

Of Counsel

A REPORT TO CLIENTS & ATTORNEYS VOLUME 13, NUMBER 3

\$5.8 million awarded in the tenth SDSBS Engle case win against Big Tobacco

Frank smoked for nearly 20 years before tobacco industry was forced to put a 'caution' label on packs.

In September 2013, a Palm Beach County jury rendered a verdict in favor of the widow of a man who died of lung cancer as a result of being addicted to cigarettes containing nicotine and smoking for 45 years, beginning when he was just 14 years old. The jury awarded \$5.8 million to Kathleen Gafney, who lost the love of her life, her high school sweetheart and husband of 36 years, Frank Gafney, who was just 59 years old when he died. SDSBS attorneys **Jim Gustafson** and **Darryl Lewis**, and former SDSBS partner David Sales, tried the case for four weeks against Lorillard Tobacco Company and R.J. Reynolds Tobacco Company. It was the tenth trial victory for SDSBS against Big Tobacco.

Kathleen Gafney's husband, Frank, died of lung cancer in 1995. Frank began smoking as a fourteen-year-old high school freshman in 1950, when 70%



Frank and Kathleen Gafney

of males smoked. Frank smoked for nearly 20 years before the tobacco industry was forced to put a "caution" label on packs of cigarettes, while the industry continued to lie to the American people, saying that nothing about cigarettes was proven to be harmful and that the Surgeon General of the United States was "dead wrong" about requiring warnings on cigarette packs. Despite the tobacco companies' testimony that they do not and have not marketed cigarettes to children, previously secret internal company documents showed Lorillard Tobacco Company not only marketed cigarettes to children, but considered the high school student "the base of our business," and that R.J. Reynolds Tobacco Company considered 14-year-old children to be vital to the future of the company because those children serve as "replacement smokers." Such was the environment *(Continued on page seven.)*

Be your own advocate

Joseph did not know this surgery had never been performed at the hospital.

When discussing surgery with your doctor, ask questions up front. It is important to know how many times the surgeon has performed this type of surgery and the rate of complications and death. Without question, Joseph trusted his doctors to do what was in his best interest. His doctors had recommended surgery for an aortic valve repair. Because of his young age, they said, surgery would be easy and involve only a short hospital stay. Joseph agreed to the surgery. What Joseph did not know

was that this surgery had not been performed at the hospital, and he did not know the risk of complications and death for this type of surgery.

Joseph was admitted to the hospital and surgery was performed. Shortly after, Joseph began vomiting and had difficulty breathing. Post-operative tests showed ominous signs of cardiac ischemia – an insufficient blood flow which could cause severe damage to the heart. Cardiac ischemia routinely requires an emergent response by medical professionals. Instead, a cardiologist ordered another test for Joseph – a transthoracic echocardiogram (TTE), or scan of the heart. The cardiologist ordered the test "stat," meaning that it must be done right away. After ordering the *(Continued on page six.)*



Chris Searcy and Karen Terry in 'Elite' top attorney list by Florida Trend magazine

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After more than 13 years, Florida's First District Court of Appeal affirms judgment against Shands at Live Oak

On February 11, 2013, Florida's First District Court of Appeal affirmed the Hannon family's judgment against Shands, and closed the final door on Shands at Live Oak's efforts to deprive Nathan Hannon's family of justice. It had been thirteen years, three months and thirteen days since 15-year-old Nathan Hannon suffered the consequences of an untreated shunt malfunction due to Shands at Live Oak's substandard care. Nathan's family's dedication to his memory and the pursuit of justice to hold accountable those who were responsible for his death was inspiring. Through thirteen years, five trial dockets, four trial continuances, a month-long trial, and seven appeals, Nathan's family was undeterred in their pursuit of justice for their oldest son. **Chris Searcy** and **James Gustafson** were privileged to have been able to represent such a courageous and dedicated family. ♦

Nathan's family was undeterred in their pursuit of justice for their oldest son.



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A REPORT TO CLIENTS & ATTORNEYS VOLUME 13, NUMBER 3

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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.

