



## Consumer protections during Covid-19 pandemic

### A perspective on price gouging

By Searcy Denney attorney Katherine Kiziah

It is a common sight these days: empty shelves in supermarkets and big box stores; signs limiting the purchase of certain products; faces of fear that Covid-19 is spreading fast. Stories about individuals stockpiling gloves, hand sanitizers, and masks, to sell at the highest price. Also stories circulate of businesses that appear to take advantage of a surge in the demand for these products.

The U. S. Public Interest Research Group analyzed prices on Amazon and found that prices for essential items such as masks and hand sanitizers rose 50% above the 90-day price average for the same products before the World Health Organization (WHO) declared the virus a pandemic. Prices soared through the roof for these and related products – items crucial to responding to a health crisis with few, if any, alternatives. What laws are there to protect consumers and competing businesses from these predatory tactics, and what can consumers do to protect themselves?

With the emergence of the Covid-19 pandemic, states are quickly adapting laws originally designed to prevent overcharging during natural disasters (e.g., hurricanes, tornadoes, earthquakes) to meet the current health crisis. There are no federal anti-price gouging laws. Two-thirds of our states have existing price gouging laws. These laws are typically enforced by state attorneys general, with some exceptions, and fall under state unfair and deceptive trade practices laws. Consistent themes among these laws are:

Price gouging laws are triggered by the declaration of a state emergency.

The laws often define a limited group of goods and/or services needed during a state of emergency. Florida law protects the price of “essential commodities,”

with “commodity” defined as “any goods, services, materials, supplies, equipment, resources, or other article of commerce, and includes without limitation, food, water, ice, chemicals, petroleum products, and lumber, necessary for consumption or use as a direct result of the emergency.” In short: need water (covered); want beer (not covered).

The laws typically define the amount of price increase that would result in a violation. The price increase compares the price following the declaration of the state of emergency with prices in a defined period before the emergency took effect. Florida prohibits sales at an “unconscionable price,” defined as a “gross disparity” in price when compared to the average price during the 30 days prior to the emergency.

A price increase that would be considered a “gross disparity” to prices prior to an emergency may be considered acceptable if the business can prove the increase was caused by an increase in cost of the commodity (e.g., shipping costs) or market trends. Since the Covid-19 pandemic is global in effect (as opposed to geographic-specific events), a market analysis would be challenging.

**The price increase compares the price following the declaration of the state of emergency with prices in a defined period before the emergency took effect.**

Penalties include fines and requirements to provide refunds. More severe remedies include criminal charges and temporary or permanent restraining orders.

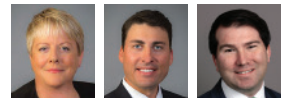
States are rapidly responding to complaints. Florida has issued more than 40 subpoenas thus far to Amazon vendors accused of price gouging. States that previously did not have these laws found creative ways to enact protective rules. Delaware’s emergency declaration includes a provision prohibiting cost increases in excess of 10%. *(Continued on page three.)*

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In November 2019, *Legacy South Florida* published a list of “South Florida’s Most Influential and Prominent Black Women in Business and Industry for 2019.” **Sia Baker-Barnes**, (third from the right in the photo,) was included in the listing. Congratulations on this well-earned accolade! ♦

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A REPORT TO CLIENTS & ATTORNEYS **VOLUME 20, NUMBER 1**

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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.

# COVID-19 RESOURCES For Floridians

## GENERAL INFORMATION

### CENTERS FOR DISEASE CONTROL GUIDELINES

[www.cdc.gov/coronavirus](http://www.cdc.gov/coronavirus)

### FLORIDA DIVISION OF EMERGENCY MANAGEMENT

[www.floridadisaster.org/covid19](http://www.floridadisaster.org/covid19)

### FLORIDA COVID-19 CALL CENTER

1 (866) 779-6121

### FLORIDA DEPARTMENT OF HEALTH GUIDELINES AND INTERACTIVE DATA DASHBOARD

[www.floridahealthcovid19.gov](http://www.floridahealthcovid19.gov)

### OFFICE OF THE GOVERNOR

[www.flgov.com/covid-19](http://www.flgov.com/covid-19)

### PRICE GOUGING

[www.myfloridalegal.com](http://www.myfloridalegal.com)

1 (866) 9NO-SCAM

## FOR SMALL BUSINESSES

### RE-EMPLOYMENT ASSISTANCE

[www.floridajobs.org](http://www.floridajobs.org)

### SMALL BUSINESS LOANS

[www.floridadisasterloan.org](http://www.floridadisasterloan.org)

