SEARCY DENNEY SCAROLA BARNHART & SHIPLEY

OF COUNSEL

A quarterly report to clients and attorneys.

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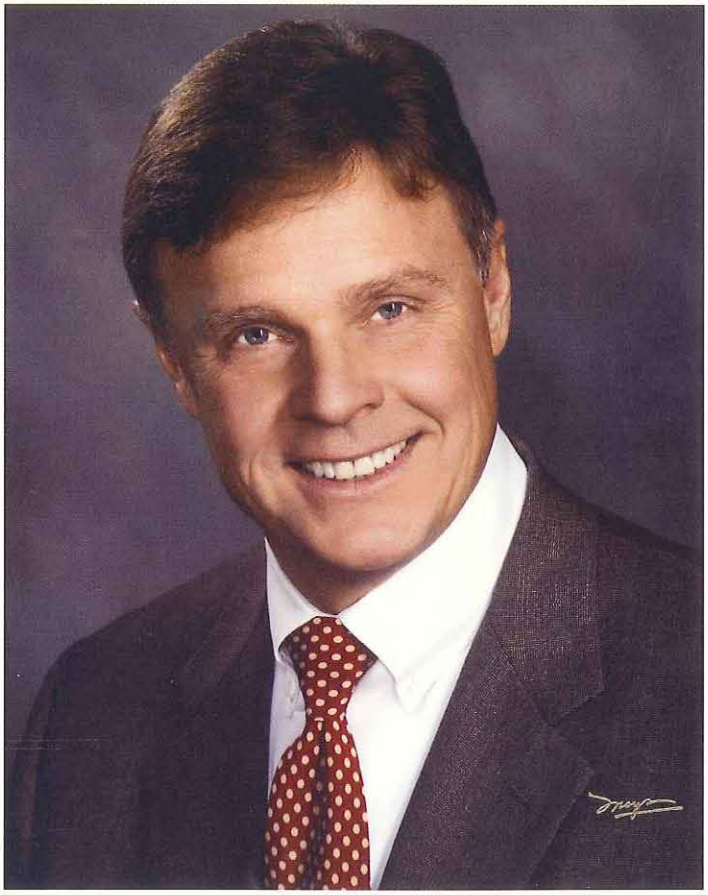
NUMBER 4

Chris Searcy Awarded Prestigious 2005 'Perry Nichols Award'



Searcy Denney Scarola Barnhart & Shipley is proud to announce that its president and CEO, Christian D. Searcy, has been named the 2005 recipient of the prestigious 'Perry Nichols Award' by the Academy of Florida Trial Lawyers. The Academy's Board of Directors voted unanimously to present the annual award to Mr. Searcy. The presentation was held at the Academy's Fall Convention in Orlando, Florida. The Academy is based in Tallahassee. Mr. Searcy was also recently inducted into the International Society of Barristers.

First established in 1977 as a tribute to Academy founder Perry Nichols, the award is the highest honor the Academy bestows. It was presented to Chris Searcy in recognition of his lifetime of outstanding and distinguished service to the cause of justice in Florida and throughout the nation.

"With this award, the Academy is honoring Chris Searcy's unparalleled commitment to serving and protecting the people of Florida," said Scott Carruthers, Executive Director of the Academy. "As a lawyer, and as a past president of the Academy, Chris has shown unwavering dedication to defending the court system through legislative and political efforts."

The Perry Nichols Award has been presented to prominent statesmen, journalists, judges and educators from Florida who have demonstrated extended, distinguished and passionate service to the cause of justice.

Past recipients of the Perry Nichols Award include Florida governors Reuben Askew (1983) and Leroy Collins (1990), and Senator Claude D. Pepper (1988). More recent recipients include Lake Lytal, Jr., of West Palm Beach (2000), S. Victor Tipton of Maitland (2001), W. McKinley Smiley of St. Petersburg (2002), and Neal Roth of Miami (2003).

"Chris' excellent courtroom skills, his dedication to preserving access to courts for all Americans, and his personal and professional support of charities committed to supporting children, improving education, and helping the disabled and disenfranchised, make Chris an example all lawyers strive to emulate," said Web Brennan, President of the Academy. ■

SEARCY
DENNEY
SCAROLA
BARNHART
& SHIPLEY PA
Attorneys at Law

WEBSITE: www.searcylaw.com

2139 PALM BEACH LAKES BOULEVARD
WEST PALM BEACH, FLORIDA 33409
TOLL FREE: 800-780-8607 · LOCAL: 561-686-6300
FAX: 561-478-0754

THE TOWLE HOUSE, 517 NORTH CALHOUN STREET
TALLAHASSEE, FLORIDA 32301
TOLL FREE: 888-549-7011 · LOCAL: 850-224-7600
FAX: 850-224-7602

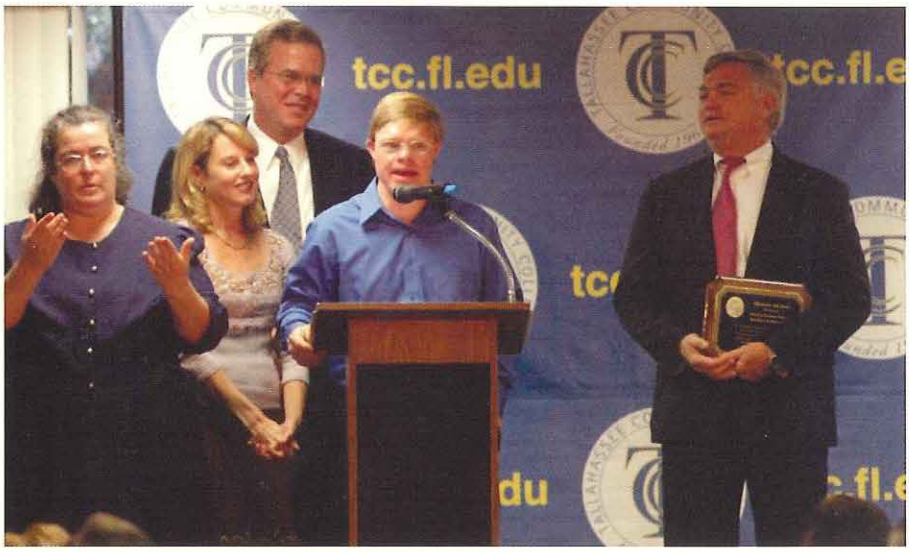
NOTE: The accounts of recent trials, verdicts and settlements contained in this newsletter are intended to illustrate the experience of the firm in a variety of litigation areas. Each case is unique, and the results in one case do not necessarily indicate the quality or value of any other case. Omitting clients' names and/or defendants' names are the result of requests for anonymity.

