

The JLF Report

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THE "RENEGADE" TRUCK DRIVER

On March 17, 2001, Alan Jenkins (the client's name has been changed for confidentiality reasons) was traveling down Interstate 26 in rush hour traffic. Mr. Jenkins was following a tractor trailer carrying an oversized load. Unfortunately, the driver of the tractor trailer did not have an over-size permit for his load, and he was violating a number of South Carolina laws.

When the tractor trailer came to a highway overpass, the load, later identified as a manufacturing loom being shipped to Kentucky, hit the overpass. A piece of steel flew off of the trailer and crashed through Mr. Jenkins's windshield at 55 miles per hour, crushing Mr. Jenkins' skull. The diagrams show the damage to Mr. Jenkins' skull that the doctors later found, and the repairs that were needed. After causing these horrible injuries, the driver of the tractor trailer stopped, unhooked his trailer, and fled the scene.

The family immediately hired the Joye Law Firm due to their concerns about protecting their rights. Reese Joye, the firm's senior partner, quickly obtained a temporary restraining order, prohibiting anyone from moving the trailer, as it was crucial evidence in the case. A lawsuit was also filed against a number of trucking companies. Each of these companies denied any responsibility for the actions of the driver, claiming that he was not acting with their authority.

The Joye Law Firm aggressively pursued the case for over 3 ½ years. Attorney Angus M. Lawton was

brought in to work on the liability part of the case, and Mark Joye helped establish the damages, which were significant.

"Accidents involving trucking companies can be very complex, and it takes a great deal of analysis to determine who the responsible parties are," said Mr. Lawton. "Given the brokers and leasing agents involved in this case, I would liken it to putting together a Rubik's Cube."

The Joye Law Firm retained numerous experts during the case, including an accident investigator who immediately surveyed the scene, two trucking experts, a vocational counselor, a lifecare planner, and an economist. Mr. Jenkins' treating physicians were also prepared to testify regarding Mr. Jenkins' injuries.

During the course of discovery, the Joye Law Firm attorneys took over 30 depositions in nine different states. These depositions were necessary to establish which trucking companies were responsible for the actions of the driver. Three of these trucking companies delayed the case by filing for bankruptcy protection. Despite these delays caused by the bankruptcy proceedings, the Joye Law Firm attorneys persevered in pursuing the case and bringing the matter towards closure. The attorneys also had to monitor criminal charges which were ultimately brought against the driver of the load.

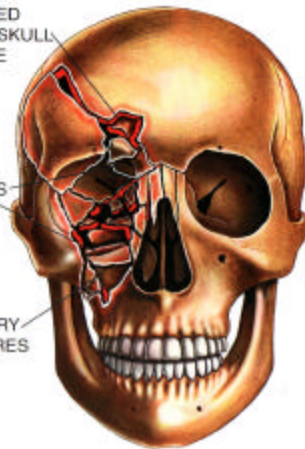
(continued on page 2)

PRE-OP CONDITION OF SKULL

DEPRESSED
FRONTAL SKULL
FRACTURE

ORBITAL
FRACTURES

MAXILLARY
FRACTURES

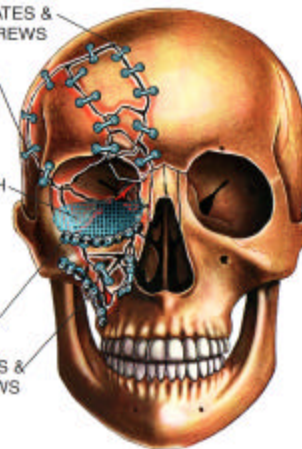


POST-OP CONDITION OF SKULL

PLATES &
SCREWS

MESH

PLATES &
SCREWS



"Renegade" Truck Driver (continued from p.1)

The case was aggressively litigated due to the severity of Mr. Jenkins' injuries. Motions for Summary Judgment were filed by at least four different defendants, and the Joye Law Firm successfully defended all summary judgment motions which were heard. The case was also mediated twice in an effort to bring resolution to the claim.

Ultimately, the case was set for trial in May of 2005. Three weeks before the trial was to take place, the Defendants made a joint offer, and the case was settled for \$4,375,000.00. Some of the funds were used to purchase a structured settle-

ment, which will provide Mr. and Mrs. Jenkins with guaranteed income for many years in the future.

"We recognize that most truckers do a great job, and our standard of living depends on them," said Reese Joye. "Unfortunately, like all professions, there are some renegades, and our client had the misfortune of being behind one. Our client could never be made whole because of the injuries that he has. However, I am pleased that we were able to obtain a result that will help him weather this tragic accident from a financial standpoint."

