

OF COUNSEL

A report
to clients
and attorneys.

VOLUME 06
NUMBER 3

SEVEN-MONTH DELAY IN DIAGNOSIS RESULTS IN LOSS OF BREAST

**In spite of family history,
medical personnel delayed
immediate action.**

Twenty years ago, Jane Doe and her mother and sisters were heartbroken when Jane's beloved aunt died from metastatic breast cancer at 38 years of age. Since that time, the women in Jane's family have all been vigilant and proactive regarding any breast problems. Thus, when Jane felt a small lump in her right breast during self-examination in September 2000, she called her gynecologist and made an appointment to be seen immediately.

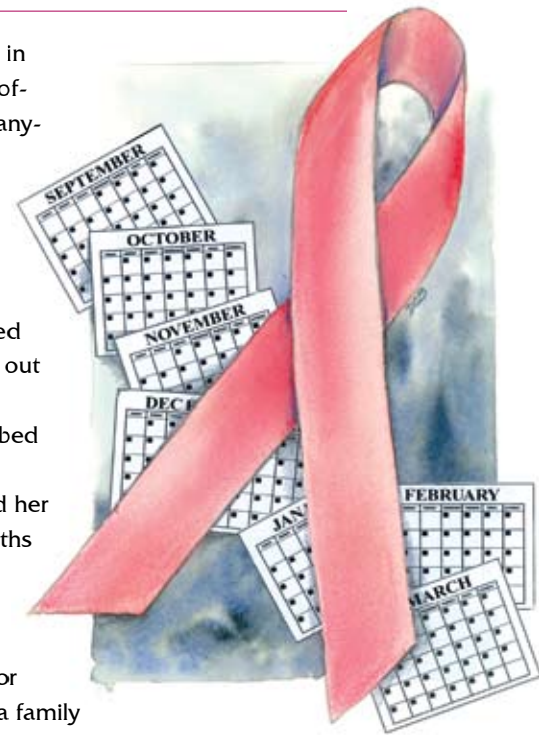
At the appointment, Jane was not examined by a doctor. Instead, she was examined by a poorly trained nurse practitioner who lacked adequate and accurate medical knowledge. During the examination, the nurse practitioner failed to document Jane's family history of breast cancer, but did document a dominant mass in Jane's right breast. She then directed Jane to have a mammogram and ultrasound examination, which Jane completed five days later. The findings of the ultrasound suggested breast cancer, but the radiologist failed to report the findings or inform the patient. Instead, he told Jane that she had a cyst and he recommended that she have another study performed in seven months. Had the radiologist exercised the proper standard of care in light of the examination's findings, he would have recommended an immediate breast biopsy and not a delay of seven months. The biopsy would have resulted in the diagnosis of Jane's breast cancer.

The report sent to the nurse practitioner by the radiologist recommended only clinical follow-up by that office.

Incredibly, the report sat in the nurse practitioner's office for a month before anyone bothered to look at it. When the nurse practitioner finally picked up the report, she read only part of it and negligently concluded that the study had ruled out breast cancer. The nurse practitioner then prescribed hormone replacement therapy for Jane and told her to come back in six months for another examination. Numerous studies have shown that when a patient has breast cancer, or has a risk evidenced by a family history of such cancer, prescribing hormone replacement therapy is akin to pouring gasoline on a fire.

Jane Doe's chance for a timely diagnosis and treatment of breast cancer was decreasing at every turn. The nurse practitioner had failed to recognize the critical risk of a family history of the disease, and then directed Jane to obtain a mammogram and ultrasound tests that are not as conclusive as a biopsy would have been. The radiologist failed Jane by not reporting the ultrasound findings and by not recommending a biopsy. And now the nurse practitioner's second chance to alert Jane to the possibility of breast cancer failed because the nurse practitioner did not act timely or respond knowledgeably to the situation. Instead, the nurse practitioner added to the risk with further delay and inappropriately prescribed treatment.

Seven months later, on April 2, 2001, Jane returned to her gynecologist's office, as she had been directed to do. She reported that the **(Continued on page four)**



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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. Omitting clients' names and/or defendants' names are the result of requests for anonymity.

