

Of Counsel

A REPORT TO CLIENTS & ATTORNEYS VOLUME 14, NUMBER 3

\$1 billion national settlement reached in Stryker hip replacement lawsuits

In a landmark agreement, company must pay for future complications attributable to the faulty devices.

In November 2014, New Jersey's Bergen County Superior Court announced that a national settlement had been reached on behalf of victims of the recalled Stryker Rejuvenate and ABG II hip replacement devices. It is estimated that Stryker, and its subsidiary Howmedica Osteonics, will pay well in excess of \$1 billion to qualifying claimants under the settlement. SDSBS attorney **Cal Warriner** was a court-appointed member of the plaintiffs' negotiating team. SDSBS attorney **Brenda Fulmer** collaborated with Mr. Warriner in litigating the case.

The product defect is traceable to Stryker's decision to use dissimilar metals in the manufacture of the neck and stem components of the implants. Interaction of the metals caused corrosion that released toxins into the patient's bloodstream, sickening the patient and causing muscle, tissue, and bone deterioration. Every person in whom the recalled device was implanted and removed is eligible for a base

payment of up to \$300,000. The settlement will also provide for payments ranging from \$10,000 to \$600,000 for additional complications and damages relating to the device failure, including post-operative infections, need for additional surgeries, hip dislocations, femur fractures, heart attacks, strokes, lost wages, and death. The product was recalled in July 2012, soon after SDSBS launched its initial investigation into implant failures in south Florida and published its safety concerns online. "The harm caused by the Stryker Rejuvenate Hip Stem and the ABG II Modular-Neck Hip Stem in nearly 4,000 patients with pending lawsuits is utterly indefensible," said Ms. Fulmer.

The settlement secures the largest base payment ever awarded in a mass tort hip implant settlement. Individuals forced to undergo qualified revision surgeries to replace a Stryker or ABG device are entitled to a payment *(Continued on page two.)*

\$15.5 million award in SDSBS's 13th verdict against Big Tobacco

For years, R.J. Reynolds and other companies denied that smoking was addictive and caused cancer.

On August 29, 2014, SDSBS attorneys **Greg Barnhart** and **Jim Gustafson**, along with David Sales of David J. Sales, P.A., crushed R.J. Reynolds Tobacco Company with the law firm's 13th verdict against Big Tobacco. The attorneys represented Lorraine

Wilcox, the 90-year-old widow of Cleston "Red" Wilcox. After four and one-half weeks of trial, a Miami, Florida, jury awarded Mrs. Wilcox a total of \$15.5 million – \$7 million in compensatory damages and \$8.5 million in punitive damages. The jury found that R.J. Reynolds was guilty of intentionally covering up the harmful effects of smoking and misrepresenting those harms to the American public, specifically Red Wilcox.

Red Wilcox was a Marine. During World War II, he served with distinction in the battles at Guadalcanal, Okinawa, and the Solomon Islands as a machine gunner, both on *(Continued on page ten.)*



Putting them out!
**OUR 13TH & 14TH
SDSBS
verdicts against
Big Tobacco ...
...more
to come!**



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"Verdicts
Hall of Fame"**

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**SEARCY
DENNEY
SCAROLA
BARNHART
& SHIPLEY PA**

ATTORNEYS AT LAW

**\$1 billion national settlement reached
in Stryker hip replacement lawsuits**
(Continued from page one.)

up to \$300,000, with small deductions based upon age and whether the patient had undergone another hip replacement surgery prior to when these devices were implanted. Implantation of two Stryker devices would qualify for up to \$600,000 as a base award. There are no reductions in the award for obesity, smoking, diabetes, or other conditions that have been common in other large scale hip implant settlements.

The settlement is unprecedented for several reasons. Stryker is required to pay current injuries and damages, as well as pay for future complications that may occur over the next two years. Unlike most comprehensive settlements, it is not a fixed-fund settlement. Each claimant's injury will be measured individually. There is no cap on Stryker's liability under the settlement program. Further, the settlement was reached within two years of plaintiffs' counsels first uncovering and beginning their investigation of the defects in the devices – an unusually short period of time for drug and medical device litigation. Thus, the total cost of the litigation was relatively low, further increasing the net recovery for the plaintiffs.

