

A REPORT TO CLIENTS & ATTORNEYS
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OF COUNSEL

Horrific Crash Caused by Tired Truck Driver Results in \$17.5 Million Settlement for Family

On a clear, sunny day in November 2006, Vince Modica drove to the Jacksonville, Florida, airport to pick up his wife, Judy. The couple then headed home, southbound on I-95. Nearing the Dunn Avenue exit, they came to a stop behind a line of vehicles stalled due to a disabled vehicle two miles further down the road. As they waited for the traffic to clear, a tractor-trailer truck driven by Michael Wright, an employee of the Tree of Life, a health food distributor in St. Augustine, Florida, came barreling south on I-95. The truck slammed into the back of the Modicas' car so hard that it pushed them into the back of a tractor-trailer truck in front of them. The Modicas' vehicle was totally crushed and caught fire immediately. Vince and Judy Modica died, their bodies mangled and burned beyond recognition.



The centerpiece in Vince and Judy's 43-year marriage was their family. They loved their two sons, Kevin and Brian, as well as their daughters-in-law and their grandchildren. Although they had both retired from long-term jobs some years earlier, they continued to work because they enjoyed the social interaction and the satisfaction of doing a good job. They were having fun, traveling, and enjoying work and family. Kevin and Brian were devastated by the loss of their parents in such a sudden and horrific way. Vince's brother-in-law, Dr. Orland Ghionzoli, was appointed personal representative for Vince and Judy Modica's estate. On behalf of Kevin and Brian, Dr. Ghionzoli asked SDSBS attorneys **Chris Searcy** and **John Shipley** to represent them. Mr. Searcy enlisted the help of attorney Howard Coker, Jacksonville, Florida, to assist in the trial.

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Multi-Million Dollar Verdict Increased on Appeal

Alan Schein and his company, Results Technologies, Inc., entered into a business venture with Superior Bank. To assure himself of the bank's stability and the security of his financial ties with the bank, Mr. Schein required that he be provided with the bank's audited financial statements prepared by accounting giant Ernst & Young. Ernst & Young later, and without warning, acknowledged that it had made mistakes in determining the value of the bank's assets. As a result, Superior Bank was declared insolvent, taken over by federal regulators, and eventually closed down. Mr. Schein and Results lost the value of their interests in the business venture.

Mr. Schein and Results sued Ernst & Young for accounting malpractice. In July 2009, the jury returned a verdict in the plaintiffs' favor, and the trial court entered a judgment for \$17.2 million. Both sides then

appealed. Ernst & Young asked that the entire judgment be thrown out. Mr. Schein and Results appealed a reduction in the amount of their damages based upon a finding that they had negligently contributed to their own losses. In January 2012, the Fourth District Court of Appeal rejected Ernst & Young's challenge and agreed with the plaintiffs that there was no basis for finding Mr. Schein and Results negligent. As a result of this ruling, the judgment in favor of the plaintiffs was increased from \$17.2 million to more than \$30 million.

SDSBS attorneys **Jack Scarola** and **Patrick Quinlan** represented the plaintiffs, along with co-counsel Robert Mayer, at both the trial court and appellate levels. Their appellate victory ended an eight-year legal battle against a large and powerful company that boasted of its record of success in the courtroom. ♦