8, to walk from West Palm Beach to the island of Palm Beach. ■

Accolades:

Lance Block Becomes 40th President of Academy of Florida Trial Lawyers



On Friday June 16, attorney Lance Block became the 40th president of the Academy of Florida Trial Lawyers at its annual convention. A shareholder with the law firm of Searcy Denney Scarola Barnhart & Shipley, P.A., Block will serve as president of the 4,000 member statewide organization for the 2000-2001 term.

Block's induction also means that for the first time in the Academy's forty year history, three attorneys from the same law firm, Searcy Denney Scarola Barnhart & Shipley, have been elected its president. Block follows Christian Searcy (1986-1987) and Gregory Barnhart (1993-1994).

A 1983 graduate of the Florida State University College of Law and a former Florida House of Representatives' legislative aide, Block served as a law clerk for the Academy while attending law school. In 1984, Block was the deputy campaign manager of the Academy's statewide campaign against a proposed constitutional amendment to cap damages in civil cases.

The Academy of Florida Trial Lawyers is a spokes-group for the state's trial bar and is influential in political races and legislative policy. As president, Block will help direct the Academy's goals of guaranteeing access to courts, the right to trial by jury for all Floridians, promoting public safety, and maintaining an independent judiciary free of politicizing by the legislature.

Block is an outspoken advocate for the mentally retarded. He is the immediate past president of The Arc of Palm Beach County, formerly known as the Association for Retarded Citizens. He is also the founder and past chairman of the Potentials School, a Palm Beach County charter school that serves severely disabled children, and is an active board member for statewide disability organizations such as the Advocacy Center for Persons with Disabilities Foundation and the Florida Association for Rehabilitative Facilities.

Block's professional highlights include a 1990 jury verdict of \$9.25 million in West Palm Beach for the wrongful death of a three-year-old child killed after a Florida Department of Transportation highway sign fell off its mounts and crashed into her mother's car on I-95. The verdict led to a statewide sign inspection program and the elimination of untested clamps from highway signs. In 1996, a Jacksonville jury returned a then record verdict of \$25.5 million against General Motors for a 42-year-old mother who was profoundly brain injured due to an automobile collision that exposed a defective steering column in her passenger van. Block tried both cases with Chris Searcy, who brought Block to the firm in 1985. ■



SDSBS sponsored "Star Trek" exhibit at the Science Museum.

Visitors and "Trekies" Enjoy Exhibit at South Florida Science Museum

Searcy Denney Scarola Barnhart & Shipley produced "Time To Care" spots in support of the South Florida Science Museum's recent exhibit. Based on Paramount Pictures' "Star Trek" television series, visitors navigated through asteroid fields, turned into Klingons, and were beamed down to alien planets through the interactive display. ■



SDSBS employees and family members participate in WXEL pledge night.

WXEL TV Pledge Night

On Tuesday, June 27, Searcy Denney Scarola Barnhart & Shipley employees and family members participated in a "City Challenge" night to raise funds for WXEL Television. The "City Challenge" was competition among cities in Central and South Florida to see which city would donate the most during the 1-hour pledge drive. During the event, approximately \$1,000 was collected for the public television station. ■

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MEDICAL MALPRACTICE
NURSING HOME LITIGATION
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