Chris Searcy, Karen Terry in 'Elite' top attorney list by *Florida Trend* magazine

In June 2013, *Florida Trend* published its 10th annual list recognizing the top attorneys in Florida as chosen by their peers. SDSBS attorneys **Chris Searcy** and **Karen Terry** were included in the 2013 list of top attorneys. Honorees are selected by ballots submitted by in-state members of the Florida Bar. The list of Florida Elite represents less than 2% of active Florida Bar members. ♦



\$1.2 million settlement for painful injuries to couple caused by mall's failure to maintain escalator

In November 2008, John and Tammy Thompson took their seven-year-old daughter, Shelby, to the Tallahassee Mall, in Tallahassee, Florida, to see a movie. Following the movie, the family decided to do some shopping on the second floor of the mall. John stepped onto the mall's escalator first, followed by Shelby and then Tammy, each holding on to the handrail and standing on the steps as it moved. About two-thirds of the way up to the second floor level, the moving handrail suddenly stopped. At the same time, the steps of the escalator lurched forward. The sudden change caused each of them to pitch backwards. John fell to the bottom of the escalator near the first floor level. Tammy fell down but held onto the frozen handrail with one arm and tried to break her husband's fall with her other arm. Both Thompsons suffered multiple contusions and abrasions. They were taken to the emergency room of a local hospital, examined, and released. Thankfully, Shelby suffered no injuries.

For a long time after the accident, both John and Tammy remained in significant pain.

John continued to experience pain in his lower back and suffered through numerous injections in efforts to find relief. Tammy suffered a tear of the labrum in her right shoulder and, in January 2009, underwent surgery for repair of her shoulder. The surgery was successful and, following physical therapy, she recovered from her injuries. John was not so fortunate. Further examination revealed a lumbar disc herniation. After months of physical therapy and prescription pain and anti-inflammatory medications, doctors recommended that John

have surgery to relieve the pressure on the nerve by removing some disc material and bone at the site of the injury. Months after this surgery, with no significant relief from his pain, John endured a second surgery to implant a spinal stimulator that would electronically interrupt the pain signals and provide relief.

Seeking to hold the Tallahassee Mall accountable for the escalator accident and resulting injuries to the family, the Thompsons asked SDSBS attorney **Cameron Kennedy** to represent them. The mall owners denied liability for the escalator malfunction, and pointed blame toward the company who installed and maintained the equipment. With the owners and contractor unwilling to accept responsibility and pointing fingers at each other, Mr. Kennedy filed a lawsuit against the mall owners, the escalator maintenance contractor, the property management company, and the janitorial contractor. The extensive discovery process revealed a total lack of concern and responsibility for the safety of mall visitors. One year before the incident, an industry engineer had inspected the escalator and recommended complete removal and replacement, noting that the equipment was well beyond its recommended useful life and that it would not pass an annual state inspection. Months before the incident, similar malfunctions had been noted in maintenance records, but nothing had been done. The owners and contractors had failed to comply with mandatory safety inspections that would have revealed code violations. Improper cleaning and maintenance of the equipment only compounded the problem. Only weeks away from trial, all defendants agreed to settle the case for \$1.2 million. ♦

One year before the incident, an industry engineer had inspected the escalator and recommended complete removal and replacement.

SDSBS filed lawsuits against mall owners, escalator maintenance contractor, property management company, and janitorial contractor.





SDSBS wins case of negligence by property management company and condo association

Holes left in lawn by tree removal were not refilled, resulting in injury.

Months after SDSBS attorneys obtained a \$12.1 million verdict against a local condominium association and property management company for negligence in maintaining proper entrances/exits, attorneys **Karen Terry** and **Matt Schwencke** obtained a substantial settlement for Lisa Smith (not her real name), a visitor to a condominium complex in Tequesta, Florida, who was severely and permanently injured as a result of negligent maintenance of the property's parking lot.

