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**GENERAL**

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# THE HAGGARDS

HANDLING COMPLEX PERSONAL INJURY CASES TOGETHER.

Back in 2003, Michael Andrew “Mike” Haggard was preparing his closing arguments in a Broward personal injury case involving a brain-damaged girl who had nearly drowned in an unsecured swimming pool. “At about 2 a.m., I stepped out of my hotel room to rehearse my closing summary and ran into my father doing exactly the same thing in the hallway. I was surprised to see him practicing like me, because he’s been doing this for so long.”

While William Andrew “Andy” Haggard, 65, has a few more years of experience than son Mike, 37, they say they share a deep concern for their clients and the ability to work hard to prepare for a case — in this case a \$100 million verdict on behalf of the girl and her family.

“When you try cases with your son, it’s good to have contrasting styles,” Andy says. “I’m more excitable, especially during cross examination of witnesses. Mike is calmer, nicer and smarter than me.”

The two personal injury attorneys have practiced together at the Haggard Law Firm in Coral Gables since 1998, trying more than 10 cases together. But they arrived at their father-son partnership by different routes.

After graduating from law school in 1967, Andy Haggard worked for the Air Force’s JAG Corps, then in the state attorney’s office as a prosecutor. “I fell right into trial work,” he recalls. “I like picking the jury, presenting the facts and competing with opposing attorneys. When I’d finish my cases, I’d go around the courthouse to see if someone else had any cases to try.”

On the other hand, Mike Haggard became a public defender after completing law school in 1995. “I loved helping clients who were indigent and needed all the assistance they could get,” he says. “I always wanted to go to trial, and I handled plenty of cases at that time.”

After a year and a half as a PD, Mike joined a South Florida plaintiff’s law firm, and built his pretrial and courtroom skills. “Then, I talked to my dad and said, ‘Why don’t we do this together?’” Mike says. “Competing against each other just didn’t make sense.”

Although practicing together has paid off for father and son, Mike adds that working with family is not for everyone. “You have to be honest and be willing to take constructive criticism,” he says. “But if you have a good relationship, it’s very rewarding. We’re always there for each other.”

And Mike also balances his time in the office with time at home with wife Bekki and their children, Madison and Carson. “I’d love for my kids to follow us into the law,” Mike says. “I tell them that I go to work every day to fight the bad guys — like my father, I’m very proud of what we do.” 62



**Andy and Mike Haggard balance family life and working together.**



# ACTION REPORT

Volume 19

Number 4

Issue No. 545



## Like Father, Like Son

By Debra Henley, Executive Director

In 1990 I was serving on the Florida Commission on Ethics. A newly appointed commissioner joined me at the dais. He had a large Seminole football ring and a larger than life personality. His name was Andy Haggard. In addition to serving on the Florida Commission on Ethics, Andy had been an active leader of the Academy of Florida Trial Lawyers, having been a member since 1978.

Little did I know that 20 years after my time on the commission, I would be serving as the Florida Justice Association's Executive Director with none other than Andy's son Michael Haggard as its president. I discovered that the acorn didn't fall far from the tree.

I am fortunate to have had the privilege of working with both Andy and Mike. Very simply they are two of the best people I know. Despite the many challenges the Florida Justice Association faced going into this year's legislative session, our outgoing President Michael Haggard led us to victory, turning a session in which the rights of Floridians were at great risk, into one of the most successful sessions in years. It has been an inspiration to watch his "never give up" attitude and his belief that a winning touchdown is just around the corner. His strong work ethic, sense of humor and caring manner inspires all of us at the FJA. We have all learned from Mike and will use our experience to position the association to take advantage of opportunities and to meet the challenges of the future.

I know well of Mike's commitment to justice; his commitment to the Florida Justice

Association; his commitment to his law firm; and his love for his own family, including his wife, Bekki, and their two children, Madison and Carson.

### A Commitment to Children

When Mike started college at Florida State University, he was like a lot of young people. He was certain that he wouldn't follow in his father's footsteps and become a lawyer. As strange as it may seem to us now, Mike was considering a career as a truck driver. We can be thankful, and so can the many people who have benefited from his legal acumen, that he changed direction and decided to go to law school. He earned his juris doctorate degree at the University of Miami and joined his father's firm after working for both an assistant public defender in South Florida and a personal injury firm in Miami.

There's much more that Mike and his father share in common.

Both are brilliant attorneys who are passionate about helping their clients, especially when it comes to children who have been harmed by the negligence of others, whether by individuals or large, multi-national corporations.

Mike has earned national recognition for his work on pool safety. In 2003 he won two important pool-accident cases involving children. He was nationally recognized because these cases helped to draw much-needed public attention to vital safety enhancements that are now saving countless lives.

Mike has earned much recognition due to his unheralded displays of compassion in his work helping children. I share with you the words of Gerry Dworkin, an aquatics safety consultant in Harrisville, New Hampshire, who said of Mike: "He is a bright, articulate and passionate person whose great advocacy for the family of a drowned or seriously injured child is deserving of much respect."

In my view, Mike has proven his devotion to children by taking his fight for pool safety beyond the courthouse doors. He has also fought the Legislature to enact laws enhancing pool safety in Florida and throughout the country. Those who have worked with Mike know that he is tenacious. He never goes down without a fight; and more often than not, he doesn't go down.

U.S. Representative Debbie Wasserman Schultz of Davie remembers Mike's dogged persistence in fighting for the passage of a federal law that required better drain covers and fencing around pools. "Mike Haggard played a critical role in the passage of the Virginia Graeme Baker Pool and Spa Safety Act, the first federal law dealing with the gruesome epidemic of childhood drowning," the congresswoman said. "His tireless efforts on behalf of drowning victims and their families helped pass this landmark children's safety legislation into law. It has been my pleasure to work with him."

Mike is also an advocate for victims of crime and has worked closely with Jeff Dion at the Director of the National Center for Victims of Crime. Dion said Mike is a tireless advocate for victims of crime, helping restore

confidence to victims of crime. "Mike helps give victims the tools and resources to help build their lives," Dion said. "He gives them a sense of justice by convincing a judge or jury to hold those responsible accountable, and gives victims and their families comfort that another family won't have to go through this same tragedy because they had an advocate like Mike Haggard."

### **Dedication**

As many of us have come to know, Mike has an energy level that most people cannot match. He works around the clock, seven days a week, splitting time between his own cases and his important duties with the Florida Justice Association.

He is a fiercely competitive guy who hates to lose and plays the political game in much the same manner he plays sports – full contact!

And we were in a fight requiring full contact at the start of the 2010 Legislative Session, when the conventional wisdom was that the civil justice system was in for an all-out assault.

Some of the issues we fought against this year included efforts to allow child liability waivers for negligence, insurance rate increases, a battle to overturn the Owens v. Publix Florida Supreme Court decision, limits on contingency fees for lawyers hired by the state's attorney general, and an attempt to extend sovereign immunity protections to emergency condition health care providers. Additionally, we supported bills to increase sovereign immunity limits, increase customer awareness of the shelf life of tires and a bill to eliminate a statute of limitations on sexual battery of a child.

Miraculously, for the first time in nearly 30 years, the limits on sovereign immunity waivers were increased to \$200,000 per person and \$300,000 per incident. A bill to eliminate time limits for filing criminal and civil cases in sex crimes involving children became law, a personal victory for Mike who worked behind the scenes to advance the legislation. And the child waiver bill

passed but was tamed so it protects businesses against cases involving the inherent risk of the activity only, which maintains the ability of a parent to hold a negligent activity provider accountable.

Under Mike's aggressive leadership, we had a session that completely exceeded my highest expectations. Much of the success we had this session is due to Mike's diligence in forming strong relationships in both chambers on both sides of the aisle over many years.

Our legislative successes underscore the need for our members to build these relationships with the new crop of legislators coming to Tallahassee in November. You will be hearing more about how you can do this in the weeks to come.

Mike has been at this for years. He works hard at what he does, whether it's for his clients or Florida's families. Mike's commitment to this association has set a high bar for future presidents.

### **Like Father, Like Son**

*"I am your child. Wherever you go, you take me, too.*

*Whatever I know, I learn from you.*

*Whatever I do, you taught me to do.*

*I am your child. And I am your chance.*

*Whatever will come, will come from me.*

*Tomorrow is won, by winning me.*

*Whatever I am, you taught me to be.*

*I am your hope, I am your chance. I am your child."*

### **Barry Manilow, *I Am Your Child*, 1972**

While Mike will never forgive me for using a Barry Manilow piece in this message, I could not help but think the lyric parallels how we think about our lives, reflecting back on our own parents and looking ahead to the futures of our children.

Mike is a child of great parents as well as the parent of great children.

The seeds were planted for Mike to join the Florida Justice Association at an early age. Mike and his sister, Becky, stayed connected

to the FJA throughout their childhood. As soon as Mike passed his bar exam in 1998, he joined the association like his father.

Mike had the good fortune to learn about the legal profession from one of the best — Andy Haggard. And while he gained the fighting spirit of a trial attorney at an early age, Mike will tell you that his dad is the source of his strength and inspiration.

Mike has also taken to heart lessons taught by his father about the importance of balancing work and family. He always made the Florida Justice Association a top priority while also ensuring that his family came first when they needed him.

Thankfully, his family has shared his talents with us and the entire FJA family, and they understand why it is so important that he fights to protect Florida families. Even though Mike faced a difficult year, with a great deal of travel that took him away from family, his commitment to protecting the rights of Floridians to seek justice has never wavered.

His commitment is awe-inspiring and we can all be grateful for his selfless devotion to helping others, with nothing personal to gain and only sacrifices to make. It was inspiring to work with Mike and his legacy will not soon be forgotten. I know with certainty that his commitment to this association will be an inspiration to future FJA presidents for years to come.

As I step into my role as this association's Executive Director, I look forward to partnering with our board of directors and our president-elect Rich Newsome, to put their own stamp on the important work of protecting the rights of Floridians.

Thank you for your service, Michael Haggard. We will miss you. But knowing the Haggard family, I have a feeling you may not be the last of the Haggard family to lead the FJA.

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According to reports, Panthers' head coach Kevin Dineen, assistant coach Gord Murphy and assistant coach Craig Ramsay have been relieved of their coaching duties.

5 people have escaped a house fire on SW 3rd Ave. and 11th St. in Fort Lauderdale. Two cats are dead; 2 cats are missing.

## Local News

# Family of man doused in gasoline awarded \$5.5 million



Posted: 10/01/13 at 5:45 pm EDT    Last Updated: 10/02/13 at 7:49 am EDT

NORTHWEST MIAMI-DADE, Fla. (WSVN) -- The family of a man who died after being set on fire at a local gas station have settled a multi-million lawsuit against the company that owns the property.

The mother and cousin of Darrell Brackett were awarded \$5.5 million after Brackett was doused with gasoline and set on fire at the U-Gas station along Northwest 27th Avenue and 47th Street in Northwest Miami-Dade.

Brackett was filling up a portable container with gas when he was attacked by three men and set on fire. Brackett suffered severe burns on 75 percent of his body and passed away in February due to the severity of his injuries.

His mother said he would still be alive if the U-Gas station would have had more security and less crime. "I hope that, through this lawsuit, that they will start acting responsible, and I hope that no other mother will have to go through what I have to go through," said Bridgett Brackett.

11/8/13

WSVN-TV - Family of man doused in gasoline awarded \$5.5 million

The attack happened Christmas night, in 2012, after Brackett's car broke down. Sharetta Remikie, the victim's cousin, remember the deceased fondly. "He was the joy of the family," she said.

In a previous case, the family of Trinard Snell were awarded \$5.7 million after Snell was shot and killed at another gas station owned by the same company.

Both gas stations are owned by the same company, who did nothing to improve security at either gas station after Snell was killed, leading to this latest tragic attack.

An attorney representing the family said, U-Gas was aware of the illegal activity taking place on the property and did nothing to improve security at either gas station. He said alleged drug dealing taking place at the gas stations and illegal slot machines attracted bad elements. "We resolved this case with Urbietta oil and their companies for \$5.5 million, one of the largest settlements for a single surviving parent of an adult child," said attorney Todd Michaels.

Police said there is still a warrant out for Willie Summerset in connection to Brackett's death. If you have any information on Summerset's whereabouts, call Miami-Dade Crime Stoppers at 305-471-TIPS. Remember, you can always remain anonymous, and you may be eligible for a reward.

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# Family Gets \$5.5 Million Settlement in Man's Burning Death

Relatives of Darrell Brackett get settlement from gas station owner in Christmas burning death

By Julia Bagg | Wednesday, Oct 2, 2013 | Updated 2:33 AM EST



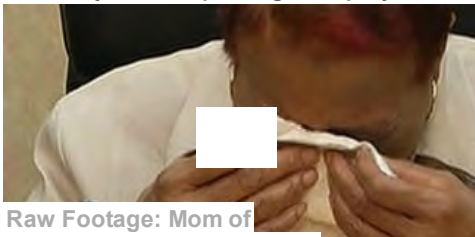
The family of Darrell Brackett discusses the \$5.5 million settlement they received in his Christmas 2012 burning death. Mother Bridgett Brackett, cousin Sharetta Remikie and attorney Todd Michaels comment.