"These clients have suffered so much. It is gratifying to provide each one the opportunity to resolve their case quickly, with minimal cost and aggravation," said Mr. Warriner. Mr. Warriner had been chosen by the negotiating team to give the plaintiffs' opening presentation to Stryker's representatives regarding liability and scientific evidence revealed by investigation and discovery during litigation. Other members of the plaintiffs' negotiating team included Ellen Relkin of New York City, Tara Sutton of Minneapolis, and Tom Anapol of Philadelphia. "It was a pleasure to work with such a talented and knowledgeable team. The settlement reflects Stryker's respect for our hard work, preparation, and ability to uncover both how its device failed and how badly it hurt patients," noted Mr. Warriner. ♦



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A REPORT TO CLIENTS & ATTORNEYS **VOLUME 14, NUMBER 3**

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



\$13.1 million award in SDSBS's 14th verdict against Big Tobacco

In October 2014, a Pinellas County, Florida, jury rendered two verdicts in favor of the children of Jayme Westmoreland, a devoted mother of two who died of lung cancer at the age of 42 as a result of being addicted to cigarettes containing nicotine. The jury awarded \$3.6 million in compensatory damages to her children, Cydney and Aaron, 17 and 12 years of age, respectively, when they lost their mother. Two days after the first award, the jury returned a punitive damages verdict against Liggett Group for \$9.5 million, an award intended to punish Liggett for its conduct and to deter others from behaving the same way. SDSBS attorneys **Jim Gustafson** and **Hardee Bass**, and former SDSBS attorney David Sales, tried the case for three weeks against Liggett Group, the manufacturer of the Lark brand of cigarettes that Jayme Westmoreland smoked. It was the fourteenth trial victory for SDSBS against Big Tobacco.

Jayne Westmoreland began smoking as a 14-year-old girl in 1965. At that time, 50% of females smoked. Although the tobacco industry was forced to put a "caution" label on packs of cigarettes in 1966, the industry continued to lie to the American people, stating that nothing about cigarettes had been proven to be harmful, and that the Surgeon General of the United States was "dead wrong" about requiring warnings on cigarette packs. During those years, Liggett publicly stated repeatedly that it was not proven that anything in cigarette smoke caused disease. Meanwhile, in its previously secret internal documents, Liggett not only identified carcinogens in cigarette smoke, but retained a scientific company that actually performed a calculation of the amount of life that would be lost in America due to cigarette smoking. Liggett kept that to itself as it publicly denied that cigarettes were proven to cause human disease. Liggett then advertised, as a safer alternative, its new charcoal filter brand of cigarette – Lark. Liggett tested its advertising of Lark and recorded the responses they received from potential customers:

*"You'll be less likely to catch cancer
with a Lark, probably."*

*"It's very impressive. They're spending
more money on it; it must be safer."*

"Because of the charcoal filter it would be safer."

*"The difference in the filter is that it is
filtering the tars and nicotine."*

The jury was presented internal documents from Liggett showing that Liggett worked for years to perfect the addition of chemical compounds to its cigarettes in an effort to increase the addictiveness of their product. Those compounds were put into the Lark cigarettes that Jayme Westmoreland smoked. The jury was also presented uncontroverted evidence

that Liggett actually added a compound to its cigarettes that was known to be a carcinogen. The evidence in the case showed that tobacco companies sought to entrap their customers in a way that ensured future sales. They then spent years lying about what the companies knew to be true about the addictiveness of their cigarettes and the fact that their products caused deadly diseases like lung cancer, emphysema, and heart disease. During the trial, the jury heard evidence of the consequences of Big Tobacco's 50-year conspiracy and deceit and how devastating it was to our country in terms of the number of Americans who died prematurely from smoking-related diseases.

"This isn't a situation where they didn't mean it, or they didn't know people were going to die. They knew people were going to die, and they did not care who, and they did not care how many," Jim Gustafson argued to the jury in Phase 1 closing arguments. "You got to see, basically through their own words, the diary of Liggett, their innermost thoughts when they thought nobody was looking. You know the things they did were on purpose and not an accident. You know why they did what they did. You know what their attitude was while doing it. Those are things we think about when considering punishment," said Hardee Bass in Phase 2 closing arguments.