On February 23, 2011, Lisa drove to her sister's condominium for a visit. She parked in a designated guest parking space and walked to the entrance of her sister's building. Crossing a grassy area, she stepped into a large hole that was concealed by the grass and abruptly fell down. Bystanders called for help and emergency responders took her to the local hospital where she underwent surgery to repair her badly fractured ankle.

The hole was about eight inches deep. The insurer for the condominium association and the property management company denied any wrongdoing or responsibility for Lisa's injuries. Lisa contacted SDSBS and Ms. Terry and Mr. Schwencke filed suit on her behalf. Discovery revealed a prior complaint about the concealed hole. A landscaping contractor had removed a number of trees and neither the management company nor the association board had inspected the premises to ensure that the holes had been refilled. The defendants argued that Lisa Smith was responsible for her own injuries because it was negligent and unreasonable for her to walk through the grass. On the eve of selecting a jury, the case was settled for \$550,000. ♦

SDSBS attorney Mara Hatfield publishes article about admissibility of expert testimony

On August 1, 2013, *Law360*, an online media company that publishes news and analyses on business law, published an article written by SDSBS attorney **Mara Hatfield**. The article, "Putting Daubert in Proper Perspective," concerned recent federal circuit court opinions that resolved a long-standing misconception about the rule regarding admissibility of expert testimony as set forth by *Daubert v. Merrel Dow Pharmaceuticals, Inc.* 509 U.S. 579 (1993). In *Daubert*, the Supreme Court found that "general acceptance" is not a necessary precondition to the admissibility of scientific evidence under the Federal Rules of Evidence. Such a test would not allow for an expert to rely on evolving, novel scientific issues.

"The decision determined that a judge should act as a gatekeeper, but . . . the key to the gate is not the ultimate correctness of the expert's conclusions . . . it is the soundness and care with which the expert arrived at her opinion . . ."

The Federal Rules of Evidence indicate that if scientific, technical, or other specialized knowledge would assist the judge or jury to understand the evidence or to determine a fact in issue, a qualified witness may testify or provide an opinion. Ms. Hatfield's article notes that the Supreme Court decision determined that a judge should act as a gatekeeper, but it did not require a court to verify the accuracy of a conclusion: ". . . the key to the gate is not the ultimate correctness of the expert's conclusions. Instead, it is the soundness and care with which the expert arrived at her opinion . . ." Since science is an evolving discipline, courts cannot sit around waiting for a conclusion to be irrefutable or they would never be able to allow any evidence to go to a jury. Efforts to convince a court that a certain study is unreliable merely because it is contradicted demonstrate a fundamental misunderstanding of *Daubert*. "Vigorous cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof are the traditional and appropriate means of attacking shaky but admissible evidence." ♦

Untreated side effects from anesthesia during surgery cause permanent brain damage

In 2008, 34-year-old James Smith (not his real name) was well on the road to recovering from a 2005 automobile accident that had resulted in a severe degeneration of his hips. Despite the injury, he was active, living independently, and running his own videography business. To improve his mobility and alleviate pain, James decided to have both hips replaced. On the day of his first surgery, the local hospital's anesthesiologist ordered a cocktail of drugs for James – Propofol to induce and maintain general anesthesia; midazolam (Versed) for preoperative sedation; and tetracaine, a local anesthetic. These drugs would paralyze his lower extremities and put him into a deep sleep, but he would need to continue breathing on his own. The combination of these medications has serious side effects which require medical personnel to exercise great care in their use and close monitoring of the patient's vital signs. One of the side effects is "sympathetic blockade," a condition that can cause a rapid and severe drop in blood pressure and possible cardiac arrest. To further complicate matters, James suffered from sleep apnea, a condition which causes a person to stop breathing while they are sleeping. This condition requires even greater care and attention in the use of anesthetic medications.