SDSBS Receives Award from Family Care Council Florida

Searcy Denney Scarola Barnhart & Shipley (SDSBS) is proud to announce that the law firm has been named a recipient of the '2005 Celebrate Employment Award' from the Family Care Council Florida. The West Palm Beach-based law firm is one of only three Florida employers to receive this prestigious award for hiring and promoting people with disabilities.

Accepting the award on behalf of SDSBS was attorney Bill Norton. The law firm's nomination was submitted to the Council by Joey Cain, with the assistance of his employment coach, The Arc of Palm Beach County. Joey has been employed with SDSBS for 16 years.

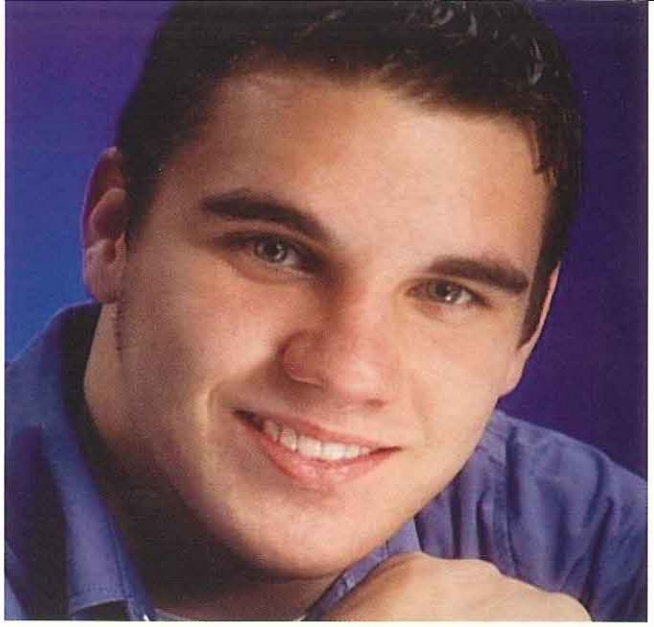
The '2005 Celebrate Employment Awards' were presented on October 18th by Governor Jeb Bush at the Big Bend Business Leadership Network Kick-Off at Tallahassee Community College. The Network encourages employers to recruit, hire, train, and retain qualified workers with disabilities. ■



Above: Joey Cain speaking at the Celebrate Employment Awards event with attorney Bill Norton, right, who accepted the award on behalf of SDSBS.

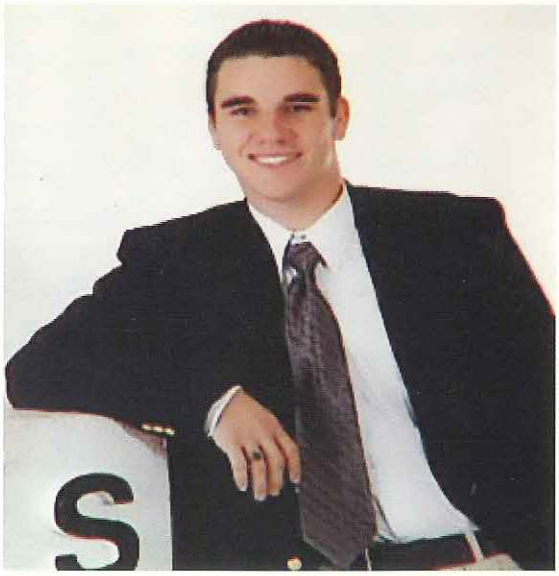
Left: (l-r) Howard Olshansky, director of The Arc, with Joey Cain and his supervisor, Phoebe Harris, both employees at SDSBS.

Roof Crush Defect In SUV Causes Horrific Brain Injury



General Motors had long been aware of the problems involving roof crushing during rollovers.

On March 9, 2002, 17 year old high school senior Robert "Chad" Granger was homeward bound after a long day of work for a neighbor's moving company. This exceptionally mature and loving young man was looking forward to the summer of his senior year, college at the University of Florida, and law school. Chad was traveling westbound on Interstate 10 in Jacksonville, Florida, in a 1995 Chevrolet Suburban SUV, a vehicle manufactured by General Motors. He was in the front passenger seat with his seat belt properly fastened. The driver of the Suburban made a lane change to avoid a slow-moving vehicle in front of them. The Suburban swerved left, slightly off the edge of the road, then swerved right, back onto the roadway. According to physical evidence at the scene, the vehicle lost traction and began rolling onto its driver side and then onto its passenger side roof edge. The roof section above Chad's head crashed downward, striking his head and causing serious skull fractures and significant swelling in his brain.



At the time of the crash, Trooper Jim Mason of the Florida Highway Patrol was parked at a rest stop on the eastbound side of Interstate 10. Upon witnessing the accident, Trooper Mason crossed the highway to secure the scene. Upon arrival, he noted Chad was not moving. When Trooper Mason reached inside the vehicle, he felt Chad move and noticed that he was bleeding severely from his head and nose. FHP Trooper Trish England, an expert in CPR, was next on the scene and discovered that the seatbelt was wrapped tightly around Chad's neck. With the assistance of other emergency personnel, Trooper England cut the seatbelt and pulled Chad through the passenger side window. Chad was then stabilized in preparation for medical evacuation and flown by helicopter to Shands Trauma Center in Jacksonville, Florida.