### TAX RELIEF

[www.irs.gov/coronavirus](http://www.irs.gov/coronavirus)

## FOR FAMILIES

### DISTANCE LEARNING RESOURCES

[www.fldoe.org/em-response/resources-families.shtml](http://www.fldoe.org/em-response/resources-families.shtml)

### MEALS FOR STUDENTS

[www.summerbreakspot.freshfromflorida.com](http://www.summerbreakspot.freshfromflorida.com)

### SCHOOL CLOSURES

[www.fldoe.org/em-response](http://www.fldoe.org/em-response)

### TEACHING INTERNET SAFETY TO KIDS

[https://www.equifax.com/personal/education/identity-theft/teaching-kids-internet-safety/?emlid=585553&Et\\_rid=57739686](https://www.equifax.com/personal/education/identity-theft/teaching-kids-internet-safety/?emlid=585553&Et_rid=57739686)

### 10 VIRTUAL TOURS OF THE WORLD'S MOST FAMOUS LANDMARKS

<https://www.theguardian.com/travel/2020/mar/30/10-best-virtual-tour-worlds-most-famous-landmarks>



## Consumer protections during Covid-19 pandemic

*(Continued from page one.)*

Minnesota's emergency declaration prohibits "unconscionably excessive prices" and provides civil penalties of up to \$10,000 and other remedies. In Massachusetts, protective laws typically applied only to gasoline and other petroleum products. However, its attorney general adopted amendments to its law on an emergency basis to cover products essential to responding to this health crisis.

What goods and services are deemed "essential" or "necessary" under these price gouging laws? Generally, these terms allow enforcing authorities to adjust to different scenarios. WHO issued a disease commodity package for the Covid-19 pandemic. It included gloves, masks, scrubs, and hospital equipment as necessary to fighting the disease. Florida specified necessary commodities to include masks, sanitizing and disinfecting supplies, all commercial cleaning supplies, and personal protective equipment (gowns, booties, gloves, and other protective gear). Consumers who are unsure whether or not a good or service is deemed "essential" or "necessary" should file a report with their state attorney general.

What can consumers do to protect themselves? First, stay informed and be flexible. This is a difficult time for all of us – we are confined at home and cannot do our usual store-to-store comparison shopping. There is high demand for most covered products, and many of the items are already out of stock.

Be wary of websites such as eBay, Craigslist, and Facebook Marketplace. These are "online marketplaces" facilitating transactions between individuals and may not have strong pricing oversight. Several of these websites have already been warned to improve their oversight to prevent price gouging either by individuals or well-known retailers. Victims of price gouging can assist enforcement agencies by gathering related documents, including receipts, screen shots, photographs, estimates, flyers, or other paperwork related to the sale. ♦

**Report price gouging to your  
state attorney general's office.  
In Florida, the Price Gouging Hotline is  
(866) 9NO-SCAM  
(or 866-966-7226).**



## Speaking



**Chris Searcy** spoke at the Florida Justice Association's Masters of Justice Seminar held in September 2019 Orlando, Florida. His topic, "Bad Faith Conflict of Laws," was presented during the "Insurance/Bad Faith Seminar on the Choice of Law – McCullough Case." In December 2019, Mr. Searcy provided a presentation at the American Association of Justice's "Weekend With the Stars Seminar: Stars Aren't Born – They're Made." His topic was "Craft Your Narrative: Planning and Delivering a Compelling Opening Statement." ♦



**Greg Barnhart** spoke at The Florida Bar Association's meeting on February 13, 2020, held at the Tampa Airport Marriott. His topic was "Trial Skills: Opening and Closing Arguments," part of the Civil Trial Update and Board Certification Review. ♦



**Carter Scott**, president of the Florida Justice Association's Young Lawyer Section, spoke to law students at Florida State University Law School during an event sponsored by FJA in February 2020. He discussed why the students should become plaintiffs' lawyers and he shared advice with his listeners. ♦



**Jordan Dulcie** (in photo above,) testified before the Florida House Civil Justice Subcommittee in January 2020 regarding House Bill 9, and its negative impact on victims of negligence and their ability to get appropriate medical care. ♦



In October 2019, **Brenda Fulmer** spoke for the Florida Justice Association's Continuing Legal Education Webinar. Her topic was "Roadmap to Daubert: Selecting and Preparing Technical Experts to Survive the Daubert Challenge."

In November 2019, Ms. Fulmer was moderator for the American Association for Justice's Trailblazer Program. This was a two and one-half day retreat for female trial lawyers from around the nation, focusing on personal and professional development, breaking down barriers, and providing better representation for clients. The event was held at the Boulders Resort & Spa near Scottsdale, Arizona.