Jayne Westmoreland was remembered and honored as a wonderful mother to her two children, a devoted daughter, and a good citizen. She was remembered, through tears, as a person who fought to keep her life and loved her children dearly. The consequences of the American cigarette industry's intentional conduct is devastating, and it remains so today.

The Westmoreland case is one of approximately 8,000 cases that were filed statewide as a result of a landmark class action suit filed in 1994 by Miami pediatrician, Dr. Howard Engle, who, like the other class members, began smoking long before the dangers were known, became addicted to cigarettes containing nicotine, and suffered from a smoking-related disease as a result of that addiction. The jury in the Engle case found against the tobacco companies in 2000, holding that smoking was addictive and caused a variety of diseases including lung cancer. However, the Florida Supreme Court reversed the award in 2006, ruling that each person in the class action must prove his/her membership in the class and individual damages. ♦

**Liggett did not tell the
public that they knew from
their own research that
smoking caused cancer.**

14 SDSBS attorneys recognized as *Best Lawyers*



Chris Searcy



Jack Scarola



Greg Barnhart



John Shipley



Sia Baker-Barnes



Brenda Fulmer



Jim Gustafson



Jack Hill



Darryl Lewis



Bill Norton



Chris Speed



Karen Terry



Cal Warriner



Ed Ricci

SDSBS lawyers were recently recognized in the publication *Best Lawyers in America 2015* for their success in representing plaintiffs in medical malpractice, professional malpractice, and personal injury litigation. Particularly significant was the selection as West Palm Beach, Florida, “Lawyers of the Year” were **Greg Barnhart** (personal injury litigation), and **Karen Terry** (mass tort litigation/class actions – plaintiffs). Only a single lawyer in each practice and metropolitan area is honored as “Lawyer of the Year.” Since it was first published in 1983, *Best Lawyers* has become universally regarded as the definitive guide to legal excellence. Its selection process is based upon an exhaustive peer-review survey designed to capture, as accurately as possible, the consensus opinion of leading lawyers about the professional abilities of their colleagues in the same geographical and legal practice area.

Also selected by peer review for inclusion in the same edition of *Best Lawyers* were **Chris Searcy** (medical malpractice, personal injury, product liability); **Jack Scarola** (“Bet-the-Company,” commercial, mass tort/class actions, medical malpractice, personal injury); **Greg Barnhart** (medical malpractice, personal injury); **John Shipley** (medical malpractice, personal injury); **Sia Baker-Barnes** (personal injury); **Brenda Fulmer** (mass tort/class actions); **Jim Gustafson** (medical malpractice, personal injury); **Jack Hill** (personal injury); **Darryl Lewis** (product liability); **Bill Norton** (medical malpractice, personal injury); **Chris Speed** (personal injury); **Karen Terry** (mass tort/class actions, medical malpractice, personal injury, professional malpractice); **Cal Warriner** (mass tort/class actions, personal injury, product liability); and **Ed Ricci** (product liability). ♦



Client Cecelia McLennan with SDSBS attorneys Ed Ricci, left, and Donald Ward, right.

Woman wins verdict against underinsured driver and insurance companies

One evening in July 2011, Cecelia McLennan was driving her car northbound on Haverhill Road in West Palm Beach, Florida. With a green light providing right of way, she entered the intersection of Haverhill and Summit Boulevard. At the same moment, Franklyn Perez was driving a pickup truck southbound on Haverhill. As they entered the intersection simultaneously, Mr. Perez abruptly turned across Ms. McLennan’s path and the two vehicles collided head-on. Fire and rescue services were called and Ms. McLennan was transported to a local hospital where she was evaluated and released with advice that she follow up with a visit to her family doctor.