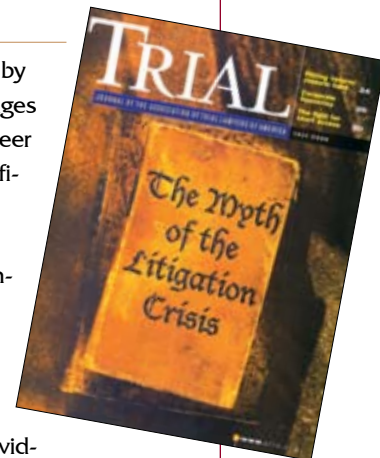
BEWARE OF WHAT YOU SIGN AT YOUR DOCTOR'S OFFICE

We have recently learned that some of the physician members of the Florida Medical Association intend to ask their patients to sign agreements which would limit the physician's exposure to damages in the event of malpractice by the physician. We are not aware of any professionals who would ask clients, prior to the performance of services, for a waiver or limit of damages that might result from injuries caused by the professional's negligence. And, frankly, we are surprised and disappointed that these medical professionals would readily assume the possibility of negligence and injury to their patients, and seek to limit any responsibility on their part of those damages or injuries before they occur. Would these physicians refuse to treat patients who refuse to sign an agreement to limit liability? Patients are encouraged to carefully consider whether or not they want to be treated by a medical professional that begins a consult by asking to be relieved of part or all of any liability that may result from injuries caused by their negligence or incompetence. ■



Cal Warriner

Trial Magazine, July 2006, published an article by attorney Cal Warriner on the incredible challenges and rewards of representing a client whose sheer determination to obtain justice brought a significant medical negligence case to successful settlement. The client had suffered extensive medical complications and disfigurement from a postoperative infection following open-heart surgery. Despite the difficulty in proving negligence in infection control, and the complexities of discovering a pattern of negligence by identifying other patients who had experienced postoperative infections, Cal – and his determined client – persevered. The case set a new standard in providing a chance at justice in similar claims. ■



SPEAKING OPPORTUNITIES



Chris Searcy

Chris Searcy spoke on "Opening Statements" and participated in a workshop at the AI J. Cone Trial Advocacy

Seminar sponsored by the Academy of Florida Trial Lawyers. The seminar was held in August 2006 at the Caribe Royale Resort in Orlando. ■



Cal Warriner

Cal Warriner spoke to the Coral Springs/Parkland Democratic Club in September 2006 on the topic of "Tobacco

Litigation." He discussed the recent Florida Supreme Court decision on corporate liability involving the tobacco industry and the rights of tobacco victims. ■

LITIGATION UPDATES:

Bausch & Lomb Renu with MoistureLoc

Great news on our litigation with Bausch & Lomb concerning ReNu with MoistureLoc contact lens solution. We filed two cases in Palm Beach County Circuit Court. Bausch & Lomb immediately requested that they be moved to federal court. At the same time, Bausch lawyers moved to stay all proceedings pending a decision by a federal judicial panel to transfer every case in the nation to one judge in South Carolina federal court. We opposed the move to federal court, the stay, and the transfer to South Carolina. The issues were thoroughly briefed and, ultimately, the courts ruled in our favor, sending both cases back to Palm Beach County Circuit Court.



Bausch has been successfully employing this tactic all over the country. As a result, many plaintiffs found themselves mired in the bureaucracy and delay associated with federal court multi-district litigation. We are fortunate to have avoided this quagmire.

Our case preparation is on track. It has become widely known that Bausch took great liberties during the Food and Drug Administration's approval process for the MoistureLoc brand. Several shortcuts involved testing to prove the product's germ-killing ability. It is also becoming obvious that Bausch knew there were problems with MoistureLoc well before it removed the product from the market.

We expect to have our first cases set for trial within eight months. Our confidence in the strength of these cases grows with each new piece of evidence we uncover. ■

Tobacco and the recent Florida Supreme Court decision

The Florida Supreme Court's July 2006 decision in *Engle v. Leggett* laid the groundwork for a defined group of smokers to bring individual lawsuits against the tobacco companies. The *Engle* case was a class action filed on behalf of Florida residents who smoked and first became sick from a tobacco-related illness between 1990 and 1996. The 1999 *Engle* trial resulted in a verdict that

found tobacco companies liable for manufacturing a defective product and for having conspired to keep the true dangers of smoking from consumers. The jury also awarded \$140 billion in punitive damages against the big tobacco companies.

In its July 2006 decision, the Supreme Court threw out the punitive damages award, and held that smokers who were members of the *Engle* class action case had to bring their claims individually. However, unlike past smokers' cases, former *Engle* class members would not have to prove that cigarettes are addictive, cause cancer, and/or that manufacturers lied about smoking hazards. In doing so, the Court gave former *Engle* class members a substantial advantage over all previous individual smokers' cases.