James survived the first hip surgery. The next day, however, he was in immense pain. As medical personnel began to administer the same anesthetics they used previously, James told them that he could not breathe. Instead of taking immediate action to provide respiratory relief, the nurses and doctors simply said to James, "Keep breathing." The monitors showed a rapid decline in his blood pressure. Again, the medical personnel took no immediate action. Finally realizing the situation had become serious, they called

for ventilatory support but more delays followed. James suffered both respiratory and cardiac arrest. The code team managed to bring him back to life with external shocks, but in the eight minutes he was without oxygen he suffered permanent brain damage. In critical condition in the hospital's intensive care unit, James suffered even further respiratory crises when nurses failed to properly determine when the patient should have been extubated.

Ultimately, James survived the ordeal, but with severe impairment. Due to the anoxic brain injury, he has very limited short-term memory and suffers from cognitive defects and severe personality changes. Unable to appreciate dangers

or properly look after himself, he requires close supervision and attention. He cannot drive and has not worked since the incident. He lives with his parents. The parents retained SDSBS attorneys **Chris Searcy** and **Sia Baker-Barnes** to prosecute an action on their son's behalf. Because the anesthesiologist was a medical director at the hospital and its exclusive provider of anesthetic services, the attorneys held both hospital and



doctor responsible for negligent conduct. Through thorough preparation, the attorneys were able to reconstruct the sequence of events that led to James' injuries, despite poor recordkeeping at the hospital. The defense argued for several years, opining that James was at fault for failing to tell the medical staff that he had sleep apnea. In an intense deposition of the anesthesiologist, Ms. Baker-Barnes forced the doctor to admit that he never asked James about sleep apnea, nor recorded anything regarding whether or not the condition existed. Just weeks before trial, the case was settled for a confidential sum. James' family is comforted that he will now be able to receive the medical and supportive care he will need for the rest of his life. ♦

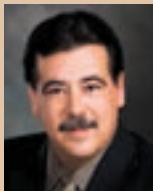
Speaking opportunities



James Gustafson spoke at the June 30, 2013, seminar, “Damages: Go Big or Go Home,” sponsored by 360 Advocacy Institute, Colorado Springs, Colorado. The seminar was held at the Encore at Wynn, Las Vegas, Nevada. Mr. Gustafson’s topic was “Developing the Economic Loss Picture: The Obvious and Not-So-Obvious Elements to Make the Aggressive Damages Argument.” ♦



Brian Denney spoke at the A.J. Cone Trial Advocacy Institute seminar held in Orlando, Florida, in August 2013. Mr. Denney’s topic was “Direct Examination of an Expert Witness.” ♦



Paralegal **John Hopkins** spoke at the Florida Justice Association’s Masters of Justice seminar held in September 2013 at The Biltmore, Coral Gables, Florida. Mr. Hopkins was chair for the program, “Paralegals Wear Many Hats at the Firm – Tips for Paralegals.” His topic was “Firm Leadership, Marketing, and Counseling – The Ultimate Hat for All Occasions.” ♦



Paralegal **Vince Leonard** (SDSBS Litigation Coordinator) was a guest lecturer at the Florida Association of Insurance Agents convention held at the Orlando World Center Marriott, Orlando, Florida, in June 2013. The title of his presentation was “Errors and Omissions – Just the Facts.” The course focused on agents’ duties associated with procuring appropriate insurance coverage for consumers, with an emphasis on uninsured motorist coverage. ♦



Be your own advocate

(Continued from page one.)

test, however, the cardiologist left the hospital and never returned to read it. The hospital policy and procedures require “stat” tests to be read immediately by the physician who ordered the test.

The TTE was performed and was then read by the echo technician and the surgeon – two people who had no expertise in analyzing the test. The TTE clearly showed severe aortic insufficiency. However, the interpretation by the technician and surgeon reported only minor aortic insufficiency. It was now a medical emergency.

That evening, the hospital called the surgeon and reported that Joseph’s condition had deteriorated. The surgeon initiated calls to assemble her operating room team for a second surgery. The surgeon had to call her cardiac anesthesiologist five times in an effort to get the team together. The anesthesiologist did not answer because he was out to dinner. The surgical team finally gathered, but it was too late. Joseph was too sick to endure a second surgery. He died shortly thereafter.