Ms. McLennan has been a registered nurse for over 30 years and was currently working at a medical center in south Florida. The morning following the accident, she awoke with severe pain in her left shoulder. She went to an urgent care facility seeking relief. A week later, still in pain, Ms. McLennan began evaluation and treatment with a bone and joint specialist. A partial thickness tear of her rotator cuff was diagnosed. Physical therapy and injections were temporarily helpful, but the pain returned after each treatment. After exhausting all conservative treatment options, she underwent arthroscopic surgery in May 2013 for repairs to her shoulder.

The damages resulting from the accident included the cost impact of medical bills, therapy, and lost productivity. Mr. Perez was a significantly underinsured motorist. Ms. McLennan asked SDSBS attorney **Ed Ricci** to represent her in pursuing an action against Mr. Perez and the insurance companies involved. SDSBS attorney **Donald Ward** assisted in the case. Initially, State Farm refused to admit that Ms. McLennan had injured her shoulder in the car crash. Defense attorneys hired a doctor to examine her and to provide testimony that her injury was not caused by trauma, but was the result of degeneration due to aging and excessive physical activity. The trial lasted only four days. At the end, the jury returned a verdict for Ms. McLennan in the amount of \$484,785. ♦



Florida regulates commercial parasailing industry for the first time

SDSBS and clients worked seven years to require safety standards on the popular but dangerous sport

In October 2014, Florida's legislature revised its statutes on vessel safety to include safety regulations on commercial parasailing businesses. Florida Statute 327 ("Miskell-White Act") now includes requirements that commercial parasailing operators log weather conditions before beginning each trip; that forbid operations during specified hazardous weather conditions; that limit the time of day and the location of the activity in relation to structures on and off the water; that operators include an extra observer, not just the operator; that require minimum liability insurance; and that the operator must be licensed by the U. S. Coast Guard. Prior to this bill, the industry was completely unregulated, and anyone with a boat, tow rope, and parachute could charge money to take people aloft under any conditions. The lack of regulations and accountability resulted in almost yearly tragedies that have occurred during parasailing activities in Florida.

SDSBS attorney **Karen Terry**, and client Stephen Miskell, fought tirelessly to see this law enacted. In 2012, Stephen lost his wife, Kathleen Miskell, in a parasailing accident. They were parasailing side by side when his wife suddenly fell to her death when her harness broke. That tragedy foreshadowed years of repetitive injuries and deaths before the legislature finally took action. It is now up to state and local authorities to monitor the industry and to enforce the new amended statute. "It is also up to Florida's resort businesses to ensure compliance with these commonsense safety regulations to reduce injuries and deaths that have been associated with this popular resort activity," noted Ms. Terry. ♦

Accident victim battles his own insurance company and uninsured motorist

In 2006, John Smith (not his real name) suffered permanent spinal injuries as a result of a head-on automobile accident caused by an uninsured motorist. The accident left Mr. Smith unable to continue his active lifestyle which had included coaching his children's basketball teams, working out at his gym, and traveling. Mr. Smith asked SDSBS attorneys **Darryl Lewis** and **Michael Kugler** to represent him in a legal action against the motorist and in seeking coverage from Allstate Insurance Company under Mr. Smith's uninsured motorist provision. Four years later, in 2010, the attorneys secured a verdict in favor of Mr. Smith. Allstate fought vigorously to deny the claim and successfully won a reversal despite overwhelming evidence of negligence and injury on the part of the uninsured motorist. Allstate argued that the crash was not the cause of Mr. Smith's injuries, and presented multiple experts to testify that Mr. Smith suffered, instead, from degenerative changes in his spine.

At a second trial in September 2014, a Palm Beach County jury rejected Allstate's experts and returned a verdict of \$463,704 on behalf of Mr. Smith – a damage award even greater than the initial award in 2010. After eight years of protracted litigation, Mr. Smith's integrity was vindicated. Now 63 years of age, he can move forward with his life. ♦

Speaking opportunities



Chris Searcy spoke at 360 Advocacy's conference held in March 2014 in Las Vegas, Nevada. His subject was "Winning the Big Verdicts in Child Injury and Death Cases." In May 2014, Mr. Searcy participated in a panel discussion on "Current Issues That May Arise When Using an Expert" for the American Bar Association's Spring Meeting in Boca Raton, Florida. The International Association of Trial Lawyer's annual meeting was held in September 2014 in Italy. In conjunction with IATL's meeting, the American Association for Justice Education Program held a "Seminar at Sea: Excellence in Advocacy," during which Mr. Searcy presented his topic, "Last in Line, First to Die!" to the attendees. ♦



