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NEWSLETTER

SOUTHEAST UPDATE

IMPORTANT NUANCES IN CONTRIBUTORY NEGLIGENCE IN THE SOUTHEAST

Scott Black, Esq., Scott Rogers, Esq., Doug Leadbitter, Esq., Greg Lewis, Esq.

Contributory Negligence, Comparative Fault, Apportionment of Fault. What if the Plaintiff is 1% at fault, can they still recover? Does Joint and Several liability apply? Handling claims in multiple jurisdictions is challenging for any Claims Professional but is increasingly more common. Understanding the nuances of how a Plaintiff's fault is applied in different states is critical in evaluating any claim.

Florida:

Navigating claims along the highways and waterways of the Florida Keys to the beaches of the Panhandle can be challenging. In Florida, the courts use a pure comparative fault law. While a plaintiff's own negligence will diminish the amount of damages awarded, there is no cap on the amount of fault a plaintiff can have while still recovering compensation. Under Florida's law, a plaintiff could be 99% responsible for causing his or her accident and still recover 1% of their damages. For this reason, Florida is more advantageous for Plaintiffs than other jurisdictions. By contrast, in contributory negligence states, a plaintiff's partial negligence – no matter how small – will completely bar recovery. Here, under our apportionment statute, a Plaintiff can only recover from a party based on that party's percentage of fault and not on the basis of joint and several liability.

The attorneys of Vernis & Bowling are uniquely qualified and experienced to address this and any other liability issues pending in Florida.

Mississippi:

Whether you're on the Gulf Coast of Mississippi, the State's Capital in Jackson, or smack dab in the middle of the Mississippi Delta, with respect to comparative fault, Mississippi is very similar to Florida. Mississippi is a pure comparative fault state meaning that the jury may apportion fault to the plaintiff, assuming the appropriate burden of proof is met, and plaintiff's damages will be reduced by the exact percentage apportioned to him/her. One slight nuisance in the fault arena is Mississippi's new premises liability statute where an intentional tortfeasor is involved, such as a shooter or attacker. Mississippi law now allows a jury to apportion fault to the bad guy, the landowner/tenant and/or the plaintiff, assuming the proper burden of proof is met. This statute is relatively new, so the entire scope of the statute is not yet well-settled. For instance, one major question is whether or not the statute applies retroactively (prior to the statute being enacted). Please contact our attorneys for advice on navigating any premises liability cases involving an intentional tortfeasor.

(Cont'd on page 2)

GET TO KNOW SCOTT BLACK

DEPARTMENT MANAGING ATTORNEY

Favorite places: Almost anywhere on or under the water, St. John USVI, and the Florida Keys.

Team: Miami Dolphins (love/hate relationship)

Favorite Animal: My golden Kayo

Hobbies: SCUBA diving, fishing, and most water sports.

Favorite Restaurant: The Lazy Lobster in Key Largo FL.

Favorite thing about being an attorney: Being able to practice in the Keys, and that feeling of anticipation just before a verdict is read.

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THIS NEWSLETTER ISSUE INCLUDES:

SOUTHEAST UPDATE

IMPORTANT NUANCES IN CONTRIBUTORY NEGLIGENCE IN THE SOUTHEAST

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South Carolina:

South Carolina recognizes comparative negligence as an affirmative defense. Modern comparative negligence has replaced contributory negligence and has largely superseded assumption of the risk. A plaintiff's comparative negligence does not bar recovery unless plaintiff's negligence is greater than fifty percent. If the amount of comparative negligence is less than fifty percent, the plaintiff's recovery is reduced by the percentage of fault. If the comparative negligence is not proximately related to the injury, the plaintiff recovery is not reduced or barred. Another notable aspect of a comparative negligence in South Carolina is that punitive damages are not lessened by a plaintiff's comparative negligence. Comparative negligence in South Carolina can be difficult to navigate. At Vernis & Bowling we have the knowledge and experience to successfully argue compelling comparative negligence affirmative defenses.

North Carolina:

North Carolina is unique, from Biltmore, the nation's largest privately owned "house" nestled in the western mountains, to ocean breezes and sand dunes affording it the moniker "First in Flight." In the liability arena, North Carolina follows a unique common law tort rule: contributory negligence. Where alleged in a civil action, the issue submitted to the jury is "Did the Plaintiff, by his own negligence, contribute to his damages?" You often hear "One percent negligence bars Plaintiff's right to recover." The burden of proof is on the defense to not only prove Plaintiff's negligence, but that such negligence was a proximate cause of Plaintiff's damages. It's a principle of law that we've seen misapplied in evaluating claims, and therefore it is important to have local counsel assess the evidence in applying the rule. Our NC attorneys are knowledgeable of the principal and available to assist in its application to claims.

For additional information, please contact; Scott Black, sblack@florida-law.com; Scott Rogers, srogers@mississippi-law.com; Doug Leadbitter, dleadbitter@scarolina-law.com; Greg Lewis, glewis@ncarolina-law.com

DIVERSITY & INCLUSION NEWS

Vernis & Bowling held its Inaugural Women's Book Club discussion in February. The participants discussed the selection "Educated" by Tarra Westover. Over 25 female employees have joined the book club.

Vernis & Bowling is exploring the Civil Rights Trail to celebrate Black History Month. We are highlighting the destinations important to the Civil Rights Movement that overlap with Vernis & Bowling offices in the Southeast. Check out our website and our LinkedIn page for additional information.

CAI AND FLORIDA TASK FORCE INITIATE PUBLIC POLICY REFORM FOLLOWING CHAMPLIN TOWER SOUTH CONDO COLLAPSE

Evelyn Greenstone Kammet, Esq.

The June 24, 2021, Champlain Towers collapse in Surfside was among the most lethal structural building failures this nation has ever witnessed, resulting in 98 lives lost. In the wake of this tragedy, there were many unanswered questions and concerns regarding safety and structural integrity. These concerns prompted parties to seek judicial relief via the filing of negligence claims and shareholder derivative actions. The Community Associations Institute ("CAI"), an international authority in community association education, governance, and management, recognized these concerns and considered policy reform recommendations related to building inspections, budgeting, reserve funds and risk management.

Subsequent to the collapse, CAI's Government and Public Affairs Committee organized a special meeting with attorneys, insurance and risk management professionals, developers, engineers, architects, reserve specialists, community association managers, and owners to appoint three task forces. The goal of the task forces was to explore possible changes to existing law and recommendations of best practices for community associations to avoid tragedies of this sort in the future, and additionally, to provide a framework for legislators seeking to address building safety in their districts.