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Raw Footage: Mom of

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Pair Sought in

A heartbroken family is speaking up about a \$5.5 million legal settlement after a man was [fatally set on fire in northwest Miami-Dade](#) last Christmas.

Relatives of 44-year-old Darrell Brackett say he was on his way home in Brownsville last Christmas night when he ran out of gas. He went to fill up a container at the U-Gas Station on Northwest 27th Avenue and Northwest 47th Street.

Investigators say three men took the container, doused Brackett with the gasoline he bought, and set him on fire. He died in a hospital less than two months later.

- [Pair Sought in Christmas Night Fire Attack](#)

"It's the kind of pain that's with you every day," said Brackett's mother, Bridgett Brackett.

Her attorney, Todd Michaels, announced the multi-million-dollar settlement [against the gas station owner](#) in his court order.



[More Photos and Videos](#) [station's owner](#) at his Coral Gables office  
Tuesday morning.

Brackett insisted the settlement isn't about the money. "Changes need to be made to make everybody feel safer," she said.

- [Suspect in Christmas Burning Talks to Investigators](#)

Michaels said U-Gas station's owner, Urbietta Oil, knowingly allowed drug dealers to operate on its property.

"There was constant drug dealing on this property, there was constant criminal activity, there had been on this property six reported robberies," Michaels said.

He noted the company's outdoor security cameras were broken, and said despite previous crimes at the station, the company did "absolutely nothing to keep their property safe for their customers."

Urbietta Oil did not immediately return calls for comment.

The Brackett family also still hopes to bring Darrell's killers to justice, but that hasn't happened yet.

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- [Child Found on Street Corner After Mom Left Kids Home Alone: Miami Police](#)
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Check the box to include the list of links referenced in the article.

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# Burning Man's Family Awarded \$5.5 Million Settlement

Added by **James Fenner** on October 1, 2013.  
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commenced. Michaels explained that the owner was fully aware that drug dealers were operating on his premises, alongside "constant criminal activity," and a spate of robberies.

In spite of this, the owner did nothing to stop these subversive deeds. Furthermore, security cameras along the building remained non-functional and, even though prior crimes had been committed at the station, there was no attempt to guarantee the safety of its customers.

The family of Darrell Brackett aim to bring his killers to justice. Thus far, they have been unable to do so.

By: James Fenner

[NCB News Source](#)



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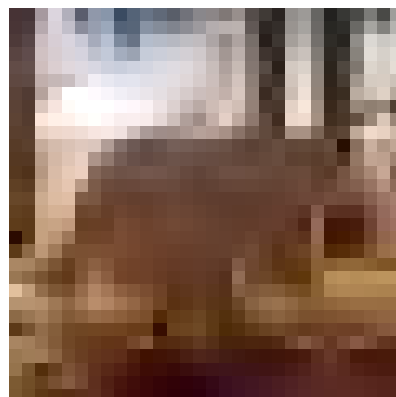
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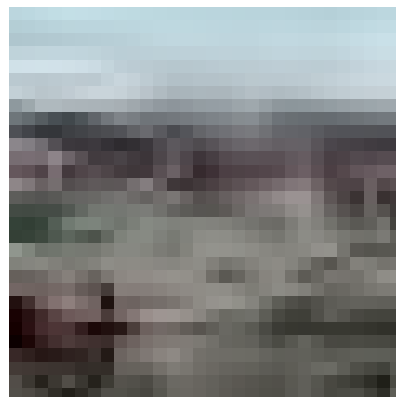
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According to reports, Panthers' head coach Kevin Dineen, assistant coach Gord Murphy and assistant coach Craig Ramsay have been relieved of their coaching duties.

## Local News

# Gas station loses million-dollar lawsuit



Posted: 12/11/12 at 7:30 pm EST

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MIAMI (WSVN) -- A South Florida gas station is getting pumped for millions of dollars after losing a lawsuit.

The plaintiff's family received almost \$6 million after they lost their loved one, who was working at the gas station during a shooting.

Twenty-four-year-old Trinard Snell had been working at the gas station car wash for about two months when he was shot and killed there during a robbery in June 2009.

The family said Snell was never told how dangerous working there could be. The operator who no longer works at the convenience store was said to have bullet proof cars and an armed body guard who walked her in before she started work. However, the people working outside in the car wash had no clue there had been at least six attempts of armed burglaries and robberies at the gas station.

The victim's mother, Zoreta Snell said, "He was my only son, and I can't even describe to you in words how that makes me feel. I am satisfied that I received justice. I just really don't want this to happen to another family."

The family's intention was to raise awareness to make gas stations safer for other employees.

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# MEGA WINNINGS!

## Latest News

### Jury awards woman \$5.7M in car wash death

By Ben Kennedy, Reporter, [bkennedy@Local10.com](mailto:bkennedy@Local10.com)

Published On: Dec 11 2012 01:14:10 PM EST

Updated On: Dec 11 2012 08:15:10 PM EST



A jury awards a woman \$5.7 million after her son was shot and killed while working at a gas station in 2009.

MIAMI -A jury awarded a woman \$5.7 million after her son was shot and killed while working at a gas station in 2009.

"I'm satisfied that I received justice. Again, I don't want this to happen to another family," said Zoreta Snell.

In 2009, Zoreta Snell's 24-year-old son Trinard opened up a car wash at the Valero gas station off NW 71st Street and 27th Ave.

But despite a history of violence, the operator did nothing to protect or warn Trinard of the danger, said attorney Michael Haggard.

"To put it simple, he was a sitting duck. He was put in the line of fire by a gasoline station operator," said Haggard.

"Here you are making money, the least you can do is provide proper security," said Snell.

**In June, Trinard Snell was robbed and killed.** Three years later, Zoreta sat with a team of lawyers after she took Family Food Service Corp. to court and won, claiming they did nothing to protect her son, a father of two.

"I can't bring back my son, but I can do the best I can and show my grandchildren love. That's what we've been doing," said Snell.

Snell's lawyers says the alleged gunman was caught and awaits trial. The Valero gas station is under new management since the murder.

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# LOCAL

## \$5.7M Awarded To Family Of Man Killed At Car Wash

December 11, 2012 6:20 PM

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CORAL GABLES (CBSMiami) — More than three years after Trinard Snell was shot and killed at a Liberty City car wash, the owners of the gas station that paid the 24-year-old employee will be paying his family as well.

Snell's mother, Zoreta Snell, filed a \$5.7 million lawsuit and won, claiming the owners did nothing to protect her son and other customers of the car wash and gas station.

Zoreta Snell, filed a \$5.7 million law suit and w on, claiming the owners of a gas station did nothing to protect her son and others at the car wash and gas station. (Source: CBS4)

The gas station has a history of violent crimes against persons on the property..



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Reporting Maggie Newland

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### South Florida Crime



Crime Coverage

It should come as no surprise: the gas station ranks in the top three percent nationwide for its robbery risk, according to the Haggard Law Firm, which represents Ms. Snell.

The law firm formally announced the jury's findings at a 10 a.m. news conference outside its Coral Gables office.

When asked why she filed the suit, Snell didn't hesitate: "I just really don't want this to happen to another family," she said.

"(Trinard) was so full of life...so happy...and for it to happen the way

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### SHOPPING AROUND SOUTH FLORIDA

that it did...I'm just stunned," Snell added.

Trinard Snell was shot and killed on June 9, 2009 at the NW 71st Street Valero gas station.

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Snell was sitting under a tent at the car wash, waiting for the next customer to arrive.



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Three black men in their 20s came up behind Snell, attempting to rob him and another employee of cash – the only method of payment accepted by the car wash.



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Unable to see what was going on, Snell jumped up and ran but was shot from behind and killed. The men then sped off in a white GMC Yukon Denali SUV.

"The tragedy of this case is that it was entirely preventable," Snell lamented.

The other tragedy of the case: Trinard Snell's two children no longer have a dad.

"He loved his son. Everywhere he went, he had that boy with him if he wasn't working," Zoreta Snell said.

Trinard also had a daughter—one he never had the chance to meet. She was born after the 24-year-old's murder.

Trinard's mom said she will do her best to take Trinard's place.

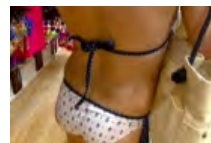
"I can't bring back my son, but I can do the best I can and show my grandchildren love," Snell said.



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Named Legal Elite** p.6

**Hall of Fame** p.4

**Government & Non-Profit Attorneys** p.26

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# Florida Legal Elite *by Practice Area*

## Civil Trial

**Abadin, Ramón A.** / Sedgwick LLP / Miami  
**Alvarez, Alex** / The Alvarez Law Firm / Coral Gables  
 ★ **Aronovitz, Tod** / Aronovitz Law / Miami  
**Bachi, Daniel Michael** / Sellars Marion & Bachi / West Palm Beach  
**Baxter, Michael V. M.** / Billing Cochran Lyles Mauro & Ramsey / West Palm Beach  
**Bernstein, Allison Sharon** / Akerman Senterfitt / West Palm Beach  
**Biggart II, James Garrett** / Banker Lopez Gassler / Tallahassee  
**Blake, Helenemarie Mirle** / Fowler White Burnett / Miami  
**Blank, Robert Lewis** / Rumberger Kirk & Caldwell / Tampa  
**Bloststein, Jeffrey Loren** / The Law Office of Jay Cohen, P.A. / Fort Lauderdale  
**Bonner, Michael Patrick** / Falk Waas Hernandez Cortina Solomon & Bonner / Coral Gables  
**Bounds, J. Clancey** / Bounds Law Group / Maitland  
**Bowers Jr., Richard Knell** / Banker Lopez Gassler / Tampa  
**Boyers, Robert B.** / Hannon & Boyers / Miami  
**Brand, Michael Elias** / Cole Scott & Kissane / Miami  
**Buchanan, Virginia Marie** / Levin Papantonio / Pensacola  
**Buckner, David Marc** / Grossman Roth / Coral Gables  
**Burns, David H.** / Burns & Giddings / Tallahassee

**Bush, Peggy Smith** / Southern Trial Counsel / Orlando  
**Cabanas, Oscar J.** / Wicker Smith / Coral Gables  
**Cain, Stephen F.** / Stewart Tilghman Fox Bianchi & Cain / Miami  
**Carter, Keith Maxie** / Morgan & Morgan / Tampa  
**Carter, Nathaniel Patrick** / Colling Gilbert Wright & Carter / Orlando  
 ★ **Cheffy, Edward K.** / Cheffy Passidomo / Naples  
**Clark, James W.** / Clark & Martino / Tampa  
**Clarke, Mercer K.** / Clarke Silverglate / Miami  
**Cook, Kimberly A.** / Sedgwick LLP / Miami  
**Corry, William Walden** / The Corry Law Firm / Tallahassee  
**Corso, Michael Joseph** / Henderson Franklin / Fort Myers  
**Cox, William Donald** / Fowler White Boggs / Tampa  
**Culpepper, Brad** / Culpepper Kurland / Tampa  
**Dean, William Andrew** / Ford & Dean / Aventura  
 ★ **Dellecker, Robert Henry** / Dellecker Wilson King McKenna Ruffier & Sos / Orlando  
**Diaz Jr., Victor Manuel** / VM Diaz & Partners / Miami  
**Dobrinisky, Manuel Leon** / Freidin & Dobrinisky / Miami  
**Dolan II, Daniel Dennis** / Dolan Law / Miami  
**Domnick, Sean Christopher** / Domnick & Shevin / Palm Beach Gardens  
**Dow, Randy Richard** / Page Mrachek Fitzgerald Rose Konopka & Dow / West Palm Beach