In February 2020, Ms. Fulmer moderated a panel discussion before the Women Trial Lawyers Caucus, Leadership Summit 2020, on the topic of "The Power of Team: Strategies for Building a High-Performing Team and Manage Efficiently and Effectively." The Summit was held in New Orleans, Louisiana. Also in February 2020, Ms. Fulmer participated in a panel presentation at the 2020 Winter Meeting of the National Association of Trial Lawyer Executives, held at the Hilton New Orleans Riverside. The panel's topic was "Expanding Borders to Include the Non-Personal Injury Attorney." ♦

*"You can only  
protect  
your liberties  
in this world  
by protecting  
the other man's  
freedom."*

- - Clarence Darrow

## Seven-figure settlement in case reached before lawsuit was filed

In 2018, Robert Brown (not his real name) was looking for a good job and a fresh start. He found both in Stuart, Fla. Robert was hired by a contractor who was remodeling homes. He was good at his new job and enjoyed the work. Robert had also turned the corner on his prior substance abuse struggles. Now in his late twenties, he was enjoying ten months of sobriety and still counting. For others living with him at a sober-living facility, Robert was a beacon of hope. He was understandably proud of the direction his life was now heading.

On a clear morning in April 2019, Robert's recent and future accomplishments were tragically taken from him. He was heading to work at a job site near Indiantown, Florida, when he slowed his pickup truck to a stop, waiting for oncoming traffic to clear in order to make a left turn. For reasons that may never be known, a commercial truck driver operating a fuel-delivery truck failed to notice that Robert's vehicle had stopped. The fuel-delivery truck slammed into the back of Robert's pickup truck pushing it forward and into the path of a semi-trailer truck coming from the opposite direction. Robert died at the scene of the accident.

Robert was not married and had no children. His parents, Jean and Ralph Brown, were designated his survivors under Florida's Wrongful Death Act. The Browns, still living in Wisconsin where Robert grew up, contacted the Wisconsin firm of Habush Habush & Rottier, S.C., and asked the firm to investigate the death of their son. Because his death had occurred in Florida, the firm enlisted the help of SDSBS attorneys **Chris Searcy** and **Jack Hill** to prosecute a wrongful death case on behalf of Robert's estate and the parents as his survivors. Mr. Searcy and Mr. Hill immediately retained appropriate experts to inspect the scene of the accident and the vehicles involved in order to gather evidence about the circumstances surrounding Robert's death.

The attorneys presented a demand for policy limits from the fuel-delivery truck driver, his employer, and their insurance carriers. A confidential multiple seven-figure settlement was reached before a lawsuit was filed. While the settlement will never adequately compensate the Browns for their tremendous loss, the speed at which the parties reached settlement and avoided protracted litigation was a comfort to Robert's parents. Thankfully, they have been able to shift their focus from the circumstances of Robert's death to a reflection of his life and the accomplishments that had inspired others. ♦

## Seven-figure settlement in case against VA Medical Center for wrongful death due to negligent medical care

**VA Hospital failed to provide appropriate and timely treatment for Navy veteran.**

SDSBS attorneys **Ed Ricci** and **Elise Sherr Allison** successfully reached a seven-figure settlement with the Miami VA Healthcare System's parent facility, the Bruce W. Carter VA Medical Center in Miami, Florida, for the wrongful death of Bob Bradford, a robust 74-year-old man who passed on February 13, 2017, due to negligent medical care. (The case had been scheduled to begin trial in April 2020.) Mr. Bradford was a U. S. Navy veteran who went on to complete a successful career with the Department of Homeland Security in the field of counter-terrorism.

Mr. Bradford presented to the Carter VA Medical Center on June 29, 2016, with acute gallbladder illness (cholecystitis). The VA Hospital failed to provide appropriate and timely treatment for his condition and the disease deteriorated over the next 32 days. This resulted in a gangrenous gallbladder

**The delay in treatment led to multiple hospitalizations for protracted acute life-threatening conditions, and ultimately, his death.**

and a pus-filled abdomen necessitating emergency abdominal surgery on July 31, 2016. The delay in treatment led to multiple hospitalizations for protracted acute life-threatening conditions including persistent pain and suffering, profound malnutrition, neuro-muscular debility, multiple infectious bedsores, poly-microbial drug-resistant bacterial processes, global multi-system injuries, and, ultimately, his death.