Throughout a three-month period, over 600 participants joined CAI's efforts through conversations, surveys, research, and interviews. The task forces submitted a final report of public policy recommendations to the CAI Government & Public Affairs Committee, and final approval was then obtained by the CAI Board of Trustees. The report contained specific policy recommendations with three overarching categories: reserve studies and funding; building maintenances and structural integrity. Recommendations included the requirement for periodic baseline inspections to monitor a building's structural integrity, the use of well delineated protocols found in the American Society of Civil Engineers Guideline for Structural Condition Assessment of Existing Buildings (SEI/ASCE 11-99), guidance for the disclosure of information concerning building safety, repair and maintenance to owners and residents, and recommendations to community association boards pertaining to funding necessary projects through special assessments. CAI's goal is for these recommendations to be adopted into state law in keeping with its vision for the development, governance, and management of community associations.

In Florida, the Condominium Act (i.e., Chapter 718, Florida Statutes) has no express maintenance and repair standards or requirements for residential condominiums, unlike protocols imposed upon commercial buildings, despite that the Act, pursuant to Fla. Stat. § 718.113(1), provides that maintenance of the common elements is the responsibility of the association. Furthermore, Florida has no state-wide post-occupancy structural inspection requirement. While Miami-Dade and Broward Counties require a condominium to be inspected at the 40-year mark after initial certification and reinspected every 10 years thereafter, critics argue that the length of time between inspections is too lengthy.

In addition to the public policy recommendations contained in the CAI report, on October 12, 2021, the Florida Bar's Condominium Law and Policy Life Safety Advisory Task Force issued its own report recommending the following: (1) expanding the Condominium Act to include structural maintenance, repair and replacement requirements, including, specifically waterproofing requirements; (2) amending the Act to shield associations from liability for alternative housing costs and lost rental profits when residents are required to vacate during necessary repairs; (3) clarifying the Act's material alteration language to carve out an exception for necessary maintenance and repairs which may otherwise require an affirmative unit owner vote; (4) amending the Act to provide that limitations on a board's authority to levy special assessments or borrow money for necessary repairs are against public policy, and therefore void; (5) amending Fla. Stat. 718.301 to require a developer's turnover report to include maintenance protocols; (6) creating a private cause of action for unit owners in the event of an association's failure to perform necessary work, including the appointment of a receiver; (7) amending the Act to require reserve studies (i.e., a determination of the amount of money to be allocated in an association's budget for capital improvements) and deferred maintenance budget reserves, among several others.

In light of the Report's extensive recommendations, it is likely that we will see significant changes to the Condominium Act in the future. Given that there are approximately 27,000 condominium associations statewide and approximately 3.5 million Florida condominium residents, the task force reports and recommendations provide invaluable resources to help prevent a tragedy like the Champlain Towers collapse from occurring again, in part, by educating directors, officers, property managers, and unit owners regarding their respective obligations when issues pertaining to life-safety arise. Our Firm remains able to assist as these necessary reforms are implemented.

For additional information, please contact Evelyn Greenstone Kammet at egreenstone@florida-law.com.

VERDICTS & DISPOSITIONS

Gaelan Jones and Dirk M. Smits (Islamorada, FL) (Governmental Law) with assistance from Hunter O'Conner, obtained a Dismissal Without Prejudice on behalf of all Monroe County School Board Defendants in the matter of Digennaro v. Malgrat, et. al. Bianca Digennaro sued the School Board, the City of Key West and several individual school officials and police officers, after Ms. Digennaro's eight-year-old son HMM was arrested at school following reports of him punching a teacher. Civil Rights Attorney Ben Crump, representing Ms. Digennaro and her son, filed a federal lawsuit in the Southern District of Florida and circulated body worn camera footage of the student's arrest on social media and causing the story to go viral nationally. Plaintiff's counsel argued that the City of Key West and the defendant police officers violated HMM's constitutional rights by attempting to use handcuffs during his arrest, and that the School Board defendants had violated HMM's rights by contacting law enforcement. Specifically, Plaintiff's counsel argued that school officials should not involve law enforcement in student disciplinary matters unless they believe an imminent threat to school safety exists. The School Defendants moved to dismiss the lawsuit on grounds of qualified immunity, arguing that school officials are compelled to involve law enforcement in response to reports of certain crimes by Florida law, particularly in the aftermath of the Marjory Stoneman Douglas shooting. In a seventeen-page opinion, Judge K. Michael Moore cited arguments and case law from the School Defendants' brief and ruled that the Defendants were entitled to qualified immunity.

James Merritt, Jr. (Atlanta, GA) (Premises Liability) recently obtained an order granting Summary Judgment in favor of Lowe's on all claims in this personal injury action. The Plaintiff filed suit on a premises liability theory, claiming that he had sustained serious bilateral wrist injuries after a Lowe's employee began using a large carpet rolling machine while the Plaintiff's hands were still resting on the roller. The Plaintiff had undergone surgery and was claiming over $115,000 in medical bills. The parties tried to settle the case at mediation, but mediation broke down after it became clear that the Plaintiff would not consider any amount under 6-figures. We filed a Motion for Summary Judgment on behalf of Lowe's, arguing that the Plaintiff was barred from recovering for 3 primary reasons – each of them interconnected in law and fact. First, to the extent the large carpet rolling machine was a "hazard," then the Plaintiff had equal knowledge of it. The undisputed facts established that the Plaintiff had bought carpet before and was familiar with these types of carpet rolling machines and how they operated. Additionally, the Plaintiff was only injured after he had watched as the Lowe's employee operated the machine 2 different times, each resulting in a cut which the Plaintiff found unsatisfactory. Finally, there was no evidence that the Lowe's employee ever had any knowledge that the Plaintiff had put his hands onto the large roller. Second, the Plaintiff had voluntarily assumed a known risk. Lowe's argued that, under Georgia law, a plaintiff who voluntarily exposes himself to the risk has failed to exercise ordinary care for his own safety, and therefore cannot recover from the owner. And finally, to the extent that the large carpet rolling machine was a "hazard," it was an open and obvious static condition which could have been avoided in the exercise of ordinary care. At the hearing, the Plaintiff argued that he was not warned about the dangers of the carpet rolling machine, that there were no warning signs nearby the machine, and that this failure to warn proximately caused his claimed injuries. After considering arguments from both sides, Judge Emily Brantley agreed with Lowe's and granted Summary Judgment in Lowe's favor and against the Plaintiff on all counts in the Complaint.

"...and ruled that the Defendants were entitled to qualified immunity."

James Merritt, Jr. (Atlanta, GA) (Commercial Trucking) obtained a Dismissal in the case Julia Lawson v. Findlay Gin Co., et al. Plaintiff Julia Lawson filed a personal injury lawsuit, claiming that she sustained injuries when the vehicle being driven by her husband in which she was a passenger was allegedly hit by a commercial cotton truck, causing the crash. Ms. Lawson's Complaint named as defendants the driver of the cotton truck (Ronnie Wilkes), the owner of the cotton truck (Vienna Cotton Co., Inc.), the operator of the cotton truck (Findlay Gin Co.), and their insurer (a direct action against Penn Millers Insurance Co.).