Chad's father, Robert Granger, Sr., his mother, Kay, and his sister, Amber, rushed from their home in Lake City, Florida, to Shands to be with Chad. The doctors informed the family that Chad's brain injuries were very severe and that he might not survive. Chad was put on a respirator to assist his breathing. He required extensive surgery including bilateral and frontal parietal decompressive craniotomies, as well as placement of bilateral ventricular catheters with a shunt to help drain fluid which was causing added pressure. *(Continued on page fifteen.)*

Confidential settlement:

ROOF CRUSH CAUSES BRAIN INJURY

Defective Camping Heater Causes Two Carbon Monoxide Poisoning Deaths

Starting in the early 1990's, there were numerous camper deaths reported due to use of Focus heaters.

On November 29, 1999, Pedro Covas, a 41-year-old electrician for the City of West Palm Beach, and his 16-year-old stepson, Rolando Jose Reyna, were camping at a private hunting ground in North Florida. They had been hunting for several days. A neighboring hunter, noting that there had not been any activity at the Covas' campsite for 24 hours, went by the campsite to investigate. He found Pedro and Rolando dead in their tent. The Taylor County Sheriff's Office was called to investigate the deaths. The Medical Examiner determined that the cause of death was from carbon monoxide (CO) poisoning. The source of the CO poisoning was Mr. Covas' Coleman Heater, Focus 5 model, manufactured by The Coleman Company, Inc. Mr. Covas and Rolando are survived by Mr. Covas' wife, Flor (Rolando's mother), and Mr. Covas' two minor children, Alexander and Pedro, from a previous marriage.

Coleman has manufactured camping heaters for many years, including the Focus 5 model which was brought out in the early 1980's. This particular heater operated with a small, 16 oz. propane bottle as its source of fuel. The heater was rather simplistic in design. The bottle of fuel connected to a small metal pipe, or fuel line, which, in turn, led to a regulator where the propane mixed with air and heated a burner attached to a shield reflecting the heat. Focus 5 heaters discharged 5,000 BTUs of heat. Coleman later manufactured several larger and one smaller Focus heaters. According to exhibits presented at trial, the Focus 5 heater was designed to be used in a tent.

Starting in the early 1990's, there were numerous camper deaths reported due to use of Focus heaters. In 1991, a family of six from Massachusetts died from CO poisoning while using a Focus 5 in their tent. An investigation into these deaths revealed that the CO poisoning most likely resulted from the fuel orifice becoming contaminated. In a similar case in Arkansas, a camper died from CO while using a Focus 5. In that case, the plaintiff's engineer determined that CO poisoning resulted from a contaminated fuel line. There have been at least a dozen incidents of CO deaths resulting from use of Focus 5 and other Focus heaters in confined spaces. Also in 1991, based on complaints of death and serious injury involving the Focus 5 heaters, the Consumer Products Safety Commission (CPSC) began an investigation. In correspondence between CPSC and Coleman, it was agreed that Coleman would modify the warnings on the device to include the dangers associated with the use of the heater in confined spaces and to add suggestions for proper ventilation when using the heater in a tent. At the time of the CPSC investigation, there were already several hundred thousand heaters in the hands of consumers. Coleman notified consumers by way of advertisements in selected magazines, and attached a hang tag to the propane bottles manufactured and sold by Coleman. The additional warnings and advertisements lasted a year. Coleman also modified the design of the fuel orifice on new Focus 5 heaters to include a filter to prevent contamination of the fuel line.

The warnings on the Focus 5 heater did not include statements that the device would produce carbon monoxide, that the heater should be shut down if it did not function properly, or that use of the heater required sufficient ventilation to prevent death from CO poisoning.

$10.1 Million Verdict:

PRODUCT DEFECT CAUSES DEATH

A double wrongful death action was brought against Coleman by Mr. Covas' widow, Flor Covas, on behalf of the estates of her husband, and her son, Rolando. It included a product liability claim against Coleman alleging that Coleman manufactured a camping heater that was defective in design and in warnings. The Focus 5 lacked screens and a heater cover to prevent the inlet/outlet orifices from becoming clogged with debris. The heater also lacked an oxygen depletion sensor which would have shut off the heater once the air inside the tent contained too little oxygen to be safe. The warnings on the Focus 5 heater did not include statements that the device would produce carbon monoxide, that the heater should be shut down if it did not function properly, or that use of the heater required sufficient ventilation to prevent death from CO poisoning. Attorneys Chris Speed and Jack Hill of Searcy Denney Scarola Barnhart & Shipley represented Mr. Covas' two minor children, Alexander, three years old and Pedro, eight years old, at the time their father died.

The defendant company did not dispute the fact that the cause of death was from CO poisoning, nor did it dispute the fact that the source of the CO was the Focus 5 heater. In fact, Coleman's defense appeared to rest, in large part, on blaming Mr. Covas and his stepson for using the heater in their closed tent, and on legal arguments regarding their experts' evaluations of the heater.

Following the June 2005 trial in U. S. District Court, Miami, Florida, before Judge Joan Leonard, a jury ruled for the plaintiffs. The two minor sons of Mr. Covas, Alexander and Pedro, were awarded $3.7 million. Mrs. Covas was awarded $2,426,656 for the loss of her husband, Pedro, and $4,000,000 for the loss of her son, Rolando. The total verdict for the Covas family was $10,126,656. This amount was reduced by a finding of 20% comparative negligence on Pedro and 5% on Rolando. ■

Speaking Opportunities:

Chris Searcy

spoke at the following seminars:

The Palm Beach County Bar Association Trial Strategies of the Masters Seminar held at the Marriott at City Place in June 2005. Mr. Searcy spoke on "Litigation Strategies in Maximizing the Damages in the Personal Injury/Wrongful Death Case."

The Academy of Florida Trial Lawyers Auto Negligence Seminar held at the Renaissance Hotel in Ft. Lauderdale in July 2005. Mr. Searcy spoke on "The Anatomy of an Opening - Winning in the Beginning."