Mr. Bradford is survived by his wife and two daughters, one of whom, following in her father's footsteps, is on active duty with the U. S. Navy. ♦

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# At-fault driver's insurance carrier tries to avoid claim for injuries in motorcycle accident

**Insurance carrier was eventually compelled to settle claim for hundreds times the policy limit.**

In October 2017, John Smith (not his real name) was riding his motorcycle on Indiantown Road in Jupiter, Florida. Without warning, a sedan pulled out into John's path causing John's motorcycle to impact the sedan. John was propelled into the air by the impact. John traveled a significant distance through the air and made a hard landing on the curb of the median. John sustained catastrophic injuries and spent the following month in nearby St. Mary's Hospital. While recovering in the hospital, he incurred millions of dollars in medical expenses. Upon speaking with his own insurance carrier, John learned that the at-fault driver had an insurance policy with a limit of only \$10,000. That small amount would provide only a very marginal amount of relief. Nevertheless, John and his family gathered a package of his medical bills and records and sent the package to the at-fault driver's insurance carrier with a request for the \$10,000. The family was shocked at the insurance carrier's response: their claim was denied because the policy coverage on the at-fault vehicle was being retroactively removed! In light of the accident's circumstances and the insurance carrier's blunt denial, John and his family contacted SDSBS attorneys **Chris Searcy** and **Boris L. Zhadanovskiy** to seek their assistance in holding the insurance carrier accountable.

The attorneys immediately filed a lawsuit against the insurance carrier to learn the basis for the carrier's decision. They uncovered a complicated coverage dispute fueled by uncertainty as to the owner of the vehicle. Shortly after the lawsuit was filed, the insurance carrier offered John the \$10,000 coverage limits but did not explain what had changed between its initial denial of claim and the lawsuit which had apparently coaxed a "change of heart." On the

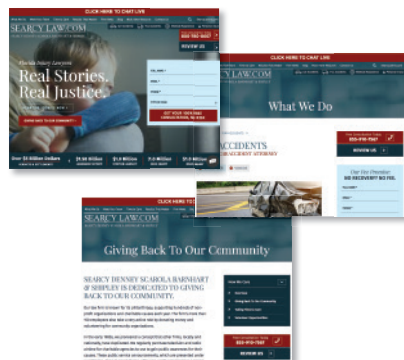
**Mr. Zhadanovskiy informed the insurance carrier that it had failed to meet its obligations under law, and that the opportunity to pay the miniscule limit of the policy was now gone.**

advice of counsel, John and his family rejected the insurance carrier's belated offer. Mr. Zhadanovskiy informed the insurance carrier that it had failed to meet its obligations under law, and that the opportunity to pay the miniscule limit of the policy was now gone. A trial date was set and, as it grew closer, the insurance carrier realized that its actions might not be viewed favorably by a jury. John's attorneys, with the help of attorney Greg Yaffa of Domnick Cunningham and Whalen (experienced in lawsuits involving bad-faith insurance issues) were able to secure a settlement worth hundreds of times more than the original policy limit. ♦

## Searcy Denney Websites

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**www.SearcyLawTallahassee.com**  
for the latest news and information on  
our firm, attorneys, articles, cases, etc.



Log on to...

**www.SearcyMassTort.com**  
for the latest news and information  
on Mass Torts (torts involving people  
harmed in a similar way, usually by a  
drug, medical device or a product.)



Log on to...

**www.SearcyLatino.com**  
for the latest news and  
information about our firm  
in Spanish.





## Surgeon erroneously removes 'abdominal mass' in patient, which turns out to be perfectly good kidney

## Surgeon failed to review medical records detailing unusual position of kidney.

On March 1, 2016, Jane Doe treatment with an orthopedic pain. Ms. Doe had previously examinations, both of which revealed, among other things, that Ms. Doe's left kidney was located in her pelvis instead of in her abdomen. This condition occurs in approximately one in 500 people in the United States and is not harmful. In her own case, Ms. Doe's left kidney was fully functional and, based on multiple MRIs, was well known to her physicians. Due to the back pain, the orthopedic physician scheduled her for low-back fusion surgery which would be performed with a second orthopedic physician.

On the day of surgery, Ms. Doe was first introduced to a general surgeon who explained that he would be performing the initial part of the surgery – exposing the surgical site for the orthopedic surgeons. After placing Ms. Doe under anesthesia, the general surgeon made initial incisions. He found what

he described and labeled as an “abdominal mass.” The general surgeon, having failed to review the medical records documenting Ms. Doe’s pelvic kidney, removed the “mass” and sent it to pathology. Pathology immediately identified the “mass” as an “intact kidney.” When Ms. Doe awoke, she was informed by the surgeon that he had removed her left kidney.