**Downs, Mayanne** / GrayRobinson / Orlando  
**Dukes III, Thomas Earle** / McEwan Martinez & Dukes / Orlando  
**Egner, Mark Allen** / Mark Allen Egner, P.A. / Miami  
**Ellenberg, Andrew L.** / Needle & Ellenberg / Miami  
**Evangelista, James John** / Bush Ross / Tampa  
**Faddis, Eric H.** / Faddis & Faddis / Orlando  
**Farber, David Scott** / The Farber Law Firm / Coral Gables  
**Feiler, Michael Benjamin** / Feiler & Leach / Coral Gables  
**Fitzgerald III, Roy Edmund** / Page Mrachek Fitzgerald Rose Konopka & Dow / West Palm Beach  
**Fletcher, Cynthia Simmons** / Pennington, P.A. / Tallahassee  
**Ford, Richards Huff** / Wicker Smith / Orlando  
**Frank, David Michael** / David Frank Injury Law / Tallahassee  
**Friedman, Darren Wayne** / Foreman Friedman / Miami  
**Frost II, John Wesley** / Frost Van den Boom & Smith / Bartow  
**Fuhrman, Troy Allen** / Hill Ward Henderson / Tampa  
**Fuller Jr., S. William** / Fuller Mitchell Hood & Stephens / Tallahassee  
**Fulton, Robert Maurice** / Hill Ward Henderson / Tampa  
**Galeta, Christopher Matthew** / Robinson & Galeta / North Palm Beach  
**Gamba, Tomas F.** / Gamba & Lombana / Coral Gables  
**Gassler, Frank Henry** / Banker Lopez Gassler / Tampa  
**Genovese, Gary S.** / Conrad Scherer / Fort Lauderdale  
**Gerber, Daniel Jay** / Rumberger Kirk & Caldwell / Orlando  
**Glasser, Gregory Scott** / Klein Glasser Park Lowe & Pelstring / Miami  
**Glassman, Mark A.** / Law Office of Mark A. Glassman / Fort Lauderdale  
**Goldfarb, Alan** / Alan Goldfarb, P.A. / Miami  
 ★ **Gonzalez, Ervin A.** / Colson Hicks Eidson / Coral Gables  
**Gordon, Jeffrey "Jack"** / Maney | Gordon / Tampa  
**Graff, Robert M.** / Wald Gonzalez & Graff / Miami  
**Griffith, Anthony James** / Tanney & Griffith / Clearwater  
**Grossman, Stuart Z.** / Grossman Roth / Coral Gables  
 ★ **Haggard, Michael Andrew** / The Haggard Law Firm / Coral Gables  
**Halpern, Jay** / Jay Halpern & Associates, P.A. / Coral Gables  
**Hamner, Frank A.** / Frank A. Hamner, P.A. / Winter Park  
**Hannon, James Anthony** / Hannon & Boyers / Miami  
**Harland Jr., Patrick William** / The Law Firm of Patrick W. Harland, Jr., LLC / St. Petersburg  
**Harmon, Thomas Shawn** / Harmon Woods Parker & Abrunzo / Tampa  
**Haverman, Daniel Lipman** / The Haverman Law Firm / Boca Raton  
**Heath Jr., Robert Newton** / Robert N. Heath, P.A. / Pensacola  
**Heffernan, David Roy** / Hamilton Miller & Birtshel / Miami  
**Henry, Robert D.** / Ringer Henry Buckley & Seacord / Orlando  
**Herd, Elizabeth Taylor** / Morgenstern & Herd / Tampa  
**Herrera-Borgen, Araly** / Gamba & Lombana / Miami  
**Herskowitz, Jon Michael** / Baron & Herskowitz / Miami  
 ★ **Hogan, Wayne** / Terrell Hogan / Jacksonville  
**Hook, Michael David** / Hook Bolton / Pensacola  
**Huber, Gregory P.** / Zele Huber Trial Attorneys / Jupiter



## Congratulations to our 2013 Legal Elite Lawyers



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Aviation & Admiralty



**Bob Josefsberg**  
Commercial Litigation  
*Legal Elite Hall of Fame*



**Steven C. Marks**  
Aviation & Admiralty



**Peter Prieto**  
Commercial Litigation



**Stephen F. Rosenthal**  
Appellate

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**Jack Jr., Lewis Nicholson** / Law Office of Lewis N. Jack, Jr. / South Miami

**Johnson, William E.** / William E. Johnson, P.A. / West Palm Beach

**Kane, Julie Braman** / Colson Hicks Eidson / Coral Gables

**Kantor, Adam Scott** / Banker Lopez Gassler / Tampa

**Keane, Michael Joseph** / Keane Reese Vesely & Gerdes / St. Petersburg

**Keen, William Hampton** / Clark Fountain La Vista Prather Keen & Littky-Rubin / West Palm Beach

**Keller, D. David** / Keller Landsberg / Fort Lauderdale

**Kelley, Robert W.** / Kelley/Uustal / Fort Lauderdale

★ **King, David B.** / King Blackwell Zehnder & Wermuth / Orlando

**Kinman Jr., Joseph Franklin** / Ogden & Sullivan / Tampa

**Kirk Jr., William Lee** / Rumberger Kirk & Caldwell / Orlando

**Kirst Jr., John "Skip" Avery** / Morgan & Morgan / Orlando

**Knight, Christopher Edson** / Fowler White Burnett / Miami

**Kroeger, Leslie Mitchell** / Leopold Law / Palm Beach Gardens

**Kuhl, Ryan** / Morgan & Morgan / Naples

**Landy, Joseph Brian** / Lesser Lesser Landy & Smith / West Palm Beach

**LeBoeuf, Dean Robert** / Brooks LeBoeuf Bennett Foster & Gwartney / Tallahassee

**Leighton, John Elliott** / Leighton Law, P.A. / Miami

**Leopold, Theodore Jon** / Leopold Law / Palm Beach Gardens

★ **Lesser, Gary Shepard** / Lesser Lesser Landy & Smith / West Palm Beach

**Lombana, Hector J.** / Gamba & Lombana / Miami

**Lopez, Fermin** / Colling Gilbert Wright & Carter / Orlando

**Losego, Clinton Richard** / Gunster / Miami

**Lowry, Patricia Elaine** / Squire Sanders / West Palm Beach

**Magazine, James Lawrence** / Lucas Green & Magazine / New Port Richey

**Main, Steven R.S.** / Hill Rugh Keller & Main / Orlando

**Martinez, Roberto** / Colson Hicks Eidson / Coral Gables

**Mase, Curtis Jay** / Mase Lara Eversole / Miami

**Masterson, Thomas D.** / Masterson Law Group, P.A. / St. Petersburg

**McCarron, Douglas John** / The Haggard Law Firm / Coral Gables

**McDonell, Noel Poncy** / Macfarlane Ferguson & McMullen / Tampa

**Meier III, George August** / Meier, Bonner, Muszynski, O'Dell & Harvey / Longwood

**Mitchell, Daniel Parsons** / Barr, Murman & Tonelli / Tampa

**Mitchell, P. Scott** / Fuller Mitchell Hood & Stephens / Tallahassee

**Mooney, Thomas Edward** / MooneyColvin PL / Orlando

**Morgan, Mary Ann** / Billings, Morgan & Boatwright / Winter Park

**Moss, Andrew Mitchell** / Kutner Rubinfiff & Moss / Miami

**Murphy, Niels** / Murphy & Anderson / Jacksonville

**Muszynski III, Alexander** / Meier, Bonner, Muszynski, O'Dell & Harvey / Longwood

**Neal, Thomas Frederick** / de Beaubien Knight Simmons Mantzaris & Neal / Orlando

**Needle, Andrew** / Needle & Ellenberg / Miami

**Noyes, Matthew Eric** / Perenich Caulfield Avril & Noyes / Clearwater

**O'Connor, Dennis Richard** / O'Connor & O'Connor / Winter Park

★ **Olin, Michael Scott** / Michael S. Olin, P.A. / Miami

**Parker, Steven David** / Harmon Woods Parker & Abrunzo / Tampa

**Patacca Jr., Angelo M.** / Terrell Hogan / Jacksonville

**Paul, David Aaron** / Paul & Perkins / Orlando

**Perkins Jr., Paul Cartwright** / Paul & Perkins / Orlando

**Persante, Robert** / The Persante Law Group / Clearwater

**Pettis, Eugene Keith** / Haliczer Pettis & Schwamm / Fort Lauderdale

**Posgay, Matthew N.** / Coker Schickel Sorenson & Posgay / Jacksonville

**Powers, Bradley Edward** / Banker Lopez Gassler / Tampa

**Prather, David Christopher** / Clark Fountain La Vista Prather Keen & Littky-Rubin / West Palm Beach

**Quattlebaum, Guy Elliot** / Akerman Senterfitt / West Palm Beach

**Rafferty, Troy Alan** / Levin Papantonio / Pensacola

**Ramos Jr., Francisco** / Clarke Silverglate / Miami

**Ramsey, Bruce Mitchell** / Billing Cochran Lyles Mauro & Ramsey / West Palm Beach

**Ramsey, Richard Edward** / Wicker Smith / Jacksonville

**Rash, David C.** / David C. Rash, P.A. / Weston

**Reyes, Israel Umberto** / The Reyes Law Firm / Coral Gables

**Ringer, Geoffrey Dale** / Ringer Henry Buckley & Seacord / Orlando

**Rosenberg, Mark Leon** / Mark L. Rosenberg, P.A. / Jacksonville

**Russomanno, Herman Joseph** / Russomanno & Borrello / Miami

**Samarkos, Charles Anthony** / Johnson Pope Bokor Ruppel & Burns / Clearwater

**Sampedro, David** / Panter Panter & Sampedro / Miami

**Schultz, Matthew D.** / Levin Papantonio / Pensacola

★ **Schulz Jr., George E.** / Holland & Knight / Jacksonville

**Searcy, Christian Dietrich** / Searcy Denney Scarola Barnhart & Shipley / West Palm Beach

**Sebek, Richard Michael** / Banker Lopez Gassler / Tampa

**Sharp, Richard "Bo"** / Mallard & Sharp / Miami

**Shearman, Robert Christopher** / Henderson Franklin / Fort Myers

**Siegel, Glenn N.** / Glenn N. Siegel, P.A. / Port Charlotte

**Slater, Thomas Fitzpatrick** / Pajcic & Pajcic / Jacksonville

**Spohrer, Robert F.** / Spohrer & Dodd / Jacksonville

**Stein, Barry A.** / De Cardenas, Freixas, Stein & Zachary / Miami

**Steinberg, Adam Jason** / The Law Offices of Adam J. Steinberg / Fort Lauderdale

**Teichner, Lee Philip** / Holland & Knight / Miami

**Tellechea, Albert F.** / Holland & Knight / Orlando

**Terry, Karen Elizabeth** / Searcy Denney Scarola Barnhart & Shipley / West Palm Beach

**Tripp Jr., Charles M.** / Moseley Prichard Parrish Knight & Jones / Jacksonville

**Valenzuela, Henry E.** / Valenzuela & Stern / Tampa

**Vitoria, Michael Joseph** / Morgan & Morgan / Tampa

**Weber, Randy Marc** / Weber Law Firm / Miami

**Weinstein, Mark Lee** / DeVarona Arango & Weinstein / Coral Gables

**Westheimer, Scott** / Syprett Meshad / Sarasota

**Whibbs, John Donovan** / Whibbs & Stone / Pensacola

**Woods, Kevin Britt** / Harmon Woods Parker & Abrunzo / Tampa

**Wright, Melvin Bowen** / Colling Gilbert Wright & Carter / Orlando

**Yaffa, Andrew Bryan** / Grossman Roth / Coral Gables

**Yerrid, C. Steven** / The Yerrid Law Firm / Tampa

**Young, Terry Cressler** / Lowndes Drosdick Doster Kantor & Reed / Orlando

★ **Zack, Stephen Neal** / Boies Schiller & Flexner / Miami

**Zalis, Lisa Harris** / Klein Glasser Park Lowe & Pelstring / Miami

**Zelev, Gregory T.** / Zelev Huber Trial Attorneys / Jupiter

## Top 5 Law Schools with the Most Honoree Graduates

116 Law Schools Represented

- University of Florida - Fredric G. Levin College of Law
- University of Miami School of Law
- The Florida State University College of Law
- Stetson University College of Law
- Nova Southeastern University - Shepard Broad Law Center

# Up & Comers

These 175 attorneys garnered the most votes in a special category for attorneys under the age of 40 who have exhibited leadership in the law and in their community.

**Aidman, Todd Sidney** / Ford & Harrison / Tampa  
**Alhalel, Joshua Ryan** / Genovese Joblove & Battista / Miami  
**Aubuchon, Joshua David** / Pennington, P.A. / Tallahassee  
**Baggett, Amanda Parker** / Rogers Towers / Jacksonville  
**Bancroft, Zachary James** / Baker, Donelson, Bearman, Caldwell & Berkowitz / Orlando  
**Barbara, Richard Lee** / Alvarez & Barbara / Miami  
**Baruch, Jason Henry** / Trenam Kemker / Tampa  
**Bates, Douglas Alan** / Berger Singerman / Miami  
**Battle, Dania** / Hudson & Calleja / Coral Gables  
**Berger, Eyal** / Akerman Senterfitt / Fort Lauderdale  
**Bernal-Mora, Ophelia Genarina** / Law Office of Ophelia Bernal-Mora, P.A. / Orlando  
**Blank, Jason B.** / Haber Stief & Blank / Fort Lauderdale  
**Bluestein, Eric** / Freidin & Dobrinsky / Miami  
**Blynn, Aaron S.** / Genovese Joblove & Battista / Miami  
**Brandon, Christopher Grey** / Williams Parker Harrison Dietz & Getzen / Sarasota  
**Brenner, Jason Robert** / The Haggard Law Firm / Coral Gables  
**Brodsky, Benjamin Henry** / Coffey Burlington / Miami  
**Brotman, Steven Joseph** / Ice Legal, P.A. / Royal Palm Beach  
**Bryant IV, Gerald Don Nelson** / Pennington, P.A. / Tallahassee  
**Burns, David D.** / Ferrelle Burns / Jacksonville  
**Butler, Dustin Michael** / Martin Law Firm / Fort Myers  
**Caballero, David Orestes** / Cole Scott & Kissane / Miami  
**Calleja, Alexis A.** / Hudson & Calleja / Coral Gables  
**Carmody Jr., Christopher L.** / GrayRobinson / Orlando  
**Carmody, Lauren Fackender** / Rumberger Kirk & Caldwell / Orlando  
**Cervantes, Daniel** / Hogan Lovells / Miami  
**Cho, Min K.** / Holland & Knight / Orlando  
**Conroy, William Tully** / Englander Fischer / St. Petersburg  
**Coughlin, Brian T.** / Bedell Dittmar DeVault Pillans & Cox / Jacksonville  
**Cox, Mary Alice** / Rumberger Kirk & Caldwell / Orlando  
**Cremer, Jacob T.** / Smolker Bartlett Schlosser Loeb & Hinds / Tampa  
**Cremer, Terin Barbas** / Bankers Financial Corporation / St. Petersburg  
**Crist, Matthew Alan** / Clark & Martino / Tampa  
**Davis, Justin B.** / Blank Rome / Tampa