The Academy of Florida Trial Lawyers Al J. Cone Trial Advocacy Institute Seminar presented by the AFTL's Young Lawyers Section at the Peabody Orlando. Mr. Searcy spoke on "Opening Statement," and also participated in an "Opening Statement Workshop." ■

Jack Scarola

was the featured speaker at the Palm Beach County Trial Lawyers Association Dinner Meeting held in June 2005 at the Colony Hotel in Palm Beach. Mr. Scarola's topic was "A Billion and a Half War Stories." ■

Darryl Lewis

spoke at The Academy of Florida Trial Lawyers 2005 Civil Litigation for Paralegals and Legal Assistants Seminar held in June 2005 at Disney's Grand Floridian Resort & Spa. Mr. Lewis spoke on "Trying A Personal Injury Case from A-Z." ■

Laurie Briggs

presented an all-day seminar in April (West Palm Beach) and September (Miami) 2005 on "Litigation Skills for the Legal Staff in Florida" for the Lorman Education Services. She also spoke in July 2005 at the annual ACLU of Florida Conference in Key West. Her topic was "Effective Intake Screening for Civil Rights Practitioners and Staff." ■

Chain of Medical Mistakes Causes Tragic and Preventable Death from Chicken Pox

John Doe was 45 years old when he died of varicella (chicken pox) and adrenal insufficiency at a health care facility in south Florida on October 8, 1998. His death was preventable with basic treatment, which he did not receive due to the tragedy of medical errors and undisputed incompetence on the part of several health care providers that were responsible for treating him. As part of the settlement that was eventually reached in this case, the identities of the parties remain confidential.

Chicken pox is normally a benign illness. In adults, it is a more serious disease, but rarely fatal. If the adult has a compromised immune system, the mortality rate of chicken pox increases if basic, proper treatment is not given, as the chicken pox can invade internal organs (visceral varicella). Mr. Doe had a long history of asthma and had been taking Prednisone pills for that condition for years. Patients on long-term Prednisone therapy become reliant on the drug. Stopping Prednisone treatment without steroid replacement can leave the patient at risk for cardiovascular collapse. Long-term Prednisone therapy also causes immunosuppression, leaving the patient vulnerable to infection and other physical stress. Mr. Doe's long-term treatment with Prednisone made him reliant on the drug, and also made him a prime target for visceral varicella.

In September 1998, Mr. Doe, who had never had the chicken pox, was exposed to the disease in his home. Chicken pox has a two-week incubation period between exposure and formation of the pox on the skin. On October 4, Mr. Doe began feeling poorly. The next morning, October 5, he had severe abdominal pain and sought treatment. The health care provider noted Mr. Doe was "taking lots of Prednisone", and sent Mr. Doe to a local health care facility. Although the initial health care provider had three separate telephone conversations with Mr. Doe's other health care providers, he never told anyone that Mr. Doe had been taking Prednisone for years, and taking a lot of it lately. Had he done so, that information would have dramatically altered Mr. Doe's treatment and Mr. Doe would not have died.

"The information needed to make the diagnosis was readily available, if only one of the health care providers had taken a basic medical history."

When Mr. Doe arrived at the health care facility, he had a fever, nausea, abdominal pain so severe that it required narcotics, and an abdominal rash - classic signs and symptoms of an infection. At initial admission, Mr. Doe stated that he had a history of asthma and was currently taking Prednisone. Testimony revealed that no one had taken a competent history from Mr. Doe, and that a proper history would have resulted in a completely different treatment. Another health care provider also admitted that he departed from acceptable standards of care by failing to take a history of the abdominal rash, and that if he had done so, the exposure to chicken pox would have been noted and would have resulted in an infectious disease consultation that day. An infectious disease physician is competent to diagnose and manage a patient with chicken pox and chronic Prednisone use, but one was not consulted.

Later that evening, Mr. Doe was admitted to the health care facility for further evaluation and treatment. By this time, Mr. Doe had been in the health care facility for eight hours, taking narcotics for pain, but there was still no diagnosis. Mr. Doe was admitted by a health care provider that had never met him or visited him at the facility. Thus, Mr. Doe's health care providers squandered a fourth chance to evaluate his fever, nausea, extensive Prednisone use, abdominal pain, abdominal rash, and exposure to chicken pox and consult an infectious disease physician.

The health care provided by others was also substandard. While initially it was noted that Mr. Doe said he was currently using Prednisone, no health care provider asked how much he was taking and how long he had been taking it. No health care provider assessed Mr. Doe's abdominal rash for nearly 24 hours after he appeared at the facility. The substandard care continued after admission to the facility, when another health care

$4.2 Million Settlement:

IMPROPER DIAGNOSIS CAUSES TRAGIC DEATH

provider failed to complete a simple form that actually included questions that would have led to a proper, competent history of Mr. Doe's Prednisone use and exposure to chicken pox. Incredibly, no health care provider even took Mr. Doe's temperature from the time he arrived at 10:52 a.m. on October 5, until 7:15 a.m. on October 6. Such an omission is unimaginable in the care of a patient with signs and symptoms of an infection.

On the morning of October 6, Mr. Doe's rash exploded, spreading from his abdomen to his back, face, neck, arms and legs in less than three hours. Yet it was hours later before any health care provider contacted anyone about it, and that occurred only after Mr. Doe's wife actually made the diagnosis of chicken pox herself. That morning, yet another health care provider came to perform an admission history and physical examination of Mr. Doe, but failed to take a history of Mr. Doe's Prednisone use. While this health care provider admitted that he was not competent to diagnose or treat the chicken pox, he wrote in the chart that he doubted Mr. Doe had the disease.

After another eight hours passed, Mr. Doe was visited for the purpose of evaluating the rash that had spread over his body. This health care provider, admittedly not competent to treat the chicken pox, proved that incompetence by ordering the wrong treatment. That health care provider later testified that visceral involvement of the chicken pox was suspected and that it was serious, but that no one was informed because the provider "didn't have a duty to do so".