Joseph’s family sought accountability for their loss and contacted SDSBS attorneys **Chris Searcy**, **Karen Terry**, and **Matt Schwencke**. Medical records told very little about what had really happened at the hospital and why a young man had died in a hospital that was supposed to treat and protect him. The attorneys believed that the cell phone records of all defendants would tell Joseph’s story. Evidence indicated a reckless and conscious disregard for Joseph’s life and safety. Prior to the motion to assert punitive damages against the hospital and other codefendants, the case settled for an amount just short of statutory caps on such damages.

In 2004, the Florida legislature passed a bill capping pain and suffering damages to \$1 million total for a doctor, and \$1.5 million for a hospital, in a wrongful death case. Under these caps, the most that Joseph’s parents could seek for the loss of their son would be \$2.5 million. SDSBS continues to fight damage caps and is hoping that the Florida Supreme Court finds these caps to be unconstitutional. Victims should be able to seek a full measure of justice when someone they love is taken from their lives because of medical negligence and reckless disregard for life and safety. ♦

\$5.8 million awarded in the tenth SDSBS Engle case win against Big Tobacco

(Continued from page one.)

Mr. Gafney was born into, all the while being told that “More Doctors Smoke Camels” and cigarettes were not only not dangerous, but healthy to smoke. The jury was presented uncontroverted evidence of the history of the tobacco companies’ efforts not only to increase the addictiveness of their product, but to conceal that effort from their product users. Evidence from previously secret documents disgorged by the defendants and their co-conspirators showed they had engineered cigarettes to be addictive, experimented with

adding chemicals and compounds to cigarettes to “freebase” nicotine to the smoker’s brain, and to try to make cigarettes even more addictive. The evidence in the case showed that tobacco companies sought to entrap their customers in a way that ensured future sales, and then they spent years lying about what the companies knew to be true about the addictiveness of their cigarettes and the fact they caused deadly diseases like lung cancer, emphysema, and heart disease. The jury heard evidence of the consequences of Big Tobacco’s 50-year conspiracy and deceit and how devastating it was to our country – over 20 million Americans were killed by smoking, and 443,000 more Americans are now dying each year.

“It’s wrong to design something to be addictive and then lie about it and then market it as safe and then exploit addicted people to keep doing what they are addicted to, all the while knowing that your business plan is going to result in people dying,” Jim Gustafson argued to the jury in closing arguments. “What kind of people would do something like that to other people? You all are going to have to decide whether you are going to tolerate that.”

The Gafney case is one of approximately 8,000 cases filed statewide as a result of a landmark class action suit filed in 1994 by Miami pediatrician, Dr. Howard Engle, who, like the other class members, began smoking long before the dangers were known, became addicted to cigarettes containing nicotine, and suffered from a smoking-related disease as a result of that addiction. The jury in the Engle case found against the tobacco companies in 2000, holding that smoking was addictive and caused a variety of diseases including lung cancer. However, the Florida Supreme

Court reversed the award in 2006, ruling that each person in the class action must prove his/her membership in the class and damages individually. SDSBS has thus far won ten Engle progeny trials against the tobacco industry, with jury verdicts ranging from \$2.5 million to \$80 million.

Thanks to the success of the public health message today, it might seem unnecessary to point out that Big Tobacco is a bad actor. Perhaps it bears reminding that it wasn’t always understood, and that as recently as the late 1990’s it took a two-year trial to tell the story of what the tobacco industry did to generations of Americans, and that the telling of that story – finally – resulted in these findings made by the original Engle jury:

1. Smoking cigarettes causes lung cancer.
2. Nicotine in cigarettes is addictive.
3. R.J. Reynolds Tobacco Company, Philip Morris-U.S.A. Inc., Brown & Williamson Tobacco Corporation, American Tobacco Company, Liggett Group, Inc., and Lorillard Tobacco Company placed cigarettes on the market that were defective and unreasonably dangerous.
4. R.J. Reynolds Tobacco Company, Philip Morris-U.S.A. Inc., Brown & Williamson Tobacco Corporation, American Tobacco Company, Liggett Group, Inc., and Lorillard Tobacco Company concealed or omitted material information not otherwise known or available, knowing that the material was false or misleading or failed to disclose a material fact concerning the health effects, or addictive nature, of smoking cigarettes, or both.
5. R.J. Reynolds Tobacco Company and Lorillard Tobacco Company agreed with other Engle defendants to conceal or omit information regarding the health effects of cigarettes or their addictive nature with the intention that smokers and the public would rely on this information to their detriment. The other Engle defendants include Philip Morris, U.S.A. Inc., Brown & Williamson Tobacco Company, American Tobacco Company, Liggett Group, Inc., the Council for Tobacco Research USA, Inc., and the Tobacco Institute, Inc.
6. R.J. Reynolds Tobacco Company, Philip Morris-U.S.A. Inc., Brown & Williamson Tobacco Corporation, American Tobacco Company, Liggett Group, Inc., and Lorillard Tobacco Company were negligent.

Big Tobacco is a cancer, a blight on our country, and it has killed millions of good Americans. Frank Gafney was one of those good Americans and the jury recognized that in this case, as good people do when exposed to the truth. SDSBS will continue to work to make sure there is a reckoning for Big Tobacco. ♦



Above:
Kathleen
and Frank
Gafney
on their
wedding
day.

Accolades



Attorney **Greg Barnhart** was recently inducted as a fellow in the International Academy of Trial Lawyers, an elite group representing both sides of the Bar – prosecutors and defense lawyers in criminal cases and plaintiff and defense counsel in civil litigation. Membership is by invitation only and the Academy bylaws limit membership to no more than 500 active trial lawyers. The Academy’s purpose is to promote reforms in law, facilitate the administration of justice, promote the rule of law internationally, and elevate the standards of integrity and honor within the profession. ♦



In June 2013, attorney **Brenda Fulmer** was appointed to the American Association for Justice’s Trial Lawyers Care Committee and the Marketing and Practice Development Committee. Ms. Fulmer will continue her role as Vice Chair of AAJ’s Membership Oversight Committee until 2014. AAJ’s Women Trial Lawyer Caucus has also appointed Ms. Fulmer as a State Liaison for the 2013-2014 year. ♦



Attorney **Mariano Garcia** was recently elected 2014 vice president of the Palm Beach Chapter of the American Board of Trial Advocates. ABOTA is a national association of experienced trial lawyers and judges dedicated to the preservation and promotion of the Seventh Amendment to the U. S. Constitution which provides for the right to trial by jury in certain civil cases. ABOTA upholds the jury system by educating the public about the history and value of trial by jury. ♦



Attorney **Brian Sullivan** was approved for 2013-2014 membership in the Craig S. Barnard American Inn of Court. The American Inns of Court is a prestigious organization of judges, lawyers, and legal scholars who focus on enhancing the skills, professionalism, civility, and ethics of their profession. The Court is adapted from the traditional English model of legal apprenticeship. The Craig S. Barnard chapter is named for the chief strategist and frequent lead litigator on numerous capital cases handled by the Palm Beach County Public Defender’s Office. ♦



National Delegate of the Palm Beach Chapter of the Federal Bar, SDSBS attorney Kelly Hyman with the governor of Puerto Rico, Alejandro García Padilla.

As a national delegate for the Palm Beach Chapter of the Federal Bar Association, attorney **Kelly Hyman** attended the FBA’s Annual Meeting and Convention held at the Caribe Hilton Hotel, San Juan, Puerto Rico, in September 2013. Ms. Hyman is co-chair of the federal portion of the Palm Beach County Bench Bar Conference. In June 2013, Ms. Hyman was appointed chair of the Palm Beach County Bar Association’s Personal Injury Law CLE Committee. ♦