Our investigation into the accident revealed that the subject accident actually occurred when the Plaintiff's husband had been tailgating the cotton truck, and as the cotton truck attempted to make a lawful right-hand turn, the Plaintiff's husband attempted to illegally pass the cotton truck, driving the Plaintiff's vehicle partially onto the grass and emergency shoulder of the highway. We also learned that the investigating state trooper found the Plaintiff's husband to be at fault, and the Plaintiff's own insurance company had acknowledged fault for the accident and had partially paid Vienna's property damage claim on the damaged cotton truck. We therefore decided to implement a creative and aggressive defensive strategy whereby we not only answered the Plaintiff's Complaint, but we also filed a Third-Party Complaint against the Plaintiff's husband for the remaining property damage to Vienna's cotton truck which included a plea for punitive damages, and had the husband served with process by the local sheriff, including with a deposition notice and extensive discovery requests as a Third-Party Defendant. We also served on Plaintiff's counsel an Abusive Litigation Warning threatening to seek damages and fees if the Complaint was not dismissed within 30 days. After reviewing all the papers we filed and served, Plaintiff's counsel quickly contacted us and offered to dismiss the Plaintiff's Complaint with prejudice, if we had agreed to do the same with our Third-Party Complaint and withdraw our abusive litigation warning. Thanks to a unique defensive approach where we went on the offensive, *this lawsuit was dismissed only 11 days after it was originally filed.*

David Willis (Atlanta, GA) (Workers' Compensation) defended Schwan's and Sedgwick CMS at a hearing before Judge Meg Hartin at the State Board of Workers' Compensation. The claimant, a 20-year employee of Schwan's in downtown Atlanta sustained injuries after a machine door struck her on the neck and back. Medical treatment and TTD benefits were authorized. Over a year later,the authorized treating physician released the claimant to full duty work and weekly TTD benefits were suspended. The claimant's attorney then met with Dr. Sloan and returned the claimant to light duty. Later, Dr. Sloan returned the claimant to full duty in mid-September 2020. He reiterated this opinion on November 2, 2020.

Following the light duty release, the claimant's attorney filed a hearing request seeking (1) a recommencement of TTD benefits and (2) a change of physicians to her IME doctor, Tapan Daftari. Even though Dr. Sloan and two other doctors stated that surgery was not required, Dr. Daftari had rendered an opinion suggesting that further injections and surgery would be needed. It was the position of Schwan's and Sedgwick that the claimant had been capable of full duty work since July 20, 2020 and that a change of physicians to Dr. Daftari was not warranted.

On February 2, 2021 Judge Hartin issued her Award and granted only a limited period of TTD from August 26, 2020 until November 2, 2020, representing 9.4 weeks of benefits. Significantly, she concluded that the evidence proved the claimant had been capable of regular duty work since November 2, 2020. This was based partly upon the opinion of Dr. Sloan, as well as two other doctors who also concluded the claimant could work full duty. Additionally, Judge Hartin found that while the claimant had compensable injuries to her back and neck, "consistent with the great majority of medical opinions… surgery is not appropriate and consequently the Employee's request for a change of physicians to Dr. Daftari is denied."

Kimberly Sheridan and Michael Becker (Atlanta, GA) (Commercial Auto) obtained Summary Judgment for an employer in a commercial automobile claim. Following a serious motor vehicle accident, Plaintiff/passenger Kelsey Smith filed a lawsuit against the driver of her vehicle, Keegan Lenderman, and the driver of the other involved vehicle, George Cornelius. Smith and Lenderman both alleged significant injuries in the crash. Plaintiff also sued, and Lenderman likewise crossclaimed against Elite Comfort Solutions, which they alleged employed Cornelius at the time of the accident. Discovery revealed that Elite retained Mr. Cornelius, an Illinois attorney, to be their outside general counsel as an independent contractor. At the close of discovery counsel moved for Summary Judgment arguing that Mr. Cornelius was not their employee but rather an independent contractor, and

"… this lawsuit was dismissed only 11 days after it was originally filed."

Verdicts & Dispositions, Continued

therefore Elite was not responsible for his conduct under a vicarious liability theory. Following extensive briefing and oral arguments, Judge Shawn Bratton concluded that Cornelius was not Elite's employee as clearly set out in his retainer agreement and granted Elite's motion for Summary Judgment. Plaintiff and crossclaim plaintiff did not appeal.

Kimberly Sheridan and Michael Becker (Atlanta, GA) (Commercial Auto) obtained a Dismissal for youth group Young Life in a bus crash case. Plaintiff Medgar Cooks was driving Young Life Campers in a chartered bus when it broke down. His chartering company sent a relief driver from a separate bus chartering company, Travis Holt, who picked up Plaintiff and the campers and drove them to Young Life's camp in Jasper, Georgia. After unloading the campers, Holt crashed the bus with Plaintiff inside as a passenger, allegedly causing him injuries. Plaintiff sued Young Life on the theory that Holt was its employee and/or agent. However, counsel's investigation revealed that Young Life's relationship to all the other parties in the case was that of an independent contractor, and Holt was an independent contractor of another independent contractor, further insulating Young Life from liability. Counsel sent to the plaintiff a frivolous and abusive litigation warning threatening to seek damages and fees if the Complaint was not dismissed within 30 days. Counsel simultaneously sent a statutory offer of settlement pursuant to O.C.G.A. § 9-11-68 in the amount of $50.00; and filed a motion to dismiss for failure to state a claim upon which relief could be granted. Thanks to an aggressive up-front defense, Plaintiff opted to dismiss his case against Young Life voluntarily rather than risk an award of attorney's fees and expenses under O.C.G.A. § 9-11-68 or a subsequent abusive litigation suit.

> "...Thanks to an aggressive up-front defense, Plaintiff opted to dismiss his case ..."

Michael Becker (Atlanta, GA) (General Liability) obtained a Defense Verdict in a lawsuit alleging Kiwec Self-Storage improperly auctioned the contents of Anne Spaine's storage unit following her failure to make monthly rental payments. The evidence at trial revealed Spaine regularly let her account fall into delinquency for several months at a time, and then she would pay to bring her account current just before auction. However, she did not notify Kiwec of an address change and so after letting her account go delinquent for several months, the contents of her storage unit were sold at auction. Spaine alleged she was not notified of the date of an auction sale and therefore that Kiwec failed to give the proper statutory notice of the auction date and time because they sent the notice to her old address. However, at trial the court determined that under her written contract Spaine had the obligation to give written notice of her address change, which she failed to do, and entered a verdict for the defense. Plaintiff did not appeal.