Since the Court's decision, we have been taking cases for former *Engle* class members. Although as many as 700,000 smokers were in the *Engle* class, we are only taking cases for smokers, and the families of deceased smokers, who suffered mouth, airway, or lung cancer, chronic obstructive pulmonary disease (COPD), or emphysema. The Supreme Court's decision granted valuable rights, but it also imposed strict limitations on who qualified as a class member and when that person must file an individual claim. Both sides currently have pending motions for rehearing. Until the motions are decided, not only is the decision not final but its ultimate impact is uncertain.

What we do know is that thousands of sick Florida smokers, and the families of deceased Florida smokers, have absolutely no idea that they have been given valuable legal rights, and a very short time within which to exercise those rights. We have been working very hard to get the word out. Anyone who smoked, lived in Florida, and first became ill from smoking between 1990 and 1996, may qualify. As a matter of fact, if the Court grants one of the rehearing motions, smokers who became ill up until 1999 may qualify. So, if you, or anyone you know, smoked and suffered or died from lung or airway cancer, COPD, or emphysema, between 1990 and 1999, please call us regarding your legal rights.

**Our smoking litigation
toll free number is
866-365-8535. ■**



MEETING CORNER:



ALYSSA A. DIEDWARDO

ALYSSA A. DIEDWARDO is a native of Roxbury, New Jersey. Ms. DiEdwardo attended Morris County Community College in 1975 while starting her 30-year insurance/legal career with Allstate Insurance Company as a claims adjuster. She relocated to Palm Beach County in 1979 and continued her career with Allstate Insurance Company and Progressive Insurance Company as a casualty litigation specialist and as a senior paralegal with a nationally known plaintiff law firm.

Ms. DiEdwardo has held the position of secretary treasurer of the Palm Beach County Paralegal Association. She is a licensed claims adjuster in Florida, a court certified mediator, and member of The Academy of Florida Trial Lawyers and the Palm Beach County Trial Lawyers Association.

Ms. DiEdwardo is also a talented artist and donates her time and artwork in support of numerous charitable events including the Legal Aid Society, American Lung Association, The Armory Art Center, Middle School of the Arts, and ArtStart which provides youth art scholarship programs.

Ms. DiEdwardo works primarily with attorney David K. Kelley, Jr., assisting with medical malpractice, product liability and personal injury cases. ■

Seven-month delay in diagnosis results in loss of breast, plus grueling chemotherapy

(Continued from page one)

lump had started growing and that she had recently begun having shooting pains in her right breast. Jane was promptly referred to a surgeon who performed a biopsy which revealed the breast cancer. The mass measured 13 x 8 centimeters in size – five times larger than it was seven months earlier.

Jane immediately began a grueling course of chemotherapy in an attempt to shrink the tumor so that breast-conserving therapy (lumpectomy) could be performed instead of a mastectomy. Unfortunately, the tumor did not shrink enough to allow only removal of the mass, saving the other breast tissue. Jane underwent a mastectomy. The seven-month delay in a proper diagnosis cost Jane her breast.

The mastectomy revealed a very aggressive breast cancer that had spread to the lymph nodes. Because of the high stage of the tumor and its aggressive nature, Jane's treatment required a bone marrow transplant which was performed at the University of South Florida in 2002. The treatment was painful and life-threatening, and Jane spent the four months following the transplant terribly sick and unable to work or care for herself. Today, however, six years later, Jane has not had a recurrence of breast cancer. She has endured multiple surgeries in an effort to reconstruct her right breast, but the surgeries have all failed due to the damage to her skin caused by her high-dose radiation treatment.

After years of hard-fought litigation, attorneys Earl Denney and Jim Gustafson were able to resolve Jane's case for \$1.2 million. Jane's case exemplifies how the American civil justice system helps society and improves health care. As a result of this lawsuit, the nurse practitioner that failed to provide proper care to Jane has changed her procedures. She no longer relies on a radiologist to recommend when clinical follow-up should take place, and she sends patients with a dominant breast mass to a surgeon if the mass persists for one month. Jane didn't just stand up for herself when she filed the lawsuit. Jane's courage and determination resulted in better health care for countless women. ■

\$1.2 Million Settlement

MEDICAL MALPRACTICE: NEGLIGENCE IN TIMELY DIAGNOSIS RESULTED IN SPREAD OF CANCER

A timely diagnosis would have saved her breast and statistically improved her chance of survival.

KNOWN DEFECTS IN SUV CAUSE TRAGIC CRASH

Ford Motor Company had been aware of dangerous defects.