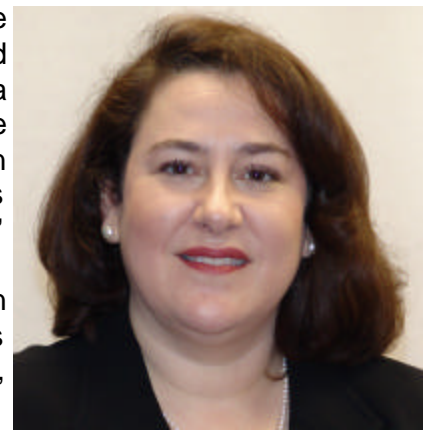
Amy Rothschild: New JLF Attorney

Amy B. Rothschild is a native Charlestonian who graduated from Middleton High School before continuing on to the University of South Carolina in Columbia, South Carolina. Amy graduated from USC with a bachelor of arts in government and international studies, and thereafter immediately commenced law school. Amy received her juris doctor from the USC School of Law in 1989.

After law school, Amy served a two-

year term as the law clerk to the Honorable David W. Harwell, retired Chief Justice of the South Carolina Supreme Court. She served on the Board of Commissioners on Grievances and Discipline, and was also active in the Charleston Lawyers' Club and served as secretary.

Amy returned to the Joye Law Firm in June of 2005 where her primary areas of practice involve personal injury, products liability and wrongful death.



The Attorneys At Joye Law Firm
WE FIGHT TO WIN!

TURBO TAX & COLLEGE STUDENTS

Have you used **Turbo Tax** to prepare your income tax return? If you have used this program, and you have children in college, you may have a claim against Turbo Tax, the do-it-yourself tax calculation program sold by Intuit, makers of the popular accounting program Quicken. **Please call Angus Lawton at the Joye Law Firm.**

LAWSUITS SAVE LIVES

Untold numbers of Americans have suffered tremendously as the result of dangerous and deadly pharmaceuticals. Many of these drugs and devices were only made safer or removed from the market after victims and their families filed lawsuits against the culpable manufacturers.

EXAMPLES:

Dalkon Shield IUD's - the Dalkon Shield IUD was a dangerous birth control device that caused pelvic infections, septic abortions, infertility and death. Although removed from the market in 1974, it took 11 punitive damages awards over a number of years before the company finally agreed in 1984 to urge doctors and women to remove

the Dalkon Shield and agreed to pay for the removal surgical procedures.

Extra-Strength Tylenol - In 1993, a man was in a coma, near death, and required an emergency liver transplant after taking this drug and then consuming alcohol. After a jury verdict in his favor, the FDA decided to require stronger warnings on aspirin, ibuprofen, and acetaminophen products for alcohol drinkers.

Ortho-Novum 1/80 - A woman suffered life-threatening injuries after taking this oral contraceptive in the 1970's. As the result of her case, manufacturer Ortho Pharmaceutical Corporation lowered estrogen levels in contraceptives.

MILLWORKER RECEIVES AWARD FOR HEARING LOSS

For nearly 40 years, John Villa was a dedicated employee of the Westvaco paper mill in North Charleston. After graduating from high school in New Mexico in 1959, Mr. Villa joined the Navy and served for four years. After he was honorably discharged from the Navy in December of 1964, Mr. Villa began working for Mead Westvaco, where he was to remain employed for 39 years.

At Westvaco, Mr. Villa did a variety of jobs, starting as a laborer and working his way up at the plant. He initially was assigned to the mill's paper machine area, where he cleaned

up excess paper from beneath the machines. Later, he

became an instrument technician, where he worked for nearly 25 years fixing equipment throughout the plant site. Mr. Villa spent his last 15 years at the mill working as a planner in the mill's planning department, where he helped assess the repair and installation jobs within the plant.

Throughout the course of his employment, Mr. Villa was exposed to loud noises, especially when working close to machines such as hydro-pumpers and steam turbines. Mr. Villa indicated that whenever the steam valves would pop off, the noise would be so loud that it would hurt his ears even if he was wearing hearing protection.

Mr. Villa said that there was no question in his mind that his years of working in an industrial setting had caused him to lose a good bit of his hearing. "I have always joked that you can tell who the mill workers are if you walk around the mill because they are always the men standing close together and speaking loud," he said.

While Mr. Villa was tested for his hearing loss throughout his employment with Westvaco, his hearing never got bad enough where he felt that he needed hearing aids until near the end of his employment with the company. However, when his family members started complaining about his loss of hearing, he decided he needed to take action. "I don't think I had any idea how bad my hearing had gotten," he said. "I think I was driving my family crazy because I kept the television turned up so loud that you couldn't hear yourself."