**Delgado Jr., Luis** / Lesser Lesser Landy & Smith / West Palm Beach  
**Dell, Craig Randall** / Attorneys Dell and Schaefer, Chartered / Hollywood  
**Dial, Avery A.** / Fowler White Burnett / Fort Lauderdale  
**DiLorenzo II, James D.** / James D. DiLorenzo, P.A. / Ocala  
**d'Incelli, Gregory Scot** / Weinberg Wheeler Hudgins Gunn & Dial / Miami  
**Diverio, Michelle** / Lydecker Diaz / Miami  
**Donaldson, Scott J.** / Donaldson & Weston / Stuart  
**Edelboim, Morgan Benjamin** / Bast Amron / Miami  
**Elmore, Douglas John** / Williams Parker Harrison Dietz & Getzen / Sarasota  
**Everman, Brendan S.** / Stroock & Stroock & Lavan / Miami  
**Fackler, Mary Katherine** / Akerman Senterfitt / Jacksonville  
**Ferguson, Diana Marie** / Rutledge Ecenia / Tallahassee  
**Feuer, Leonard Scott** / Leonard Feuer, P.A. / West Palm Beach  
**Ficarrotta, Jennifer Ann** / Mason Black & Caballero / Tampa  
**Fogarty, Daniel R.** / Stichter Riedel Blain & Prosser / Tampa  
**Frano, Rose-Anne B.** / Williams Parker Harrison Dietz & Getzen / Sarasota  
**Freire, Leora Beth** / Richman Greer / West Palm Beach  
**Gaylord, Blake H.** / Gaylord Merlin Ludovici & Diaz / Tampa  
**Genet, Solomon Brauner** / Meland Russin & Budwick / Miami  
**George, Christian P.** / Akerman Senterfitt / Jacksonville  
**German, Cody** / Cole Scott & Kissane / Miami  
**Gibson, Jeffrey W.** / Macfarlane Ferguson & McMullen / Tampa  
**Grant, L. Javan** / Rogers Towers / Jacksonville  
**Graves, Christine Davis** / Carlton Fields / Tallahassee  
**Greenlee, Paige Adonna** / Sivyler Barlow & Watson / Tampa  
**Greenstein, Rachael L.** / Akerman Senterfitt / Tampa  
**Griffin, Melanie Shoemaker** / Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth / Orlando  
**Guttman, Jaime** / Greenberg Traurig / Miami  
**Guttman, Jorge D.** / Gunster / Miami  
**Haba, Adam Anthony** / The Haba Law Firm / Longwood  
**Hale, Maria DiBlasio** / Hale Hale & Jacobson / Orlando  
**Hansen, Marcia Giordano** / The Edelstein Firm / Miami  
**Harris, Amy Denton** / Stichter Riedel Blain & Prosser / Tampa  
**Harris, Phillip J.** / PJ Harris Law, P.A. / Tampa

**Hayes, Monique D.** / Genovese Joblove & Battista / Miami  
**Hendler, David B.** / David B. Hendler, P.A. / Miami  
**Hinkes, Andrew Maxwell** / Berger Singerman / Fort Lauderdale  
**Hoag, Gregory John** / Masterson Law Group, P.A. / St. Petersburg  
**Hodes, Jacqueline Gavriella** / DLA Piper LLP (US) / Miami  
**Hogan, Steven Michael** / Ausley McMullen / Tallahassee  
**Hooper, Brian John** / Emmanuel Sheppard & Condon / Pensacola  
**Howard, Elizabeth Blair** / Boyd & Jenerette / Jacksonville  
**Immel, Christopher T.** / Royal Palm Beach  
**Jenkins, Andrew Todd** / Bush Ross / Tampa  
**Jimerson, Charles B.** / Jimerson & Cobb / Jacksonville  
**Johnson, Mark Christopher** / The Concept Law Group / Fort Lauderdale  
**Kennelly, Scott Jonathan** / Rogers Towers / Jacksonville  
**Kilbane Jr., Patrick J.** / GrayRobinson / Jacksonville  
**Kline, Karen Chuang** / Duane Morris / Boca Raton  
**Knapp, Scott D.** / Broad and Cassel / Fort Lauderdale  
**Koenig, Eric S.** / Trenam Kemker / Tampa  
**Kramer, Steven D.** / Kramer Law Firm, P.A. / Altamonte Springs  
**Kropog Jr., Darrell Wayne** / Morgan & Morgan / Tampa  
**Kypreos, Theodore S.** / Jones Foster Johnson & Stubbs / West Palm Beach  
**Laassel, Amal** / Quintairros Prieto Wood & Boyer / Orlando  
**Lazenby, William Gilbert** / Englander Fischer / St. Petersburg  
**Leebrick, Brian D.** / Barron & Redding / Panama City  
**Leto, Justin Charles** / The Leto Law Firm / Miami  
**Levin, David Brian** / GrayRobinson / Miami  
**Levine, Mark A.** / Pacin Levine / Coral Gables  
**Leyte-Vidal III, Marco Antonio** / Alvarez, Carbonell, Feltman & Da Silva / Coral Gables  
**Lieb, Stephanie Crane** / Trenam Kemker / Tampa  
**Lockamy, Michael E.** / Bedell Dittmar DeVault Pillans & Cox / Jacksonville  
**Loewenstein, Andrew Michael** / Akerman Senterfitt / West Palm Beach  
**Luikart, Christen Elizabeth** / Murphy & Anderson / Jacksonville  
**Main, Jedediah A.** / The Main Law Firm / Winter Park  
**Malvin, Shaun H.** / Malvin Law, P.L. / Miami  
**Marasco, Scott L.** / Marasco & Associates, P.L. / Bradenton  
**Mark, Etan** / Berger Singerman / Miami  
**Mark, Marilee Anne** / Genovese Joblove & Battista / Miami  
**Marlewski, Christine A.** / GrayRobinson / Tampa  
**Marlowe, Christopher Lang** / The Haggard Law Firm / Coral Gables

Continued on page 28

# Florida Legal Elite

## Up & Comers

**Martin, Eviana J.** / Martin Law Firm / Cape Coral  
**Martin, Steven E.** / Martin Law Firm / Naples  
**Martinez, Joaquin E.** / Lowndes Drosdick Doster Kantor & Reed / Orlando  
**Martino, Anthony D.** / Clark & Martino / Tampa  
**Mazin, Lyle Barrister** / Mazin Law Inc. / Orlando  
**McMahan, Sterling Atherton** / Wadsworth Huott / Miami  
**McPherson, Bradley Scott** / Broad and Cassel / West Palm Beach  
**Merenda, Brigid A.** / Trenam Kemker / Tampa  
**Mesa III, Joseph A. "Tony"** / Mesa Law Firm / Coral Gables  
**Michaels, Todd Jordan** / The Haggard Law Firm / Coral Gables  
**Miedona, Timothy R.** / Lowndes Drosdick Doster Kantor & Reed / Orlando  
**Millares, Rafael Enrique** / Estrella Ticket Defense Law Firm / Miami  
**Moe, Anne-Leigh Gaylord** / Bush Ross / Tampa  
**Molina, Eric Daniel** / Pavese Law Firm / Fort Myers  
**Negroni, Jose Antonio** / Negroni Law Group / Plantation

**Neiberger, Elizabeth Wilson** / Bryant Miller Olive / Tallahassee  
**Neiman, Jeffrey Adam** / Law Offices of Jeffrey A. Neiman / Fort Lauderdale  
**Newman, Victoria Heather** / Holland & Knight / Orlando  
**Nullman, Steven Adam** / Law Offices of Steven A. Nullman, P.A. / Miami  
**Pacin, Marc David** / Pacin Levine / Coral Gables  
**Page, John Edward** / Shraiberg Ferrara & Landau / Boca Raton  
**Pallett-Vasquez, Melissa Cade** / Bilzin Sumberg Baena Price & Axelrod / Miami  
**Pate, Andrea L.** / Pates Law Group, P.A. / Orlando  
**Paul, Christina M.** / K & L Gates / Miami  
**Payne, Spencer L.** / Quinteiros Prieto Wood & Boyer / Orlando  
**Phang, Katie S.** / Arrastia Capote & Phang / Miami  
**Pollack, Anne Quimby** / Mechanik Nuccio Hearne & Wester / Tampa  
**Pollack, Woodrow H.** / GrayRobinson / Tampa  
**Razavi, Poorad** / Clark Fountain La Vista Prather Keen & Littky-Rubin / West Palm Beach

**Roberson, Eric Chase** / Jason K.S. Porter, P.A. / Jacksonville  
**Rose, Joseph Harris** / Salpeter Gitkin / Fort Lauderdale  
**Rosenberg, Joshua H.** / Markowitz Ringel Trusty & Hartog / Miami  
**Rossbach, Monica F.** / Berger Singerman / Miami  
**Rothenstein, David Robert** / Ehrenstein Charbonneau Calderin / Miami  
**Rountree, Shannon Lea** / Shannon L. Rountree, P.A. / Jupiter  
**Rubens, Josh M.** / Kluger Kaplan Silverman Katzen & Levine / Miami  
**Russell, Daniel Ryan** / Jones Walker / Tallahassee  
**Scanlan, Matthew Scott** / Carr Allison / Tallahassee  
**Seligman, Adam R.** / Ward Damon Posner Pheterson & Bleau / West Palm Beach  
**Silva, Effie D'Anger** / Baker & McKenzie / Miami  
**Silverman, Noah Daniel** / Foreman Friedman / Miami  
**Sinani, Liridona** / Martin Law Firm / Cape Coral  
**Slater, J. Scott** / Hill Ward Henderson / Tampa  
**Snyder, Vanessa Sisti** / Hogan Lovells / Miami  
**Spector, Joshua Byrne** / Perlman Bajandas Yevoli & Albright / Miami  
**Stepan, James Alexander** / Genovese Joblove & Battista / Miami  
**Stiers, L. Elijah "Eli"** / Aronovitz Law / Miami  
**Suarez, Jesus M.** / Genovese Joblove & Battista / Miami  
**Sullivan, Thomas Richard** / Lowndes Drosdick Doster Kantor & Reed / Orlando  
**Thompson, Ty Grant** / Mills Paskert Divers / Tampa  
**Tousey III, Clay B.** / Fisher Tousey Leas & Ball / Jacksonville  
**Traub, Seth P.** / Shumaker Loop & Kendrick / Tampa  
**Troiano, Jeffrey Todd** / Williams Parker Harrison Dietz & Getzen / Sarasota  
**Villeneuve, S. Carey** / Fowler White Boggs / Fort Lauderdale  
**Wall, Ethan Jared** / Richman Greer / Miami  
**Walson, James Edward** / Lowndes Drosdick Doster Kantor & Reed / Orlando  
**Ward, Thomas Steven** / Rennert Vogel Mandler & Rodriguez / Miami  
**Watts, Mark Allen** / Cobb Cole / Deland  
**Webb, Joshua Clark** / Hill Ward Henderson / Tampa  
**Weinstein, Laurie Martine** / Berger Singerman / Fort Lauderdale  
**Weiss, Gregory Scott** / Leopold Law / Palm Beach Gardens  
**Weston, Dante Alexander** / Donaldson & Weston / Stuart  
**Wilson, Mary Rebecca** / Lowndes Drosdick Doster Kantor & Reed / Orlando  
**Woolsey, Joshua A.** / Rogers Towers / Jacksonville  
**Zinkil, Melissa Segarra** / Akerman Senterfitt / West Palm Beach  
**Zirkelbach, Gaida Gomez** / Gunster / West Palm Beach  
**Zuckerman, Jamie L.** / Kluger Kaplan Silverman Katzen & Levine / Miami  
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ALSO

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June 19, 2012

Dear Haggard Law Firm:

On behalf of everyone at *Salute to Education*, we thank you for supporting the 19<sup>th</sup> Annual *Salute to Education* Scholarship Awards Luncheon. **The event was a huge success and we could not have done it without your support and contribution!**

After the scholarships were distributed at the June 1<sup>st</sup> event, *Salute to Education* has reached more than 3,900 young adults and granted more than \$3.6 million in scholarships. We have reached the top as one of the largest private scholarship foundations in South Florida!

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Again, everyone who supports *Salute to Education* thanks you for being a part of this very special endeavor and playing a huge role in the success of the awards luncheon. We know we can count on your friendship and continued support as we move forward on our quest to assist the youth in our community achieve a higher education.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Menten".

