

# The JLF Report

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## FIRM CONFIDENTLY FACES FUTURE



The unexpected death of JLF founder Reese Joye in July has created challenges for everyone associated with the law firm. For over 40 years, Reese dedicated his whole being to helping his clients and to building a successful law firm. For those persons who worked with him on a daily

basis, dealing with the personal loss after Reese's death has been an even greater challenge. However, while many persons outside of the law firm might equate the firm to being a ship without a rudder after Reese's death, JLF managing partner Ken Harrell strongly states that this would be a misperception.

While Harrell concedes that it has been a stressful few months since July, he feels that this has primarily been due to the personal grief firm attorneys and staff members have dealt with and not due to any disruption of the business.

"Let's start with the obvious - you don't replace a Reese Joye," said Harrell. "He was a unique icon within the South Carolina Bar and you can't replace a legend."

*(Continued on next page.)*

## Reese Joye and Ken Harrell Honored by American Trial Lawyers Association



Reese Joye, the founding partner of the Joye Law Firm who tragically died on July 20, and Ken Harrell, the current managing partner, have been honored by the American Trial Lawyers Association by being included as members in the 2007 Top 100 Trial Lawyers for the State of South Carolina. Mr. Joye and Mr. Harrell were among only 100 attorneys from the State of South Carolina to be nominated

for membership into this select group of trial lawyers.

Keith Givens, a member of the Association's Executive

Committee, indicated that Mr. Joye's and Mr. Harrell's selection was based on their exemplifying superior qualifications, trial results, leadership, representation, and high profile in the state's trial attorney community, as viewed by the organization, other South Carolina lawyers, and members of the judiciary.

"I am honored to receive this recognition, but it is especially humbling in light of Reese's death," said Mr. Harrell. "The firm has a tradition of quality which Reese started nearly 40 years ago and I am dedicated to seeing us continue that tradition into the future."



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## FIRM CONFIDENTLY FACES FUTURE (cont. from p.1)

However, Harrell notes that the firm had been transitioning its leadership roles to younger attorneys years before Reese died. While Reese was perceived as the face of the law firm by many, leadership responsibility had been shifted to other lawyers in many different ways.

The change started with the managing partner position being transferred from Reese to his son Mark four years ago, and then from Mark Joye to Harrell two years ago. Harrell said that this change made sense as Reese's ownership shares in the firm declined and he began devoting more time to outside interests, such as his passion for skiing and spending time with his grandchildren.

"Most people were unaware that Reese sold most of the firm to Mark and to me years ago," said Harrell. "In light of his sudden death, I am just glad that Reese took the time to spend several months in Vail each year and travel extensively during the final years of his life. There is a real lesson there for all of us - don't put off the things you love assuming there will always be time to do it later."

Within the law firm, Reese's practice had focused on criminal defense work, and especially the representation of persons charged with driving under the influence. Even within that department, Reese had begun planning for the future by naming attorney Drew Carroll as the department head two years ago. Carroll, who has practiced with JLF for nine years, felt honored to assume this role. "I can't put into words how much I learned about the practice of law from Reese Joye," said Carroll. "To have him have the faith in me to hand over the leadership of the criminal defense team is a honor I will always cherish."

Carroll indicated that with a small number of exceptions, there has been no interruption in the service the firm's clients are receiving as attorney Brady Vannoy and he were in charge of doing the legal work on nearly all of the department's files even before Reese's death.

Of course, some wounds left by Reese's death will take longer to heal. Partner Mark Joye has obviously had to deal with a personal loss much more significant than the loss of a law partner.

"I didn't just lose a law partner - I lost my dad as well and that has been hard," said Mark. Mark felt that a recent trip Harrell and he took to Nashville to produce new television ads for the firm reminded him of the importance of carrying on Reese's legacy of unparalleled service.

"One of the ads Kenny and I shot was a tribute to Reese," said Mark. "Talking about the unmatched dedication my dad had to his clients served to remind me of how important it is that we pay tribute to him by continuing that tradition."

Certainly, the quality of the firm's leaders is evidenced by the esteem they are held in by their fellow attorneys throughout the state. Carroll is currently the President of the South Carolina Criminal Defense Lawyers' Association; Mark Joye is the Vice-President of the South Carolina Association of Justice; and Harrell is the Vice-President of South Carolina Injured Workers' Advocates.

"For lawyers who represent individuals in South Carolina, these are the three premiere organizations," said Harrell. "To have three Joye Law Firm attorneys who will serve as the President of these organizations this year or within the next couple of years is a real testament to the type of law firm we have built here."

Reese Joye's death has left a permanent void at the Joye Law Firm. However, all of the firm's attorneys and staff are devoted to protecting his legacy by continuing to grow the law firm and to provide the firm's clients with stellar service.



***JLF Criminal Defense Attorney Drew Carroll was named by founder Reese Joye to lead the firm's criminal defense department.***



***JLF Criminal Defense Attorney Brady Vannoy***

# The Lowest of The Low

## (Consumer Rights Related To Debt Collection)

### By Steven Moskos, Esq.

*(NOTE: As a service to our clients, we occasionally have guest attorneys write columns on areas of law outside of our law firm's practice areas. This article was written by Steven Moskos, a Charleston lawyer with over 20 years of experience passionately advocating for consumers in transactions, lawsuits and trials involving car dealers, car manufacturers, debt collectors, warranty companies, insurance companies and credit reporting agencies. His telephone number is (843)763-5297.)*

"Hello." "Is this Ms. Smith?" "Yes it is." "Ms. Smith, this is Robert from Bruno-Montesi-Tataglia, Inc. We're a collection agency. You owe money on your XYZ credit card and we need to know when you are going to pay it." "What do you mean I owe money? I haven't had that credit card in 10 years. When I did have it, I paid it off." "Well, I don't know about that. All I can tell you is you owed \$1,000.00 on it. Then you stopped paying. With fees, interest and collection costs, you owe \$4,500.00. How do you want to pay this?" "I'm not paying it." "Well, if you don't we are going to get a judgement against you and take your house." "You can't do that!" "Listen here, woman, we can do whatever we want. You better pay us or else. We may even have you arrested because we can. When are you paying?" (The name of the "collection company" comes from a real case we handled. The "company" later changed its name to Calabria-DiNapoli-Gambino-Capone-Lucazzi-Scofficcio & Associates. The "company" was really one guy in his house.)