Eventually, Mr. Villa decided to purchase some hearing aids for himself in the summer of 2002. He then went to the human resources department and asked if the mill would cover the cost of his hearing aids since he had no doubt that his hearing loss was related to his work. Mr. Villa was advised that the plant would not cover the cost of his hearing aids as it claimed that he had not been exposed to any injurious noise since he had become a planner approximately 15 years before. Mr. Villa stated, "When I saw the company doctor and told him that I wanted the plant to cover my hearing aids, he told me that the only way that would happen would be if I filed a workers' compensation claim. He then went on to tell me that I should not do that since the lawyer would end up getting a third of any recovery. I thought to myself that he must be joking

since two-thirds of something would be better than 100 percent of nothing."

Shortly after Mr. Villa retired from the plant in the spring of 2003, he contacted Joye Law Firm attorney Ken Harrell to see if he was entitled to any benefits related to his hearing loss. "I was immediately struck by Mr. Villa's credibility," said Mr. Harrell. "I told him that hearing loss cases can be difficult to pursue because of the legal issues involved, such as the statute of limitations and when the last harmful exposure occurred. However, I also told him that he had nothing to lose

"All I ever wanted was a pair of hearing aids."

by pursuing the claim as he would

not have to pay us any fee unless we could obtain a recovery for him." Mr. Harrell filed a hearing request on Mr. Villa's behalf soon after receiving all of Mr. Villa's medical records and a hearing was held before a workers' compensation commissioner on April 15, 2004. To try to defeat Mr. Villa's claim, Westvaco hired a doctor in Pennsylvania who reviewed Mr. Villa's personnel file and medical records and prepared a report stating that the biggest part of any hearing loss Mr. Villa had sustained was not related to his work activities, but to such outside activities as hunting with shotguns.

"I really could not believe that guy's report would be given any weight," said Mr. Villa. "The doctor never examined me and I had never hunted with shotguns in my life. The last hunting I did was rabbit hunting with a rifle when I was a boy in New Mexico."

After months of waiting on a decision, the Hearing Commissioner issued an Order in December of 2004 finding that Mr. Villa was entitled to receive benefits for his hearing loss, including having the cost of any previously purchased hearing aids and any future hearing aids covered by Westvaco. Westvaco then filed an appeal to the Workers' Compensation Commission's Appellate Panel. Shortly before the Appellate Panel hearing was to be held on May 25, 2005, Westvaco agreed to settle Mr. Villa's hearing loss claim for \$40,000.

"I was just ecstatic about the result," said Mr. Villa. "All I ever wanted Westvaco to do was cover the cost of one pair of hearing aids for \$2,000. I am so glad I decided to call the Joye Law Firm and I followed Ken's advice to pursue the claim."

According to Mr. Harrell, "Mr. Villa's case is a perfect example of why I tell people who have work injury claims that they have nothing to lose by at least talking to a lawyer to see if they may be entitled to benefits. There are so many situations, like those cases involving hearing loss or people who have suffered back injuries or carpal tunnel problems due to repetitive activities, where many injured workers do not feel that they are entitled to any workers' compensation benefits because they cannot point to a specific accident date. Clearly, our law recognizes that if you have an injury that is related to repetitive activity or long-term exposure to excessive noise, you are entitled to recover for the problems that you suffer from due to the same."

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CHEMICAL EXPOSURE IN NORTH CAROLINA HOSPITALS

From early November until late December of 2004, at least 4,000 patients hospitalized in Durham and Raleigh, North Carolina were exposed to toxic chemicals during surgical procedures resulting from a mistaken use of hydraulic fluid in the sterilization process instead of hospital detergents. According to a hospital spokesperson, an elevator company emptied hydraulic fluid into several empty detergent drums while performing maintenance at Duke Health Raleigh Hospital in September of 2004. As a result, for almost two months, surgical instruments were washed with a solution of hot water and hydraulic fluid. Duke has warned 2,300 patients treated at Duke Health Raleigh Hospital and 1,600 patients treated at Durham Regional Hospital that they might have come in contact with improperly-cleaned instruments. If you or someone you know received a letter concerning this exposure from the Duke Health Raleigh Hospital or the Durham Regional Hospital, please call the Joye Law Firm at (843) 746-2383 today for a free consultation. Signs of infection include fever, pain, and redness at the site of the incision. The consultation and investigation into your potential claim is free of charge.

Attorney Mark Joye Elected To SCTLA Post

Mark Joye was recently elected to the position of editor of the South Carolina Trial Lawyer's Association publication, The Bulletin. This is the first elected position in the ranks of leadership that ultimately leads to President of the Association. "I am honored to be elected and look forward to serving our members in protecting the rights of injured citizens of our state," said Mark.



Mark was also recently selected to serve as secretary of the local chapter of the American Board of Trial Advocates, a peer nominated organization of plaintiff and defense lawyers who best represent the attributes of our profession sworn to uphold and protect our jury trial system.

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