David Menten  
President of *Salute to Education, Inc.* and  
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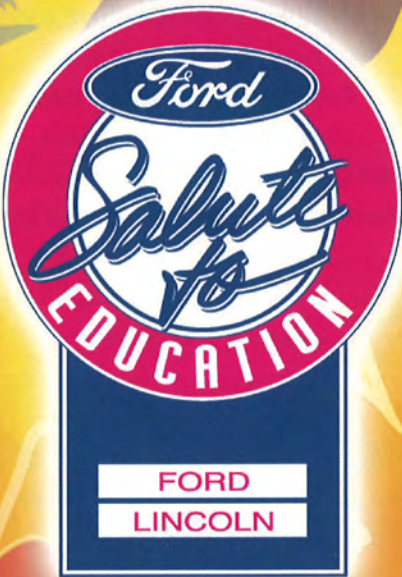
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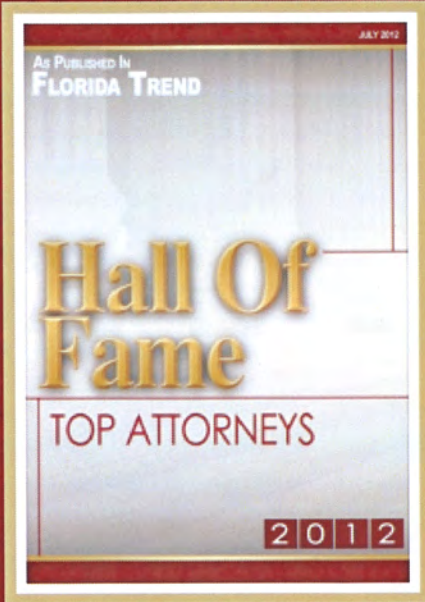
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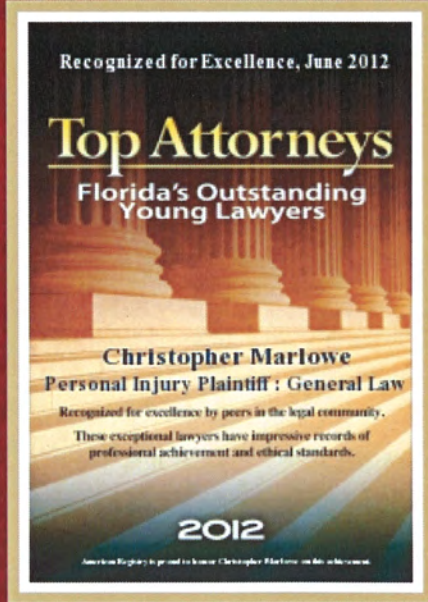
American Registry is proud to honor Wm. Andrew Haggard on this achievement.

Wm. Andrew Haggard  
Personal Injury Plaintiff / General Law  
Awarded June 2012

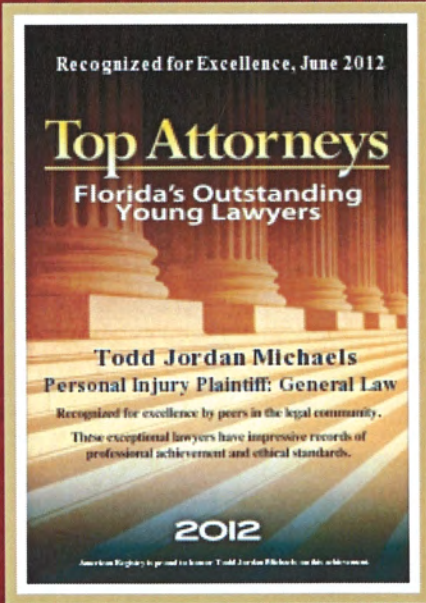




**Michael Andrew Haggard**  
Hall Of Fame  
Florida Trend - July 2012



**Christopher Marlowe**  
Personal Injury Plaintiff / General Law  
Awarded June 2012



**Todd Jordan Michaels**  
Personal Injury Plaintiff / General Law  
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FLORIDA / 2012

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OF STEPHEN ZACK



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# FLORIDA THE TOP 100

An alphabetical listing of the lawyers who ranked top of the list in the *Florida Super Lawyers* 2012 nomination, research and blue ribbon review process

**Alfert, Jr., Robert**, Broad and Cassel, Orlando  
**Allen, Herbert L.**, Allen Dyer Doppelt Milbrath & Gilchrist, Orlando  
**Baena, Scott L.**, Bilzin Sumberg Baena Price & Axelrod, Miami  
**Baskies, Jeffrey A.**, Katz Baskies, Boca Raton  
**Bates, David G.**, Gunster, West Palm Beach  
**Battista, Paul J.**, Genovese Joblove & Battista, Miami  
**Black, Roy**, Black Srebnick Kornspan & Stumpf, Miami  
**Blain, Russell M.**, Stichter Riedel Blain & Prosser, Tampa  
**Bloodworth, Darryl M.**, Dean Mead, Orlando  
**Brannock, Steven L.**, Brannock & Humphries, Tampa  
**Brown, Mark A.**, Carlton Fields, Tampa  
**Busey, Stephen D.**, Smith Hulsey & Busey, Jacksonville  
**Carey, Michael R.**, Carey O'Malley Whitaker & Mueller, Tampa  
**Cheffy, Edward K.**, Cheffy Passidomo, Naples  
**Christaldi, Ronald A.**, Shumaker Loop & Kendrick, Tampa  
**Coker, Howard C.**, Coker Schickel Sorenson & Posgay, Jacksonville  
**Colton, Roberta A.**, Trenam Kemker, Tampa  
**Conigliaro, Matthew J.**, Carlton Fields, St. Petersburg  
**Coxe, III, Henry M.**, Bedell Dittmar DeVault Pillans & Coxe, Jacksonville  
**Cunningham, Fred A.**, Slawson Cunningham Whalen & Gaspari, Palm Beach Gardens  
**Detzel, Lauren Y.**, Dean Mead, Orlando  
**DeVault, III, John A.**, Bedell Dittmar DeVault Pillans & Coxe, Jacksonville  
**Elligett, Jr., R. Tom**, Buell & Elligett, Tampa  
**Emmanuel, John D.**, Fowler White Boggs, Tampa  
**Freedman, Robert S.**, Carlton Fields, Tampa  
**Gassler, Frank H.**, Banker Lopez Gassler, Tampa  
**Glenn, Robert B.**, Glenn Rasmussen, Tampa  
**Goldman, Robert W.**, Goldman Felcoski & Stone, Naples  
**Gonzalez, Ervin A.**, Colson Hicks Eidson, Coral Gables  
**Gonzalez, Thomas M.**, Thompson Sizemore Gonzalez & Hearing, Tampa  
**Greer, Alan G.**, Richman Greer, Miami  
**Grossman, Stuart Z.**, Grossman Roth, Coral Gables  
**Haggard, Michael A.**, The Haggard Law Firm, Coral Gables  
**Hanley, Mark A.**, Glenn Rasmussen, Tampa  
**Henderson, III, Thomas N.**, Hill Ward Henderson, Tampa  
**Hill, III, Benjamin H.**, Hill Ward Henderson, Tampa  
**Hinkle, Donald M.**, Hinkle & Foran, Tallahassee  
**Hooker, Michael S.**, Phelps Dunbar, Tampa  
**Humphries, Celene H.**, Brannock & Humphries, Tampa  
**Johnson, Kevin D.**, Thompson Sizemore Gonzalez & Hearing, Tampa  
**Josefsberg, Robert C.**, Podhurst Orseck, Miami  
**Kimbro, Bradford D.**, Holland & Knight, Tampa  
**King, David B.**, King Blackwell Downs & Zehnder, Orlando

**Kirk, Donald R.**, Fowler White Boggs, Tampa  
**Kirkconnell, Kirk N.**, Snure & Ponall, Winter Park  
**Knight, David T.**, Hill Ward Henderson, Tampa  
**Knopik, Christopher S.**, Knopik Deskins Law Group, Tampa  
**Korchin, Judith G.**, Holland & Knight, Miami  
**Kozyak, John W.**, Kozyak Tropin & Throckmorton, Miami  
**Kreusler-Walsh, Jane**, Kreusler-Walsh Compiani & Vargas, West Palm Beach  
**Lebow, Patricia**, Broad and Cassel, West Palm Beach  
**Lile, Laird A.**, Laird A. Lile, Naples  
**Lott, Leslie J.**, Lott & Fischer, Coral Gables  
**Markman, Stuart C.**, Kynes Markman & Felman, Tampa  
**Markowitz, Jerry M.**, Markowitz Ringel Trusty + Hartog, Miami  
**Markus, David O.**, Markus & Markus, Miami  
**McCrea, Jr., Richard C.**, Greenberg Traurig, Tampa  
**Mezer, Steven H.**, Bush Ross, Tampa  
**Miller, Robert N.**, Fisher Tousey Leas & Ball, Jacksonville  
**Mrachek, L. Louis**, Page Mrachek Fitzgerald & Rose, West Palm Beach  
**Muller, Chandler R.**, Muller & Sommerville, Winter Park  
**Olin, Michael S.**, Michael S. Olin, Miami  
**Patricios, Leon N.**, Zumpano Patricios & Winker, Coral Gables  
**Pillans, III, Charles P.**, Bedell Dittmar DeVault Pillans & Coxe, Jacksonville  
**Podhurst, Aaron S.**, Podhurst Orseck, Miami  
**Prather, David C.**, Clark Fountain La Vista Prather Keen & Littky-Rubin, West Palm Beach  
**Prats, Luis**, Carlton Fields, Tampa  
**Rasile, Craig V.**, DLA Piper, Miami  
**Redmond, Patricia Ann**, Stearns Weaver Miller Weissler Alhadeff & Sitterson, Miami  
**Richman, Gerald F.**, Richman Greer, West Palm Beach  
**Riedel, II, Harley E.**, Stichter Riedel Blain & Prosser, Tampa  
**Sandridge, Hala A.**, Fowler White Boggs, Tampa

**Sasso, Gary L.**, Carlton Fields, Tampa  
**Savitz, Edward O.**, Bush Ross, Tampa  
**Scarola, John (Jack)**, Searcy Denney Scarola Barnhart & Shipley, West Palm Beach  
**Searcy, Christian D.**, Searcy Denney Scarola Barnhart & Shipley, West Palm Beach  
**Seiden, Mark**, Mark Seiden, Miami  
**Singerman, Paul Steven**, Berger Singerman, Miami  
**Slaughter, Jr., Harrison T.**, Leventhal & Slaughter, Orlando  
**Soriano, Robert A.**, Greenberg Traurig, Tampa  
**Srebnick, Howard M.**, Black Srebnick Kornspan & Stumpf, Miami  
**Srebnick, Scott A.**, Scott A. Srebnick, Miami  
**Stearns, Eugene E.**, Stearns Weaver Miller Weissler Alhadeff & Sitterson, Miami  
**Steinberg, Marty**, Bilzin Sumberg Baena Price & Axelrod, Miami  
**Stone, Bruce M.**, Goldman Felcoski & Stone, Coral Gables  
**Strafer, G. Richard**, G. Richard Strafer, Miami  
**Stubbs, Jr., Sidney A.**, Jones Foster Johnston & Stubbs, West Palm Beach  
**Tanner, Michael G.**, Tanner Bishop, Jacksonville  
**Tescher, Donald R.**, Tescher & Spallina, Boca Raton  
**Tropin, Harley S.**, Kozyak Tropin & Throckmorton, Miami  
**Varner, III, Joseph H.**, Holland & Knight, Tampa  
**Waggoner, Dennis P.**, Hill Ward Henderson, Tampa  
**Walsh, Michael R.**, Michael R. Walsh, Orlando  
**Warren, Jeffrey W.**, Bush Ross, Tampa  
**Weinstein, David B.**, Greenberg Traurig, Tampa  
**Weiss, Christopher J.**, Holland & Knight, Orlando  
**Wells, David M.**, Gunster, Jacksonville  
**Widom, Mitchell E.**, Bilzin Sumberg Baena Price & Axelrod, Miami  
**Yadley, Gregory C.**, Shumaker Loop & Kendrick, Tampa  
**Yerrid, C. Steven**, The Yerrid Law Firm, Tampa

## THE TOP 10

**COLTON, ROBERTA A.**  
Trenam Kemker, Tampa

**COXE, III, HENRY M.**  
Bedell Dittmar DeVault Pillans & Coxe, Jacksonville

**GROSSMAN, STUART Z.**  
Grossman Roth, Coral Gables

**HILL, III, BENJAMIN H.**  
Hill Ward Henderson, Tampa

**JOSEFSBERG, ROBERT C.**  
Podhurst Orseck, Miami

**RIEDEL, II, HARLEY E.**  
• Ranked Number Two •  
Stichter Riedel Blain & Prosser, Tampa

**SEARCY, CHRISTIAN D.**  
• Ranked Number One •  
Searcy Denney Scarola Barnhart & Shipley, West Palm Beach

**SINGERMAN, PAUL STEVEN**  
• Ranked Number Three •  
Berger Singerman, Miami

**STONE, BRUCE M.**  
Goldman Felcoski & Stone, Coral Gables

**STUBBS, JR., SIDNEY A.**  
Jones Foster Johnston & Stubbs, West Palm Beach



# Legal Report

BY TERESA ANDERSON

## U.S. JUDICIAL DECISIONS

**PREMISES LIABILITY.** A jury in Broward County, Florida, has ordered that Cornerstone Residential Management pay a rape victim \$1.28 million. The jury found that Cornerstone should have done more to protect the residents who lived on its property.

