

JAMES W. GUSTAFSON, JR.

CURRICULUM VITAE

ADMITTED TO PRACTICE:

Florida, 1994
United States District Court, Middle District of Florida, 1994
United States District Court, Northern District of Florida, 2005
United States District Court, Southern District of Florida, 2016

LAW PRACTICE:

Searcy, Denney, Scarola, Barnhart & Shipley, P.A. Shareholder The Towle House 517 North Calhoun Street Tallahassee, Florida 32301	2002 – Present
Masterson, Rogers, Masterson & Gustafson, P.A. St. Petersburg, Florida	1997 - 2002
Freeman, Hunter & Malloy, P.A. Tampa, Florida	1994 - 1997

EDUCATION:

Florida State University College of Law
Juris Doctor with Honors, May, 1994

Honors & Awards
Moot Court Team
Phi Delta Phi

St. Edmund Hall, Oxford, England, 1992

Florida State University
Bachelor of Arts, Cum Laude, with Honors, April, 1991
Honors Thesis: “Walk Through the Bottomland: The Social and Political World of Victor Hugo’s Les Miserables”

Honors & Awards
Phi Beta Kappa
Golden Key National Honor Society

BAR MEMBERSHIPS & ASSOCIATIONS:

Florida Bar Association

Trial Lawyers Section

Florida Bar Board Certified Civil Trial Lawyer, 2014 –
Recertified 2019-2024

Florida Supreme Court Standard Jury Instructions Committee (Civil), 2018 - 2023

National Board of Trial Advocacy

Board Certified Civil Trial Lawyer, 2014 –
Recertified 2019-2024

International Academy of Trial Lawyers, 2017 –

American Board of Trial Advocates, 2010 –

ABOTA 2010 Trial Lawyer of the Year
Vice President, Tallahassee Chapter, 2021-22

Diplomate, American Board of Professional Liability Attorneys

Medical Professional Liability, 2012 –

Florida Justice Association

President, 2016-2017

Chair, FJPAC 2016-2017

President-Elect, 2015-2016

Treasurer, 2014 - 2015

Secretary, 2013 – 2014

Executive Committee, 2012 -

Board of Directors, 1999-2003; 2011-

Chair, Young Lawyers Section, 2000-2001

Board of Directors, Young Lawyers Section, 1997-1999

EAGLE Founder, 2015 –

EAGLE Benefactor, 2011 – 2014

EAGLE Patron, 2009 – 2010

EAGLE Sponsor, 2000 – 2005

Perry Nichols Award, 2020

Jon E. Krupnick Award for Perseverance, 2013

EAGLE Legend Award, 2016

Benjamin Franklin Award, 2018

Final Round Award, 2016

Churchill Award, 2015

Gold Eagle Award, 2012, 2017

Silver Eagle Award, 2015, 2018

Bronze Eagle Award, 2001, 2013, 2016

Shoe Leather Award, 2012

Distinguished Fellow, The Fellows of the Academy of Florida Trial Lawyers, 2012 –

American Association for Justice

Leaders Forum

Sustaining Member

Professional Negligence Section

Chair, Professional Negligence Section, 2005-2006

Editor, Professional Negligence Section Newsletter, 2001 – 2002

Rated AV Preeminent, Martindale-Hubbell, 2003 –

Best Lawyers in America, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022

Lawyer of the Year 2013 Plaintiff's Personal Injury Litigation – Tallahassee

Lawyer of the Year 2022 Plaintiff's Product Liability Litigation

Florida Super Lawyers, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020

Top 100 Florida Lawyers, 2015

Florida Trend's Florida Legal Elite, 2011, 2012, 2014, 2015, 2016, 2017, 2018, 2019, 2020

The National Law Journal Top 100 Verdicts of 2010

Horner v. R.J. Reynolds Tobacco Co.

Lawyers USA Top 10 Verdicts of 2010

Horner v. R.J. Reynolds Tobacco Co.