The next morning, October 7, yet another health care provider came to evaluate Mr. Doe, and saw that no one had conducted the laboratory tests that had been ordered the day before. This health care provider was also not competent to diagnose or treat the chicken pox. Nevertheless, this person, who had the last chance to obtain the proper infectious disease consultation and save Mr. Doe's life, ignored the diagnosis of chicken pox, the Prednisone use, and the improper treatment. Instead, he prescribed nothing but a "regular diet" and promised to see Mr. Doe the next day. But the next day, October 8, Mr. Doe died in front of his wife.

It is often said that the medical history is 90% of the diagnosis. Throughout the final four days of Mr. Doe's life, each and every one of the health care providers responsible for his care was presented with the information necessary to diagnose disseminated, visceral varicella infection and steroid dependence, and thus prescribe the proper treatment that would have saved his life. The information needed to make the diagnosis was either in the chart or readily available, if only one of the health care providers had taken a basic, competent history from Mr. Doe. The information was either ignored or overlooked.

It was undisputed that not one health care provider involved in Mr. Doe's care was competent to treat the chicken pox. Consequently, not one health care provider involved in Mr. Doe's care provided the basic, proper treatment for chicken pox and steroid dependence. That basic treatment would have saved Mr. Doe's life, but he never received it.

Mr. Doe is survived by his wife and two children. At the time of Mr. Doe's death, his daughter was 15 years old and his son, nine years old. Mr. Doe was the glue, the mainstay of his family. His sudden, unexpected and preventable death left his wife and children heartbroken and lost, and in severe psychiatric distress. All have been under medication and psychiatric care for depression.

The family filed a wrongful death case against the health care facility and the several health care providers involved in Mr. Doe's care. Attorneys Lance J. Block and James W. Gustafson, Jr., represented the estate of Mr. Doe, his wife, and their two children. In September 2005, a settlement was reached in the amount of $4,251,000. ■

SDSBS Provides Help for Hurricane Victims

Having recently experienced both the trauma and damage of Florida hurricanes, members of the SDSBS staff went into action in various ways to provide help for the Gulf Coast victims of Hurricane Katrina.

Searcy Denney Scarola Barnhart & Shipley donated more than $35,000 for the benefit of organizations assisting in the recovery effort, including the American Red Cross, Pointe Coupee Relief Fund, America's Second Harvest, Women's Hope Center, and Eagles Wings Foundation. The donation included funds, chain saws, water, and supplies.

The **SDSBS employees** donated an additional $12,000 to these same organizations, and to the Louisiana State University School of Veterinary Medicine and Noah's Wish/Humane Society. Their donations helped provide water, hygiene packets, blankets, towels, baby formula, and other items for the victims of the disaster.

SDSBS Marketing Director, **Joan Williams,** and paralegal, **Laurie Briggs,** flew to Gulfport, MS, to personally help in the recovery efforts. They were warmly welcomed, and put to work as soon as they arrived. The two were initially assigned to a support distribution center helping unload a 53-foot trailer full of supplies. They spent some time distributing food and water to the residents. They also helped remove trees from the rooftops of homes in the area, cutting them in pieces with chain saws they brought with them, and moving the debris to the roadway for later disposal. The area had no electricity during their visit.

SDSBS employees **Nancy LaSorsa, Bonnie Landrigan,** and **Debbie Woodard** took personal vacation time to travel to Louisiana as volunteers for a week with Pasado Safe Haven, an organization based in Belleview, Washington that brought employees and volunteers to the Gulf Coast to rescue animals victimized by Hurricane Katrina. Pasado Safe Haven rescued over 1,200 animals from the New Orleans area, many having suffered severe physical and emotional traumas. Through Pasado's heroic efforts, a large number of these animals were eventually reunited with their families. Generous donations collected from fellow SDSBS employees were presented to Pasado.

From painful experience, SDSBS employees realize full well that the Gulf Coast communities and families have a long, hard road ahead to reach recovery from the damages of the hurricane. SDSBS employees and friends send their heartfelt hope and prayers for the residents of the Gulf Coast. ■

Confidential Settlement:
FAILURE TO REPLACE BARRIERS CAUSES DEATH

Drunken Driver Causes Injuries for Young Student

Inebriated driver has three young students in his car when accident occurs.

At approximately noon on December 20, 2004, Mark Berman drove to his son's school to pick him up. Tyler Painter, a friend of Mr. Berman's son, and another child, joined Mr. Berman in his vehicle for the ride from school. At 12:49 p.m., Mr. Berman's vehicle was involved in a serious accident. The collision fractured several of Tyler's front teeth. Shockingly, the accident investigation revealed that Mr. Berman was considerably under the influence of alcohol when he drove to the school at noon. The blood samples taken from him at the hospital registered .156 and .152 grams of alcohol per 100 ml, almost twice the legal limit.

Tyler's parents, Robert and Sally Painter, were deeply concerned about the injuries sustained by Tyler in the accident, and the grossly negligent actions exhibited by Mr. Berman in driving his vehicle, with three young children as passengers, while under the influence of alcohol. Tyler's teeth were repaired. However, because of his age and the fact that the fractures involved his permanent front teeth, he will have to undergo multiple dental procedures in the future. Such an injury and the resulting change in appearance is a great concern to a boy of Tyler's age. Mr. and Mrs. Painter filed a claim against Mr. Berman and his insurance company, State Farm. John Shipley represented the Painters and their son.

In the insurance business, there are cases that clearly need to be settled and other cases that clearly need to be defended. The circumstances and the entitlement in this case were quite clear. A settlement for the bodily injury policy limit of $100,000, and property damages of $581, was quickly reached with the insurance company. ■

$100,000 Settlement:
DRUNKEN DRIVER CAUSES SERIOUS ACCIDENT

Failure to Replace Protection Barriers Causes Fatality

In September 2000, road construction was underway on the intersection of I-10 and I-95 in Duval County, Florida. As part of the construction project, two concrete dividing walls were built in a V-shape on the eastbound portion of I-10. Six sand-filled barrels were placed in front of the concrete walls, along with three warning signs, to protect motorists from the dangerous conditions ahead. On September 9, at 1:25 a.m., a motorist traveling eastbound on I-10 struck the barrels, wiping them off of the roadway. It was later revealed that this motorist was charged with careless driving and driving under the influence of alcohol.