Though a person can live on one kidney, Ms. Doe suffered tremendous mental anguish at having a major, fully-functioning organ removed in error. Her right kidney was able to compensate for the loss of the left kidney, but this was no substitute for losing a vital organ. Ms. Doe reached out to SDSBS attorneys **John Shipley** and **D.J. Ward** for help in finding the physicians accountable for their mistake. Ultimately, the attorneys were able to reach a substantial confidential settlement against the general surgeon for his

negligence in deciding to remove Ms. Doe's left kidney, as well as a settlement against the other physicians for their failure to inform the general surgeon of Ms. Doe's properly functioning pelvic kidney. ♦



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## MASS TORT PROJECTS OF INTEREST

### **3M Dual-Ended Combat Arms Earplugs**

Tinnitus  
Hearing Loss

### **Allergan Breast Implants**

Immune System Cancer

### **Belviq**

Pancreatic, Lung and  
Colorectal Cancers

### **DePuy Attune Knee Implants**

Premature Device Failure  
Tibial Baseplate Loosening

### **Essure**

Organ Perforation

### **Ethicon Surgical Stapler**

Suture Line Failure  
Internal Organ Damage  
Death

### **Ethylene Oxide**

Blood Cancers  
Breast Cancer

### **Hernia Mesh**

Bowel Obstruction  
Mesh Migration

### **IVC Filter**

Device Fracture  
Heart and Lung Perforation  
Device Migration

### **JUUL Vaping Pods**

Lung Disease

### **Losartan and Valsartan**

Bladder, Liver, Colorectal,  
Stomach and Esophageal  
Cancers

### **Metal-on-Metal Hip Implants**

Device Failure and Loosening  
Inflammatory Response  
Metallosis

### **OxyContin, Oxycodone, and Other Opioids**

Government Abatement Costs  
Overdose

### **PFAS Fire-Fighting Foam**

Water Contamination  
Kidney Cancer  
Bladder Cancer  
Leukemia

### **Proton Pump Inhibitors (Nexium, Prevacid, Prilosec, Aciphex, Protonix, Zegerid, and Dexilant)**

Renal/Kidney Failure

### **Provigil and Nuvigil**

Birth Defects

### **Risperdal**

Gynecomastia

### **Roundup Weed Killer**

Non-Hodgkin's Lymphoma

### **Smart Set Bone Cement**

Loosening  
Debonding

### **Smith & Nephew Modular SMF and REDAPT Hip Implants**

Premature Device Failure  
Metallosis  
Inflammatory Response

### **Stryker Modular Hip Implants**

Premature Device Failure  
Metallosis  
Inflammatory Response

### **Talcum Powder**

Ovarian Cancer  
Mesothelioma

### **Taxotere**

Permanent Hair Loss

### **Xeljanz**

Blood Clots  
Pulmonary Embolism

### **Zantac**

Bladder, Liver, Colorectal,  
Esophageal and Stomach  
Cancers

### **Zimmer Biomet Shoulder**

Device Fracture

### **Zimmer M/L Taper, Kinectiv, and VerSys Hip Components**

Premature Device Failure  
Trunnionosis  
Metallosis  
Inflammatory Response

### **Zofran and Depakote**

Birth Defects

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### **3M Dual-Ended Combat Arms Earplugs**

**USE:** Ear protection

**HARM:** Tinnitus; hearing loss, and other hearing problems.



### **JUUL Vaping Pods**

**USE:** Nicotine replacement delivery system

**HARM:** Vaping associated lung diseases, and nicotine addiction.



### **Smith & Nephew and Stryker Modular Hip Implants**

**USE:** Hip implant devices

**HARM:** Breakdown of metallic surfaces; abnormal wear; premature device failure; elevated cobalt and chromium; metallosis; and pseudotumor formation.



### **Metal-On-Metal Hip Implants**

**USE:** Hip implant devices with metal head and liner

**HARM:** Breakdown of metallic surfaces; abnormal wear; premature device failure; elevated cobalt and chromium; metallosis; and pseudotumor formation.



### **Zantac**

**USE:** Indigestion, acid reflux, and GERD

**HARM:** Bladder, liver, stomach, colorectal and esophageal cancers.



### **Zimmer M/L Taper, Kinectiv, and VerSys Hip Components**

**USE:** Hip implant devices with metal head

**HARM:** Breakdown of metallic surfaces; trunnionosis; abnormal wear; premature device failure; elevated cobalt and chromium; metallosis; and pseudotumor formation.