On June 18, 1999, the Boyd family and some friends were driving southbound on the Florida Turnpike near Jupiter, Florida. It was almost 6:00 a.m. Angela Boyd was driving her stepfather's 1989 Ford Bronco II. Helen Iverson sat next to her. In the rear passenger compartment, Angela's stepfather, Fred Boyd, sat on the right, and her son, Samuel Boyd, sat on the left, with Martavious Nelloms sitting between them. Suddenly, they heard a loud explosive sound from the rear of the vehicle. Realizing that the left rear tire had blown, Angela attempted to maintain control of the vehicle by stepping on the brakes to release the cruise control. In spite of her efforts to control the vehicle, the Bronco II swerved abruptly to the left and then to the right, causing the vehicle to go into a spin. The Bronco II then rolled over onto the driver's side, continuing the roll onto the passenger side roof edge. The roof on the passenger side was crushed inward, striking Helen's head, causing a serious degloving injury to her skull and forehead.

As the Bronco II continued to roll over, the window glass shattered, allowing Fred Boyd, age 54, and Martavious Nelloms, age 17, to be fatally ejected from the vehicle. The Bronco II rolled over two more times before coming to a stop, causing serious physical and mental injury to Angela, and some minor physical injuries to Samuel. It was all over in a matter of moments.

Following the accident, Angela and the Boyd family, and Helen Iverson, retained attorney Sean Domnick to represent them and find the answers to what caused this tragedy.

Fred Boyd felt safe in his Ford Bronco II. In fact, he felt so safe that he owned two of them. However, what Fred and other Ford Motor Company customers did not know was that the Bronco II was a defective product. Ford had marketed, promoted, advertised, and represented the Bronco II as a suitable passenger vehicle for the highways and streets of America. The fact of the matter, however, is that Ford knew all along that the Bronco II could and would roll over on roadways when it was subjected to certain foreseeable driving maneu-



Above: The Boyd family's horribly smashed vehicle.

vers. Even though Ford knew of the Bronco II's propensity for rolling over during ordinary use, the company failed to protect its customers by not designing and/or manufacturing a vehicle that would prove crash-worthy through the use of a roll-cage or other similar protective device. Further, Ford Motor Company's failure to construct and/or install window glass that would not shatter allowed occupants of the vehicle to be ejected in a roll-over.

Through his investigation, Mr. Domnick discovered that the injuries suffered by Angela and Helen were directly caused by the roll-over and crushed roof. The deaths of Fred and Martavious could have been prevented had Ford simply utilized laminated glass for the windows.

Mr. Domnick filed a product liability lawsuit in Palm Beach County against the Ford Motor Company.

Through continued investigation and discovery, it became very clear that Ford Motor Company knew of the defects in the Bronco II from the first day that the company began to sell the vehicle in the 1980s. It also became apparent that, from the beginning, Ford had taken little action to protect its customers from the defects of the vehicle.

The Ford Motor Company hired some high-powered defense law firms from Florida and Colorado to defend this case. Ford had been known to spend thousands of dollars and in some cases millions of dollars in defense of similar claims. After extensive mediation and negotiations, and with a trial date quickly approaching, Ford Motor Company began to seriously negotiate a final settlement for the Boyds and Helen Iverson.

Due to the confidentiality of the settlement, specific terms and figures cannot be disclosed. However, the case was resolved with an agreed amount of seven figures. ■

**Confidential
Settlement**
**PRODUCT LIABILITY:
DANGEROUS AUTO
DEFECTS IGNORED**

CARELESS TRUCKER CAUSES HORRIFIC CRASH

Inspirational community leader suffers massive injuries in crash

On the evening of April 6, 2000, Bishop Anthony L. Williams was driving east on Albemarle Road near Charlotte, North Carolina. He was not speeding and he was well within his proper lane on the road. The Bishop was on his way to a local church to serve as chief judge for a municipal election to be held that night. Bishop Williams was a strong and independent man of 53 years of age. He and his wife, Lavern, had been married for 24 years and had two children. The Bishop was the pastor of the Blessed Assurance Faith Center in Charlotte. He was also chaplain for the State Correctional Department, and worked with the Board of Elections for Mecklenburg County. He was an inspirational leader in his community, and worked diligently at his church's mission to build schools in Haiti. He also met with numerous dignitaries and heads of government in the Middle East, in Africa, and in Haiti, working to broker peace within volatile regions. Bishop Williams was a man that would always be there for people in need.



Bishop Anthony L. Williams

On this same evening, a tractor-trailer truck owned by Dye Trucking Company was heading west on the same road, carrying a load of steel boxes containing heavy industrial supplies under shipment by Century Contractors. The steel boxes were on castors and only secured to the truck by a chain around the base. As the two vehicles passed each other, one of the steel boxes, weighing approximately 2,000 pounds, broke loose from the truck and flew across the roadway, slamming into the driver's side of the Bishop's car. The incredible impact crushed the left side of Bishop Williams' car, and crushed the left side of his body. The car spun around and came to a stop at the side of the road. The Bishop was trapped inside the crushed car with life-threatening injuries that included a crushed left arm and chest, and a significant loss of blood.

