

**SEARCY  
DENNEY  
SCAROLA  
BARNHART  
& SHIPLEY**

**ATTORNEYS AT LAW**

# Of Counsel

A REPORT TO CLIENTS & ATTORNEYS  
VOLUME 23, NUMBER 1

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## Searcy Denney reached settlement for \$4.5 million on an insurance policy with a \$1 million limit

**Florida's Bad Faith Law: It holds insurance companies accountable**

If you have been following the news lately, you have undoubtedly seen reference to the Florida Governor's and Legislature's tort "deform" agenda. One of the targets of this agenda is Florida's Bad Faith Law.

What is Bad Faith Law? In Florida, if you are hurt due to negligence and the person who hurt you has insurance, the insurance carrier has a duty to settle your claim within the policy limits when it could and should have done so. If an insurance company plays games and fails to settle a claim when it could and should have done so, Florida's Bad Faith Law says that the insurance company may be responsible for the ENTIRE amount of damage, even if it far exceeds the policy limits. Our current Bad Faith Law, therefore, protects injured folks from the risk that the insurance company will refuse to pay fair value for injuries caused by their policyholder and choose instead to drag the claims process out as long as possible, hoping to wear the injured parties down to accepting only a fraction of what they are entitled.

At Searcy Denney, we have repeatedly held insurance companies accountable when they have handled claims in



bad faith. Recently, attorneys **Chris Searcy** and **David Vitale** represented a couple who were severely injured when a tractor-trailer lost control and crossed into oncoming highway traffic, barreling into our clients' car and smashing it into a telephone pole. The car was effectively ripped in two. Miraculously, both clients survived this horrific crash, although one had to be airlifted to the *(Continued on page four.)*

## Combined \$3.5 million settlement for two families with newborns

**In two unrelated cases, Florida hospitals failed to provide proper medical care for pregnant mothers resulting in severe damage to babies.**

Tragically, two families suffered very similar fates when they entered two different Florida hospitals seeking care in their pregnancy and the delivery of their newborn children. In the first instance, the mother, experiencing an uncomplicated pregnancy, arrived at the hospital prepared to give birth. After almost 24 hours in labor, the situation became dire as

the fetal heart monitor began to show signs of fetal distress. Despite hours of prolonged labor and the use of high-risk medications to progress the labor, no doctor was summoned to examine the mother or baby. An hour before delivery, more signs of fetal distress began to emerge. Rather than immediately securing delivery of the fetus, the medical team – without a physician on duty – continued urging the patient to deliver the baby vaginally. Their persistence and delay resulted in the baby suffering poor Apgar scores – an index evaluating the condition of a neonate (specifically color, heart rate, stimulation response, muscle tone, and respiration). Ultimately, the infant was diagnosed with moderate hypoxic ischemic encephalopathy – a brain injury that will affect the child for life. *(Continued on page two.)*

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A REPORT TO  
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**Combined \$3.5 million settlement  
for two families with newborns**  
*(Continued from page one.)*

In another Florida family, the pregnant mother presented with a unique uterine anatomy that could lead to an increased risk of preterm labor. Not surprisingly, around 28 weeks of pregnancy, doctors in charge of her care began documenting signs of potential preterm labor. The mother had made several trips to hospitals complaining of bleeding and a feeling that the fetus had dropped within her uterus. Instead of admitting the mother for longer monitoring or initiating treatment that would help develop the baby and lower the risk of preterm labor, the doctors discharged the mother after only a few hours of medical observation. At 32 weeks, the mother experienced a premature delivery. Her newborn child suffered periventricular leukomalacia caused by a lack of oxygen to the brain. The doctors' failure to act to prolong the pregnancy resulted in premature birth. Diagnosis of the newborn's life-long difficulties include motor function disorders, tight or spastic muscle movement, and weakness. Learning difficulties and other developmental issues are common.

Each family reached out to Searcy Denney for advice. Attorney **Jordan Dulcie** signed on to help the families find accountability. Despite several complex factual challenges, legal issues, and a fight for justice over several years, Mr. Dulcie was able to secure settlements for both families in a combined amount of \$3.5 million. Although the settlement will not change the life-long challenges these young children face, it will help both families meet the needs they will face in the future. ♦



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