America's Top 100 Attorneys

The National Trial Lawyers, Top 100 Trial Lawyers

America's Top 100 High Stakes Litigators

Capital City Justice Association

Southern Trial Lawyers Association

Tallahassee Bar Association

Million Dollar Advocates Forum

National Association of Distinguished Counsel

OTHER MEMBERSHIPS

Member, Florida Tobacco Education and Use Prevention Advisory Council, 2018 -

PUBLICATIONS & SPEAKING ENGAGEMENTS:

“What Exactly are Jurors Thinking While Watching a Plaintiff Trial Lawyer Conduct Voir Dire on Damages Issues – You Need to Know This (Even Though Part of it is Shocking)” 2020 Workhorse seminar, Florida Justice Association, Orlando, Florida March 2020

“Jury Selection in Tobacco Litigation” 2019 Florida College of Advanced Judicial Studies, Orlando, Florida, May 2019

“Voir Dire” 2018 Al J. Cone Trial Advocacy Institute, Florida Justice Association, Orlando, Florida August 2018

“Special Considerations in the Fight for Damages for Injured Children” 360Advocacy, Damages: Go Big or Go Home, Las Vegas, Nevada, March 2018

“My First Voir Dire” 2017 Workhorse seminar, Florida Justice Association, Orlando, Florida, March 2018

“It Was No Accident: Big Tobacco and Their Enablers” Engineering Ethics and Acceptable Risk, Advanced Safety Engineering and Management Program, University of Alabama at Birmingham, August 2017

“Cigarette Industry’s Campaign of Doubt and Concealment: Telling the Concealment Story to Juries” 2017 National Conf. on Tobacco or Health, Austin, TX, March 2017

“Proof and Argument of Damages for Spousal Loss of Consortium” 2017 Workhorse seminar, Florida Justice Association, Orlando, Florida February 2017

“How We Ended Up Here – The Plague of the Cigarette Manufacturers” American Cancer Society Florida Tobacco Summit, Orlando, Florida December 2015

“Lessons Learned in the Tobacco Wars” Florida Justice Association, Masters of Justice Jury Selection seminar, Sarasota, Florida October 2015

“Preparing Your Expert for Deposition” Florida Justice Association Webinar, September 2015

“Voir Dire” 2015 Al J. Cone Trial Advocacy Institute, Florida Justice Association, Orlando, Florida August 2015

“A Live Opening Statement Based on What We Learned After 200 Trials” Florida Justice Association Annual Convention, Advanced Trial Skills Seminar, Orlando, Florida June 2015

“A New Method for Jury Selection” Florida Justice Association Annual Convention, Advanced Trial Skills Seminar, Orlando, Florida June 2015

Commentary, “Business As Usual Is Not Acceptable,” Cancer (Journal of the American Cancer Society), May 6, 2015 (co-written with K. Michael Cummings, Ph.D., David J. Sales, Fado R. Khuri, Graham W. Warren)

“It Was No Accident: Cigarette Manufacturers and Their Enablers” Advanced Safety Engineering and Management Program, University of Alabama at Birmingham, May 2015

“Voir Dire in Medical Malpractice Cases in Florida” 2015 Workhorse Seminar, Florida Justice Association, Orlando, Florida

“These Lawyers Helped Win \$13.5M Tobacco Award to Widow of Man with Lung Cancer,” Daily Business Review, October 22, 2014.