An investigation of the accident revealed an astonishing level of gross negligence on the part of Century Contrac-

tors, Dye Trucking, and its driver. Century, as the shipper in this case, carelessly loaded the wheeled boxes onto the truck, failed to ensure that the boxes were secured properly, and failed to provide state- and federally-mandated documentation for the shipment. Further, Century failed to ensure that the carrier they selected for the shipment was competent and professional. Quite the opposite: Dye Trucking was almost insolvent at the time of the accident, and their driver had a history of traffic violations. The driver appeared to be unaware of, and clearly not in compliance with, the federal regulations governing interstate hauling. He maintained no log-books showing his hours of driving and rest, and told the police at the scene that he had driven 80 hours in the past seven days, a violation of the limits on driving time. He had no interstate trucking license as was required for a shipment of this kind. The trucking company had no documentation in its personnel files of the driver's driving test results, nor any documentation of annual physical examinations required for drivers. The trucking company was not in compliance with either state or federal highway regulations.

At the scene of the accident, paramedics noted that Bishop Williams suffered 90% amputation of his left arm, and deformity of his left chest. He was taken to the Carolinas Medical Center for intensive care where they treated the crushed arm, and found that he had also suffered multiple rib fractures, a punctured lung requiring a chest tube, and had lost about one liter of blood. The Bishop underwent complex surgical procedures in an effort to stabilize his substantial wounds and contain the massive contamination of the wounds. He was placed on a ventilator for several days during which numerous additional surgical procedures were performed. Every few days for the rest of April, the Bishop endured further surgeries, debridements of the wounds in efforts to combat infection, and reconstruction of his crushed left arm. Following extensive rehabilitation at the medical facilities, Bishop Williams was released to his home for ***(Continued on next page.)***

Confidential Settlement

GROSS NEGLIGENCE AGAINST CONTRACTING AND TRUCKING COMPANIES

(Continued from previous page.) further rehabilitative care by his loving wife and visiting nurses. He remained under constant antibiotic treatment as well.

Throughout May, into June and July, and well into the spring of 2001, the Bishop suffered further hospitalizations to treat infections, and endured other surgical procedures in an effort to rebuild his arm. The plates, screws, wires, and grafts that were applied in numerous efforts to save his left arm involved repetitive surgeries, persistent treatment for infections, and constant pain medication. The Bishop suffered considerable depression and frustration due to his inability to carry on his earlier active life as a community leader. He also suffered a substantial loss in earning capacity. His wife, Laverne, suffered a substantial loss as well. She faced far greater responsibility in caring for his medical and personal needs, and suffered the loss of their shared hopes and dreams.

“His family, his community, the state of North Carolina and this nation lost an active, vibrant, caring citizen.”

The couple filed an action against the contracting company and trucking company, seeking punitive damages for their gross negligence. Attorneys Chris Searcy and Darryl Lewis represented these wonderful people. Mr. Searcy and Mr. Lewis teamed with Charlotte, North Carolina attorneys Michael Bailey and Allen Bailey of the Bailey Law Firm, and William Sittar. Chris Searcy and Darryl Lewis, during the final day of the trial in Charlotte, North Carolina, were able to reach a settlement with all of the defendants. The amount of the settlement is confidential.

The settlement, however, could not cover the biggest loss yet to come. Shortly after the settlement, Bishop Williams passed away. His family, his community, the state of North Carolina and this nation lost an active, vibrant, caring citizen a man who reached out to others around the world in a very personal effort to improve their lives. The entire SDSBS legal team attended the funeral services for Bishop Williams. Chris Searcy moved the entire congregation with some very powerful words in memory of the Bishop, who was an inspiration to us all. His memory remains in our hearts and his family remains in our prayers. ■

EIGHT SDSBS ATTORNEYS NAMED FLORIDA SUPER LAWYERS



Chris Searcy



Earl Denney



Jack Scarola



Greg Barnhart



John Shipley



David Sales



Sean Domnick



Darryl Lewis

Chris Searcy, Earl Denney, Jack Scarola, Greg Barnhart, John Shipley, David Sales, Sean Domnick, and Darryl Lewis were named *Super Lawyers in Florida Super Lawyers 2006*, the annual consumers guide published by *Law and Politics Magazine*.