John Hopkins served as chair for the paralegal program, "Working with Experts," a part of the Florida Justice Association's "Masters of Justice" seminar held in September 2014 in Orlando, Florida. ♦



Mass Tort Projects of Interest

ACTOS, ACTOplus met, ACTOplus Met XR, and Duetact

Bladder Cancer

Bard IVC Filter

Heart and Lung Perforation
Hemorrhagic Pericardial Effusion

Benicar

Chronic Diarrhea
Nausea and Vomiting
Sprue-like Enteropathy

Bisphosphonates (Boniva, Fosamax, Zometa, Aredia, and others)

Jaw Osteonecrosis
Femur Fractures
Esophageal Cancer

Fluoroquinolone Antibiotics (Levaquin, Cipro, Tequin and Avelox)

Peripheral neuropathy

GranuFlo and NaturalLyte Dialysis Products

Cardiac Arrest
Death
Cardiac Arrhythmia
Metabolic Alkalosis
Stroke
Sudden Cardiac Death

Januvia, Janumet, and Byetta

Pancreatic Cancer
Thyroid Cancer

Laparoscopic Power Morcellator

Uterine Cancer

Lipitor

Diabetes

Medtronic Infuse Bone Graft

Ectopic Bone Growth
Respiratory Failure
Nerve Damage
Death

Metal-on-Metal Hip Implants (DePuy, Zimmer, Biomet, Wright Medical, and Smith & Nephew)

Device Failure and Loosening
Inflammatory Response
Metallosis

Mirena IUD

Device Migration
Organ Obstruction
Organ Perforation
Peritonitis
Device Erosion

Post-Operative Disposable Pain Pumps

Chondrolysis
Cartilage Destruction

Propecia and Proscar

Sexual Dysfunction
Male Breast Cancer

Risperdal

Gynecomastia

SSRI Antidepressants (Paxil, Celexa, Effexor, Lexapro, Pristiq, Prozac, and Zoloft)

Birth Defects
Pulmonary Hypertension

Stryker Rejuvenate, ABG II, and Accolade Hip Implants

Premature Device Failure
Metallosis
Inflammatory Response

Stryker ShapeMatch Knee Implant Cutting Guide

Revision Surgery

St. Jude Riata Defibrillator Leads

Lead Fracture

Testosterone

Blood Clots
Heart Attacks
Stroke

Transvaginal Mesh, Bladder Slings, and TVT Tape (Bard, Johnson & Johnson, Mentor, Boston Scientific, AMS, and others)

Tissue Erosion
Device Failure

Viagra

Melanoma

Xarelto

Uncontrollable Bleeding
Death

Yaz, Yasmin, Beyaz, Gianvi, and Ocella

Heart Attack
Deep Vein Thrombosis
Pulmonary Emboli
Stroke
Sudden Cardiac Death

Zimmer NexGen and CR-Flex Knee Implants

Device Failure and Loosening

If you have been harmed by a drug or medical device, please call our Mass Tort Unit.

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Actos

USE: Lowers blood sugar levels and helps diabetics use insulin more efficiently.

HARM: Failure to warn of risks of bladder cancer.



Xarelto

USE: Treatment for atrial fibrillation, and post-operative blood clot prevention.

HARM: Failure to warn of inability to reverse impairment of blood clotting, which causes uncontrollable GI bleeding, intracranial hemorrhaging, and death.



Stryker Rejuvenate Hip Implant

USE: Modular, non-metal on metal hip implant.

HARM: Modular components corrode leading to metallosis, premature device failure, elevated cobalt levels, pseudotumor formation, and osteolysis.



Viagra, Levitra Cialis

USE: Treatment for erectile dysfunction.

HARM: Failure to warn of dangerous increase in the invasiveness of melanoma, thus reducing the window for effective cancer treatment.