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## Accolades



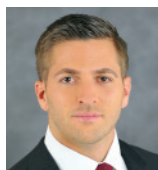
In February 2020, *The Palm Beach Post* reported “The Best of Palm Beach County Awards.” **SDSBS** was chosen as The Best Law Firm! We are proud of the recognition that our home community has given us. Thank you! ♦



In October 2019, **Karen Terry** was elected vice-president of the Palm Beach County Chapter of the American Board of Trial Advocates. **Matt Schwencke** was sworn in as a new member. ABOTA is a national association of experienced trial lawyers and judges. It was founded in 1958 to foster improvement in the ethical and technical standards of practice in the field of advocacy. ABOTA members are dedicated to the preservation and promotion of the right to a civil jury trial provided by the United States Constitution’s Seventh Amendment. Membership is by invitation only. ♦



In March 2020, the Palm Beach County Bar Association’s *Bar Bulletin* featured attorney **Laurie Briggs** in its “Member Spotlight.” The article featured Ms. Briggs’ early background and education and her extensive support for numerous charities including SDSBS Giving B.A.C.K. (Basic Acts of Community Kindness). For over 15 years, she has been deeply involved in Friends of Foster Children, Inc., dedicated to meeting the needs of children in foster care in Palm Beach County. She has been president of its board of directors for the past 12 years. At SDSBS, she has worked primarily on tobacco litigation, overseeing the firm’s more than 500 tobacco-related cases. Congratulations for the recognition, Laurie! ♦



Attorney **David Vitale** was recently appointed to the board of directors of the Boys & Girls Club of Delray Beach, Florida. They work to help youth of all backgrounds become responsible citizens and leaders. ♦



Attorney **Michael Kugler** was recently appointed to a four-year term as commissioner of the Palm Beach County Commission of Ethics. As commissioner, he will be fostering integrity in public services and promoting the public’s trust and confidence in the local community. ♦



In November 2019, the Forgotten Soldiers Outreach, Inc., hosted its “Fifth Annual Hero’s Toast Champagne Brunch” held at the Kravis Center in West Palm Beach, Florida. This organization was founded to help send a little bit of home to deployed military personnel, including letters of encouragement and “We Care” packages of much-needed care items. **Jack Hill** accepted the “Distinguished Taking the Time to Care Award” on behalf of SDSBS, recognizing the firm’s continued support and participation in the organization’s mission. ♦



In January 2020, attorneys **Juan Diaz** and **Boris Zhadanovskiy** were sworn in as members of the board of directors of the Young Lawyers Section of the Palm Beach Justice Association. This will be Mr. Zhadanovskiy’s second term of office on the board. Attorney **D. J. Ward** was elected treasurer on PBCJA’s board of directors. The goal of PBCJA, established in 1988, is to provide civil trial lawyers with the tools and resources needed to improve and enhance trial practices. ♦



In January 2020, three SDSBS paralegals were sworn into offices of the Palm Beach County Chapter of the Paralegal Association of Florida, Inc. **Olga Patterson** was elected chapter president. **Angela Eckman** was elected the chapter’s second vice-president. And **Aracely Mayorga** was elected chapter secretary. Congratulations to all! ♦





## Renting a vacation home? Be wary!

During a recent holiday season, Joe and Kim (not their real names) and their two young children were looking forward to spending family time at a vacation rental house they had leased. The vacation rental website they contacted had marketed the house as located on a beautiful island with a swimming pool, beautiful views of the ocean, a boat to use during their stay, a helicopter pad, and all the amenities a family needs to have fun in the sun. Unfortunately, the marketing information failed to note that the helicopter pad had been removed and that during low tides the island was virtually inaccessible by any boat – there would be no way to access or leave the island at low tides.

Upon arrival, the family spent the day in the pool, grilling dinner, and simply relaxing. When it was time to go to bed, the children went to sleep in their bedrooms, and Joe and Kim, reflecting on how lucky they were, went to sleep in their room.

Around 3:00 a.m., Kim heard Joe make an unusual sound as he slept. Thinking he was snoring, Kim gently tried to wake him. He did not respond. She realized that Joe was apparently suffering from either a heart attack or some kind of respiratory distress. Kim immediately called 911 and was directed by the dispatcher to attempt cardiopulmonary resuscitation (CPR). She managed to get her husband onto the floor and began CPR. The children were awakened by the disturbance, and their daughter took her younger brother into another room in the house.

The emergency dispatcher told Kim that the Coast Guard and local police were headed to their location by boat. For 20 more minutes, Kim applied CPR to her husband, eventually asking the dispatcher where the emergency crew was. The

dispatcher said that the emergency crews had arrived and could see someone on land waving a cellphone light in an attempt to direct them. However, due to the low tides the boats were unable to navigate the shallow waterway channel to gain access to the island. Dispatch advised Kim that the emergency medical care she needed to save Joe's life would not be available until the tide changed. After 45 minutes of CPR efforts, Kim stopped the chest compressions. Joe died early that morning. About six hours later, the emergency crews were able to access the island but it was too late.

