

# the jlf report

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## IN THIS ISSUE

- 1 JLF v General Motors
- 2 Ken Harrell Speaks
- 2 Investigator Williams
- 3 Malpractice Myths
- 3 Lawton Named Partner
- 4 Roundball Classic '04

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## JLF SETTLES AUTO DEFECT CASE WITH GENERAL MOTORS

In December of 2004, the Joye Law Firm settled a product liability lawsuit against General Motors Corporation. The case involved the death of Anita Jones\*, who was killed in an accident on I-26 while driving a 1995 Chevrolet Blazer. The case was handled by Joye Law Firm attorneys Mark Joye and Chris McCool and the settlement was the culmination of over four years of work by the firm.



"The young woman who died in this accident was an amazing person with a bright future before her. She had married her college sweetheart and was in

the process of obtaining her Ph.D. in psychology. You really can't place a value on a loss like this. Although the amount of the settlement cannot be disclosed pursuant to GM's request, our client and we were extremely satisfied with the outcome of the case," remarked Joye.

In March of 1999, Anita was returning from a business meeting and traveling on I-26 to her home in the Charleston area. While traveling the posted speed limit, Anita's Blazer drifted slightly off of the left side of the road. While attempting to bring the Blazer back into her lane of travel, Anita steered her vehicle to the right causing the vehicle to enter the right shoulder of I-26. The vehicle then began to roll over. During the course of the rollover, the driver's door of the Blazer unlatched, opened, and was torn from the vehicle. Anita was wearing her seatbelt at the time of the accident but the belt unspooled and failed to properly restrain her. Anita was ejected from the Blazer with the seatbelt still around her and was killed due to traumatic injuries suffered from the ejection.

"When Mark and I first examined the vehicle and photographs taken by the coroner at the scene of the accident, two potential defects came to mind", said McCool. "First, doors are not supposed to come unlatched and open in an accident. Second, the amount of slack in the belt indicated that there were serious prob-

lems with the design and make-up of the belt system." Based on the facts of the case and the firm's experience in prior cases, the decision was made to accept the case and file a lawsuit. Anita's husband, Walter, was the Plaintiff in the action.

"We knew going into the lawsuit that GM would rely on its extreme wealth and a large team of lawyers and experts to fight the case," Joye stated. "And sure enough, GM identified nine experts in various fields and produced over 600,000 pages of documents in an effort to make us go away. We didn't go away. We never do," added Joye.

Undaunted by the task of reviewing such a large number of documents, the Joye Law Firm team examined the documents page by page. "Reviewing the documents took an enormous amount of time and involved countless late nights. And quite frankly, less than 5% were relevant to our case. However, the mind-set of corporate America in product liability cases is to dump countless documents on counsel for the little guy and say, 'Here, find what you are looking for,'" stated McCool. "Examining the documents is critical in a case like this. It is similar to putting together a big puzzle.

After a while, the puzzle showed us that the door latch and seat-belt system were defective and that GM knew about these defects," added McCool.

"The team of experts we put together was top-notch. We had experts from South Carolina and Florida address the economic and lost income issues. We had experts from North Carolina, (Continued on P. 2)



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## Staff Profile: Investigator A.A. Williams



For many of our law firm's clients, the first firm representative they meet face to face is A.A. Williams, the firm's staff investigator. While Mr. Williams' private investigative service is a stand-alone business venture for him, he maintains his office at the Joye Law Firm location and most of his work is for the firm's attorneys. Mr. Williams began his investigative service in 2000 following his

retirement after 28 years of service with the South Carolina Highway Patrol. During his tenure with the Highway Patrol, he was eventually promoted to the level of lieutenant, the second highest ranking position in a troop.

The transition from his decades of service as a highway patrolman to his working as an investigator for the law firm has been a smooth one. "A.A. was one of the most impressive state troopers I have encountered in my years of dealing with them on cases where our clients have been charged with traffic offenses," said attorney Reese Joye. "A.A. was a worthy adversary during those

years. You always knew where he stood because he was unflinchingly honest in his dealings with you. I am thrilled that we have been able to establish a relationship with him to allow him to continue being of service to the people of the lowcountry."