Metal-On-Metal Hip Implants

USE: Hip implant devices manufactured by DePuy, Zimmer, Biomet, Wright Medical, and others.

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



Power Morcellator

USE: Laparoscopic hysterectomy or fibroid removal surgery

HARM: Failure to warn of increased risk of invasive uterine cancer.

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Accolades



Chris Searcy



John Shipley



Jack Scarola

In November 2014, the *Daily Business Review* announced that two verdicts secured by SDSBS attorneys were included in DBR's "2014 Florida Verdicts Hall of Fame." In the case of *Modica v. Tree of Life, Inc., et al*, attorneys **Chris Searcy** and **John Shipley** obtained a settlement of \$17.5 million during a trial which established that Vince and Judy Modica were killed as a result of negligence on the part of a health-food company and its deliveryman, when the truck driver, tired from working well over regulatory limitations on driving hours, slammed into the rear of their vehicle. In the case of *Astley Simms v. Harry Kraft and Star and Shield Insurance Exchange*, Todd Rosen of Todd Rosen Law, Miami, Florida, and SDSBS attorneys **Chris Searcy** and **Jack Scarola**, obtained an award of over \$10 million for their client, Mr. Astley Simms, who was severely and permanently injured when the defendant, negligently driving at a high rate of speed, rear-ended one vehicle causing a four-car pile-up which injured Mr. Simms. (Reference the full article on *Modica* in *Of Counsel*, Vol. 12, No. 1; and on *Simms* in *Of Counsel*, Vol. 14, No. 1, at www.searcylaw.com.) ♦

The 2014 edition of *Super Lawyers Business Edition* recognized **Jack Scarola** in its list of lawyers who exemplify excellence in business-related areas of practice. The publication is an annual legal resource guide distributed to over 55,000 general counsel and executives across the United States. ♦

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published articles –
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Searcy Denney



Matt Schwencke receiving the award at the 'Verdicts Hall of Fame' inaugural ceremony in Key Biscayne.



Greg Barnhart



Karen Terry



Matt Schwencke

In July 2014, the *Daily Business Review* notified SDSBS that the verdict secured in the case of *Curtis v. Bygel, Villas on the Green Condominium Association, et al*, was ranked among the top five in the premises liability category of awards in DBR's "Florida 2011-2013 Verdicts Hall of Fame." The Curtis family was represented by attorneys **Greg Barnhart**, **Karen Terry**, and **Matt Schwencke**. In March 2013, they obtained a \$12 million award for damages resulting from acts of negligence on the part of the condominium's property management company, the condo association, and the condo resident driver, which had caused the death of their nine-year-old son, Andrew Curtis. (Reference the full article in *Of Counsel*, Vol. 13, No. 2, www.SearcyLaw.com.) Mr. Schwencke accepted the award at DBR's inaugural "Verdicts Hall of Fame" ceremony held September 10, 2014, at the Rusty Pelican in Key Biscayne, Florida. ♦

Greg Barnhart was recently selected as a Fellow of the American College of Trial Lawyers, one of the premier legal associations composed of the best of the trial bar from the United States and Canada. The induction ceremony took place at ACTL's annual meeting held October 2014 in London, England. Fellowship is by invitation only to those experienced trial lawyers who have mastered the art of advocacy and whose careers have been marked by the highest standards of ethical conduct, professionalism, civility, and collegiality. ♦



Sia Baker-Barnes



Hardee Bass



Mariano Garcia



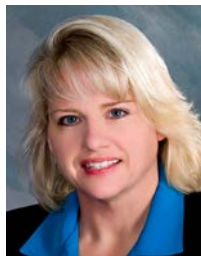
John Hopkins

In November 2014, the *National Law Journal* published its "Top 100 Verdicts and Settlements of 2014." Included in NLJ's list was the *Estate of Thurston v. R.J. Reynolds Tobacco Co.*, in which a Palm Beach County, Florida, jury returned a verdict of \$20 million in favor of Gwendolyn Odom, the daughter of Juanita Thurston who died of lung cancer as a result of her life-long addiction to cigarettes. Ms. Odom was represented by the SDSBS trial team that included **Sia Baker-Barnes**, **Hardee Bass**, and **Mariano Garcia**. Of the top 50 verdicts in the 2014 NLJ listing, this case ranked #25 nationally, and #5 in Florida. NLJ's "Top 100 Verdicts and Settlements" report catalogs the extraordinary accomplishments of plaintiff lawyers using the best measure available – the amount of the jury verdict or the settlement award. ♦