The Jacksonville Sheriff's Office responded to the accident. The officers called the Department of Transportation. The state's road construction contract required the contractor to respond to any accident scene within 45 minutes. When the Department of Transportation called the construction company's on-call representative, it woke him up. However, the employee just rolled over and went back to sleep. The employee stated that he did not know of the contract's response requirement. Testimony indicated that this worker had a history of failing to respond to calls.

Two and one-half hours later, Client X was also traveling eastbound on I-10. He never had a chance, because there was no warning of the cement wall placed in his path and there was no protective barrier in place. His car struck the cement wall with full force. Paramedics rushed to the scene, provided emergency care, and transported Client X to Shands Hospital. He died that day from injuries resulting from a crushing blow to his heart.

Client X leaves his wife of thirty-three years, his daughter and son-in-law, his son, and two grandchildren. His family lost a loving husband, father, and grandfather, and the community lost a successful attorney and businessman. The loss is incalculable, and clearly the fault of several parties. Not only did the impaired motorist crash into the protective barriers and destroy them, but the company responsible for the construction site protection failed to establish and maintain appropriate barriers and warning signs. The widow of Client X filed an action on behalf of Client X's estate against the several parties responsible for the accident. Attorney Sean Domnick represented her and the estate. Jacksonville attorney Howard Coker was brought in as local counsel. This was not a case of whether or not there was fault on behalf of the defendants, it was a case of just how much liability was owed by the persons at fault.

Due to the confidentiality of this settlement, specific terms and figures cannot be disclosed. However, the case was resolved with a settlement of seven figures. ■

MEDIA ALERT

11TH JUDICIAL CIRCUIT OF FLORIDA
FOR IMMEDIATE RELEASE
CONTACT: JILL BEACH, DIRECTOR
OFFICE OF GOVERNMENT LIAISON & PUBLIC RELATIONS
(305) 349-7189 fax (305) 349-7190
JACKIE GUTIERREZ COMMUNICATIONS SPECIALIST
PHONE (305) 349-7187 fax (305) 349-7190

The Eleventh Judicial Circuit of Florida
Public Service Announcement

Our court security manager has learned that in some parts of the country, identity theft scammers, pretending to work for local courts, are calling potential victims with the news that they have failed to report for jury duty and that a warrant has been issued for their arrest. They then ask victims for personal confidential information, including Social Security numbers, birth dates and credit card numbers for verification purposes. This is exactly the information scammers need to commit identity theft.

The jury duty scam has already been reported in nine states: Arizona, Illinois, Michigan, Minnesota, Ohio, Oregon, Pennsylvania, Texas and Washington.

While we do not have reports of this happening locally, we want the community to be aware of the potential of a scam like this occurring.

In reality, court workers do not call potential jurors and ask for their Social Security numbers, credit card numbers and other personal information. The Clerk of Courts office manages the jury pool summons and says it does not call jurors. It does respond to phone calls from people who are summoned to serve and request a change of date of service. But, the clerks do not ask for any personal information. Most courts use postal mail exclusively for jury matters.

Thank you for alerting the public to this possible crime.

Dade County Courthouse
73 West Flagler street
Miami, FL 33130

Accolades:

Darryl L. Lewis

Darryl L. Lewis was a Program Chair for the 2005 Auto Negligence Seminar that was held on July 22, 2005 at the Quorum Hotel in Tampa. ■

James Gustafson

James Gustafson was elected Chair of the Professional Negligence Section of the American Trial Lawyers Association in July 2005. ■

Emilio Diamantis

Emilio Diamantis received the '2005 Presidents Award' from the American Lung Association at their Annual Meeting in June for his years of dedication for serving on the Board and as Secretary. ■

(l-r) Art Grasso, President, American Lung Association of Southeast Florida, Emilio Diamantis, SDSBS, and Jim Sugarman, Executive Director, American Lung Association.

(l-r) Vivian Ayan-Tejeda, Michelle White, Erica Lucas, Diana Rennie, Donna Miller, Dawn Pitts, Catherine Christman, Robin Kriberney (not shown)

SDSBS Participates in the Leukemia and Lymphoma Society's 'Light the Night Walk'

On Friday, October 7, 2005, SDSBS employees participated in The Leukemia & Lymphoma Society's "**Light the Night Walk**." The firm was a Gold Sponsor of the event. The SDSBS team collected contributions before participating in the three-mile walk along Flagler Drive in West Palm Beach. All of the proceeds raised will help to fund research. ■

(l-r) Joseph Bernadel, Principal; Dr. Deri Ronis and SDSBS Attorney Sia Baker-Barnes

Toussiant L'Ouverture School Receives Talk on 'Leadership'

Sia Baker-Barnes was a guest speaker at the Toussiant L'Ouverture Charter High School for Arts & Social Justice in Delray Beach in September 2005. Ms. Baker-Barnes spoke on "Leadership." ■

Letter from a Client

The following letter is from the mother of twin boys. I represented one of the twins many years ago.

It's always wonderful when a lawyer hears from a client to let us know about the challenges and successes they have encountered in their lives.

It is a privilege to share her letter with you.

Greg Barnhart

Twins Kevin, above, and Brian, right.

(Because this case was settled with a confidential agreement, the names of the parties to the lawsuit and the amounts of the settlement will remain confidential.)

To Mr. Barnhart:

I am enclosing this article from The Jupiter Courier regarding Brian and Kevin to show you the end result of a medical malpractice suit that insured a measure of justice for our family.