Chris Searcy was named to the list of Top 10 Super Lawyers in Florida, and both Searcy and Greg Barnhart made the guide's Top 100 list. The Super Lawyer selection process is a combination of balloting, blue-ribbon panel review, and independent research. Only 5% of the attorneys in Florida have been selected as Florida Super Lawyers. ■



TWO SDSBS ATTORNEYS IN TOP 1.8% OF FLORIDA LAWYERS



Chris Searcy



Greg Barnhart



Chris Searcy and Greg Barnhart were chosen for *Florida Trend's "Florida Legal Elite,"* a select group comprising the top 1.8% of lawyers practicing in Florida. ■



GENERAL ELECTION: NOVEMBER 7, 2006

From the Florida Department of State 2006 Florida Voter Registration and Voting Guide

- The polls will be open on election days from 7 a.m. to 7 p.m. local time.
- You will be asked to show a photo and signature identification when you go to the polls to vote.
- If your photo identification does not contain your signature, you will be required to show an additional identification that provides your signature.
- A person who is unable to read or write or who, because of a disability, needs assistance in voting may designate someone of his or her own choice to provide such assistance. Election officials may also provide assistance.
- A voter or, if directly instructed by the voter, a member of the voter's immediate family or the voter's legal guardian may request an absentee ballot from the supervisor of elections in person, by mail or by telephone.
- A designee may pick up an absentee ballot for a voter on election day or up to 4 days before election day.
- Marked ballots must be mailed or delivered in person reaching the supervisor of elections' office not later than 7 p.m. on the day of the election.
- Early voting will begin 15 days before an election and end on the second day before an election. Call your supervisor of elections to find out the times and locations this service is offered in your county.

Dear Colleagues and Friends,

As you read this note, the November 7 election is right around the corner. While the media focuses on the divisiveness of top-of-the-ticket races, we see these races as an opportunity to unite behind leaders of impeccable integrity who will protect the rights of injured victims.

Here's why:

GOVERNOR

JIM DAVIS

Jim Davis, the Democratic nominee for Governor, has served us solidly in the state legislature and in the United States Congress on issues that we believe are especially critical for Floridians. Jim Davis' record in protecting the rights of injured victims is more favorable. In our opinion, Davis and his running mate, Daryl Jones, are a winning team.

ATTORNEY GENERAL

SKIP CAMPBELL

Skip Campbell is a passionate and accomplished trial lawyer who has used his success to bring national attention to the rights of our most vulnerable citizens. As Florida Senate Minority Leader Pro Tem, Campbell has pushed vigorously for legislation to lower health care costs, to prevent identity theft, to ban gas gouging, and to halt internet sexual predators. He has been a staunch opponent of efforts to strangle our justice system in the guise of so-called "tort reform."

CHIEF FINANCIAL OFFICER


ALEX SINK

Alex Sink is more favorable for the injured victims of this state. Opponent Tom Lee was responsible for abolishing joint and several liability. By doing so, he kicked the injured victims while they were down.

Of course, all candidates bring some good qualities to the electoral table, and sometimes their assets and liabilities are confused by campaign rhetoric. We have tried to look objectively at qualifications, experience, and voting records. But we made our recommendations with our hearts as well as our heads. We endorse those candidates who share our passion for the civil justice issues we advocate, day after day, in the boardroom and the courtroom.

We know that you care about these issues, just as we do, and that you want strong leadership for Florida. Please join us in seizing our opportunity at the polls on November 7.

Sincerely,


Chris Searcy

Paid Political Advertisement
Paid for by Searcy Denney Scarola Barnhart & Shipley, P.A.



DOCTORS FAIL TO DIAGNOSE AND TREAT DEADLY INFECTION

Casi Renee Oakes was a beautiful little four-year-old girl struggling with autism and unable to speak. In April 1999, Casi had an ear infection and was under the care of her primary pediatrician, Dr. Eric Rydland. After six weeks, Casi's condition had not improved, and on June 11th, when her fever spiked, her parents brought her back to the pediatrician's office. Despite indications of an infection and recurring fevers, Dr. Rydland did not prescribe antibiotics for the child. Instead, the doctor ordered irrelevant, non-urgent laboratory tests.

That night, Casi's condition worsened and early the next morning her parents called for an ambulance to take her to the emergency room at the Joe DiMaggio Children's Hospital (JDCH). She was examined by Dr. Asif Abdulla Suchedina, the hospital's emergency room physician. Casi's symptoms, which included a high fever, bouts of screaming (indicating distress), limp extremities, and a high white blood-cell count, clearly evidenced the possibility of bacterial meningitis. The standard of care for meningitis requires an urgent medical response, including obtaining and analyzing cultures, performing a spinal tap, and the administration of potent antibiotics.

