

A REPORT TO CLIENTS & ATTORNEYS  
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# OF COUNSEL

## SDSBS: 3, Big Tobacco: 0

**The battle continues against the tobacco industry's cover-up of the health risks of smoking and their intentional efforts to addict smokers.**

On August 16, 2010, SDSBS attorneys won their third verdict against the tobacco industry after proving once again that tobacco companies had purposefully set about to addict smokers to the nicotine in the cigarettes they sold, sustaining and increasing sales of products that were defective and unreasonably dangerous. A Palm Beach County, Florida, jury awarded the widow of a long-time smoker \$4 million for the wrongful and premature death of her husband. The award was later reduced to just under \$2.5 million after factoring in comparative negligence.

SDSBS attorneys **Jack Scarola, Greg Barnhart, David Sales, and Sia Baker-Barnes**, brought an action on behalf of Liz Piendle against RJ Reynolds Company and Phillip Morris USA, Inc., charging that the to-



bacco companies were responsible for the death of Liz's husband, Charles. Charlie Piendle died in 1996 at the age of 55 years – eight months after he was diagnosed with small cell lung cancer, a disease almost entirely attributed to smoking. Charlie began smoking in his early teens and continued smoking up to two packs of cigarettes a day for over 30 years. He tried to quit numerous times, but failed. "There is a point in addiction where it is no longer about choice," Greg Barnhart told the jurors. "About 95 percent of those who quit will relapse." Charlie was finally able to quit in 1989. It was, however, too late.

The Piendle trial was the first in Palm Beach County to seek damages for an individual smoker. It is one of 8,000 cases filed statewide **Continued on page six.**

## Negligent Truck Driver Caused Traffic Accident, Severely Injuring Other Driver



*The Andersons with attorneys Jack Hill and Brian Denney.*

On December 3, 2007, 59-year-old Niven Anderson was on his way to West Palm Beach to connect with some of his business customers and had stopped his car at a traffic light in Belle Glade, Florida. Without any warning, the flatbed trailer of a passing commercial vehicle swerved from its lane and smashed its left rear tire into Mr. Anderson's car. The truck driver did not stop. Fortunately, a local law enforcement officer was at the intersection when the collision occurred, and the truck driver was stopped and apprehended some distance down the highway. In spite of the obvious physical evidence, and eyewitness accounts of the accident, the truck driver denied having anything to do with the accident.

In March 2007, just nine months prior to this accident, Mr. Anderson had suffered severe injuries when, as a pedestrian, he was struck by a passing motorist. He spent 24 days in a hospital undergoing treatment for a badly broken right leg and a cervical fracture. Through outstanding medical treatment and his own hard work, Mr. Anderson was able to slowly put his life back together. **Continued on page four.**

## SDSBS: 3, Big Tobacco: 0

**The battle continues against the tobacco industry's cover-up of the health risks of smoking and their intentional efforts to addict smokers.**

*(Continued from page one.)*



*(l-r) Liz Piendle with SDSBS attorneys Sia Baker-Barnes, David Sales, Greg Barnhart and Jack Scarola*

as a result of a landmark class action suit filed in 1994 by a Miami Beach long-time smoker named Howard Engle. The jury in the Engle case ruled against the tobacco companies in 2000, holding that smoking was addictive and caused a variety of diseases including lung cancer. The jury awarded \$145 billion in damages. In 2006, however, the Florida Supreme Court reversed the award, ruling that each person in the class action must prove his/her damages individually. Since then, SDSBS filed actions against tobacco companies on behalf of two other members of the Engle class action suit. The firm won both of the earlier cases. In August 2009, an Escambia County jury awarded \$7.8 million in compensatory damages to Franklin D. Campbell, Sr., whose wife, Betty, died in 2006 at 64 years of age from chronic obstructive pulmonary disease caused by her addiction to nicotine. SDSBS attorneys **Bill Norton**, **David Sales**, and **Laurie Briggs** represented the plaintiff in that case, filed against Reynolds, Phillip Morris, and Liggett Group. At the announcement of the verdict, David Sales said that while the verdict is important, "people should not forget that nicotine and cigarettes still claim the lives of 440,000 in the country annually, and thousands of other Engle class members are waiting for their day in court."

In April 2010, SDSBS attorneys **Bill Norton**, **Brian Denney**, and **Hardee Bass** obtained a \$21 million

verdict against Reynolds and Liggett Group for the wrongful death of Escambia County resident, Janie Mae Clay. Mrs. Clay began smoking as a teenager and continued smoking for 40 years. She died in 2003 at the age of 58 years from chronic obstructive pulmonary disease caused by smoking. SDSBS represented Mrs. Clay's survivors – her husband, Teddy, their daughter, Janie, and son, Larry. SDSBS is not accepting any additional cases following the Piendle action, since the deadline for filing has passed.

Not surprisingly, the defendant companies in all three cases argued that smoking was a choice and, like millions of other smokers, the plaintiffs could have quit if they chose to do so. The tobacco companies stated that punitive damages should not be awarded against the companies for this reason. Further, the companies argued that since a 1964 surgeon general's report, it was widely known that cigarettes are inherently dangerous. In the Piendle case, they argued that Charlie should have quit smoking. Jack Scarola countered this argument by stating that the tobacco companies minimized the reports from medical experts by producing misleading advertising to persuade consumers, particularly young people, that smoking was "sexy, sophisticated, and safe."

A separate Piendle trial was held to determine punitive damages. In this case, Greg Barnhart and Jack Scarola argued that the tobacco companies could not blame Charlie Piendle for believing their decades-long misinformation campaign. Greg Barnhart told the jury at closing, that if companies lie, deceive, and conceal defective products that kill people, it is not right. "They killed people for profits over safety." The Piendle case drew considerable attention from lawyers throughout the state and a private court reporting firm was

permitted to stream live coverage of the trial online.

As part of the Piendle verdict in the punitive damages trial, the jury found that the conduct of the tobacco companies was egregious and that the companies had put defective and unreasonably dangerous cigarettes on the market, and, therefore, punitive damages were justified. As with the two prior cases, SDSBS was successful in obtaining justice for its clients. ♦

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**"They killed people for profits over safety."**