Kimberly Sheridan and Michael Becker (Atlanta, GA) (Premises Liability) obtained a Dismissal for homeowner Katherine Segal in a dog-bite case. According to the allegations of Plaintiff Siegel's complaint, Ms. Segal re-homed her dog, Scout, to a new owner, Kristina Thrower. Five months later, Plaintiff Siegel was visiting Thrower's home when Scout allegedly bit her in the face, allegedly causing injuries and scarring. Plaintiff Siegel sued Scout's former owner, Defendant Segal, on a dog-bite/failure to warn theory. Counsel filed a motion to dismiss for failure to state a claim upon which relief could be granted. Counsel argued that under O.C.G.A. § 51-2-7, which governs liability for owners or keepers of dogs, liability lies only against the current owner or keeper of a dog, not against former owners or keepers. Rather than respond to the motion, Plaintiff dismissed her lawsuit. Plaintiff did not renew the suit and the dismissal is therefore final. Bucher v. Pace

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Michael Becker (Atlanta, GA) (UM/UIM) obtained a Dismissal for MGA Insurance Company, a purported underinsured motorist carrier. Plaintiff Danielle Bucher, a Tennessee resident, was involved in a collision in Georgia with a Georgia driver. She obtained the $25,000 liability policy limits from the Georgia driver. She then attempted to obtain $25,000 in underinsured motorist benefits from MGA by filing suit against the driver in Georgia. Counsel filed a Motion to Dismiss for failure to state a claim upon which relief could be

granted. Counsel argued that because Tennessee law, not Georgia law, governs the insurance policy, there was no additional underinsured motorist coverage. Georgia follows the doctrine of lex loci contractus, which means that although the crash occurred in Georgia, interpretation of an uninsured/underinsured motorist policy is governed by the law of the state in which it was written and delivered, in this case Tennessee. Under Tennessee law, (unlike Georgia law) there is no "add-on" underinsured motorist coverage, and the UM/UIM carrier is entitled to offset any liability coverages/payments against the UM/UIM coverage. Therefore, counsel argued, MGA provided no further UM/UIM coverage over the $25,000 plaintiff had already received from the liability carrier. Plaintiff failed to respond to the motion and the court dismissed the lawsuit with prejudice.

Kimberly Sheridan and Michael Becker (Atlanta, GA) (Commercial Auto/Coverage) obtained Dismissal of a direct action against MemberSelect Insurance Company in a commercial motor vehicle claim. Plaintiff alleged he was injured by Reverend Gaines, who was returning from a religious conference and pulling a trailer of parishioners' luggage and insured by an MSIC personal lines policy. Plaintiff alleged that because his vehicle and trailer together exceeded 10,000 pounds, and because he was operating his vehicle "for hire," Rev. Gaines was a motor carrier and filed a direct action against MSIC. Plaintiff refused a tender of the policy limits, opting instead to advance a novel theory that MSIC should have known that their insured would be, at times, a motor carrier and therefore should have sold him a commercial liability auto policy with the statutorily required limits rather than a personal lines policy. Following discovery counsel moved for summary judgment arguing that if Rev. Gaines was "for hire," coverage was wholly excluded by the business use exclusion in his personal lines policy; alternatively, if he was not "for hire," then he did not meet the statutory definition of a motor carrier and therefore a direct action against MSIC was not authorized by law. Faced with committing to either position, Plaintiff dismissed MSIC.

G. Jeffrey Vernis (N. Palm Beach, FL) (Premises Liability) tried the matter of Rosenzweig, Mark & Sandra v. ABC Centers, LLC, before a jury in Seminole County from June 14-17, 2021 and secured a Defense Verdict. Plaintiff alleged that while shopping at ABC Centers, LLC, he tripped over a partially curled up display rug. Plaintiff claimed he sustained injuries to his neck, back, both shoulders and both knees. Plaintiff had surgeries to his neck and both knees; PRP injections in both knees, shoulders and neck and his medical bills totaled over $286,000. Plaintiff's demand was over $1M and was reduced just prior to trial to $670,000. Defendant filed a proposal for settlement for a total of $50,000 over a year before trial. During trial, Plaintiff alleged that Defendant was on notice that the rug display was a dangerous tripping hazard because it knew or should have known that rug corners have the tendency to roll upward as the result of humidity delaminating the two-sided tape adherent. Defendant countered by showing that no one, including the Plaintiffs saw the rug curled-up prior to the fall and that its policies and procedures were to check for safety issues every morning and throughout the day. Further, its loss prevention officer checked the rug personally at least once a week, if not more, to ensure that it was affixed to the floor. In addition, Defendant was able to show that the Plaintiff had numerous prior falls in stores causing similar injuries dating back to the 1990's, including a similar fall also over a rolled-up corner of a rug, at another store just four years prior. Defendant was able to show that not only did the Plaintiff suffer similar injuries before the subject incident but failed to disclose those incidents/injuries to his own doctors and that the doctors' opinion on causation were largely based on the credibility of a Plaintiff who failed to be honest with them or anyone throughout the litigation. At trial, the Plaintiff asked the jury for more than $1.8M. The jury was out for forty-five minutes and returned with a complete Defense Verdict. Defendants Motions to Tax Attorney's fees and costs against the Plaintiff are pending.

Courtney Lucke (Tampa, FL) (Premises Liability) obtained Summary Judgment for Regions Bank in Polk County, Florida. The Plaintiff tripped and fell over a curb attempting to enter the bank. Plaintiff filed an action asserting that Regions Bank was negligent in failing to maintain its parking lot and sidewalks in a safe condition. Although we admitted that Regions Bank owed a duty to maintain its premises in a reasonably safe condition and warn of known dangers, we argued

Verdicts & Dispositions, Continued

that no duty was breached as the condition was open, obvious, and not inherently dangerous. We further argued that Plaintiff had actual knowledge of the condition given that he testified that he had been to the Bank "hundreds" of times before and utilized this same path and curb on many occasions. The Court agreed with our position and granted Summary Judgment in Defendant's favor.

Thomas W. Paradise and Lauren Stone (Hollywood, FL) (Appeal/Governmental Law) obtained Final Summary Judgment in the Fourth District Court of Appeal.

Plaintiff, Sebastian McCall, was a 20-year-old spectator who attended a basketball game at Blanche Ely High School in Pompano Beach, Florida on January 12, 2013. The basketball game was against Deerfield Beach High School, which the Plaintiff alleged was a rivalry game. At the conclusion of the basketball game, while McCall was walking on the sidewalk while leaving campus, an altercation broke out and a crowd of 50-60 people, who were ahead of him and who had already exited the school's campus, suddenly turned and began to run back onto campus. While trying to run with the crowd, the Plaintiff fell causing him to sustain severe personal injuries. As a result of the incident, the Plaintiff brought a negligence action against the School Board of Broward County, Florida under a theory of negligent security. As a result of the incident, the Plaintiff suffered a right shoulder dislocation and a fracture to his right hip.