“Viewpoint: Jury Strikes Major Blow Against ‘Evil Empire,’” Pensacola New Journal, August 4, 2014 (co-written with David J. Sales)

“Jury Selection in *Engle* Progeny Cases” 2014 Florida College of Advanced Judicial Studies, “Tobacco Road: Products Liability, Class Action, and *Engle*” Orlando, Florida June 2014

“Jury Selection After Seinfeld: Pitfalls and Strategies for Dealing with Indifference and Cynicism” Florida Justice Association Annual Convention, Advanced Trial Skills Seminar, Palm Beach, Florida June 2014

“Developing the Economic Loss Picture: The Obvious and Not So Obvious Elements to Make the Aggressive Damages Argument” 360Advocacy, Damages: Go Big or Go Home, Las Vegas, Nevada June 2013

“Opening Statements” Southern Trial Lawyers Association, 2012 Mardi Gras Conference. New Orleans, Louisiana February 2012

Faculty, 2011 Al J. Cone Trial Advocacy Institute, Florida Justice Association. Cross Examination and Closing Argument. Tampa, Florida August 2011

“Top Verdicts of 2010: Opening Statements and Closing Arguments” American Association for Justice, June 2011

“Blind Faith” (co-authored with James Girards) Trial Magazine, American Association for Justice, May 2010

“Challenging Hospitals that Tolerate Incompetent Doctors” (co-authored with Thomas D. Masterson) Trial Magazine, Association of Trial Lawyers of America, May 2003.

“Summation for Plaintiff: Discussing Damages”, Handling Accident Cases, Summations, Vol. 2, Ch. 26, pp. 493 – 498, Cumulative Supplement, October 2002

“Opening Statement in Brain Injury Case”, Handling Accident Cases, Aspects of Head Injury, Vol. 7, Ch. 112, pp. 447 – 452, Cumulative Supplement, October 2002

“Suing the Hospital When Superdoc Falls” (co-authored with Thomas D. Masterson) Trial Magazine, Association of Trial Lawyers of America, May 2002

“Recovering Non-Economic Damages Without Overcoming the Threshold Defense” Journal of the Academy of Florida Trial Lawyers, August 1999

“Personal Injury, Wrongful Death and Insurance” (co-authored with Gary D. Fox) Florida Bar Course on Board Certification in Civil Trial Law, 1998

“Expert Witness’ Preparation Time Is Not Compensable” Journal of the Academy of Florida Trial Lawyers, March, 1998

“First Party Bad Faith”
Florida Bar Continuing Legal Education, 1993

MILITARY SERVICE:

U.S. Army, 82d Airborne Division, 1984-1987
504th Parachute Infantry Regiment
Fort Bragg, North Carolina
Honorable Discharge 1987

JURY VERDICTS & SETTLEMENTS:

Horner v. R.J. Reynolds Tobacco Co. (I)

\$80,000,000

Jury verdict for wrongful death and punitive damages

November 2010

Duignan v. Philip Morris USA, Inc. and R.J. Reynolds Tobacco Company (retrial)

\$26,750,000

Jury verdict for wrongful death and punitive damages

February 2020

Liu v. trucking company

\$17,760,000

Confidentiality order

January 2010

Child v. Booster seat manufacturer

\$16,500,000

Confidentiality order

February 2022

Wilcox v. R.J. Reynolds Tobacco Co.

\$15,500,000

Jury verdict for wrongful death and punitive damages

September 2014

Giambalvo v. R.J. Reynolds Tobacco Co.

\$15,495,000

Jury verdict for wrongful death and punitive damages

February 2022

Westmoreland v. Liggett Group, LLC

\$13,100,000

Jury verdict for wrongful death and punitive damages

October 2014

Fries v. manufacturer

\$13,000,000

Confidentiality order

October 2012

Family v. automobile manufacturer

\$12,900,000

Roof crush/quadriplegia

Confidentiality order

June 2011

Estate v. automobile manufacturer

\$12,500,000

Seatbelt failure

Confidentiality order

September 2008

Duignan v. Philip Morris-USA, Inc. and R.J. Reynolds Tobacco Co. (I)

\$12,000,000

Jury verdict for wrongful death and punitive damages

September 2015

Kee v. automobile manufacturer

\$12,000,000

Roof crush/quadriplegia

Confidentiality order

June 2006

Golden v. Schneider

\$10,231,869

Jury verdict for paralysis following knee replacement surgery

April 1999

Rutkowski v. R.J. Reynolds Tobacco Co.