In addition to performing standard investigative services involving contacting potential witnesses and visiting accident scenes, the firm often uses Mr. Williams to sign up potential clients who have transportation problems or who are physically unable to come to our office location. "The work A.A. has done in going to potential clients who are in need of legal representation but who find it very inconvenient to have to come to our office has been a great asset to our clients and to us," said attorney Ken Harrell. "For our personal injury cases, I would estimate that A.A. is involved in signing up close to 50% of them. Clients love the convenience of having someone who can come to their home and it helps us by allowing us to get started on the investigative phase of their cases as quickly as possible." For his part, Mr. Williams has found the Joye Law Firm to be a great place to start a second career. "I loved the time I spent as a highway patrolman but I was definitely ready for a change," said Mr. Williams. "I have always had good relationships with the lawyers and staff at the Joye Law Firm. These are good people and I have recommended many church members and friends to them for help with their legal problems over the years. I look forward to many more years of helping them help their clients."

In his spare time, Mr. Williams enjoys traveling, visiting his mother in Orangeburg and working with his church to assist elderly people in the low income areas of Charleston and Berkeley county.



*The Attorneys At Joye Law Firm*  
**WE FIGHT TO WIN!**

### KEN HARRELL: WORKERS' COMP PRESENTATIONS

JLF attorney Ken Harrell has been an active speaker on the state's workers' compensation system over the past few months. On October 26, Ken gave a Power Point presentation to over 600 claim adjusters and Workers' Compensation Commission staff members on the effective representation of injured workers at the

Workers' Compensation Commission's Educational Association meeting in Hilton Head. On January 12, Ken was one of four attorneys who presented a day-long seminar titled "Workers' Compensation in South Carolina" on behalf of Lorman Education Services.

### (Wrongful Death... Continued From P.1)

Georgia, and California address the defect issues, and an expert from Washington, D.C. address various governmental and industry standards," explained Joye.

Based on the information contained in the documents produced by GM and information provided by various experts hired by the Joye Law Firm, Joye and McCool were able to establish that the defect issues involved in Anita's accident were not a one-time occurrence. "GM's own documents established that it had previously formed a committee to look into door unlatchings and openings. GM knew a long time ago how to fix this problem yet did nothing about it. We also came across other accidents involving other GM vehicles with the same type of door latch and restraint system and the photographs were remarkably similar to the photographs taken in our case," explained Joye.

Armed with the information it had obtained through four years of work, the Joye Law Firm agreed to mediate the case with GM. "GM wanted to mediate the case three years ago. But I'm con-

vinced the reason they wanted to mediate the case so long ago was to avoid having to produce the damning documents," explained McCool. Following the settlement, Anita's husband placed the entire amount of his recovery into various scholarship funds in honor of Anita. "This case was never about money for our client. Instead, he wanted to try to get GM to change its ways and make better and safer cars. We hope GM will change its ways. If not, we are prepared to go against them again if the need arises in another case," remarked Joye.



\*Due to the amount of the settlement and the terms of settlement agreement with GM, the names of the decedent and the Joye Law Firm client have been changed for the purposes of this article.

# MALPRACTICE MYTHOLOGY

*The following article is an editorial published in the New York Times, January 9, 2005. Used with permission.*

"Tort reform," the Bush administration's answer to the problem of high medical malpractice costs, makes sense from only one aspect: the political. The genius of tort reform, which focuses on putting a cap on the awards from malpractice suits, is that it offends only one big-money lobbying group: trial lawyers, who are important financial supporters of the Democratic Party. Meanwhile, it helps or holds harmless Republican special interests in the insurance, drug and health care industries. The only problem is that it hurts the hapless patients who suffer grievous harm at the hands of incompetent doctors.

We hold no brief for the current medical liability system, which does a poor job of compensating most victims of medical malpractice. An authoritative study of thousands of patients in New York State found that the vast majority who were harmed by medical errors or negligence never filed suit, whereas the vast majority of those who did file suit were not actually harmed by negligent doctors. Some studies suggest that, once a suit is filed, the courts do a reasonably good job of sorting out who deserves compensation, while other research has found that juries are swayed more by the severity of a plaintiff's injuries than by evidence of negligence. But in a medical system that is coming under increased fire for failing to deliver consistent quality in hospital care, it is clear that only a small number of people are being compensated for malpractice.