Cornerstone owned and managed the Imperial Estates Mobile Home Park, where 18-year-old Amanda Slone was staying with her grandfather in 2008. An intruder broke in, threatened Slone with a gun, and demanded that she give him money. When Slone had no money to give the robber, the assailant dragged her to a nearby field and raped her. The attacker was never identified.

Slone filed a lawsuit in 2009, alleging that Cornerstone failed to provide adequate security to the mobile home park. Christopher Marlowe of The Haggard

Law Firm in Coral Gables, Florida, represented Slone along with attorney Michael Haggard. Marlowe argued that Cornerstone did nothing to improve security even though it knew that the property was in a high-crime area.

The defense contended that, under Florida law, Cornerstone had no legal duty to protect Slone from the criminal acts of a third party. According to the defense, Slone's grandfather had the sole responsibility for protecting his premises. Because of this, the defense argued that the case should be dismissed.

Marlowe contended that Cornerstone had failed to take even rudimentary steps to protect residents of the 262 homes in the park. The only management presence was an onsite manager during the day, five days a week. No one was on duty at night or on the weekends. And, according to Marlowe, police reports indicated hundreds of incidents within the mobile home

park going back for four years. "Most incidents were of drunken behavior but others were violent crimes," Marlowe says.

For example, Marlowe discovered that there had been an attempted rape six weeks before Slone was abducted and raped. In the prior incident, a man was in the process of trying to rape a woman when the woman's brother interrupted the attack. The brother was shot in the leg. The description of the assailant was similar to Slone's description of her attacker. No arrest was made in the case.

During the trial, according to Marlowe, one of the themes that came through is that those paying low rent cannot expect strong security. "So, we had to provide the jury with suggestions of ways management could have increased safety that didn't cost anything," he says.

One of those suggestions was information sharing. "The management was aware of this prior rape but made no effort to

## Current Legal Highlights

ISSUE	BILL/CASE	VENUE	STATUS	SIGNIFICANCE
<b>Federal Regulation</b>				
Government* contractors	S. 1145	Senate Judiciary Committee	Approved	Would expand the government's ability to prosecute private contractors.
Corruption	S. 401	Senate Judiciary Committee	Approved	Would strengthen penalties in bribery and corruption convictions.
Border security	H.R. 915	House Homeland Security Committee	Approved	Would improve security conditions along the U.S. border with Mexico.
<b>Court Cases</b>				
Premises* liability	<i>Slone v. Cornerstone</i>	Broward County (FL)	Decided for Slone	A property management company must pay a woman \$1.28 million after she was raped on its property.
Sexual harassment	<i>EEOC v. Aqua Tri and Pool</i>	U.S. Dist. Ct. for the Central Dist. of CA	Settled	A company will pay \$462,000 to settle claims that two supervisors harassed female employees and offered promotions for sex.
Racial discrimination	<i>EEOC v. NYU</i>	U.S. Dist. Ct. for the S.D. of New York	Settled	A university will pay an employee \$210,000 after a supervisor called him "monkey" and "gorilla."
<b>State Legislation</b>				
Background* checks	formerly S.B. 970	Connecticut	Enacted	Makes it illegal for employers to use credit reports to make employment decisions.
Data breaches	formerly S.B. 24	California	Enacted	A new law strengthens existing consumer protections in data breaches.

\*More detailed information is in this issue of Legal Report.

## Legal Report

inform the community,” says Marlowe. “We weren’t trying to suggest that the management turn the property into Fort Knox, but they didn’t even provide residents with basic information.”

Attorneys for Cornerstone have filed an appeal in the case. Because of the appeal, they could not comment on the jury decision. (*Slone v. Cornerstone Residential Management*, Broward County, Florida, Circuit Court, 2011)

**TORTURE.** A federal appeals court has ruled that two American citizens who were tortured by the U.S. government can proceed with their lawsuit against the United States and former Secretary of Defense Donald Rumsfeld.

The two plaintiffs, Donald Vance and Nathan Ertel, worked for Shield Group Security, an American company that provided contract military services to the U.S. government in Iraq. Vance became suspicious that Shield Group Security was involved with corruption and illegal activity.

Vance and Ertel, at the request of the U.S. government, became whistleblowers, providing intelligence on employees of Shield Group Security who were potentially involved with illegal arms trading, weapons stockpiling, and bribery.

Officials with Shield Group Security became suspicious of Vance and Ertel, confiscating their credentials so that they could not leave the company’s compound. The men called their government contacts and were assured that the government would come to rescue them. U.S. forces did come to the compound, but they confiscated the men’s computers and papers and held a debriefing. Vance and Ertel were taken to a trailer to sleep.

Several hours later, the two men were awakened, arrested, handcuffed, blindfolded, and driven to a U.S. military compound in Baghdad. Vance and Ertel were held there for months and tortured. Eventually they were dropped off at the Baghdad airport to find their own way home. No charges were ever brought against them.

The men sued the government and Rumsfeld for violations of their Fifth Amendment rights to due process. The defendants moved to dismiss all claims

and argued that Rumsfeld was protected by qualified immunity—a legal theory that protects government employees from liability unless their actions clearly violated statutory or constitutional rights that would have been obvious to a reasonable person.

The U.S. Court of Appeals for the Seventh Circuit ruled that the plaintiffs may pursue their case and that Rumsfeld is not protected under qualified immunity. The court ruled that dismissing the case would “deprive civilian U.S. citizens of a civil judicial remedy for torture or even cold-blooded murder by federal officials and soldiers, at any level, in a war zone.”

In addressing Rumsfeld’s personal responsibility, the court noted that qualified immunity was not appropriate. “The law was clearly established in 2006 that the treatment plaintiffs have alleged was un-

constitutional,” wrote the court. “No reasonable public official could have believed otherwise.” (*Vance v. Rumsfeld*, U.S. Court of Appeals for the Seventh Circuit, No. 10-1687, 2011)

## U.S. CONGRESSIONAL LEGISLATION

**GOVERNMENT CONTRACTORS.** A bill (S. 1145) that would expand the government’s ability to prosecute U.S. contractors that commit criminal acts in other countries has been approved by the Senate Judiciary Committee. The bill must now be taken up by the full Senate.

The bill would apply to all contractors working for U.S. government agencies except the Department of Defense (DoD). (The Military Extraterritorial Jurisdiction Act of 2000 extended federal criminal law

## Elsewhere in the Courts...

■ **Prison searches.** Prison officials are protected from liability for using technology to search visitors for drugs. In the case, the Maryland Correctional Training Center used a portable ion scanning machine—capable of detecting trace amounts of controlled substances—to scan for drugs. Several government employees and contractors triggered the machine and were manually searched for drugs. Nothing was found, and the individuals sued, arguing that the scan violated their Fourth Amendment rights. A district court dismissed the suit, ruling that the defendants were entitled to qualified immunity. The appellate court agreed. Although the court wrote that “it was clearly established that intrusive prison employee searches require reasonable suspicion,” it also noted that it was unclear whether the scanning machine in question could be considered intrusive. (*Braun v. Maynard*, U.S. Court of Appeals for the Fourth Circuit, No. 10-1401, 2011)

■ **Social media.** A trial court judge has ruled that a plaintiff does not have to “friend” opposing counsel to allow access to photos on her Facebook account. The judge ruled that the photos could be provided to the defense but that providing access to the private Facebook account as a method of discovery was an invasion of privacy. (*Piccolo v. Paterson*, Bucks County, Pennsylvania, Court of Common Pleas, 2011)

■ **Airport security.** A federal court has ruled against a group of 19 airlines that claimed the U.S. government overcharged them for passenger screening. After the 9-11 attacks, the U.S. Congress gave the Transportation Security Administration (TSA) the authority to calculate how much it would cost to screen passengers and to seek reimbursement from airlines. The lawsuit concerned fees for 2000, which the TSA said were \$420 million, but airlines argued that the amount was actually \$305 million. The court ruled that TSA’s figures were reasonable. (*Southwest Airlines v. TSA*, U.S. Court of Appeals for the District of Columbia, No. 10-1227, 2011)



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## Lawsuits contend Collier apartment operators failed to protect residents against crime

By AISLING SWIFT

Posted January 19, 2012 at 8 p.m.

Discuss

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Death investigation in Immokalee



1 of 8

NAPLES — Seventeen-year-old Charlie Guzman was stabbed to death at farmworker apartments in Immokalee after a fight in 2009 over speaking English.

Romero Andrés Antonio Figueroa, 31, of Immokalee, was gunned down outside his apartment, possibly after the strong, 260-pound man resisted an unknown robber.

The two farmworkers' slayings are at the heart of lawsuits filed recently against Collier County apartment complex owners, alleging they knew there was a history of similar violent crimes there, yet failed to protect residents and visitors or provide security.

Whether lawyers are successful boils down to legal theories involving a property owner's duty and whether it was reasonably foreseeable that such a crime would occur.

"What's important is if there was a history of fights and violence at these premises," said Joseph Little, a University of Florida law professor. "The issues really revolve around the history and what the owner knew or didn't know and the need to provide security.

"If the shooter was a professed enemy and came onto the premises with the express intent to kill, there's nothing a landowner could do," he added.

Collier County sheriff's records show numerous crimes, including fights, batteries and assaults at both properties, and the plaintiffs' attorneys say the similar crimes that occurred there support allegations that the murders were foreseeable crimes.

\$6 million settlement reached in Immokalee trailer fire that killed 5



1 of 4

Documents

Antonio lawsuit

Documents

Guzman lawsuit

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Published 2/28/2012 at 11:46 a.m. 27 comments

"We believe that in both these cases, it's pretty apparent there were problems going on," said attorney Michael Haggard of Coral Gables, whose office, The Haggard Law Firm, represents both plaintiffs. "You have a duty to know what's going on at your property. Are you going to get better lighting, fix your broken fence or gate?"

"Defendants usually say they couldn't predict this would happen, but it's the same thing over and over again," Haggard said. "People want to live in places that are secure. There's no security at either of these places."

The complex where Guzman died is owned by Jerry Blocker, whose properties have been targeted by county government officials due to code violations. Both sides are locked in litigation.

In 2007, Haggard's firm settled four lawsuits for \$6 million involving five survivors and families of five people, including children, killed in an early-morning inferno that sprung at Cleve's Trailer Park in Immokalee, another Blocker property.

It was the third time someone had set fire to that trailer and the lawsuits allege Blocker overcrowded residents into inadequate living spaces, failed to provide adequate security, and was negligent in operating and maintaining the property.

Inadequate premises security cases are more difficult to prove to a jury because they target a third party, not the perpetrator. Florida's appeal courts agree that if an owner violated an ordinance or procedure, that can be used to bolster a case and the more foreseeable and violent the crime, the higher a landowner's duty to protect.

But ever since Florida's Supreme Court ruled in 1983 that prior crimes can be used to determine what's foreseeable, courts have been divided over how far that duty reaches and which crimes must be taken into account. The 3rd District Court of Appeal has taken the strictest stance, ruling prior crimes must be similar.

Magdony Irene Guzman, who is represented by Haggard, is suing Blocker; his wife, Kimberlea; and their businesses, which controlled the property: J&K Rental Ventures Inc., J.B. Rentals #2 Inc. and J. Brian Homes Inc.

Her son, who was visiting a friend at the apartments on Colorado Avenue, was killed at 3:15 a.m. Dec. 19, 2009, at a gathering at a laundry area.

Sheriff's reports say two groups argued over Guzman's group speaking English, not Spanish; a fistfight erupted between Guzman's friend and another man; and Mauricio Escalante, 33, fled and returned with a knife. Reports say he stabbed Guzman's stomach and he screamed and punched him until they fell, with Guzman on top. He walked away, but collapsed nearby and died from three stab wounds.

Escalante, who remains in the Collier County jail awaiting trial, said he acted in self-defense. The Collier Sheriff's Office still is investigating Antonio Figueroa's slaying. He was gunned down outside his apartment door and found by family at 4:30 a.m. May 12, 2010, when they got up for work. They said he ran an errand and never returned. Deputies haven't released details, but residents saw two men fleeing.



ccso

**Name:** Escalante, Mauricio  
**Charge:** MURDER - EVINCING DEPRAVED MIND NOT PREMEDITATED  
**Residence:** Immokalee  
**Age:** 33  
**Occupation:** Farm labor

## Photo Galleries



Trucks Gone Wild at Redneck Yacht Club



Collier County arrests 02-28-2012



Editorial cartoons: Feb. 29, 2012

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36-Hour

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Currently

81°

Mostly Cloudy  
Wind: SW 5mph

Today

85°

66°

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## Calendar

FEB

MAR

MAR

BROWSE

29

1

2

WEDNESDAY

THURSDAY

FRIDAY

MORE

**TRX Suspension Training**

Body Crafters

6 a.m.