The Plaintiff alleged that the school breached its duty of care to the Plaintiff to provide a reasonably safe environment within the bounds of the school by failing to have adequate security and crowd control as this particular game against Deerfield Beach High School was "a long standing and hotly contested rivalry." More specifically, the Plaintiff alleged that the school should have had more police officers present at the subject basketball game. The School Board of Broward County argued that it had a security plan in place for every game, which included the school's security team and police officers. In particular, the evidence showed that a meeting was held prior to the basketball season to develop a security plan for each home game, which included the number of police officers present at each game. As such, the School Board further argued that Plaintiff's claim was barred by sovereign immunity pursuant to Fla. Statute §768.28 as discretionary/planning level functions of the government are immune from suit and that the waiver of sovereign immunity only applies to operational level functions. The School Board argued that the Plaintiff did not establish any evidence that the School Board failed in its operation of its security on the date of loss.

The School Board filed a Motion for Summary Judgment based on sovereign immunity as the Plaintiff's claim that the School Board should have had more police officers present at the basketball game was a planning level decision. The trial court entered an order denying the motion holding that the School Board's decision as to security was operational. The School Board appealed the trial court's order. The Fourth District Court of Appeal reversed the trial court's ruling denying the School Board's Motion for Summary Judgment as it was determined that the School Board was entitled to sovereign immunity and that Final Summary Judgment should be entered in favor of the School Board of Broward County.

Terrence L. Lavy (Ft. Myers, FL) (Property) obtained Summary Judgment in Maidwell v. Southern Fidelity on July 30, 2021. The matter related to a dishwasher leak. The insured delayed reporting the claim and also remediating the water, resulting in a substantial mold problem. We assisted in the claim investigation and conducted an examination under oath of the insured which clarified issues with respect to the leak and the loss of use claim. Southern Fidelity determined to pay the claim – mitigation was paid in full; the mold limits were paid and the build-back due to water damage was paid actual cash value – and continued to try to settle the matter prior to suit. However, the insured contended she was significantly underpaid as to build-back and loss of use damages. The insured never repaired the property (incurring extensive additional living expense) and the matter went into suit. Recognizing the risk of adverse verdict in a primarily scope-and-price dispute, Southern Fidelity offered an early, significant proposal for settlement. The insured rejected this offer and proceeded through contentious litigation. Ultimately, we moved for Summary Judgment as to lack of breach of contract based on the propriety of the payments and the insured's failure to repair so as to trigger the obligation to pay replacement cost value. There could be no dispute as to the mitigation invoice being paid in full.

The policy provision as to mold coverage imposed a $10,000 sublimit as to all damages, including loss of use – unless the insured could show that additional loss of use was not caused "in whole or in part" by mold. We presented her EUO testimony to show that the need to vacate the property was based, at least in part, on mold. The payment as to build-back damages was based on an independent adjuster estimate for ACV and RCV. Although the insured had a competing estimate from a public adjuster and a contractor, neither were appropriately authenticated or admissible - also neither calculated actual cash value of the water damage. The Honorable Keith Kyle entered summary Judgment in favor of the defendant. Owing to its attempts to settle the matter from the early going, Southern Fidelity has an entitlement to its attorney's fees and costs and is pursuing them.

Terrence L. Lavy (Ft. Myers, FL) (Property) obtained Final Summary Judgment on behalf of Castle Key Indemnity Company related to a Hurricane Irma lawsuit brought by its insureds, Edward and Kathleen Tyrell. After hiring Massey Construction in January 2019, the insureds were convinced they needed a new roof and asserted an Irma claim. During discovery they presented invoices for roof repairs by professional roofers in October 2017 and March 2018 – the combined costs for this work were well below the deductible. The roof was not replaced prior to suit (or during). During the litigation we obtained a defense decision at Court Ordered Non-Binding Arbitration. Plaintiffs sought trial de novo. We moved for Summary Judgment asserting that, since the repair costs were incurred and below the deductible, Plaintiffs' contention was that replacement was warranted, if at all, only by an ordinance or law coverage argument. The policy provided such coverage only when actually incurred. The Honorable Elizabeth Krier, Collier County Circuit Court, agreed and entered Final Summary Judgment on the issue. Castle Key is now considering its options with respect to obtaining its fees and costs with respect to the suit.

Kenneth Amos and Miles Hickman (St. Petersburg, FL) (Premises Liability) obtained a favorable verdict for vvthe Defense in the Pinellas County Circuit Court on Tuesday, July 27th. Plaintiff alleged that she tripped over a box placed by the Defendant in the hallway of a medical office.

The Plaintiff was the office administrator at this medical office and the Defendant was an electrical contractor hired to replace a light fixture in the ceiling of a lab room in the building. The hallway where Plaintiff tripped was adjacent to this lab room.

We were able to elicit testimony that demonstrated the Plaintiff was late for work that morning and was in a hurry as she tried to navigate around the "obstacle" on the floor of the hallway. During cross examination, the Defense was also able to get the Plaintiff to admit that she did not know whether she actually tripped over the box. It was later shown on direct examination of the Defendant, that in fact, the Plaintiff tripped over her own feet as she navigated around the box. The Defendant admitted on cross examination that he created a hazardous condition by allowing the box to jut out into the hallway from the abutting lab room. While this negative testimony was certainly a hurdle, our defense team was able to navigate around these issues during closing arguments and presented a theory of the case as to how we all need to Following the close of Plaintiff's case and chief, the Defense moved for a directed verdict. The Defense's position was that the box was open and obvious, and not inherently dangerous, and thus there was no legal duty of the Defendant. However, the Judge denied the motion based on the Plaintiff's testimony that she cut through an office space and when she turned the corner, the box was only a few steps in front of her in the hallway. As such, the Judge found that the box was not open and obvious.

As a result of the Plaintiff tripping, she began falling forward, approximately 6 to 8 feet down the hallway, before she ultimately hit an office door frame with her right shoulder/arm. Plaintiff's injuries included a fractured humerus, which required an open reduction and internal fixation surgery to repair. This surgery put the Plaintiff out of work for approximately 6 weeks. The surgery resulted in permanent hardware left in the Plaintiff's arm, as well as, scarring to the back of her arm. Plaintiff's outstanding medical bills and lost wages totaled $73,425.41 and were stipulated to prior to the start of the trial.

While the Plaintiff attempted to focus on limitations to her right arm, our defense focused on the fact that during the course of the trial, the Plaintiff repeatedly held exhibits up to the jury with her right arm, without any limitations.

Verdicts & Dispositions, Continued

The Plaintiff asked the jury for damages of approximately $350,000 to $425,000. After more than two hours of deliberations, the jury rendered a verdict which included $133,425.41 of total damages. However, the jury found that the Plaintiff was 40% comparatively negligent for causing the trip and fall. This resulted in a favorable, final award of $80,055.24.