The problem with the president's approach, which would limit noneconomic damages to a paltry \$250,000, is that it would punish many of those most deserving of compensation. If there is a problem with frivolous lawsuits, that is best addressed by raising the hurdles for filing a malpractice suit, perhaps by requiring an expert judgment on the merits of a case before it can proceed through the courts. But surely \$250,000 hardly makes up for the physical and emotion-

al damage done to people who have suffered total paralysis, permanent blindness or severe brain injury because of medical errors. Instead, Congress ought to consider requiring guidelines for judges and juries to help determine what compensation is reasonable in a given circumstance. Similar guidelines could help ensure that punitive damages are high enough to deter bad conduct; \$250,000 would hardly amount to a wrist slap.

Politicians endorsing tort reform say a crisis of escalating malpractice insurance premiums is forcing doctors out of business. The extent to which this is an actual problem is murky. Insurance companies have substantially raised premiums for malpractice coverage for doctors in high-risk specialties like obstetrics and neurosurgery in some states, leading at least some doctors to curtail their services, retire or move. The White House laments that patients in some areas are thus forced to travel long distances to find, for example, obstetrical care. But when the Government Accountability Office visited five of the hardest hit states in 2003, it found only scattered problems and was unable to document wide-scale lack of access to medical care.

Most states that are burdened with high premiums have already set their own caps, generally at more reasonable levels than those proposed by the president. It would seem more useful to consider making it harder for insurance companies to gain rate increases. The best response, one that would benefit the public in general, would be to weed out the small number of negligent doctors responsible for generating most of the malpractice awards.

None of the tort reform proposals deal with the underlying need to identify harmed patients and provide them with fair, prompt compensation. Experts have suggested a number of approaches, including special health courts with judges trained to deal with malpractice issues, required mediation, mandatory reporting of errors by doctors and prompt offers of compensation. But there is a lot of uncertainty about what would work best.

## ANGUS LAWTON NAMED FIRM PARTNER



Angus Macaulay Lawton has been named an equity partner in the Joye Law Firm. Mr. Lawton, who is head of the civil litigation department, holds a bachelor's degree in philosophy from Duke University and a Juris Doctor degree from the University of South Carolina School of Law. He has been practicing law for over 16 years, and has spent the last three years with the Joye Law Firm. Mr. Lawton is a member of the South Carolina Bar Association, the South Carolina Trial Lawyers Association, and the American Trial Lawyers Association. He lives in Mount Pleasant with his wife and their two children. Angus enjoys surfing, hunting, riding his tractor on the farm, and playing the guitar.

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## JLF SPONSORS RED CROSS/ROTARY ROUNDBALL CLASSIC FOR 11th CONSECUTIVE YEAR



Attorneys Reese Joye and Ken Harrell are pictured here in a still shot taken from the television commercial.

For the 11th consecutive year, the Joye Law Firm was a proud sponsor of the Red Cross/Rotary Roundball Classic. This tournament has been rated as the fourth best high school boys' basketball tournament in the country by Hoops USA magazine. In addition to eight lowcountry high schools, there were high schools from throughout the country who participated in the tournament, which was held from December 26 through 30 at the Citadel's McAlister Field House.

In years past, the law firm had sponsored free tournament tickets for area Boy Scouts and Girl Scouts. At the tournament organizer's request, the law firm sponsored a "Shoot Three and Win" contest for the 2004 tournament. This contest allowed one lucky fan to try his or her luck at hitting three shots during half time of all 20 games, with the opportunity of winning \$1,000.00 if all shots were made successfully. While there were no \$1,000.00 winners, there were several fans who won \$50.00 or \$250.00.

"We greatly appreciate the Joye Law Firm's willingness to support this worthy cause," said Danny Kassis, the tournament's director. "All proceeds earned from the tournament go to Red Cross disaster relief and to Rotary club scholarships and we could not succeed without the generous support of local businesses like the Joye Law Firm."

The law firm looks forward to continuing to support this tournament for years to come.

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