

## Politics do Affect Your Rights

House Bill 775 was an extraordinary act by the politicians who were elected to take away individuals rights in favor of big business.

HB775 abolished the Dangerous Instrumentality Doctrine. The Dangerous Instrumentality Doctrine held the owner of a vehicle, including rental car companies, liable for damages caused by their motor vehicles. Now, all rental car companies can rely on an unreasonable cap for damages.

The sweeping tort reform states that if the operator is uninsured or has less than \$500,000 of combined limits for bodily injury and property damage, the lessor's

liability is limited to an additional \$500,000 for economic damages only. This means that in catastrophic injury cases, the injured party will have to look to the State of Florida and/or the Federal Government to pay for medical expenses and care. Currently this law is being challenged by a lawsuit brought by consumer groups and will probably end up in the Florida Supreme Court. This tort reform should be considered unconstitutional.

We will report to you in future Newsletters regarding the outcome of this most important litigation which affects the rights of all the citizens of the State of Florida.

## Commercial Suit Keeps Small Business Owner in Business

Panter & Panter recently resolved a commercial dispute involving a small business owner who had entered into various contracts with one of the biggest security corporations in the country. After entering into various lease agreements with this small business owner of golf carts, the security corporation attempted to dissolve the leases because they "got a better deal with someone else." This

small business owner was almost put out of business by this giant corporation. Panter & Panter filed suit against the corporation and the favorable result provided the small business owner with just compensation for the security corporation's breach of contract. Thanks to this result this small business owner was able to save his company and is still in business today.

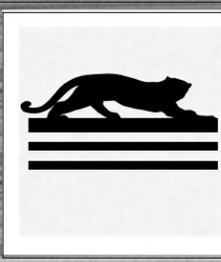
NOTE: The accounts of recent trials, verdicts and settlements contained in this Newsletter are intended to illustrate the experience of the firm in a variety of litigation areas. Each case is unique, and the results in one case do not necessarily indicate the quality or value of any other case.



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PANTER & PANTER, A LAW FIRM DEDICATED TO PROTECTING FLORIDA'S FAMILIES\* Volume VII, 2000

## \$3,135,000 Jury Verdict Against ALAMO Rent-A-Car

Sylvens Raphael is a 27 year old man who was a seat belted passenger in an Alamo Rent-A-Car involved in a two car crash on January 29, 1999.

Sylvens Raphael was a young man from Haiti who was in the United States studying English. He was

in the Alamo Rent-A-Car vehicle on his way to Immokalee to visit friends when the driver of the Alamo Rent-A-Car lost control of the vehicle and crossed over a 50 foot median and crashed head on into another car.

Unfortunately, Sylvens

Raphael, a father of two young children, suffered serious brain damage which will require him to live in a nursing home for the remainder of his life.

Brett Panter tried this case in Polk County with his brother, Mitchell. After

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## Law Firm Notes

Dr. Rudolph Moise has become "of counsel" with Panter & Panter. Dr. Moise has been a physician for 20 years. Dr. Moise has an M.B.A. in Business and received his law degree from the University of Miami in 1997. He is a member of the University of Miami Board of Trustees and a

reserve Flight Surgeon for the United States Air Force. Dr. Moise plans to concentrate on medical malpractice and other areas of complex civil litigation with Panter & Panter.



**Dr. Rudolph Moise**

Brett Panter lectured at the Academy of Florida Trial Lawyers Workhorse Seminar and spoke on the topic of Leading Edge Hints and Practical Pointers Regarding the Defense Exam. Mr. Panter also spoke for the National Business Institute on the topic of "How to Successfully Make and Manage Objections at Trial". Brett Panter has also completed his Instrument

Flight and Multi Engine training and is now certified as an Airplane Single and Multi Engine Land Instrument Pilot. Brett Panter is currently training for his Commercial Rating and now has accumulated over 700 hours of flight time. As a result of this flight training Panter & Panter has been able to better serve clients

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## Car Crash Leads to Malpractice

A young man who just graduated from college and began his career was out for an evening and had several beers at a concert. Late that morning, he lost control of his car and crossed over the center line and was involved in a serious head on collision.

Ambulances arrived on the scene within moments and took this young man to the emergency room. The young man had serious orthopedic injuries and underwent approximately ten hours of surgery. The surgery went well and when the hospital staff was moving this young man to the transport bed,

his heart stopped beating. There was a very brief period of time when his heart did not beat and the emergency procedures began immediately, including oxygenation and other resuscitating maneuvers. Unfortunately, it was almost impossible to determine for sure what happened to this young man. However, he suffered a severe brain injury and went into a coma.