In October 2014, the *Daily Business Review* published the "Top 20 South Florida Women in Law." **Sia Baker-Barnes** was included in the listing of these accomplished women who have made a mark in the south Florida legal community. The women were honored at a luncheon held at the JW Marriott Hotel in Miami, Florida. ♦

In November 2014, **Mariano Garcia** was sworn in as the 2015 president-elect of the Palm Beach County chapter of the American Board of Trial Advocates. ♦

The November 6, 2014, edition of the *Daily Business Review* included an article written by **John Hopkins** titled "E-Discovery Cases: Herding Cats Would Be Easier." The article discusses the current use of technology by both parties in litigation as a method to meet their obligations under discovery. ♦



Brenda Fulmer



Kelly Hyman

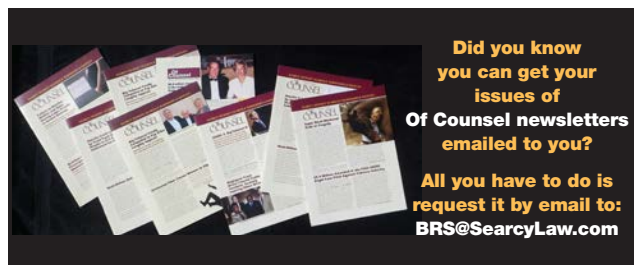


Laurie Briggs

The American Association for Justice awarded **Brenda Fulmer** the Distinguished Service Award during its annual convention held in July 2014 at the Hilton Hotel in Baltimore, Maryland. Ms. Fulmer was recognized for her efforts in helping AAJ grow as an organization. The Florida Justice Association's Board of Directors had appointed Ms. Fulmer as a delegate to the AAJ Board of Governors, and she has served both organizations with great success. ♦

In August 2014, **Kelly Hyman** was appointed co-chair of the Palm Beach County Bar Association's Personal Injury/Wrongful Death CLE Committee. ♦

The American Association for Justice's *Trial Magazine* published an article in its September 2014 edition about the deeds of AAJ members illustrating "when a passion for justice is paired with compassion for the most vulnerable people in society." Included in Steven M. Sellers' article was a mention of SDSBS attorney **Laurie Briggs'** determination to provide meaningful support for children in need in her community. Laurie is president of the board of directors of Friends of Foster Children which provides services for abused, neglected, and abandoned children. Said Laurie, "The impact you can make – one person or one family at a time – is astonishing." ♦



SDSBS Websites:



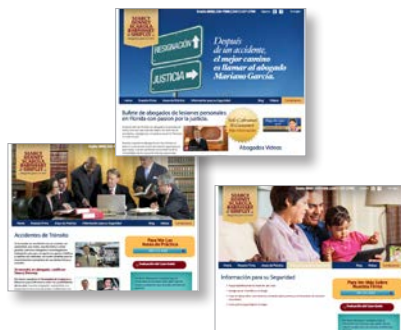
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**Red Wilcox
during his
military
service.**

\$15.5 million award in SDSBS's 13th verdict against Big Tobacco

(Continued from page one.)

land and in the air. Red suffered a severe hand injury from an explosive and shipped to a naval hospital outside of Chicago for treatment. At the hospital, he met a pretty WAVE named Lorraine. (WAVE – “Women Accepted for Volunteer Emergency Service” – was the World War II naval service for women who volunteered to support active duty personnel at hospitals and other locations.) Red and Lorraine fell in love, married and eventually had two sons – Michael and Robert (born 19 years apart). Both of Red’s sons were a credit to, and a reflection of, their father. Michael joined the Army and became an Army aviator, flying over 350 attack helicopter missions in Vietnam. He was highly decorated and, like his father, made the service his career. Red’s younger son, Bob serves as a police officer, currently as lieutenant with the Miami-Dade Police Department. After Red retired from the Marine Corps, he and Lorraine moved to Miami where Red worked 20 years as a jet engine mechanic for Eastern Airlines.