Attorney **Adam Hecht** was recently elected as a director of the Florida Justice Association’s Young Lawyers Section. As a director, Mr. Hecht will be actively involved in FJA’s goals of protecting the civil justice system, and will oversee the annual E. Earle Zehmer Mock Trial in which the state’s brightest law students compete for a scholarship. The Young Lawyers Section also participates in the Jordan McCracken Lobby Days in Tallahassee and the AI J. Cone Trial Institute. ♦



Andrew Swain, project assistant with SDSBS’ Mass Tort Unit, has been elected to the Board of Directors of ACLU Florida where he holds the office of secretary. Mr. Swain is a recent graduate of New College of Florida, Sarasota, Florida. His senior thesis was on the history of the Fourth Amendment as applied to communications privacy. He plans to attend law school next year. ♦



SDSBS members receive special awards at FJA's Annual Masters of Justice Convention

Attorneys **Chris Searcy** and **Greg Barnhart** received the Excalibur Award for their lifetime support of the Florida Justice Association's EAGLE program. The recognition was part of the FJA's Annual Masters of Justice Convention held in September 2013 at The Biltmore in Coral Gables, Florida. The EAGLE program provides both fundraising and political support for lawmakers who insist on good public policy and who champion the rights and safety of the people they are elected to represent.



Attorney **James Gustafson** was elected to the office of secretary of FJA. Mr. Gustafson was also recognized with FJA's Jon E. Krupnick Award for his work on behalf of the family of Nathan Hannon (see page two) which reflected Mr. Gustafson's relentless commitment, perseverance, and fortitude to seek justice and achieve success despite all obstacles and legal roadblocks. Mr. Gustafson was unable to attend the convention in person because he was in trial.

The FJA Masters of Justice Convention also announced a new award created to recognize non-attorney individuals who have spent their lifetime demonstrating professionalism and perseverance in promoting and protecting the civil justice system. The award was named for its first recipient, SDSBS's Director of Marketing, **Joan Williams**. ♦

Top left photo: Joan Williams and Karen Terry; top right photo: (l-r) Howard Coker, Susan Barnhart, Greg Barnhart, Sammy Cacciatore, Kimberly Driggers, and Chris Searcy; photos below: Matt Schwencke and Cam Kennedy; Brenda Fulmer with Alex Villalobos; Joan Williams receiving award from Paul Anderson, president of FJA, and Alex Villalobos; head photo: Jim Gustafson.



**SEARCY
DENNEY
SCAROLA
BARNHART
& SHIPLEY PA**
Attorneys at Law

AVIATION & RAILROAD DISASTERS
BOATING & WATERCRAFT INJURIES
CATASTROPHIC VEHICLE ACCIDENTS

COMMERCIAL DISPUTES
CONSTRUCTION DEFECTS
DEFECTIVE DESIGN
INTELLECTUAL PROPERTIES
MASS TORTS
MEDICAL MALPRACTICE
PREMISES LIABILITY
PROFESSIONAL LIABILITY
TRUCKING ACCIDENTS
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Best Lawyers in America 2014 recognizes SDSBS attorneys and their areas of practice

SDSBS was recently recognized in the peer-review publication, *Best Lawyers in America 2014* for its success in representing plaintiffs in medical malpractice, professional malpractice, and personal injury litigation. SDSBS attorney **Jack Scarola** was selected as “Lawyer of the Year” in mass tort litigation/class actions. Only a single lawyer in each practice and designated metropolitan area is honored with this accolade, making it particularly significant. Also selected for recognition in the same edition of *Best Lawyers* (with areas of practice noted) were SDSBS attorneys **Chris Searcy** (medical malpractice, personal injury, and product liability); **Jack Scarola** (“Bet-the-Company,” commercial, mass tort/class actions, medical malpractice, and personal injury); **Greg Barnhart** (medical malpractice and personal injury); **John Shipley** (medical malpractice); **Sia Baker-Barnes** (personal injury); **Brenda Fulmer** (mass torts/class actions); **Jim Gustafson** (medical malpractice and personal injury); **Jack Hill** (personal injury); **Darryl Lewis** (product liability); **Bill Norton** (medical malpractice and personal injury); **Chris Speed** (personal injury); **Karen Terry** (mass tort/class action); **Cal Warriner** (mass tort/class actions, personal injury, and product liability); and **Ed Ricci** (product liability). Since it was first published in 1983, *Best Lawyers* has become universally regarded as the definitive guide to legal excellence. The selection process is based upon an exhaustive peer-review survey designed to capture the consensus of leading lawyers about the professional abilities of their colleagues within the same geographical and legal practice areas. ♦