To remind you, Brian was an identical twin to Kevin, but he was born from the wrong side of the zygote and had esophageal atresia. Hospitalized for treatment of his mechanical defect, he was a victim of malpractice and suffered seizures which left him with white matter brain damage and cortical atrophy.

Brian was left with a mild cerebral palsy, learning disabilities, speech and motor deficits. He grew up with a constant reminder of what was lost in living with an identical twin.

Kevin has been at the top of every class from elementary through secondary, including valedictorian in his senior year. He was the top cross country varsity runner since the eighth grade setting the still standing school record for 5K. He played varsity basketball since tenth grade and was chosen for the varsity baseball team as a ninth grader.

Brian was in speech, occupational, and physical therapy from infant to elementary school. He was tutored for learning disabilities from third grade to fifth grade. Since that time, he has had to be tutored in reading comprehension, and literature off and on in secondary school. He has had private physical training to overcome the problems with the weakness caused by his cerebral palsy so he would not damage himself in cross country running. He worked three times as hard as Kevin only to see himself fall short.

Despite the differences, they are very close and Kevin has been part of Brian's success Kevin has been an additional live-in tutor to help Brian.

The monetary settlement allowed Brian to attend a wonderful, supportive, small private school. Every teacher had Brian in their sights. His learning problems were picked up early. He was in an environment where he was surrounded by people who knew him and cared about him. We would never have gotten that at a public school. We could not have afforded a private school without my working full time. I could not have taken care of Brian working full time. (It was tough doing it part time nights!)

Every therapy session was in our home. Most of the tutoring was in our home. The years of individual work with Brian was extremely expensive but we never had to worry about the cost. Each time a problem was identified, I could pick up the phone and find someone to help him and never question how much we would have to pay or wonder how long it would take.

Did it totally make up for the agony of what our family went through? NO! I would trade every penny to have Brian not have the problems he has had but, the money has made the difference in the peace of mind we had to ensure Brian had every opportunity to overcome his deficits.

Both Kevin and Brian are going to Stetson University. For Brian, it was his dream school because they will let him run cross country for the college team. Stetson gave Kevin a wonderful academic scholarship and recruited him for their Honor's program. But, it was not his first choice. He decided against Wake Forest because he chose to be with Brian.

We knew Kevin was going to be valedictorian for a year but Brian having been chosen for salutatorian position was a wonderful surprise.

We just wanted to thank you and your work for your part of that surprise.

After many years, we again say Thank You for the difference you made in our son's life.

Belinda and Mike

Confidential Settlement:
MEDICAL NEGLIGENCE

Negligent Use of IV Causes Damages

Mrs. X was admitted to the hospital on May 2, 2002, suffering from fever, diarrhea, nausea, and vomiting for the previous two days. The emergency room physician examined her, and ordered intravenous Phenergan to alleviate the nausea. Two registered nurses placed the antecubital intravenous line into Mrs. X's left arm. When the Phenergan was injected, Mrs. X immediately felt a painful burning sensation that traveled from the intravenous site down her arm to her fingertips. She expressed concern about the pain, and the nurses told her that it was a normal reaction to the drug.

The nausea continued despite the Phenergan injection, and the emergency room physician admitted Mrs. X into the hospital. Mrs. X's' primary physician had been informed of Mrs. X's condition and had chosen to have the emergency room physician do the admitting. In addition to the gastrointestinal problems, Mrs. X continued to have severe and worsening pain in her left arm. Mrs. X was also examined by another physician on the day she was admitted. That physician's examination noted "acute gastroenteritis". His examination also noted that he doubted an acute abdominal or bowel obstruction and had ruled out the possibility of gastritis. The physician ordered continued hydration and intravenous antibiotics. His notes made no mention of the condition of Mrs. X's left arm.

The next day, May 3rd, the nurses noted that Mrs. X's pain had worsened, and that the arm was slightly hard and turning black and blue. Warm compresses were applied and the nurses measured and noted the circumference of her arm. Mrs. X's primary physician was notified of the pain in the left arm. Although the doctor did not visit the hospital to examine Mrs. X, the doctor did order a venous Doppler examination. That examination found no deep vein thrombosis. Mrs. X's problems were not the result of an intravenous injection. Her problems were clearly the result of the administration of Phenergan directly into her artery instead of into her vein. Even as her arm began to turn black and the pain continued to worsen, Mrs. X was not informed of the mistake. Later in the day, the hospital's physician ordered Demerol for what he noted as Mrs. X's "severe pain". The nurses continued to note the deterioration of her arm, and took pictures to document the condition.

Mrs. X's primary physician was informed of the worsening condition and, on May 4th, the physician asked for a consult with a vascular surgeon. Mrs. X was, by this time, receiving multiple doses of Demerol. The vascular surgeon examined Mrs. X that day, and instantly recognized that she was in danger of losing her arm. He immediately arranged for Mrs. X to be transferred via helicopter to another hospital where she was admitted for emergency surgery by an orthopedic surgeon. In examining the arterial structures of Mrs. X's left arm, he found and documented several needle puncture marks in the left antecubital fassa, which left little doubt as to the cause of Mrs. X's arterial injury.

For two days, from the initial interarterial administration of Phenergan when she questioned the severe pain in her arm, until the day she was examined by the vascular surgeon, Mrs. X was not informed of the negligent administration of the drug in her left arm. Nor was Mrs. X informed that Phenergan is an extremely caustic drug and, when placed in an artery, is capable of causing severe injury. Had Mrs. X been properly informed of the danger she faced when the treatment went awry, she and her husband would have immediately sought further consultation and care from proper specialists and facilities.

"Her problems were clearly the result of the administration of Phenergan directly into her artery instead of her vein."

After enduring five surgeries and numerous sessions of grueling physical therapy, Mrs. X's left arm is virtually useless. She has no strength or flexibility, and wears a splint for support. She remains in continuous pain, and must constantly guard her arm against even the most minor trauma to avoid magnifying that pain.