Steven Sundook and Phillip Fairman (Ft. Myers, FL) (Automobile Liability) obtained a Defense Verdict in Lee County Circuit Court in a three-day trial of an auto negligence case. Plaintiff's counsel requested the jury award $171,000.00 in medical bills and $4,200,000.00 million in pain and suffering. The jury awarded $35,000.00 in medical bills, found the Plaintiff to be 40% at fault for the accident, and found that she had no permanent injury. After a PIP setoff and comparative negligence, net verdict was only $11,000.00. The defense previously served a proposal for settlement for $110,000.00 and will be seeking an attorney fee award. A "high low" agreement was offered but the Plaintiff refused to go below "$250K/$1 million." There was also a prior nonbinding arbitration award of $225,000.00.

The case arose out of a March 3, 2018 accident in which the 75-year-old defendant driver was leaving a restaurant with his wife and sister-in-law. Traffic to his right was in gridlock. He waited until a driver in the gridlock traffic stopped to let him through to turn left. He waited, looking to his right for oncoming headlights to make a safe left turn.

Seeing no oncoming headlights, he slowly turned left and then accelerated. He admitted his vision was partially obstructed as he looked through the windows of parked cars to his right before turning. His wife testified she also saw no oncoming headlights as they turned. After 5-6 seconds he felt a push from behind, realized his car had been hit, pulled over to the side of the road and called 911.

Plaintiff, a 42-year-old single mom, was coming back from the fair with an ex-boyfriend and her adult disabled child. She claimed the defendant's vehicle suddenly partially pulled into her lane and stopped. The first thing she saw was his brake lights. She braked and turned to the right to try to avoid the collision but struck the right rear side of the defendant vehicle with her right front quarter panel. Her ex-boyfriend claimed the defense vehicle was stopped at an angle, and not fully in the lane at impact.

Plaintiff only complained of some chest pain from her seatbelt and refused medical treatment from EMS at the scene. The next day she went to urgent care complaining of a myriad of areas of pain and discomfort, including to her right shoulder. She followed up with a chiropractor, neurologist and eventually returned to an orthopedic surgeon who had treated her in the past.

She had two prior car accidents in 2006 and 2010. She had right shoulder arthroscopic surgery in 2006 after the first accident and again in 2010 after the second accident. She had a third right shoulder arthroscopic surgery following our 2018 accident.

She went a year and a half until July 2020 without treating with the orthopedic surgeon, Dr. Kagan. She had an injury at home in January 2020 when she felt pain in her shoulder while reaching behind her to close a door. When Dr. Kagan saw her in the summer of 2020, his report was mostly a cut and paste of his March 2019 MMI report. He referred her to physical therapy and never mentioned anything about discussing future surgery with the Plaintiff, much less recommending it. Plaintiff's counsel claimed the 2020 "door" injury related back to our March 2018 accident.

In November 2020 Plaintiff's lawyer produced a "confirming" letter he wrote to Dr. Kagan in which he asked Dr Kagan whether Plaintiff would need a future surgery. Dr Kagan signed a form attached to the letter outlining the future surgery he recommended to her lawyer. When Dr. Kagan's video testimony for trial was done in May 2021, he admitted it was unusual to not examine a patient, get an MRI or have any discussion with a patient before recommending a future surgery. Plaintiff's counsel also had him testify that Plaintiff might need a second future surgery if the first was not successful, which would be open surgery using cadaver bone, which another doctor would have to perform. He admitted the need for the second future surgery was "sheer speculation".

Our CME doctor testified that Plaintiff had general laxity in her shoulder, that it was a chronic condition not related to our 2018 accident, and that he did not find her 2018 surgery to be related to it, or believe she needed any surgery in the future.

In closing argument Plaintiff's counsel argued that our opening statement, in which we said Defendant was not a cause of the accident, was proven to be false, that Defendant "darted out" in front of the Plaintiff cutting her off. It was further argued that she had lost the use of

her right dominant arm, and this was almost like an arm amputation case. The total award requested from the jury was just under $4,400,000.00.

We argued that our client was at most only partially at fault for the accident after he had a "lapse in judgment" turning onto the roadway, but that he was accelerating away, and not stopped partially as Plaintiff claimed, and that she rear-ended his vehicle.

The jury found Plaintiff 40% at fault and found the 2018 surgery not related to the 2018 accident, found no permanent injury, and awarded $0 in pain and suffering damages. It also awarded $35,000.00 in total medical bills, resulting in a $11,000.00 net verdict after applying the PIP reduction.

Tom Paradise and Tommie DePrima (Hollywood, FL) (Automobile Liability) obtained a favorable Jury Verdict after a 5-day trial. The Plaintiff claimed serious injuries to her right hip, elbow, wrist, a lumbar herniation and psychological injuries as a result of being hit by a car as a pedestrian in a parking lot. The Plaintiff contended she was crushed and pinned between the vehicle that hit her and another parked vehicle. She was claiming ongoing, severe pain to her right hip and lower back. Plaintiff's husband also filed a loss of consortium claim.

Before trial the Plaintiffs settled the claim with the tortfeasor for $100,000.00. The Plaintiffs also filed a claim against USAA, their UM/UIM carrier, and demanded the stacked policy limits of $600,000.00. The Plaintiffs always demanded the policy limits, so the matter proceeded to trial against the UM/UIM carrier, USAA. The insurance carrier admitted fault on behalf of the tortfeasor but disputed that the accident caused all the damages that were being alleged by the Plaintiffs. The Plaintiff was claiming approximately $50,000.00 in past medical expenses and $60,000.00 in future medical care, both of which included the cost of psychological care and counseling. Prior to the incident, the Plaintiff suffered from pre-existing mental health issues which she had sought treatment for before the subject incident. At trial, the defense also had an expert physician testify that the Plaintiff's subjective complaints of pain were not supported by the objective findings of the Plaintiff's medical records and imaging studies. It was further indicated by the defense's expert that PRP treatments, which the Plaintiff was contending helped with her pain, were not reasonable and necessary given that these types of injections are still deemed experimental by the larger medical community.

At the close of trial, the Plaintiff asked for $1 million in total damages to the Plaintiffs. The jury returned a total verdict of $29,000.00 for past medical care only, with a finding of no permanent injury. The verdict was less than the underlying tortfeasor's liability limit so USAA obtained a defense verdict. The Defendant, USAA, also filed a PFS when the claim was first filed so it will be filing a motion to recover almost all of the fees and costs incurred in the defense of the claim.

Jeff Gill (Pensacola, FL) (Wrongful Death) recently obtained a Dismissal of a wrongful death claim which was filed in Bay County. The action was brought by the parents of the 19-year-old decedent who fell to his death from the ninth-floor condo in which he was staying. We represented the vacation company that booked the condo that allegedly contained an attractive nuisance (scaffolding which was adjacent to the balcony railing). After prevailing on his Motion to Dismiss at the initial hearing, Mr. Gill convinced Plaintiff's counsel to file a Dismissal with Prejudice rather than filing an amended complaint.