The emergency room records at JDCH noted that both Casi's mother and her pediatrician, Dr. Rydland, had requested that the hospital admit the child for treatment. The child, however, was kept in the emergency room while various other procedures were done, none of which would help her fight off the rapid and deadly progression of bacterial growth. Casi remained in the emergency room for seven hours before she was admitted to the hospital's pediatric intensive care unit for further treatment.

By this time, however, treatment was too late. On June 13, 1999, four-year-old Casi Oakes died of meningitis, her mom and dad at her side. Casi was the center of their life and the parents' grief was unimaginable. Faced with the devastating fact that their little girl would still be alive if the doctors and hospital had acted with responsible, appropriate, and timely treatment, Casi's parents filed an action against the doctors and the hospital for medical negligence, including failure to diagnose meningitis and failure to admit and properly treat their child in a timely manner. Attorneys Chris Searcy and Darryl Lewis represented the parents. The case was settled, after very intense litigation, for a confidential amount. The settlement will not, of course, heal the pain suffered from the loss of their child. A foundation called "Casi's Quest" was set up to provide support and funding for the research, treatment, and prevention of autism and other autoimmune disorders. For more information, visit Casi's Quest (TAAP of Florida) www.taap.info. ■



Casi Renee Oakes

ACCOLADES



Greg Barnhart

Greg Barnhart was appointed in September to the Florida Supreme Court Alternative Dispute Resolution Rules and Policy - Voluntary Trial Resolution Subcommittee. The Subcommittee evaluates the merits, problems and issues of permitting parties to a lawsuit to hire their own judge and conduct a private trial. This system was adopted in California in the 1980's and has met with some success. It would only be used with the consent of all parties, but may offer too much secrecy and may induce the best judges to leave the bench for the more lucrative private trials. ■



Earl Denney

Earl Denney was recently elected president of the Palm Beach Area Chapter of the Leukemia & Lymphoma Society. The mission of the Society is to find a cure for leukemia, lymphoma, Hodgkin's disease and myeloma, and to improve the quality of life for patients and their families. Mr. Denney has served on the Society's board of directors since 2003 and looks forward to his new responsibilities as its president. ■



Patrick Quinlan

Patrick Quinlan was recently appointed to the Fifteenth Judicial Circuit Professionalism Council. He looks forward to serving on a panel committed to furthering the ideals and goals of the legal profession. ■



Laurie Briggs

Laurie Briggs has joined the board of directors for Friends of Abused Children, Inc. "Friends" improves the lives of abused, neglected, and abandoned children throughout Palm Beach County. The organization contributes to the development, enrichment, and self-esteem of children at risk, helping them overcome the effects of abuse and neglect. ■

TAKING... Time to Care



Far left: Earl Denney and Laurie Briggs enjoying the event at Amici; center: Chris Searcy, hard at work as bartender; above: Ken and Rene Bowers, founders of Operation Hope.

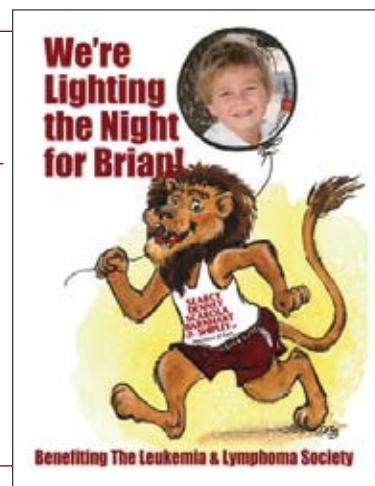
Chris Searcy Celebrity Bartender at Benefit Event for Operation Hope

Chris Searcy, along with Jill Slawson (Greg Barnhart's sister) participated in the "Celebrity Bartender" event series hosted by Amici Ristorante & Bar in Palm Beach. The July 21st event raised over \$2000 in tips to benefit Operation Hope, a charity dedicated to serving the homeless in Palm Beach County. Its mission is to provide temporary housing and essential support services for the homeless, and to assist them in becoming productive, self-supporting members of the community. ■



SDSBS Raffle, Auction and Walk Benefit Leukemia & Lymphoma Society

SDSBS participated in the "Light the Night Walk" held on Oct. 6th to raise funds for the Leukemia and Lymphoma Society. Brian Quinlan, the five-year-old son of firm attorney Pat Quinlan and his wife, Nancy, provided the inspiration to participants from the firm. Brian is undergoing treatment for leukemia at St. Jude's Children's Hospital. Prior to the "Light the Night Walk," SDSBS held a raffle and auction at the entrance to its offices. The raffle raised over \$5,000, with additional funds still coming in from SDSBS staff members who are donating for a 'Casual Day' at work. ■ *(Tee shirt art by De CarterBrown.)*