**Nature walks on Tigertail Beach**

Marco Island  
Tigertail Beach

8:30 a.m.

**Yamuna Body Rolling Class**

Etudes de Ballet

8:50 a.m.

**Landscape Painting with Lee**

Hammond

Rookery Bay Environmental Learning Center

9 a.m.

**Bird Rookery Swamp Guided Hikes**

with George Luther

Bird Rookery Swamp Trails (1295 Shady Hollow Blvd, Naples, FL)

9 a.m.

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Antonio Figueroa was a migrant farmworker who recently arrived from North Carolina and was sending money home to his wife and daughter in Mexico.

Plaintiff Stephen Taylor, who represents Antonio Figueroa's estate, is suing RSG Family Limited Partnership, which does business as Oak Haven Apartments. Attorney Douglas McCarron filed the lawsuit on behalf of Antonio Figueroa's wife, Constantina Santos-Antonio, and their 6-year-old daughter, Yadira.

The lawsuits allege the defendants owed a duty to tenants, visitors and the public to keep and maintain the buildings and grounds in a reasonably safe condition and to protect, deter and prevent reasonably foreseeable acts.

They contend the defendants were careless, negligent and knew or should have known the complexes were "high-crime areas" and that crimes were reasonably likely to recur unless proper steps were taken to deter and prevent them, including security guards, sufficient lighting and an adequate number of security cameras in working condition. They maintain the defendants failed to warn tenants and visitors about the dangers.

The women are seeking the income the men would have made, funeral expenses and damages for their pain, suffering, loss of companionship and services.

Blocker's lawyer, Christopher Corkran of Hollywood, declined to comment. But in court papers he accuses Magdony Irene Guzman of being negligent and careless for not supervising her teenage son and allowing him to be out at 3:15 a.m. while possibly intoxicated.

Her negligence is a contributing factor or the sole cause of the death, Corkran alleges, and the teen's knowledge of dangers was equal to the defendants' — so they had no duty to warn him. The defense contends Guzman was a trespasser and should have known fights are risky, so his mother, who isn't his legal representative, can't seek damages.

Ronald Glas, who owns RSG Family Limited Partnership Immokalee, couldn't be reached for comment. Days before Antonio's slaying, Glas filed for Chapter 11 bankruptcy reorganization for that property and six others. Two more, Gordon River Apartments and River Park Apartments, were foreclosed on earlier that year and are under new ownership.

Security consultant Chris McGoey, who operates Crimedocor.com, said property owners and managers need to be aware of their surroundings and should screen tenants and prohibit them from allowing unwelcome visitors. He recommends rules, security measures, monitoring parking, and warning residents that loiterers and trespassers won't be tolerated.

McGoey, an author who has testified as an expert at more than 80 trials, conducts security surveys for properties, trains law enforcement on how to patrol problem complexes and recommends that owners and managers conduct a crime-risk assessment on the property and neighborhood.

"They could prevent what happens in the future if they change things," McGoey said. "Obviously, if you're having serious criminal problems, you need to take it seriously and develop some type of security plan."

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Location: e.g. Naples, FL  
Naples, FL

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### Fast facts

Jerry Blocker's lawyer, Christopher Corkran of Hollywood, declined to comment. But in court papers he accuses Magdony Irene Guzman of being negligent and careless for not supervising her teenage son and allowing him to be out at 3:15 a.m. while possibly intoxicated.





# Hall of Fame

Ten new inductees join the Florida Legal Elite Hall of Fame, now in its second year. To be eligible, an attorney must have been a Legal Elite winner at least five out of the seven years FLORIDA TREND has conducted the balloting.



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**Tod Aronovitz** / Aronovitz Law / Miami

**Martha Walters Barnett** / Holland & Knight / Tallahassee

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**Roy Black** / Black Srebnick Kornspan & Stumpf / Miami

**Bruce Beuford Blackwell** / King, Blackwell, Downs & Zehnder / Orlando

**Mark D. Bloom** / Greenberg Traurig / Miami

**Bruce Howard Bokor** / Johnson Pope Bokor Ruppel & Burns / Clearwater

**Amy Brigham Boulris** / Brigham Moore / Coral Gables

**Christopher William Boyett** / Holland & Knight / Miami

**Toby Prince Brigham** / Brigham Moore / Coral Gables

**Ed Burt Bruton, Jr.** / Greenberg Traurig / Miami

**Roberta A. Colton** / Trenam Kemker / Tampa

**Henry Matson Coxe, III** / Bedell, Dittmar, DeVault, Pillans & Coxe / Jacksonville

**Robert C. Decker** / Trenam Kemker / St. Petersburg

**John Andrew DeVault, III** / Bedell, Dittmar, DeVault, Pillans & Coxe / Jacksonville

**Sandra Fascell Diamond** / Williamson, Diamond & Caton / Seminole

**Peter M. Dunbar** / Pennington, Moore, Wilkinson, Bell & Dunbar / Tallahassee

**Guy Storms Emerich** / Farr, Farr, Emerich, Hackett & Carr / Punta Gorda

**Brian John Felcoski** / Goldman Felcoski & Stone / Coral Gables

**Robert W. Goldman** / Goldman Felcoski & Stone / Naples

**Alan G. Greer** / Richman Greer / Miami

**Michael Andrew Haggard** / The Haggard Law Firm / Coral Gables

**Kenneth R. Hart** / Ausley & McMullen / Tallahassee

**Steven Lee Hearn** / Steven L. Hearn, P.A. / Tampa

**Thomas N. Henderson, III** / Hill Ward Henderson / Tampa

**Benjamin H. Hill, III** / Hill Ward Henderson / Tampa

**Wayne Hogan** / Terrell Hogan / Jacksonville

**Rohan Kelley** / The Kelley Law Firm / Fort Lauderdale

**Rhea F. Law** / Fowler White Boggs / Tampa

**Gary Shepard Lesser** / Lesser, Lesser, Landy & Smith / West Palm Beach

**Carol Ann Licko** / Hogan & Hartson / Miami

**Laird A. Lile** / Laird A. Lile, P.A. / Naples

**Nancy G. Linnan** / Carlton Fields / Tallahassee

**John W. Little, III** / Brigham Moore / West Palm Beach

**Miriam E. Mason** / Mason Black & Caballero / Tampa

**Charles Ian Nash** / Nash, Moule & Kromash / Melbourne

**Joel Stephen Perwin** / Joel S. Perwin, P.A. / Miami

**Patricia A. Redmond** / Stearns Weaver Miller Weissler Alhadeff & Sitterson / Miami

**Barry Scott Richard** / Greenberg Traurig / Tallahassee

**Gerald F. Richman** / Richman Greer / West Palm Beach

**Gary L. Sasso** / Carlton Fields / Tampa

**Gary A. Saul** / Greenberg Traurig / Miami

**George E. "Buddy" Schulz, Jr.** / Holland & Knight / Jacksonville

**Lawrence Edward Sellers, Jr.** / Holland & Knight / Tallahassee

**Linda Loomis Shelley** / Fowler White Boggs / Tallahassee

**Martin Leonard Steinberg** / Hunton & Williams / Miami

**Bruce Michael Stone** / Goldman Felcoski & Stone / Coral Gables

**J. Michael Swaine** / Swaine & Harris / Sebring

**Harley Shepard Tropin** / Kozyak Tropin & Throckmorton / Miami

**Joseph H. Varner, III** / Holland & Knight / Tampa

**Sylvia H. Walbolt** / Carlton Fields / Tampa

**Victoria Lynn Weber** / Hopping Green & Sams / Tallahassee

**David Barnett Weinstein** / Greenberg Traurig / Tampa

**Gwynne Alice Young** / Carlton Fields / Tampa

**Stephen Neal Zack** / Boies, Schiller & Flexner / Miami





Florida Trends  
**Legal Elite**<sup>2010™</sup>

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*Michael Andrew Faggard*

in honor of earning the status of Florida Legal Elite™ Hall of Fame  
as recognized by your peers



*July 1, 2010*  
Date

*Andrew P. Corty*  
Andrew P. Corty, Publisher



## Jury awards \$102.7M verdict to man shot in a holdup attempt outside a strip club

**A** Miami-Dade Circuit Court jury awarded \$102.7 million to a Tunisian man shot in a holdup attempt in the shopping center parking lot outside a strip club, finding the company that owned the lot liable for his injuries.

After a monthlong trial, the jury on Nov. 28 found Fort Lauderdale-based Report Investment Corp., a property ownership company, liable for the medical expenses and lost earnings of Sami Barrak, who was in Miami on his day off from his job as a waiter aboard a SeaEscape cruise ship in July 2002.

Report Investment owns the parking lot adjacent to recently-sold Tootsie's Cabaret, a strip club that was located in the now-demolished five-store Sierra Shopping Mall site in Miami Gardens.

Barrak visited the club with a friend. After departing, the two men walked to Barrak's car, but his friend had to return to the club to retrieve a pack of cigarettes he had left behind. While alone in the driver's seat of his car, an unidentified man approached Barrak, screamed something at him and shot him in the neck while trying to rob him. The assailant escaped and was never caught.

Barrak now lives on a ventilator in Tunisia and is a quadriplegic. He sued Report Investments and Tootsie's shortly afterward, but the jury found Tootsie's had "zero percent" liability in the case.

Barrak alleged the firm negligently maintained an unsafe environment by not keeping the mall's parking lot safe at night.

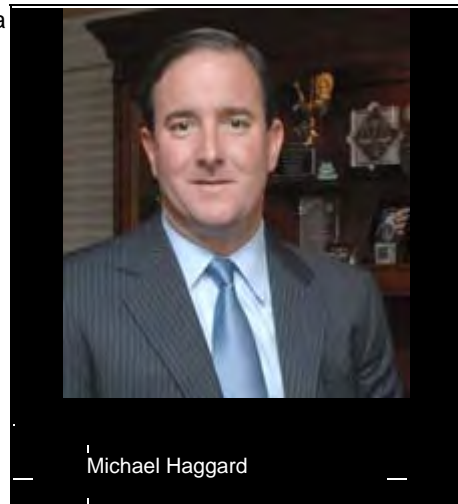
The complaint claims Report Investment failed to have an adequate number of security cameras, failed to illuminate the area sufficiently and did not have competent security to patrol the lot. The complaint also alleges Report Investment failed to follow security procedures it had in place at the time Barrak was shot. The plaintiff alleged, for example, that Report Investment had inspection and supervision procedures for security but failed to follow them.

"Criminals could carry out physical assaults on the defendant's premises without fear of being caught, discovered or prosecuted," the complaint says.

Michael Haggard, of the Coral Gables-based Haggard Law Firm, represents Barrak and declined to comment this week, citing instructions by Miami-Dade Circuit Judge Kevin Emas. Report Investment's attorney Thomas J. McCausland, a partner with Conroy Simberg Ganon in Hollywood, did not return telephone calls seeking comment.

The jury awarded Barrak \$1.4 million for past medical expenses, \$164,000 for past lost earnings, \$28 million for future medical expenses, \$650,000 for lost earning ability, \$2.5 million for past pain and suffering and \$70 million for future pain and suffering.

The two parties may be working on a post-verdict settlement agreement this week that likely would lessen the verdict amount but stave off the possibility of it being reversed on appeal.



Michael Haggard

The case is not the first time Report Investment has been sued over conditions on one of its properties. In March, the U.S. Environmental Protection Agency sued Report Investment and Pennsylvania-based Black Box Corp. in U.S. District Court in Miami for not reimbursing the federal government for cleaning up the old Milgo Electronics Corp. site at 3600 76th Street in Miami.

For 18 years starting in 1966, the Milgo factory handled electroplating, chemical rinsing and spray-coating for the production of electronic parts. The three-acre site has been owned by Report Investment since the factory opened. Three years after the factory closed in 1984, an EPA investigation found deposits of chromium and lead in the groundwater at the building site. The agency concluded those metals were seeping into the Biscayne Bay aquifer and affecting drinking water.

The EPA alleged the two defendants did not reimburse its Hazardous Substance Superfund for \$533,000 in cleanup expenses they had agreed to pay in 1992. The parties settled after entering into a consent decree Oct. 29 of this year. As part of the settlement, Report Investment and Black Box did not admit any liability.

***Michael Haggard photo by A.M. Holt***

[Billy Shields](mailto:bshields@alm.com) can be reached at bshields@alm.com or at (305) 347-6649.



ATTORNEYS AT LAW

## WHAT'S NEW

### The Haggard Law Firm News Briefs

[Click Here to View Recent Settlements](#)

#### **Barrak v. Report Investment Corporation \$102 Million – Verdict November 28, 2007 Negligent Security**

On July 31, 2002, Sami Barrak was a patron at Tootsie's Cabaret, which was a tenant at the Sierra Shopping Center owned by Report Investment Corporation. Mr. Barrak and a friend were leaving the establishment when the friend returned to retrieve an item left inside. As Mr. Barrak sat waiting in his car for his friend to return he was approached by an unknown person who attempted to rob him at gunpoint. After a brief exchange of unknown words, the assailant shot Mr. Barrak in the neck and left, rendering Mr. Barrak a ventilator-dependant quadriplegic.