Chris Searcy



Jack Scarola



Greg Barnhart



John Shipley



Sia Baker-Barnes



Brenda Fulmer



Jim Gustafson



Jack Hill



Darryl Lewis



Bill Norton



Chris Speed



Karen Terry



Cal Warriner



Ed Ricci

SDSBS trial techniques increase settlement offer

On May 31, 2008, 59-year-old Jane Doe (not her real name) was driving down a road in Pinellas County, Florida, when John Jones (not his real name) drove through a red light and slammed into her car. As a result of the accident, Mrs. Doe suffered neck pain and eventually required a cervical discectomy and fusion surgery. She asked an attorney in Hillsborough County to represent her in a lawsuit filed against Mr. Jones, and the attorney conducted discovery and attempted to resolve the case through mediation. The defendant and his insurance company never provided a fair offer that would have compensated Mrs. Doe for her injuries.

Eventually, the case was referred to SDSBS attorney **Brian Denney** who began aggressively preparing for trial. Additional discovery was conducted, including acquiring expert testimony regarding Mrs. Doe's injuries. Mr. Denney added a consortium claim on behalf of Mrs. Doe's husband who is legally blind and must rely upon his wife for support. Mr. Denney also presented testimony from Mrs. Doe's doctors stating that she would likely require additional neck surgery in the future. The defense attorney denied that Mr. Jones had any responsibility for causing the crash. The defense also disputed Mrs. Doe's damages, claiming that her neck pain was caused by a pre-existing condition despite the fact that she had never reported neck pain to a doctor prior to the crash. The defense also attempted to argue that since she was able to continue working, she was, therefore, not hurt. On the eve of trial, the case was settled for \$600,000 – more than double any offer previously made by the defense. ♦

Taking... *Time to Care*

SDSBS Tallahassee staff took part in 'Tails & Trails' Walk/Run, and 'A Full Summer' food program

SDSBS staff participated in the "Tails & Trails 5K Walk/10K Run" in Tallahassee, Florida, May 2013. The event provides support and funding for the Animal Shelter Foundation, a non-profit, volunteer organization supporting adoption programs, spay/neuter programs, supplemental veterinary care, and community education on responsible pet ownership. ASF actively supports the Tallahassee-Animal Service Center.

In June 2013, SDSBS Tallahassee staff volunteered both time and money to help "A Full Summer," an event set up to package meals for people in the community who are hungry. Summer is a critical time for families and individuals who depend upon school lunch programs and other support for reliable sources of food. Meals prepared by "A Full Summer" were distributed by Second Harvest of the Big Bend. The event prepared 40,176 meals, and collected over \$3,000 in monetary contributions. ♦



Members of SDSBS attend first legal fair hosted by Hispanic organization to help community

On July 14, 2013, SDSBS attorney Ed Ricci and summer intern Kelsey Burke attended a legal fair hosted by HACER (Hispanics in Action for Community Education and Rehabilitation) Ministry and the Palm Beach County Hispanic Bar. This was the organizations' first legal fair. Numerous lawyers offered free consultations on various matters including criminal law, personal injury, immigration, worker compensation, wage and hour laws, family law, employment law, bankruptcy, and housing. Mr. Ricci and Ms. Burke spoke about SDSBS and its work. HACER is a non-profit organization providing health education, information, a food pantry, and housing services to residents in central Palm Beach County, Florida. ♦

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A REPORT TO CLIENTS & ATTORNEYS VOLUME 13, NUMBER 3

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*May your holidays
be filled with joy, love,
and peace.*

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