This young man never came out of the coma and his parents now have the incredible task of taking care of an adult who requires more attention than a young child.

Brett Panter and Attorney

Ernie de la Fe, a long time friend of Brett's, investigated the details of the medical treatment and brought suit against the hospital and physicians for their failure to properly assess the patient and respond to the code in a timely fashion.

The case was settled after three mediations providing the family with the ability to obtain care for their son for the rest of his life.

This case was settled for \$875,000.

We continue to strive to do everything we reasonably can for the benefit of our clients under all circumstances.



*Brett Panter in North Carolina with his Geronimo.*

### Law Notes

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by more easily flying throughout Florida. Brett Panter would like to thank his flight instructor, Captain Ira Leshin, who was a 727 Captain until retiring last year from Delta Airlines.

Mitchell Panter was recently elected as the Vice President in charge of Government Relations for the Pinecrest Business Association which is a group of business owners in the Village of Pinecrest. Mitchell will serve as the liaison between the Pinecrest Business Association and the Village of Pinecrest Council. Mitchell was also elected as the Secretary of the South Miami Kendall

Bar Association which is a local group of attorneys and judges.

David Sampedro has recently completed another year as a member of the Board of Directors of the Dade County Bar Association Young Lawyers Section. David had the privilege of serving as the Law Week Chair this past year. In addition to partici-

pating in Miami-Dade County Commissioner, Dr. Barbara M. Carey-Shuler's "No More Stray Bullets" campaign, David conducted a poster contest where local elementary school children competed. City of Miami Commissioner Joe Sanchez presented awards to the winners. This year's Law Week theme was "Celebrate Your Freedom: Speak Up for Democracy and Diversity".

## Nursing Home Claim Settles for \$390,000

A.B. was admitted to a nursing home in March, 1994 at the age of 81. A.B. had a history of previous strokes and senile dementia. Her family brought her to the nursing home seeking the additional attention and care that was necessary.

Unfortunately, A.B. was neglected and due to the defendant nursing home's failure to adhere to state and federal regulations, she suffered weight loss, depleted nutritional levels, developed decubitus skin ulcers, sepsis, gangrene, pneumonia, and E. Coli infection.

Panter & Panter claimed that there was a constant use of vest restraints but a failure to document the release and repositioning required every two hours.

Finally, in December of 1995, A.B.'s family requested that she be transported to a hospital. She was admitted to the hospital with a



diagnoses of septicemia, decubitus ulcer, urinary tract infection, gangrene, pneumonia, E. Coli infection, and other serious health problems.

Unfortunately, the hospital was unable to save A.B. and she died at the hospital. The hospital established that A.B. had extensive infected

sacral decubitus ulcers with nutritional deficiencies.

Brett Panter was asked to handle this case by Attorney Laurie Sine and Mr. Panter worked on this case with David Sampedro. A settlement in the amount of \$390,000 was reached at mediation.

At Panter & Panter, we feel that nursing homes must be held accountable for this type of neglect.

The nursing home argued that the complications were simply a result of the aging process and that everything possible was done for A.B. Panter & Panter disagrees that aging is a defense and feels strongly that nursing homes must continue to be held accountable and that by this process of accountability the elder citizens of Florida will receive better care and will be treated with the dignity they deserve.

### ALAMO

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five days, a jury rendered a verdict awarding damages in the amount of \$3,135,000.

The jury verdict will enable Sylvens Raphael to receive the necessary care he needs for the remainder of his life. The jury verdict will also make sure that Sylvens' children have financial support for their education and other necessities while growing up.

The "Dangerous Instrumentality Doctrine" allowed Panter & Panter to proceed with the claim

against Alamo based upon its ownership of the rental car and its responsibility to the general public as the owner of the motor vehicle.

Without this law, Sylvens Raphael would have become a ward of the State and taxpayers would be paying for his continued care for the remainder of his life.

Brett Panter's previous trial against Alamo Rent-A-Car resulted in a \$7.7 million jury verdict which was upheld by the Third District Court of Appeal. The case can be read in its

entirety at *Alamo Rent-A-Car, Inc. v. Clay*, 586 So.2d 394 (Fla. 3d DCA 1991).

Unfortunately, the Dangerous Instrumentality Doctrine has now been abolished by Florida's politicians as part of a political payback to big business. In the future Alamo will have limited liability placing the burden of these types of claims upon taxpayers. You can do something to change the law. (Please see article, "Politics Do Affect Your Rights" in this Newsletter.)