\$10,060,000

Jury verdict for compensatory and punitive damages

January 2022

Arbor Properties v. insurance companies

\$9,500,000

Hurricane Katrina property damage/insurance bad faith

Confidentiality order

May 2007

Hannon v. Shands at Live Oak Hospital

\$8,000,000

Jury verdict for wrongful death of teenage boy from shunt malfunction

February 2010

Family v. Automobile Manufacturer

\$7,025,000

Wrongful death due to seatbelt defect

Confidentiality order

June 2019

Family v. hospitals, obstetrician, neonatologists

\$7,000,000

Injury to infant

February 2015

Family v. hospital, surgeons and radiologist

\$6,650,000

Wrongful death, blood loss after heart surgery

Confidentiality Order

July 2011

Hall v. hospital, radiologist and orthopedist

\$6,000,000

Delay in diagnosis of spine injury

Confidentiality Order

March 2016

Gafney v. Lorillard Tobacco Company and R.J. Reynolds Tobacco Co. (I)

\$5,800,000

Jury verdict for wrongful death

September 2013

Buchanan v. Philip Morris-USA, Inc. and Liggett Group, LLC

\$5,500,000

Jury verdict for wrongful death

December 2012

Anderson v. Hospital

\$5,400,000

Birth injury to infant

Confidentiality order

May 2012

Landino v. automobile manufacturer

\$5,125,000

Roof crush/incomplete quadriplegia

Confidentiality order

March 2010

Michaux v. Atwater

\$5,060,000

Jury verdict for brain injury from car wreck

September 2001

Ray v. Abruscato

\$5,009,000

Jury verdict for wrongful death of teenage girl from car wreck

December 2010

Yera v. physicians and medical center

\$4,251,000

Wrongful death, delay in treatment of chicken pox

Confidentiality order

September 2005

Huish v. RJ Reynolds Tobacco Company and Philip Morris – USA, Inc.

\$3,750,000

Jury verdict for wrongful death and punitive damages

February 2011

Durrance v. RJ Reynolds Tobacco Company

\$3,450,000

Jury verdict for wrongful death and punitive damages

May 2019

Armstrong v. manufacturer

\$2,925,000

Wrongful death of mother

Confidentiality order

October 2012

Estate v. Tire manufacturer & trucking company

\$2,750,000

Wrongful death of husband

Confidentiality order

March 2020

Opper v. hospital & physician

\$2,750,000

Injury to infant

Confidentiality order

October 2016

Ward v. R.J. Reynolds Tobacco Company and Liggett Group, L.L.C.
\$2,700,000
Jury verdict for wrongful death and punitive damages
January 2012

Widow v. Hospital
\$2,500,000
Postoperative endarterectomy bleed resulting in wrongful death
Confidentiality order
November 2021

Johns v. surgeon, anesthesiologists and hospital
\$2,500,000
Elective back surgery resulting in total blindness
Confidentiality order
February 2009

Hackland v. pediatrician and radiologist
\$2,300,000
Wrongful death of child, failure to treat shunt malfunction
Confidentiality order
January 2003

Diehl v. North Florida Women's Physicians, P.A. and Jean Cook, M.D.
\$2,114,340
Jury verdict for wrongful death, delay in diagnosis of endometrial cancer
October 2007

Clark v. Hospital
\$2,000,000
Wrongful death of child, improper treatment of electrolyte disturbance
Confidentiality Order
February 2017

Lalinde v. hospital and neurosurgeon
\$1,950,000
Wrongful death of child, failure to treat shunt malfunction
Confidentiality order
February 2003

Ballew v. neurosurgeon, otolaryngologist and hospital
\$1,900,000
Paraplegia following sinus surgery
Confidentiality order
July 1997