Red had started smoking at eight years of age. He smoked heavily throughout his years in service, and continually through his second career at Eastern. He was addicted to R.J. Reynolds’ products. In 1974, Red suffered a heart attack. He tried hard to quit smoking after the attack. Nicotine addiction is incredibly powerful and, despite Red’s bravery and strength of character, he was never fully able to quit smoking. During all of these years, R.J. Reynolds and other tobacco companies were waging a public relations war against science, denying that smoking was addictive and denying that

smoking caused cancer. All of the tobacco companies knew these were lies.

In December 1993, Red was diagnosed with lung cancer and needed surgery. During the operation, the surgeon found that the cancer was far more extensive than previously expected and it was necessary to perform a pneumonectomy – removal of one of Red’s lungs. It was a very serious and difficult surgery. Three weeks later, Red died from surgical complications. He never left the hospital. Red’s family asked SDSBS attorneys to represent them in a wrongful death action against R.J. Reynolds.

The case eventually proceeded to trial in Miami. The tobacco company attempted to defend themselves by arguing that Red was not addicted to cigarettes, that smoking was merely his choice and that, while he knew of the dangers, he enjoyed smoking. Although Red’s own doctors had diagnosed lung cancer, defense attorneys argued that Red did not have lung cancer, but cancer from some other part of his body. They provided defense expert witnesses to try to testify that Red’s doctors were wrong.

During the trial, the jury discovered from plaintiffs’ testimony that cigarettes are the most dangerous product ever sold by one human being to another. The jury was informed of the 50-year-long conspiracy by the tobacco industry to cover up the carnage caused by nicotine addiction. At the end of the trial, the jury’s verdicts spoke to the intentional and wrongful conduct of R.J. Reynolds, issuing a \$7 million compensatory damages verdict to Lorraine for the loss of her husband, and another \$8.5 million in punitive damages to punish R.J. Reynolds for what it did. ♦

Taking...

Time to Care



2014 Buddy Walk by Gold Coast Down Syndrome Organization held with almost 3,000 participants and with SDSBS as a sponsor

SDSBS was a sponsor for the 2014 Buddy Walk held by the Gold Coast Down Syndrome Organization in Lake Worth, Florida. Almost 3,000 participants attended this year's event, and raised over \$180,000 to support local programs dedicated to making the future brighter for individuals with Down syndrome and other disabilities. ♦



Joey Cain celebrates 25 years with SDSBS through The Arc of PBC job program plan

SDSBS recently celebrated the 25th employment anniversary of Assistant Supply Manager Joey Cain. Joey joined SDSBS 25 years ago as part of a job program set up by The Arc of Palm Beach County. His duties have included distributing copy paper, delivering materials to the scan department, shredding materials, helping set up for firm events, and other tasks. Since the 1950's, The Arc has been helping to improve the lives of children and adults with developmental disabilities through services, education, and advocacy. Joey is one of The Arc's many success stories.

♦ www.arcpbc.org



SDSBS a sponsor in WPB Library Foundation program to honor local veterans and highlight their experiences

The West Palm Beach Library Foundation hosted a series of programs presented at the Mandel Public Library from October to December 2014 to honor and highlight the experiences of local veterans and other "Star Spangled Heroes." Movies, panel discussions, and first-person stories included presentations on women in the military, PTSD/PTSS and veterans, war photography, and the perils of battle. SDSBS was a sponsor of the event. ♦



Safety and health environment of SDSBS has moved up a notch by Mariano Garcia's new skills!

The Palm Beach County Bar Association held its "Lunch and Learn" event August 20, 2014. Attendees learned how to perform cardiopulmonary resuscitation, practicing proper technique and timing. Mariano Garcia participated in the training. The safety and health environment at SDSBS has been moved up a notch by Mariano's new skills! ♦



A REPORT TO CLIENTS & ATTORNEYS VOLUME 14, NUMBER 3

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*...and Best Wishes
for the Coming Year*