G. Jeffrey Vernis (N. Palm Beach, FL) and Bill Hyland (Deland/Central FL) (Premises Liability) obtained a favorable Jury Verdict after a 4-day trial in Lake County, Fl. The Plaintiff claimed serious injuries to her left knee and right hip, requiring anterior cruciate ligament (ACL) reconstruction surgery as a result of hitting her knee on an open drawer in the hardware aisle of Lowe's. The Plaintiff contended she suffered an ACL tear to her left knee that required surgery and extensive reconstruction of her knee, with total medical bills exceeding $115,000. The plaintiff claimed her severe knee and hip pain was ongoing and made her walk with a severe limp and would require at least one additional surgery to repair her knee. The Defense denied any negligence and argued that the incident was an unfortunate accident and not negligence. At trial, the defense introduced the store security video of the proximity of the incident showing the plaintiff walking normally after the incident. The defense also called two expert physicians that testified the plaintiff's MRI of her left knee was completely normal and surgery was not reasonable, necessary, or causally related to the incident.

Verdicts & Dispositions, Continued

At mediation, the Defendant had offered $50,000 and subsequently filed a Proposal for Settlement (PFS). The Plaintiff last demand at mediation was $675,000 and subsequently filed a PFS for $425,000. At trial, the plaintiff's asked the jury for an award of $1,900,000 in damages. The jury returned a total verdict of $6,218.40 assigning 95% comparative negligence on the plaintiff, for a net verdict of $310.00. The Defendant is preparing their motion to recover attorney's fees and costs incurred in the defense of the claim.

Mitch Evans (Atlanta) (Automobile Liability) obtained a Defense Verdict on September 16, 2021 in the State Court of Fulton County in an admitted liability rear-end collision auto accident case. Plaintiff claimed shoulder, neck and back injuries. He did not have any relevant prior or subsequent claims, injuries or treatment. Plaintiff received chiropractic and orthopedic care including cervical facet block injections and a one level cervical radiofrequency ablation and claimed medical expenses in excess of $33,000.00 and lost wages in excess of $6,000.00. Plaintiff claimed ongoing pain and suffering from his injuries and Plaintiff's counsel suggested a verdict for Plaintiff of $280,000.00 in closing argument. The Court granted directed verdicts to Defendant on Plaintiff's claims for punitive damages, attorney's fees, and expenses at the close of Plaintiff's case. One juror stated, post-trial, that 11 of the 12 jurors were ready to return a verdict for Defendant as soon as deliberations began. The sole juror that wanted to talk about a possible award in favor of Plaintiff never considered awarding Plaintiff his full claimed medical expenses and lost wages.

Scott Rogers (Jackson, MS) (Wrongful Death) Plaintiff Posey was a 17-year-old female high school senior who just obtained admission into LSU on scholarship. She was driving in the southbound lane with a friend going to a horse show on a rural two-lane highway when she rear-ended a white Silverado pickup. Her vehicle then entered into oncoming traffic. The white Silverado was stopped waiting for traffic to make a left-hand turn. Defendant Moore was driving a "jacked up" Silverado with a lift kit and large mud tires. It was traveling north at 74 miles per hour coming over a blind hill. The speed limit was 55 mph. Moore collided with the driver's side of the Posey vehicle ripping the vehicle in half, instantly killing Posey. Moore's vehicle began to flip over for several hundred feet. Moore was air-lifted from scene with life threatening injuries. Posey's passenger walked away without a scratch.

The trial lasted three and half days with testimony from multiple witnesses, family members, the investigating officer, and accident reconstruction experts proffered by Plaintiff Posey and Defendant Moore. Plaintiff witnesses let in information identifying the substantial Uninsured Motorist policy limits available. Defense objected, but only received a curative instruction. Objections were preserved.

Plaintiff's Counsel asked the jury to award the Estate $2,007,417.00 consisting of funeral expenses of $7,417.00, lost future wages for Ms. Posey of $1,500,000, and $125,000 each for the four surviving heirs at law. The jury entered a Defense Verdict in favor of Defendant Moore and USAA. Prior to trial, Plaintiff's last demand was $700,000.

Ken Amos and Kory Watson (St. Petersburg, FL) (Premises Liability) obtained a directed verdict on September 15, 2021 for Defendant P.J. Rodriguez d/b/a Chick-Fil-A Naples Center ("Defendant") on the third day of a jury trial in a premises liability case before the Twentieth Judicial Circuit in Collier County Florida before Judge Elizabeth V. Krier. Lori Conklin, Esq., Alec Settle, Esq., Amanda Brennan, Esq., and Alanna Heelan, FRP were also fundamental in the preparation of the case for trial, as well as motion practice before and during trial.

The incident occurred on October 23, 2014, when the Plaintiff was allegedly struck on the head by an aluminum restroom partition headrail which spanned from a wall on one side of the men's restroom stall to the partition divider near the entry door to the men's restroom stall. The headrail, which weighed 2.6 pounds, allegedly fell on the side closest to the door once the Plaintiff entered the stall and closed the door--hitting him on top of the head. Plaintiff alleged head, neck, and lower back injury from the incident, including surgery on the neck and the lower back.

Discovery revealed the restroom partition headrail which allegedly fell was installed approximately 6 months before the date of loss by Horizon Construction Company ("Horizon") with materials, parts, and instructions provided by Clayton Fixture Company ("Clayton"). On August 10, 2017, a proposal for

settlement was filed by Defendant to Plaintiff in the amount of $22,500. Horizon and Clayton were subsequently named as Co-Defendants in the case. The case was arbitrated on July 21, 2020, with an adverse decision to Defendant, Horizon, and Clayton rendered on September 21, 2020. A judgment was entered in accordance with the arbitration award as to Clayton. Defendant and Horizon moved for a trial de novo. Horizon reached a confidential settlement with Plaintiff before trial.

Prior to trial, Plaintiff's expert, Chris Zimmerman, testified in his discovery deposition that Defendant failed to maintain the men's restroom stall partition in a reasonably safe condition because the aluminum headrail allegedly fell and struck the Plaintiff. Mr. Zimmerman did not offer any opinions as to what PJ Rodriguez specifically failed to do or should have done to maintain the fixed restroom partition headrail structure during the period of approximately six months before its alleged failure. Mr. Zimmerman did not suggest that the screws should have been tightened or inspected with any specific frequency, or that any parts needed to be inspected, replaced, or lubricated over time. Mr. Zimmerman provided an opinion on an ultimate issue in the case, that Defendant failed to maintain the premises in a reasonably safe condition, purportedly in violation of Florida building codes, without any facts or data, or any reliable methodology. Mr. Zimmerman's opinion was that the restroom partition headrail fell, and because it fell, Defendant must not have maintained it properly. Mr. Zimmerman did not provide a methodology for his opinion as to Defendant's failure to maintain the restroom partition. Defendant filed a Motion in Limine to Exclude Testimony of Chris Zimmerman specifically with regard to these opinions. In response, Plaintiff withdrew expert witness Chris Zimmerman before trial. Plaintiff also withdrew the low back injury claim before trial.