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The family contacted SDSBS attorney **Adam Hecht** for help in finding accountability for the failure to warn potential renters of the known dangerous conditions at the rental. Mr. Hecht spoke with the emergency crews and learned that this was not the first time they could not access the island in such an emergency. The helicopter pad would have been the easiest and quickest way for emergency access had not the owners removed the pad months earlier. Further, the vacation rental was not equipped with any life-saving devices such as an Automated External Defibrillator (AED).

Mr. Hecht filed a lawsuit on behalf of the family against the owners of the vacation rental for their failure to warn of the dangerous conditions. The case was settled for a confidential amount. ♦



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## **Lack of basic physical and mental care results in death of Florida prison inmate**

Searcy Denney has regularly engaged in cases involving issues with complex social ramifications on behalf of vulnerable and disadvantaged persons. Recently, SDSBS attorney **Jack Scarola** was recruited by the Human Rights Defense Center to represent the family and estate of Vincent Gaines, a Florida prisoner who was deprived of adequate nutrition and treatment for his physical and mental health needs. The lack of care resulted in prolonged malnutrition and his eventual death from starvation. Mr. Gaines' long history of mental illness placed him among the most vulnerable members of society. Government institutions and individuals charged with the responsibility of caring for him failed to provide the most basic care, and they ignored the serious consequences of that neglect.

Unfortunately, the inadequate treatment provided to Mr. Gaines was not an isolated event. Both the Florida Department of Corrections (FDOC) and Corizon Health, Inc., (FDOC's contractor for medical and mental health services) have a history of failing to provide adequate proper care for mentally-ill prisoners which led to the death of other inmates. Similar lawsuits were brought against Corizon in Alabama, Arizona, Oregon, and Florida, and were successfully concluded with multi-million dollar settlements.

Searcy Denney agreed to take the case recognizing the complexity of the issues as well as the considerable social justice aspect of the case. Mr. Scarola enlisted SDSBS attorney **Elise Sherr Allison** to help lead the charge to pursue justice for the Gaines family. Ms. Allison has extensive experience in federal court having clerked for the Honorable Jose E. Martinez in the Southern District of Florida. The case is currently pending in the U. S. District Court for the Middle District of Florida. Updates will be provided as the case progresses. ♦



**SDSBS staff volunteers at Jack the Bike Man's Christmas Bike Giveaway and is a sponsor at their Annual Gala**

SDSBS was a sponsor of Jack the Bike Man's Third Annual Gala held in December. SDSBS has long been a supporter of Jack the Bike Man, Inc., (AKA, Samuel H. "Jack" Hairston) who gives away thousands of bikes to underprivileged kids, homeless persons, men and women re-entering society from prison or recovering from addictions, and others in need of help. The SDSBS staff served as volunteers at the organizations Christmas Bike Giveaway. ♦



**Taking...** *Time to Care*



**"DownRight ExtraOrdinary Walk for Down Syndrome sponsored by SDSBS**

On October 14, 2019, SDSBS was a sponsor and its staff participated in the "DownRight ExtraOrdinary Walk for Down Syndrome" held at the John Prince Park in Lake Worth, Florida. The event also celebrated the 25th Anniversary of the Gold Coast Down Syndrome Organization. ♦



**SDSBS and staff help to support "Dogs to the Rescue" service dog organization**

SDSBS was a sponsor and staff participated in "Santa's on the Run 5K," held December 7, 2019, in West Palm Beach, Florida. The event provided support for "Dogs to the Rescue," an organization that provides, free of charge, a PTSD service dog or comfort dog for every firefighter, paramedic, police officer, or critical care nurse that needs one. Volunteers raise, train, and foster these dogs. ♦

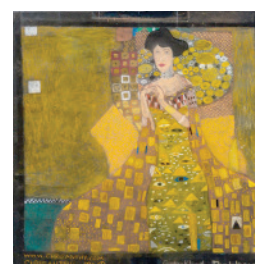


**"Glow in the Dark 5K Fun Race" included SDSBS team**

SDSBS sponsored a team to participate in the "Glow in the Dark 5K Fun Run" held January 18, 2020, at the Royal Palm Beach Commons Park in West Palm Beach, Florida. The event supported funding for the American Cancer Society's "Relay for Life." ♦

