

The JLF Report

Fall 2007 V.6 No.4 A Quarterly Publication of The Joye Law Firm, L.L.P.

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A Relentless Pursuit Of Justice

Prior to trial, Joye Law Firm, L.L.P., successfully reached on behalf of its client, John Whitehead, as the administrator of the estate of Frances Whitehead, his deceased wife, a large settlement of a case against General Motors Corporation and an at-fault driver. (Note: To protect their identity, our client's names have been changed for this article.) In December of 2002, Mrs. Whitehead purchased a 2002 Chevrolet TrailBlazer thinking it was safe based on advertising in General Motors Corporation's brochures as to the vehicle's over-all strength and durability and the local dealer sales representative's representations that the vehicle had over-head roof protection, which the Whiteheads understood to mean that it had a well-supported roof.

In January of 2003, Mrs. Whitehead was returning to the dealership to retrieve an extra key. Her elderly mother was seated in the right front passenger seat and her grandson was seated in the right rear passenger seat. Mrs. Whitehead was maintaining a proper lookout and all passengers were properly belted. As Mrs. Whitehead continued down the highway, another vehicle pulled out from an intersection and hit Mrs. Whitehead's vehicle in the right rear quarter panel.

Mrs. Whitehead lost control of the vehicle and it went down into the median. As the 2002 Chevrolet TrailBlazer was coming up out of the median, it began to roll. The vehicle rolled three times across the opposite side of Mrs. Whitehead's original lane of travel before finally coming to rest. The roof on Mrs. Whitehead's side of the vehicle massively crushed down more than 18 inches to the level of being below the headrest of the vehicle. Mrs. Whitehead, who was only four feet and nine inches tall, received fatal head injuries as a result of the extensive roof crush on the driver's side of the vehicle. The passengers on the right side of the 2002 Chevrolet TrailBlazer, where there was no roof crush, walked away from the accident with minimal injuries.

Mr. Whitehead's life was shattered, as were those of Mrs. Whitehead's three daughters and grandchildren. Instead of celebrating birthdays, anniversaries, holidays and other family occasions, the Whitehead family had to adjust to life without Mrs. Whitehead, who served as the indispensable center of the family. In addition, Mr. and Mrs. Whitehead had legal custody of two of their grandchildren for whom Mrs. Whitehead cared.

Aside from the tremendous loss of his life-long companion, Mr. Whitehead also suffered economic loss as a result of Mrs. Whitehead's death. Mrs. Whitehead assisted Mr. Whitehead with

certain aspects of his daily business operations and also operated a daycare out of their home.

A few months after the accident, Mr. Whitehead, who resides in North Carolina, turned to Joye Law Firm for assistance. Joye Law Firm shortly thereafter filed an action in North Carolina on behalf of the Whiteheads against General Motors Corporation and the at-fault driver alleging that General Motors Corporation had defectively designed the roof of the 2002 Chevrolet TrailBlazer by failing to sufficiently reinforce its roof so as to afford passengers like Mrs. Whitehead with any reasonable degree of protection. The lawsuit alleged that General Motors Corporation was aware of the dangers associated with roof crush and knowingly neglected to afford its consumers with protection from a known danger. While vehicle roll-overs do not account for a large number of accidents, they do account for a very large percentage of over-all fatalities.



Joye Law Firm vigorously pursued this case, retaining numerous nationally known experts from across the country to assist in the preparation of this case for trial. These experts included an accident reconstructionist who visited the accident scene in North Carolina in order to recreate the accident sequence, a biomechanic to discern how the fatal injury occurred, an automotive design engineer who examined the 2002 Chevrolet TrailBlazer for defects and then developed an alternative design to the existing roof which would have afforded Mrs. Whitehead with appropriate protection, and an economist to establish the economic loss to Mr. Whitehead due to Mrs. Whitehead's death.

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Mark Joye Elected ABOTA President

Mark C. Joye, Esquire, managing partner of Joye Law Firm, L.L.P., was recently elected as the President of the Charleston Chapter of the American Board of Trial Advocates (ABOTA). ABOTA is a national organization whose primary mission is to protect the preservation of the civil jury trial. ABOTA's membership is based on invitation by peers and consists equally of plaintiff and defense attorneys. Upon his election Mr. Joye stated, "I am honored to be selected and look forward to serving as president."



Executive Board of the local chapter and the National Board.

Mr. Joye, a seasoned trial attorney with 19 years of trial experience, has represented plaintiffs injured from defective products, car crashes, and tractor-trailer collisions in courtrooms across the country. Mr. Joye is most widely known for his representation of Sergio Jimenez, who was killed when he was ejected from the rear of a Chrysler mini-van. The case of *Jimenez v. Chrysler* resulted in a \$262.5 million verdict for his client. At the time, it was the largest verdict ever returned

against an automobile manufacturer and it still remains the largest personal injury verdict in South Carolina. The case brought national attention to the Joye Law Firm and renewed pressure against Chrysler Corporation to fix the unsafe rear door latches of its mini-vans. Mr. Joye frequently lectures to state and national bar organizations on automotive product liability and trial practice and procedure.