At trial, Plaintiff and his wife both testified that they frequented the Chick-Fil-A restaurant 2-3 times per month in the 6 months leading up to the incident, and they never observed, experienced, or heard of any problems in the men's or women's restrooms. There was no evidence of any complaints by customers, or employees of Defendant, regarding any problems or concerns with the restroom stall partitions prior to the incident. Plaintiff read the testimony of a former employee at the restaurant who testified that after the incident, he believed he found one of the two screws securing the restroom partition headrail where it allegedly fell, and that other screws were thereafter discovered to be loose.

After two full days of trial and the Plaintiff rested, the Court found Plaintiff failed to provide sufficient evidence to prove the elements of his case in chief and impermissibly attempted to prove the elements of his case through the stacking of inferences. Specifically, the Court held Plaintiff failed to present any evidence establishing actual or constructive knowledge on behalf of Defendant of any dangerous condition, or any failure to maintain the premises in a reasonably safe condition, as to present an issue of fact for the jury on breach of Defendant's duty of care. The Court found the Plaintiff's following evidence was not instructive as to the condition before or at the time of the incident:

1. An employee of Defendant identified loose screws in the women's restroom after the incident;
2. One of two screws were found on the men's restroom floor after the incident;
3. An employee of Defendant found other screws loose in the men's restroom on the subject "rod" after the incident;
4. Plaintiff visited the subject premises approximately three months after the incident and took photographs purporting to show a hole missing a screw;
5. An employee of Defendant inspected the women's restroom sometime following the incident in the men's restroom and "shook" the restroom to determine whether anything was "loose"; and
6. An employee of Defendant testified that he determined after the incident some of the original screws used in the construction were loose.

Accordingly, the Court directed a verdict for the Defendant finding there was no evidence that Defendant breached the duty to maintain the premises in a reasonably safe condition or failed to warn or make safe conditions Defendant knew of or should have known of through reasonable care. Defendant is considering options including pursuit of attorney's fees and costs incurred in the defense of the case over 4 years after the filing of the proposal for settlement.

Verdicts & Dispositions, Continued

Kenneth Amos, William Gula, and Ariana Seiler (St. Petersburg, FL) (Automobile Liability) obtained a Defense Verdict in Pasco County Circuit Court. This was this office's third trial and third defense verdict since August 2021, and second consecutive defense verdict against the same national personal injury firm.

The Plaintiff was involved in an automobile accident in Port Richey, FL. Plaintiff, Mr. Coachman, was traveling on US 19 when Defendant Gartlan entered his lane of travel. The front left of Plaintiff's vehicle came in contact with the rear right of Defendant's vehicle. Liability was admitted prior to trial. Plaintiff alleged injuries to both shoulders, neck pain, back pain, and a traumatic brain injury. Plaintiff is a member of the well-known Coachman family that has been a prominent family throughout Pinellas County's history. Plaintiff was represented by the nation's largest personal injury law firm.

The Defense elicited testimony that showed that Plaintiff had a history of intense physical labor including working on orange groves, working in a packing plant, renovating houses, and maintaining vast areas of land throughout his lifetime. The Defense argued his need for shoulder surgeries was due to his long history of physical labor. Additionally, the Defense elicited testimony of Plaintiff's prior concussions from 1988 when Plaintiff was injured in a skiing accident, and in 2006 when he fell sixteen feet from a tree. This testimony was then argued to rebut Plaintiff's claim of a traumatic brain injury from the airbag deployment during the subject accident. It was further shown that Plaintiff had not followed any recommendations from his expert Life Care Planner since 2019, and thus future medical care was not necessary. The inconsistencies throughout Plaintiff's testimony and his medical records were shown in detail during closing arguments by Mr. Amos.

The Plaintiff asked the jury for damages of approximately $3,400,000.00. After just over one hour of deliberating, the jury issued a total Defense Verdict. It found that there was no negligence by the tortfeasor that was a legal cause of injury to Mr. Coachman. The last offer by the defense before trial was $300,000. Plaintiff's last offer was $500,000.

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STAY UP TO DATE

All things Vernis & Bowling

Vernis & Bowling is proud to announce that **Kristian Cross, Esq.,** Managing Attorney of the firm's Columbia, SC office, has been selected to serve as a General Council Member for the 2021-22 Workers' Compensation Section of the South Carolina Bar. The Section provides information, education and advice to SC Bar members, the general public and the S.C. Workers' Compensation Commission on matters affecting the Bar. The section serves as a resource regarding potential legislation before the General Assembly, executive branch and the S.C. Workers' Compensation Commission.

G. Jeffrey Vernis was a speaker at the CLM 2021 Annual Conference. The topic was "Violence and Social Tension: Lessons Learned".

Jeff Gill was a speaker at the CLM 2021 Annual Conference. The topic was "Delivery Driver Down: Liability of Home Delivery/Curbside Pickup".

Kristian Cross was a speaker at the FL RIMS Annual Conference. The topic was "Compensability Now & Claims Handling Post COVID-19".

Larry Feinstein and Kristian Cross were speakers at the 2021 WCI Annual Conference. Their topic was "Managing A Company's Risk During And After A Pandemic – Lessons Learned From COVID".

Vernis & Bowling of Palm Beach participated in "Wreaths Across America" at the South Florida National Cemetery. Each live, balsam veteran's wreath was a gift of respect and appreciation, sponsored by an individual or organization and placed on a headstone by volunteers as a small gesture of gratitude for the freedoms Americans enjoy.

Vernis & Bowling of Atlanta made 60 holiday cards for residents at Sunrise Senior Living in Buckhead, GA.

The Georgia Legal Food Frenzy is an annual two-week fundraising competition created in partnership with the Georgia Attorney General, the State Bar and YLD, and the Georgia Food Bank Association. The competition is open to EVERYONE in the legal community to see which law firm, legal organization, and corporate/in-house counsel can have the biggest impact on hunger. Everything raised stays LOCAL and benefits the regional food bank that serves the local community.

Vernis & Bowling of Atlanta raised funds to provide 2,479 meals for Atlanta Community Food Bank!

Vernis & Bowling's Deland/Central FL office curated an art exhibition, with original works of art by the employees of that office. They then hosted a silent auction open to all firm employees, with over $600 in proceeds donated to the Museum of Art- Deland.

The Museum of Art- Deland is a vital and interactive non-profit visual arts museum enriching the community through its dedication to the collection, preservation, study, exhibition, and educational use of the fine arts. https://moartdeland.org/other-installations/

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