Miller Competes in Moscow International Peace Marathon

Linda Miller used to go out for long walks pushing a baby-stroller while her husband, Jeff, ran through their neighborhood. With his encouragement, she began to run, too. Over 15 years later, her kids are teenagers and she is now running marathons. Linda, a telecommunications administrator for SDSBS, fell in love with the competition of running competing with other people, with herself, and with the challenges in time and distance. She runs nearly every day and has graduated from 5K to 10K to half-marathons to full marathons. On September 10th, she competed in the Asics Moscow International Peace Marathon in Russia. Completing that marathon qualified her to run in the famed Boston Marathon in April 2007. She is a member of the Greater Fort Lauderdale Road Runners and the Wellington Road Runners. Among other competitions, Linda has run two marathons that benefited the Leukemia and Lymphoma Society. ■

LACK OF PREVENTIVE CARE BY HOSPITAL STAFF RESULTS IN ELDERLY PATIENT'S FALL

Independent, active woman now needs constant care.

At 78 years of age, Mrs. X was an independent, active woman, fully capable of maintaining her home, driving her car, handling the activities of daily living both at home and away from home, and enjoying the golden years she shared with her husband of 56 years. In November 2002, that independent life changed forever.

Mrs. X had experienced some difficulty walking and had complained of weakness and dizziness. She was taken to a hospital for evaluation and treatment. Mrs. X was awake and alert, but having some mild difficulty expressing herself verbally. She was diagnosed with hyponatremia (lack of sodium in the blood) and Dilantin toxicity. Mrs. X was admitted to the hospital and placed on fluid restriction. Her current medication regimen was continued.

The initial assessment form at the hospital identified a number of concerns about Mrs. X. It noted that she had a generalized weakness, recent history of falls, decreased use of one or both legs, and an unsteady gait. A fall/risk screening was performed which clearly identified that Mrs. X would require fall prevention measures. Hospital policies and procedures mandate fall prevention measures if a patient has one risk factor. It was documented that Mrs. X had not one, but four risk factors: she was over 70 years of age; there was a neurological deficit; she complained of dizziness; and she had a history of falls. Her physician ordered "ambulate with assistance."

According to depositions, the nurses at the hospital were aware of the risk factors that Mrs. X experienced, and that these factors mandated fall prevention measures. However, the interventions that were necessary to prevent Mrs. X from falling were never implemented. A nurse tending to Mrs. X's hospital roommate observed Mrs. X out of bed, by herself, on two occasions. Mrs. X was allowed to pace up and down in her room unat-

tended. At 9:30 p.m. on November 30th, the roommate saw Mrs. X fall in the room. The attendants found Mrs. X lying unconscious on the floor.

Mrs. X was stabilized and transferred to an intensive care unit of the hospital. A CT scan revealed that she had suffered a large right subdural hemorrhage, with massive bleeding. She was in a coma. Her respiratory status was compromised and she was placed on mechanical ventilation. Due to the progressive decline in her mental and physical state, she was air-evacuated to another hospital where she underwent cranial surgery. Recovery was very difficult for Mrs. X. Upon removal of the ventilator, Mrs. X continued to have respiratory difficulty and it was necessary to perform a tracheotomy. Mrs. X remained in intensive care for nearly a month, eventually transferring to a step-down care unit on December 26th. A week later she was transferred a third time to an acute inpatient rehabilitation unit where she remained for over a month. In February 2003, Mrs. X was discharged to a sub-acute facility for another two and one-half months of care.

Mrs. X had not one, but four risk factors which required fall-prevention measures - none of which were implemented.

Since her release from the last care facility, Mrs. X has required the assistance of home care aides for 16 hours a day. Her husband cares for her alone during the evenings. Mrs. X is no longer able to be left alone. She has problems walking, memory dysfunction, and mental confusion. She cannot bathe herself, clothe herself, or prepare meals. She will never attain the level of independence she enjoyed before the fall.

Mr. and Mrs. X filed an action seeking compensation for injuries suffered due to the egregious medical negligence on the part of the hospital and its staff. Attorney Christopher Speed represented the couple. The case eventually reached settlement for a confidential sum, which will allow Mr. X to provide medical care for his wife for the rest of her life. ■

Confidential Settlement
HOSPITAL AND STAFF LIABLE FOR MEDICAL NEGLIGENCE

OF COUNSEL

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“The right of voting
for representatives
is the primary right
by which other
rights are protected.”

-- THOMAS PAINE



**GENERAL
ELECTION:
Nov. 7, 2006**

See page eight
for details about voting.

Don't forget to VOTE !



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