ABOTA's membership requirements are exceptionally stringent. The membership of ABOTA is limited to those practicing attorneys who display the personal characteristics and qualities that the organization embraces, and is representative of its membership. In order to become a member of ABOTA, an attorney must have taken a requisite number of jury trials to verdict and in addition, his membership must be recommended and approved by 75% of the



Joye Law Firm Meets Presidential Candidates

JLF Partner Ken Harrell chats at a recent fundraiser with presidential hopeful Senator Barack Obama.

JLF Criminal Defense Paralegal Nelson Gibson is pictured at right with former Senator John Edwards during a recent visit to Charleston.



A Relentless Pursuit Of Justice (continued from page 1)

Joye Law Firm also retained a former General Motors Corporation engineer who was prepared to testify that General Motors Corporation was aware that the roofs of its vehicles were weak when subjected to roll-overs. This expert would have testified at trial that rather than stringently testing its vehicles for their performance in reasonably foreseeable roll-over events, General Motors Corporation was subjecting its vehicles' roofs to only minimal testing that has no correlation to injuries as a result of roof crush.

Joye Law Firm relentlessly pursued this case in North Carolina on behalf of the Whiteheads. There were numerous heated court battles in North Carolina over General Motors Corporation's failure to produce documents that were necessary for the preparation of the case for trial. Depositions also took place in Arizona, California, Indiana, Nebraska, North Carolina, Texas and Virginia. Due to Joye Law Firm's aggressive prosecution of this case to exhaustively prepare for trial, the case was able to be effectively resolved through mediation before the two-week trial of the case was scheduled to begin.

Mark C. Joye, who handled the case with the assistance of Amy B. Rothschild, stated, "For years, the danger of roof crush associ-

ated with roll-overs has been known to the automobile industry. Despite notice of this obvious hazard, especially as relates to sport utility vehicles, the automobile industry continues to ignore it even though roof strength could be improved at minimal cost. We are glad that we were able to assist Mr. Whitehead in achieving an adequate settlement by holding General Motors Corporation accountable for its actions."

In addition to previous automotive product liability cases that have been litigated in California, Michigan, North Carolina, and Virginia, Joye Law Firm, and its product liability team comprised of three attorneys and a support staff, also have ongoing product liability cases in Florida and of course, South Carolina. Joye Law Firm's present caseload includes a myriad of vehicle manufacturers and defects. Currently, Joye Law Firm is working on cases involving DaimlerChrysler Dodge Dakotas, Dodge Durangos, Freightliner tractor trucks, Plymouth minivans, Ford Motor Company Explorers and Mercury Marquises; and GMC Yukons. While these cases all involve crashworthiness, other specific defects at issue include fuel lines, handling and stability control, roll-over and roof crush, occupant restraint systems, door locking and latch systems, and window glazing.

HALLOWEEN SAFETY TIPS FOR YOUR CHILDREN & PETS



Anytime that a child has an accident or is injured, it is tragic. The last thing any caring parent wants is for his or her child to be hurt, especially on a holiday that should be a time of joy for the child. Halloween is one such holiday. There are several ways to keep your child safe during Halloween. Common sense and some proactive actions on a parent's part can go a long way to prevent any injuries.

1. Select a safe costume. The costume should be fire-proof. The eyeholes should be large enough for peripheral vision and the mouth hole should allow for easy breathing.
2. If your child is carrying a prop such as a knife, or a pitchfork, make sure that the props are sufficiently rounded and pliable so that if your child falls on them, your child will not be hurt.
3. Do not allow your child to wear a costume that is threatening and too life-like, which might raise concern by other children or adults. We suggest not allowing your child to wear stocking masks or to carry realistic-looking knives or guns.
4. Parents should accompany young children while trick-or-treating. For those children that are old enough to trick-or-treat alone, it is preferable for your child to do it within a group. Insure that your child is instructed on safety tips, including how to cross streets safely, to avoid talking with strangers, and to avoid getting into cars with strangers.
5. For those children that are old enough to trick-or-treat alone or in a group, plan and discuss a route and behavior that is acceptable to you and that is safe for your child. Agree on a specific time when your child should be home. Consider allowing your child to take your cell phone as he or she is trick-or-treating in the event of a need for an emergency telephone call.
6. Secure emergency identification (name, address, phone number) discreetly within Halloween attire or on a bracelet.
7. Make certain that your child's costume is reflective or that you or your child carry a flashlight so that they can be easily seen. Consider adding reflective tape to your child's costume.
8. Remind your children to avoid pets while trick-or-treating as the animals may be frightened by the costumes and are more prone to biting an approaching child.
9. Provide your child with a good meal prior to going out to trick-or-treat, thereby lessening their temptation to eat candy as they trick-or-treat. When your child arrives at home, inspect their candy to insure that it is still in its original wrapping and does not appear to have been tampered with. Small hard candies are choking hazards for young children.
10. Children may want to assist with pumpkin carving. Insure that small children are not permitted to use sharp knives or that they are used only