Mr. and Mrs. X charged the hospital, nurses, primary physician, emergency room physician, and general surgeon with responsibility for her injury, and asked attorney William A. Norton to represent them. Several of the parties have at this time reached a satisfactory and confidential settlement for damages and the medical costs incurred by Mrs. X. The legal action continues against the remainder of the parties responsible for Mrs. X's injury. ■

Front Row (l to r) Deane Cady, Vi Ware, Curtis Reynolds; Back Row (l to r) Ethan Wayne, Todd Falzone, Earl Denney, Melanie Weese, Randy DuFresne, Chris Shelby.

Members of SDSBS enjoy the 'Shoot Out' for Cattlemen's Association Scholarship Program

On Saturday, August 6, 2005 our firm was happy to sponsor two teams to participate in the St. Lucie County Cattlemen's Assoc. Fun Shoot which took place at Quail Creek Plantation in Okeechobee, Florida. Members of our firm, Earl Denney, Jr., Todd Falzone, Deane Cady, Melanie Weese, Randy Dufresne, Vi Ware, Chris Shelby and Ethan Wayne, participated in this wonderful event. Quail Creek offers two fully-automated sporting clay courses (skeet shooting). Our participants showed their marksmanship skills by shooting 100 rounds of sporting clays, with Earl Denney, Jr. coming in as our top shooter. After the shoot, all participants enjoyed a delicious steak lunch while having the opportunity to interact with members of the Association and other members of the community. Proceeds from the Fun Shoot went to benefit the Cattlemen's scholarship program. ■

(l to r) Kimberly Cunningham Mosley, Co-Chair Walk-A-Thon; Capurnia Cannon, Director, Child Outreach; Kalinthia R. Dillard, Co-Chair Walk-A-Thon; Sia Baker-Barnes, President, West Palm Beach Chapter of The Links and attorney with SDSBS.

SDSBS Participates in Links' 11th Annual Walk-A-Thon To Benefit Child Outreach, Inc.

The West Palm Beach Chapter of The Links, Inc. hosted its 11th Annual Walk-A-Thon on September 24, 2005 at the Palm Beach Mall in West Palm Beach. The Links, Inc. is a women's community service organization with chapters in over 400 cities throughout the United States and abroad. The West Palm Beach chapter was established in 1969. Over the past 36 years, it has contributed to our community by raising scholarship money for students studying the arts, by mentoring children through its Services to Youth Facet, and by donating proceeds of each Walk-A-Thon to various charities that serve the needs of the local disadvantaged community. This year's event will benefit Child Outreach, Inc., an organization providing assistance to children and families in need in Palm Beach and Martin Counties. ■

Roof Crush Defect in SUV Causes Horrific Brain Injury

(Continued from page three.)

Chad suffered a horrific brain injury. Because of the injury, Chad was in a coma for several months. Many of Chad's health care providers believed his condition would never improve. However, with the loving support of his family and friends, and his courageous spirit, Chad was able to come out of his coma. Chad continues to defy the odds. Chad's family and other loved ones have verified that, at times, Chad is able to follow simple, one step commands.

Chad and his sister Amber in younger years.

Chad has always been a fighter. Prior to the crash, Chad was a champion wrestler at Columbia County High School. His friends describe him as unpretentious and genuine, a confidante who provided leadership and support to his peers. Chad was considered by teachers and coaches, civic leaders and high school classmates, to be a role model for his honesty, leadership, integrity and courage, and for his love of life. When the accident happened, the school suffered profound grief requiring counseling for a number of students and personnel. Students at his school rallied to organize carnivals and other fund-raising events to raise money for Chad's medical expenses. And as Chad works hard with his rehabilitation, his friends still visit him to share with him what is happening in their lives.

Robert and Kay Granger retained attorney Stephen A. Smith of Lake City, Florida, to investigate this matter on behalf of their son, Chad. After Mr. Smith's initial investigation, he, along with the Grangers, referred the case to Searcy Denney Scarola Barnhart & Shipley. Attorneys Chris Searcy and Darryl Lewis discovered that Chad's injuries were the direct result of the rollover and roof crush defect prominent in many of General Motors' SUVs. Mr. Searcy and Mr. Lewis filed a product liability lawsuit in Jacksonville, Florida, against General Motors. The suit alleged that Chad received his horrific injuries because General Motors knowingly designed its vehicle with a weak and defective roof. It further alleged that General Motors knew the roof could not withstand a real-world rollover, and that people like Chad were likely to be killed or receive catastrophic injuries as a result of the roof crushing into the occupant compartment. As litigation was initiated, Mr. Searcy and Mr. Lewis included attorney Howard Coker, of Jacksonville, Florida, as a member of the Granger's legal team.

Roof crush and rollover product liability cases are known to be some of the most complex and hard-fought cases in our legal system. During litigation, the Granger legal team learned that General Motors had long been aware of the problems involving roof crushing during rollovers of these vehicles. It became apparent that the company's prior knowledge of the defect had existed since the 1960s. Each successive litigation and discovery process produced more documents detailing that General Motors understood the existence of the defect and the fact that it was causing terrible harm to the driving public.

General Motors retained multiple, high-powered defense law firms from Florida and other states to represent them in the Granger case. General Motors and other manufacturers often spend hundreds of thousands of dollars and, in some instances, millions of dollars to defend cases involving these issues. This case proved no different and was very hard fought. After several months of intense litigation, the judge in Jacksonville set the case for trial. Prior to the trial, Mr. Searcy and Mr. Lewis attempted extensively to mediate this matter. Just weeks before the scheduled start of the trial, and after more than a year of litigation, Mr. Searcy and Mr. Lewis reached a settlement on behalf of the Granger family, the amount of which must remain confidential.

At the present time Chad Granger remains ventilator dependent. But with the wonderful care and love of his sister, Amber, and his parents, he continues his courageous fight. ■

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OF COUNSEL

SEARCY DENNEY SCAROLA BARNHART & SHIPLEY PA
Attorneys at Law

P. O. DRAWER 3626
WEST PALM BEACH
FLORIDA 33402-3626

ADDRESS SERVICE REQUESTED