Rahenkamp v. family physician, ER physician and hospital

\$1,775,000

Wrongful death, failure to diagnose abdominal aortic aneurysm

Confidentiality order

January 2004

Estate v. hospital, surgeon and internist

\$1,750,000

Wrongful death, failure to diagnose and treat postoperative sepsis

Confidentiality order

November 2018

Hoffmaster v. surgeons, anesthesiologist and hospital

\$1,750,000

Wrongful death, elective spine surgery

Confidentiality order

November 2006

Defeo v. hospital, radiologist and internist

\$1,700,000

Wrongful death, delay in treating aortic dissection

Confidentiality order

September 2004

Family v. pathologist

\$1,450,000

Failure to diagnose cancer on biopsy

Confidentiality order

January 2019

Horner v. R.J. Reynolds Tobacco Co. (retrial)

\$1,260,000

Jury verdict for wrongful death and punitive damages

November 2014

Carter v. manufacturer

\$1,240,000

Wrongful death due to defective product

Confidentiality Order

January 2013

Arre v. nurse practitioner and radiologist

\$1,220,000

Delay in diagnosis of breast cancer

Confidentiality order

August 2006

Golden v. anesthesiologists and hospital

\$1,050,000

Paraplegia following knee replacement surgery

Confidentiality order

November 1998

Gafney v. R.J. Reynolds Tobacco Co. (retrial)

\$1,000,000

Jury verdict for wrongful death

February 2019

Dunn v. hospital

\$1,000,000

Wrongful death of child from digoxin overdose

Confidentiality order

December 2011

Hammett v. surgeon

\$1,000,000

Pulmonary injuries from laparoscopic small bowel obstruction surgery

Confidentiality order

March 1999

Mendelson v. Miami International Cardiology Consultants, Inc.

\$946,700

Jury verdict for wrongful death from stent thrombosis

April 2012

Family v. trucking company

\$815,000

Orthopedic injuries after rear-end collision

Confidentiality order

April 2019

Jones v. physician and hospital

\$775,000

Delay in diagnosis of colon cancer

August 1999

Bridgford v. clinic and medical assistant

\$610,000

Delay in diagnosis of cauda equina

Confidentiality order

April 2005

Jenesky v. ER physicians and hospital

\$600,000

Wrongful death, delay in treatment of necrotizing fasciitis

Confidentiality order

July 2003

Andrew v. hospital and radiologist

\$575,000

Wrongful death, delay in diagnosis of cancer

Confidentiality order

June 2014

Peterson v. hospital

\$575,000

Delay in diagnosis of quadriplegia following neck surgery

Confidentiality order

February 2000

Friday v. midwife & hospital

\$566,000

Negligent delivery of child causing Erb's palsy

Confidentiality order

December 2017

Family v. hospital, surgeon & radiologist

\$550,000

Delay in diagnosis of postoperative infection

Confidentiality order

March 2019

Individual v. uninsured OBGYN

\$500,000

Delay in diagnosis of breast cancer

Confidentiality order

October 2019

Dillard v. obstetrician

\$500,000

Negligent delivery of child causing Erb's palsy

Confidentiality order

October 2005

Montesino v. physician

\$500,000

Wrongful death, delay in diagnosis of liver cancer

Confidentiality Order

February 2003

Michaux v. Atwater

Brain injury from car wreck (consortium claim)

\$500,000

July 2001

Russo v. lawyers

\$500,000

Legal malpractice arising from wrongful death case

Confidentiality order

March 1998

Baldini v. physician

\$495,000

Wrongful death, failure to diagnose heart failure

Confidentiality order

June 2011

Jones v. uninsured motorist carrier

\$485,000

Back injuries from car wreck

Confidentiality order

March 2000

Smith v. rehab facility

\$480,000

Knee injuries from fall

Confidentiality order

March 2018

Jackson v. contractor

\$450,000

Shoulder injury

Confidentiality order

July 2018

Tredo v. pathologist

\$450,000

Removal of lung due to incorrect diagnosis of cancer

Confidentiality order

May 2007