

A REPORT TO CLIENTS & ATTORNEYS
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OF COUNSEL

\$21 Million Verdict Won After Proving Tobacco Companies Intended Nicotine Addiction

On April 14, 2010, SDSBS attorneys **Bill Norton**, **Brian Denney**, and **Hardee Bass** won a \$21 million verdict against tobacco companies R. J. Reynolds Company and Liggett Group for the wrongful death of long-time smoker, Janie Mae Clay. An Escambia County, Florida, jury awarded Janie Mae's survivors, Teddy, Janie, and Larry Clay, \$3.4 million for compensatory damages and another \$18 million for punitive damages against Reynolds and Liggett.

Janie Mae Clay was a bus driver working for the Head Start Program and the Escambia County School Board. Janie Mae's husband, Teddy, whom she loved deeply, was born into a sharecropping family in rural Alabama in 1935. By the time Teddy was seven years of age he was working in the fields and by age 12 he was working as a pulp wooder. Eventually he started his own pulp wood business. Teddy never had a chance to go to school and could not read or write. Throughout their married life, Janie Mae helped her husband manage his business, not only performing the business tasks that had to be done, but working alongside her husband hauling timber out of the north Florida woods.

Their daughter, Janie, now an adult, was developmentally delayed and had lived with her parents until Janie Mae's death. With Janie Mae's daily care, daughter Janie had been able to accomplish many of life's routine milestones, including gainful employment in a job she loved. Their son, Larry, relied on Janie Mae for advice and guidance as he grew up in the family's home. Janie Mae Clay was, indeed, the centerpiece of a close and loving family.

Janie Mae began smoking as a teenager in 1958. Despite numerous attempts to quit, she continued smoking for 40 years, until she was diagnosed in 1998 with chronic obstructive pulmonary disease (COPD) caused by the cigarettes. Her final effort to quit smoking came too late. In 2003, Janie Mae Clay died of COPD at the age of 58.



Her family sat with her to the end, as she struggled for each breath. They prayed for her survival.

Mrs. Clay's family sought representation by SDSBS attorneys, who charged the tobacco companies with her wrongful death due to the addiction caused by nicotine in the cigarettes. The Clay case is one of thousands of cases filed in Florida, and one of a series of recent verdicts that have ruled against the tobacco companies. The tobacco companies argued that Mrs. Clay was not addicted to nicotine, and that she could have stopped smoking at any time had she wished to do so. Prior to trial, the Clay family had offered to settle the case with Reynolds for \$75,000, and with Liggett for \$25,000. Each company rejected the offer. Motions for the imposition of attorneys' fees and costs are pending.

Through the use of tobacco companies' documents, plaintiff's attorneys demonstrated to jurors that the industry had set about to addict smokers to the nicotine in cigarettes and to maintain that addiction at all costs. Documents presented showed that the companies had privately admitted the addictive nature of their products. The tobacco companies had actually expressed satisfaction that their products were addictive. They continued to sell billions of dollars worth of cigarettes despite the knowledge that long-term smokers would likely die of smoking-related illnesses such as COPD.

Not surprisingly, the tobacco companies argued that smoking was merely a matter of choice, and that punitive damages should not be awarded against the companies. The jury found that the actions of the tobacco companies, during the 50-year cover-up of the effects of smoking on health, exhibited a reckless indifference to the health and safety of the public. They awarded \$18 million in punitive damages. Mrs. Clay's family takes comfort in the fact that the Escambia County jury understood their loss and administered justice on their behalf. ♦

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