

A REPORT TO CLIENTS & ATTORNEYS  
VOLUME 10 - NUMBER 3

# OF COUNSEL

## SDSBS: 3, Big Tobacco: 0

**The battle continues against the tobacco industry's cover-up of the health risks of smoking and their intentional efforts to addict smokers.**

On August 16, 2010, SDSBS attorneys won their third verdict against the tobacco industry after proving once again that tobacco companies had purposefully set about to addict smokers to the nicotine in the cigarettes they sold, sustaining and increasing sales of products that were defective and unreasonably dangerous. A Palm Beach County, Florida, jury awarded the widow of a long-time smoker \$4 million for the wrongful and premature death of her husband. The award was later reduced to just under \$2.5 million after factoring in comparative negligence.

SDSBS attorneys **Jack Scarola, Greg Barnhart, David Sales, and Sia Baker-Barnes**, brought an action on behalf of Liz Piendle against RJ Reynolds Company and Phillip Morris USA, Inc., charging that the to-



bacco companies were responsible for the death of Liz's husband, Charles. Charlie Piendle died in 1996 at the age of 55 years – eight months after he was diagnosed with small cell lung cancer, a disease almost entirely attributed to smoking. Charlie began smoking in his early teens and continued smoking up to two packs of cigarettes a day for over 30 years. He tried to quit numerous times, but failed. "There is a point in addiction where it is no longer about choice," Greg Barnhart told the jurors. "About 95 percent of those who quit will relapse." Charlie was finally able to quit in 1989. It was, however, too late.

The Piendle trial was the first in Palm Beach County to seek damages for an individual smoker. It is one of 8,000 cases filed statewide **Continued on page six.**

## Negligent Truck Driver Caused Traffic Accident, Severely Injuring Other Driver



*The Andersons with attorneys Jack Hill and Brian Denney.*

On December 3, 2007, 59-year-old Niven Anderson was on his way to West Palm Beach to connect with some of his business customers and had stopped his car at a traffic light in Belle Glade, Florida. Without any warning, the flatbed trailer of a passing commercial vehicle swerved from its lane and smashed its left rear tire into Mr. Anderson's car. The truck driver did not stop. Fortunately, a local law enforcement officer was at the intersection when the collision occurred, and the truck driver was stopped and apprehended some distance down the highway. In spite of the obvious physical evidence, and eyewitness accounts of the accident, the truck driver denied having anything to do with the accident.

In March 2007, just nine months prior to this accident, Mr. Anderson had suffered severe injuries when, as a pedestrian, he was struck by a passing motorist. He spent 24 days in a hospital undergoing treatment for a badly broken right leg and a cervical fracture. Through outstanding medical treatment and his own hard work, Mr. Anderson was able to slowly put his life back together. **Continued on page four.**

## Negligent truck driver caused traffic accident, severely injuring other driver

(Continued from page one.)

Unfortunately, the injuries caused by this accident made Mr. Anderson's neck and spine more susceptible to further injury should he be involved in another accident. Following the accident caused by the inattentive truck driver in Belle Glade, Mr. Anderson was set back to square one in his physical condition. Because of the damage done by the second accident, he eventually had to endure a four-level cervical fusion of his spine.

Adding insult to injury, trucking company and driver refused to admit responsibility despite evidence and witnesses.

The trucking company, Gypsum Express Limited, not only refused to accept responsibility for the injuries caused by their negligent truck driver, but even refused to acknowledge that the crash had happened. Mr. Anderson and his wife, Betty, were forced to file suit in Palm Beach County and sought representation by SDSBS attorneys **Jack Hill** and **Brian Denney**. Fol-

lowing two years of pretrial litigation, they were able to present their case to a jury. The attorneys spent eight days fighting the trucking company's many attempts to explain why it was not responsible for Mr. Anderson's injuries. The trucking company argued that its driver did not hit Mr. Anderson's car, and that, even if the truck had hit the car, Mr. Anderson's problems were the result of a combination of degenerative changes and the March 2007 injuries. The trucking company even blamed the driver of a vehicle behind Mr. Anderson's car, who, in the face of the sudden and unexpected emergency caused by the truck slamming into the Anderson car, had rear-ended the Anderson vehicle. Ultimately, the jury rejected each of the trucking company's excuses. The jury found the company 100% responsible for Niven Anderson's injuries and awarded the Andersons over \$720,000.

"Through their verdict, it is apparent that the jury was able to see through all of the trucking company's laundry list of excuses, right to the heart of the case," said Mr. Hill. Because the defendants had failed to accept the Andersons' offer to settle the case for \$425,000, attorneys Hill and Denney will now seek to recover attorney fees as well. ♦

## Speaking Opportunities



**Brenda Fulmer** spoke at a meeting of the Executive Board of the Florida Alliance for Retired Americans (FLARA) on September 20, 2010 in Tampa, Florida. The subject of her presentation was "Protecting Yourself from Dangerous Drugs." She also spoke on the same subject at an October 21, 2010, meeting of the Mid-Florida UAW Retiree Council in Winter Haven. The subject is very timely and of great concern to many older people. ♦



**Karen Terry** served as program coordinator for the Palm Beach County Chapter of the American Board of Trial Advocates' seminar on "Masters in Cross-Examination: Cross-Examination and Impeaching Lay and Expert Witnesses." The event was held September 24, 2010, at the Marriott Hotel in Palm Beach Gardens, Florida. ♦



**SDSBS Paralegal Mark Poncy also a published novelist**



**Mark Poncy**, paralegal for SDSBS attorney Jack Scarola, is now a published novelist. His book, *Revelation: The Epiphany of Cassandra Phillips*, was published in September 2010 by iUniverse, and is currently available on Amazon.com. The novel is about a DNA scientist who has developed a unique method of translating genetic code that is faster and more accurate than conventional methods. In the process of discovery, she must confront issues that may ultimately define the meaning of life. ♦