under your close supervision. The best choice would be to allow your child to draw the face on the pumpkin with the adult carving it out. Another option would be to purchase a child's pumpkin carving kit that has a plastic jagged saw-like device to carve the pumpkin - while the cuttings might not be as precise, the parent is reducing the likelihood of serious injury to the child.

11. If you place a jack-o-lantern lit with candles on your porch, make sure that they are set far enough away from the door, walkway or driveway to avoid a child's costume accidentally catching fire as they pass by. A better choice would be to use some sort of battery-operated light to illuminate your lanterns.
12. There are fun and safe alternatives to classic trick-or-treating. Find a special event or start one in your neighborhood.
 - Community centers, shopping malls and houses of worship often have organized festivities.
 - Share the fun by arranging a visit to a retirement home or a senior center.
 - Find a special event or start one in your own neighborhood.

Sources:

<http://www.halloween-safety.com>
<http://www.redcross.org/services/hss/tips/october/octtips.html>
<http://lafd.org/hween.htm>

Halloween can also be a scary time for your pets, so do not forget to take safety precautions to keep them safe as well.

1. Confine, segregate or otherwise prepare household pets for an evening of frightful sights and noises. Insure that your pets are wearing collars and proper identification tags.
2. Do not leave your pet outside unattended on Halloween (or on the days preceding or following this holiday). Halloween pranks committed against pets can be vicious, and black cats are particularly at risk.
3. Halloween treats are for people, not pets. Candy wrappers and lollipop sticks can be hazardous if swallowed and chocolate can be poisonous for some types of pets.
4. Keep pumpkins out of reach of curious noses and paws. Pets may knock over a lit pumpkin and get burned or cause a fire.
5. Despite how much fun it is for people, many pets do not enjoy getting dressed up for Halloween. If you do dress your pet, be sure that its costume does not interfere with the pet's ability to breathe, see, hear, move, or bark.
6. Consider keeping your pet in a separate room, away from the door, when trick-or-treaters arrive. Strange people in even stranger clothes can frighten some pets.
7. When you do answer the door for visitors, make sure that your pet does not suddenly head for the great outdoors. In case your pet does escape, make sure that it is wearing proper identification. Pets with identification are much more likely to be returned to their owners.
8. For additional information on how to keep your pets safe, contact your local veterinarian.



Source:

<http://www.avma.org/careforanimals/pawsforpets/halloween.asp>



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Stratford High School Class Action Settlement

A federal court judge has approved the settlement of the class action lawsuit filed following the November 11, 2003 police raid at Stratford High School. Chris McCool of the Joye Law Firm was part of the class counsel representing the plaintiffs and the Firm took an active role in investigating the incident and deposing several officials who participated in the raid. The raid took place shortly before the start of the school day and was planned and carried out by various school and law enforcement personnel. Police stormed a main hallway of the school with guns drawn and restrained the students in the hallway in various ways in order to conduct searches for drugs. No drugs were found. The raid was captured on the school's video surveillance system and was covered and debated by newspapers and television stations across the country.

The fundamental element of the lawsuit was that the raid violated the constitutional rights of the students to be free from unreasonable searches and seizures. An objective of the lawsuit was to have certain policies and procedures implemented that would better protect the safety and rights of students during future searches. Individual members of the court-approved class were awarded monetary dam-

ages under the terms of the settlement.

The entire amount of the attorneys fee received by the Joye Law Firm for its work on the case will go towards the Firm's Community Relations Program. The Program is an avenue for the Firm to give back to the community and is typically directed toward the betterment and advancement of youths in the community. For example, in the spring of this year, the firm awarded four high school seniors scholarships to be used towards furthering their education. Ken Harrell, the Firm's partner who oversees the Community Relations Program, was enthusiastic about having the fee going towards the Program. "From the outset, our position was that any fee we received from our work in the class action would be used for a noble cause in the community. The Stratford raid was unfortunate and affected many students. One of our objectives in being part of the lawsuit was to try and implement a change that would address student safety. The result of the lawsuit has done that and now we can use our Community Relations Program to go a step further and address other needs in the community" said Harrell.



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