**SDSBS was a Festival sponsor for city's annual event**

The annual Lake Worth Street Painting Festival was held in March 2020. The Festival follows a tradition traced back to 16th century Italy when itinerant artists would use chalk to transform pavement into makeshift canvas. Crowds still gather and enjoy fine works of art emerge. All proceeds benefit the Street Painting Festival Scholarships awarded each May to Palm Beach County graduating high school students and community projects associated with the arts. ♦







### **SDSBS helps provide bags and boxes for local foster children**

SDSBS was a sponsor at the "Second Annual Kits for Kids Project" in Jupiter, Florida, in November 2019. Maria and Michael Kugler reported that 106 volunteers – including SDSBS staff members – decorated duffel bags and birthday boxes for 79 local foster children. ♦



### **SDSBS supports literacy programs in Palm Beach County, celebrating the past, (for 30 years!) present and future**

In February 2020, the Literacy Coalition of Palm Beach County hosted its Tenth Annual "Loop for Literacy 5K Walk-Run-Bike Race". SDSBS was a sponsor of the event and had a team participating. The event provided a way to promote wellness and team-building while supporting the goal that every adult and child in Palm Beach County will be able to read. Joan Williams, Director of Marketing at SDSBS, is on the board of directors of this organization. ♦

### **SDSBS gives B.A.C.K. ("Basic Act of Community Kindness") with Thanks-giving turkey giveaways**

In November 2019, the employee-based "SDSBS Giving B.A.C.K. (Basic Acts of Community Kindness)" spearheaded a "Turkey Giveaway" event, delivering Thanksgiving turkeys to numerous organizations including the Friends of Foster Children. ♦



### **SDSBS team participates in "Bridge the Gap 5K Run" to support Take Stock in Children**

In February 2020, SDSBS sponsored a team to participate in the inaugural "Bridge the Gap 5K Run" hosted by Take Stock in Children Palm Beach County. Running and walking in the rain, wind, and cold, 794 participants raised \$149,000 for Take Stock's program to provide low-income, first-generation students the ability to attend college and break the cycle of poverty. The proceeds from the event were matched by the Florida Prepaid Foundation. ♦



### **Peggy Adams Animal Rescue League's 'Walk for the Animals' a great success with SDSBS as a sponsor**

SDSBS was a sponsor of the Peggy Adams Animal Rescue League's "Walk for the Animals" fundraiser. SDSBS staff fielded a team at the event. The Rescue League rescues homeless and abused animals, trains, cares and works to re-home them. SDSBS also sponsored Peggy Adams' "Sixth Annual Countdown 2 Zero," pet adoption event, which found homes for 195 dogs, cats, and other small animals. ♦





### **SDSBS staff participated in “MUDGIRL Obstacle Race” in January 2020**

SDSBS staff participated in the “MUDGIRL Obstacle Race” held January 28, 2020, in Boca Raton, Florida, to raise funds to support the Breast Cancer Research Foundation. The MUDGIRL Run is an obstacle race dedicated to women. Since it was organized in 2015, MUDGIRL has committed itself to partner with renowned foundations that fight breast cancer. ♦



### **SDSBS sponsors 4Cs Golf Tournament held to provide needy children with donated clothing**

The 23rd Annual 4Cs Golf Tournament was held in October 2019 in Palm City, Florida. The event supports the programs of “Caring Children Clothing Children (4Cs).” Volunteers gather donated children’s clothing and provide it to needy children at no charge to their families. SDSBS was a sponsor at the event and Chris Rodgers participated in the tournament. ♦

## **Taking... *Time to Care***



### **“Run for the Ice Cream” raises funds to benefit Feeding South Florida**

In December 2019, SDSBS staff formed a team to participate in the “Run for the Ice Cream” event held in Delray Beach, Florida. The event was held to raise funds to benefit Feeding South Florida, serving Palm Beach, Broward, Miami-Dade, and Monroe Counties. ♦



### **“JDRF One Walk Greater Palm Beach” exceeds goal to support juvenile diabetes research**

In March 2020, SDSBS sponsored a team to participate in the Juvenile Diabetes Research Foundation’s “JDRF One Walk Greater Palm Beach.” JDRF’s goal is to create a world without Type 1 Diabetes. The Walkers exceeded their goal of raising \$400,000 to support research on this disease. ♦

### **Riviera Beach Police and SDSBS staff provide a safe and fun Halloween evening**

At the end of October 2019, the Riviera Beach Police Department hosted their Annual Trunk or Treat event, providing a safe and fun place for children to enjoy Halloween trick or treating. SDSBS was a sponsor of the event and staff participated in the games and costume events. ♦





A REPORT TO CLIENTS & ATTORNEYS **VOLUME 20, NUMBER 1**

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