This is a mild version of what is going on day in and day out in our community. In some cases, people do not owe the money demanded. Maybe someone stole that person's identity. Maybe a person has a common name and the collection company has made a mistake. Sometimes people owe money, but it has been written off by the company. That company sells the debt for \$.01-.04 on the dollar. A bad debt collection company buys thousands to sometimes millions of dollars of debt for a few thousand dollars. Then, if it can get even 10% of the outstanding debt paid, the owners make a very sizeable return on their money. (Example: a bad debt buyer buys \$1,000,000.00 worth of bad debt for \$10,000.00. It then collects 10% of the debt and makes \$100,000.00 for a \$90,000.00 profit.) The bad part about this is that many of these collectors cross the line. They demand money to which they are not entitled. They threaten action they cannot take. They file suit when it is not appropriate. This conduct violates the Fair Debt Collection Practices Act (FDCPA).

In 1995, Congress passed the FDCPA. Congress found, among other things, that "There is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy."

The FDCPA protects consumers from unfair debt collection practices by debt collectors. A "consumer" is a natural person, not a business. A "debt" is any obligation a consumer has to pay for goods or services which are primarily for personal, family, or household purposes. A "debt collector" is a person who uses interstate commerce or the mail to regularly collect consumer debts.

The company that first issues the credit is generally not liable under the FDCPA.

#### **Among other things, the FDCPA requires the debt collector to:**

- provide information about the debt if requested by the consumer within 30 days of being notified by mail that the debt collector is trying to collect a debt.
- send this letter within 5 days of its contact with the consumer if that first contact is by phone.
- tell the consumer that he/she can request information showing that the debt is valid and how to get that information.
- cease collection efforts while the consumer is waiting on this information.

#### **The debt collector may not:**

- send this information about a debt on a post card.
- speak to third parties about the consumer's debt.
- use or threaten the use of violence, force or other criminal activity to collect a debt.
- use profane language to harass or abuse consumers.
- publish the names of consumers who have supposedly not paid their bills.
- cause the phone to ring excessively or engage the consumer with the intent to annoy, abuse, or harass the consumer.
- make misrepresentations or lie about the debt.
- misrepresent the nature, character, or amount of the debt.
- lead a consumer to believe he or she is an attorney when he/she is not.
- imply that the consumer committed a crime to disgrace him into paying the debt.
- imply that the United States Government is involved in the matter, if it is not.

So, a debt collector violates the FDCPA. What does the law allow a consumer to recover? First, you can get your current and future out-of-pocket losses. Some of the damages a consumer can seek include wages lost as a result of the collection efforts, maybe the amounts paid as a result of the improper collection efforts, emotional distress, mental anguish, tax refunds intercepted by the debt collector, medical bills caused by the debt collector's harassment, humiliation, embarrassment, isolation, fear, inability to sleep, and crying spells.

Even if the consumer does not have actual damages, the FDCPA allows the Court to award up to \$1,000.00 for violations that do not cause actual harm to the consumer. These are designed to force debt collectors to obey the law.

Additionally, if the consumer wins, he or she may ask the Court to have the debt collector pay his or her attorney's fees.

In most cases, debt collectors will follow the law. Some debt collectors, however, will violate the law and do not particularly care what happens as long as the consumer pays. The first line of defense is education. Know your rights. Ask for information that shows the debt is yours. Request people's names and addresses. Ask the collectors for information. If it does not sound like you owe the debt, do not agree to pay it. If the debt collector crosses the line, call your attorney for help. That is what he or she is there for.



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## Joye Law Firm Successfully Concludes Wrongful Denial of Death Benefits Claim



JLF attorney Chris McCool

rights of beneficiaries when a claim is wrongfully denied under life and disability insurance policies.

"I'm convinced the insurance companies systematically deny these claims because the companies know that people, in their time of grief, will often not pursue a denied claim," said Joye Law Firm attorney Chris McCool. "When a claim is denied, it is important for the beneficiaries to consult an attorney who has handled these types of cases because the filing deadlines imposed by the insurance companies and the legalese involved can be very overwhelming."

Unfortunately, it is a scenario encountered too often at the Joye Law Firm. A family member contacts the firm and explains that a loved one recently passed away and now the insurance company is denying payment of the benefits owed under a life insurance policy. Similar situations arise with the denial of benefits under long term disability insurance policies. Because of its knowledge and experience, the Joye Law Firm has an active practice in protecting the

The Joye Law Firm has successfully resolved various denied benefits claims. A recent claim the firm successfully concluded involved an insurance company that denied the payment of death benefits because it claimed the deceased was intoxicated at the time of death. "It was a blatant act by the insurance company of misconstruing the terms of the policy, providing the beneficiary with misleading information, and ignoring the fact that there was no evidence of intoxication," noted McCool.

By applying the applicable law to the terms of the policy and thoroughly investigating the manner of death or disability, the bad-faith acts of the insurance companies can be uncovered. Whether the policy was provided through an employee benefit plan or purchased as an individual policy, the experienced attorneys at the Joye Law Firm have the ability to assist clients in their time of need.



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