The jury found that Report Investment Corporation, Inc., owned and managed the property and therefore had the duty to maintain it in a reasonable safe condition commensurate with the activities conducted on the property in order to prevent harm to its business invitees. At the time of the shooting, there was only one guard on duty to observe and report any crimes that might occur in and around Tootsie's Cabaret. Report Investment Corporation provided no security and admitted they had never spent one dollar on security or safety. There had been a reported 26 violent crimes on the same property during the seven years prior to Mr. Barrak's incident.

The \$102 million verdict is the largest jury verdict awarded judgment in history for a negligent security case. This is the third \$100 million verdict for the Haggard Law Firm.

Michael A. Haggard, 37, was lead attorney on this case and also recorded his third \$100 million verdict, all within the last five years. His previous \$100 million verdicts were record-setting cases involving pool drowning and pool negligence. Haggard concentrates his trial practice in personal injury litigation specializing in pool drowning accident negligence, premises liability, negligent security, wrongful death and medical malpractice. His other achievements include serving as past president of the Miami-Dade Justice Association as well as serving as a member of the Florida Justice Association (Inadequate Security Section) and the Million Dollar Advocates Forum. Haggard earned his bachelors degree from Florida State University and his law degree from the University of Miami.





# Respected AND Recommended



Just the name "Legal Elite" says a lot about the attorneys whose names appear on *Florida Trend's* annual list. You could say they're at the top of their profession. The cream of the crop. Or the best of the best. All of those descriptions are apt.

But the real story is how they achieved this recognition. They weren't hand-picked by a committee or editorial board. They didn't have to fill out a lengthy questionnaire. They didn't pay an entry fee or have to register.

They achieved this recognition by earning the trust, confidence, respect — and votes — of their peers. And who better to name the state's top attorneys

than the attorneys themselves?

Balloting for this year's list began last October when *Florida Trend* invited in-state members of the Florida Bar to participate. Announcements in *The Florida Bar Journal* and *The Florida Bar News* publicized the ballot deadline and voting guidelines. We also notified last year's Legal Elite, the lawyers who participated in last year's balloting, the top contact at 148 law firms, local bar associations and Florida members of the Association of Corporate Counsel by postcard and e-mail that balloting had begun.

Lawyers were asked to name attorneys they hold in the highest regard or would recommend to others.

The ballots were processed, checked and tabulated by Bradenton-based Outsource America and Suncoast Opinion Surveys in St. Petersburg.

Each lawyer was given a score based on the number of votes he or she received and whether the votes came from within their firm (one point) or outside their firm (three points). Only lawyers who are currently licensed and practicing in Florida were considered eligible.

The list of top vote-getters was further examined using membership status and practice histories provided by the Florida Bar. A panel of previous Legal Elite winners, representing a variety of practice areas in cities across the state, reviewed the selection process and the list of finalists.

This year's list of 918 Legal Elite attorneys begins on page 6 and represents less than 2% of the nearly 63,000 Florida Bar members practicing in Florida. A separate category for top Government Attorneys is listed on page 24.

## Hall of Fame

For the first time since we began publishing *Legal Elite* six years ago, we present the *Legal Elite Hall of Fame*. To be considered, an attorney must have been a *Legal Elite* winner for each of the past five years. A panel of lawyers was consulted to evaluate that list and make the final selection.

**Adams, Joseph E. • Becker & Poliakoff • Fort Myers**

**Aronovitz, Tod • Aronovitz Law • Miami**

**Barnett, Martha Walters • Holland & Knight • Tallahassee**

**Becker, Alan Steven • Becker & Poliakoff • Fort Lauderdale**

**Black, Roy • Black Srebnick Kornspan & Stumpf • Miami**

**Blackwell, Bruce Beuford • King Blackwell Downs & Zehnder • Orlando**

**Bloom, Mark D. • Greenberg Traurig • Miami**

**Bokor, Bruce Howard • Johnson Pope Bokor Ruppel & Burns • Clearwater**

**Boulris, Amy Brigham • Brigham Moore • Miami**

**Boyett, Christopher W. • Holland & Knight • Miami**

**Brigham, Toby Prince • Brigham Moore • Coral Gables**

**Bruton, Jr., Ed Burt • Greenberg Traurig • Miami**

**Cardwell, J. Thomas • Akerman Senterfitt • Orlando**

**Colton, Roberta Ann • Trenam Kemker • Tampa**

**Coxe, III, Henry Matson • Bedell Dittmar Devault Pillans & Coxe • Jacksonville**

**Decker, Robert (Bob) • Decker Beeler • St. Petersburg**

**DeVault, III, John Andrew • Bedell Dittmar Devault Pillans & Coxe • Jacksonville**

**Diamond, Sandra Fascelli • Williamson, Diamond & Caton • Seminole**

**Dunbar, Peter M. • Pennington, Moore, Wilkinson, Bell & Dunbar • Tallahassee**

**Emerich, Guy Storms • Farr Farr Emerich Hackett & Carr • Punta Gorda**

**Greer, Alan Graham • Richman Greer • Miami**

**Haggard, Michael Andrew • The Haggard Law Firm • Coral Gables**

**Hart, Kenneth R. • Ausley & McMullen • Tallahassee**

**Hearn, Steven L. • Steven L. Hearn, P.A. • Tampa**

**Henderson, III, Thomas Nathan • Hill Ward Henderson • Tampa**

**Hill, III, Benjamin H. • Hill Ward Henderson • Tampa**

**Hogan, Wayne • Terrell Hogan • Jacksonville**

**Hopping, Wade L. • Hopping Green & Sams • Tallahassee**

**Kelley, Rohan • The Kelley Law Firm • Fort Lauderdale**

**Law, Rhea F. • Fowler White Boggs • Tampa**

**Lesser, Steven Bruce • Becker & Poliakoff • Fort Lauderdale**

**Linnan, Nancy G. • Carlton Fields • Tallahassee**

**Little, III, John Wesley • Brigham Moore • West Palm Beach**

**Mason, Miriam E. • Mason Black & Caballero • Tampa**

**Perwin, Joel S. • Joel S. Perwin, P.A. • Miami**

**Redmond, Patricia A. • Stearns Weaver Miller Weissler Alhadeff & Sitterson • Miami**

**Richman, Gerald F. • Richman Greer • West Palm Beach**

**Sasso, Gary L. • Carlton Fields • Tampa**

**Saul, Gary A. • Greenberg Traurig • Miami**

**Schulz, Jr., George E. (Buddy) • Holland & Knight • Jacksonville**

**Sellers, Jr., Lawrence Edward • Holland & Knight • Tallahassee**

**Shelley, Linda Loomis • Fowler White Boggs • Tallahassee**

**Swaine, J. Michael • Swaine & Harris • Sebring**

**Tropin, Harley S. • Kozyak Tropin & Throckmorton • Miami**

**Varner, III, Joseph H. • Holland & Knight • Tampa**

**Walbolt, Sylvia H. • Carlton Fields • Tampa**

**Weber, Victoria Lynn • Hopping Green & Sams • Tallahassee**

**Zack, Stephen N. • Boies Schiller & Flexner • Miami**





# Bringing paralyzed immigrant back to U.S. for treatment: 'I'd say it's the best thing we've ever been able to do for a client'

**Michael Haggard**  
Haggard Law Firm

The \$103 million award was record-setting. But the real victory for Coral Gables personal injury attorney Michael Haggard was getting his paralyzed Tunisian client back to the United States as a legal resident after winning his negligent security case.



Memorial Hospital stabilized his condition. In a Tunisian long-term care facility, medical providers put fishing wire in Barrak's neck where Miami doctors had performed a tracheotomy.

"They're scared over there to touch someone this injured," Haggard said of his client. "They just put you in a warehouse over there. His dad is really the one who took care of him."

Barrak sued the owners of the Sierra Shopping Center, which leased space in the Miami Gardens plaza to Tootsie's Cabaret. Barrak had gone out for drinks with a friend at the club and was shot in his car in the shopping center parking lot moments after leaving.

At the trial in November 2007, lawyers for Sierra argued Barrak should stay in Tunisia, where the cost of medical care is low.

"They tried to argue that Tunisia was the proper place for him to be cared for,"

Haggard said. "We argued that fishing wire on his tracheotomy was not appropriate medical care."

The jury sided with Haggard, awarding Barrak enough money to make him eligible for a U.S. visa that allows injured people with money to pay for their care to live in the country.

When Barrak was shot, he was in the country legally on a work visa secured by his employer, the day-cruise line SeatEscape, which employed him as a buffet manager.

Barrak was at Tootsie's on a night off. Haggard said he worried that after the 2001 terrorist attacks, jurors might find Barrak an unsympathetic plaintiff because he is Muslim and had been drinking alcohol at a strip club.

Clearly, the jury did not hold that against him, deliberating for a day before finding the landlord, Report Investment, was liable for the shooting by failing to employ armed security guards in the parking lot, the site of 26 violent crimes including a murder six spots away from where Barrak was shot, Haggard said.

In negligent security cases, plaintiffs must meet three tests: A crime was reasonably foreseeable, security appropriate for that crime level was needed, and reasonable security would have more than likely prevented the crime in question.

"There was no question about the crime level on the property," Haggard said. There was no dispute that no security was protecting the parking lot the night Barrak was shot, but shopping center lawyers argued that it was Tootsie's responsibility to provide security. Jurors held the landlord 100 percent responsible on the verdict form.

"Now he's a ventilator-dependant quadriplegic," Haggard said of Barrak. "Getting him back to the U.S., I'd say it's the best thing we've ever been able to do for a client. When it means life and death to a client, it's better than winning any trial."



**Michael Haggard was able to get his Tunisian client, paralyzed by a late-night shooting, back to the United States as a legal resident after winning his negligent security case by arguing that "fishing wire on his tracheotomy was not appropriate medical care."**

The Miami-Dade Circuit jury award was bigger than the shopping center's insurance policy limit of \$26 million, so Haggard and Barrak decided to accept a \$26 million settlement and try to get Barrak back to the United States rather than press an appeal or risk losing the time it would have taken to pursue a bad-faith claim against the insurance company.

"You have to give them a little bit of

credit for settling because they could have waited for him to die" while appealing the case, Haggard said. Barrak, who was not allowed in the country to attend the trial, was issued a visa with the help of Miami immigration attorney David Berger within days of the settlement.

— Kelly Cramer





# Jury Verdicts & Settlements



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## Team shows security measures could have prevented murder in parking lot

**Case:** Estate of Starsky Garcia v. Maxx Properties and Arbors Apartments  
**Court:** Miami-Dade Circuit Court  
**Case no.:** 07-35160  
**Judge:** Circuit Judge Victoria Platzer  
**Filing date:** Oct. 13, 2007  
**Trial dates:** Nov. 17-Nov. 21, 2008  
**Verdict:** \$8 million for the plaintiff  
**Plaintiff attorneys:** Mike Haggard and Doug McCarron, the Haggard Law Firm, and Hialeah solo practitioner Alexis Izquierdo.

**Defense attorneys:** Kathryn McHale, Adams Coogler Watson Merkel Barry & Kellner, and Shelley Leinicke, Wicker Smith.

**Details:** An unknown gunman shot Starsky Garcia in the head and killed him in the early morning hours of Dec. 9, 2006, while Garcia was walking in the parking lot of The Arbors apartment complex. He was going home late so that his mother, Gloria Nader, could use the car that day, which was also her birthday, Haggard said. After Garcia, 27, was killed, his brother Jim filed a lawsuit on behalf of his estate, contending that the apartment complex and its parent company — which own and operate the building and property — failed to make the premises safe even though it knew the complex had a history of violent crime.

Garcia's death was widely reported in the news media. Within hours of Garcia's killing, chiropractor Bradley Timpf, a former University of Miami basketball player, was shot and killed while leaving a Houston's restaurant across the street. Police stated they believed the two slayings were linked and launched a search. But they never caught the killer.

Haggard's firm also represented Timpf's family in a similar lawsuit against the restaurant's parent company that was settled confidentially last month.

**Plaintiff case:** The plaintiff alleged that the complex and its owner had a duty to ensure that people could walk the parking lot safely by hiring security, installing gates and lighting the premises at night. He also alleged that the defendants failed to warn tenants and their invitees of the existence of dangerous conditions, allowed perilous circumstances and allowed hazardous conditions to remain at the complex, which is located on 173rd Street in



Alexis Izquierdo, left, Doug McCarron and Mike Haggard won \$8 million on behalf of a woman whose son was killed on her birthday.

North Miami Beach. The plaintiff attorneys argued that the crime was foreseeable and if the complex had implemented security measures, the crime could have been averted.

**Defense case:** The defense attorneys did not return calls seeking comment. They argued that security, lighting and gates are generally ineffective against deadly criminals, according to Haggard.

**Outcome:** The jury ruled in favor of the plaintiff, awarding \$6 million for future pain and suffering and \$2 million for past pain and suffering on behalf of Garcia's mother.

**Comments:** "For the rest of her life, her birthday marks the son's death," Haggard said of Gloria Nader.

**Post verdict:** The plaintiff filed a motion to add the complex's insurer, Zurich American Insurance, to the judgment. ■



# CORAL GABLES GAZETTE

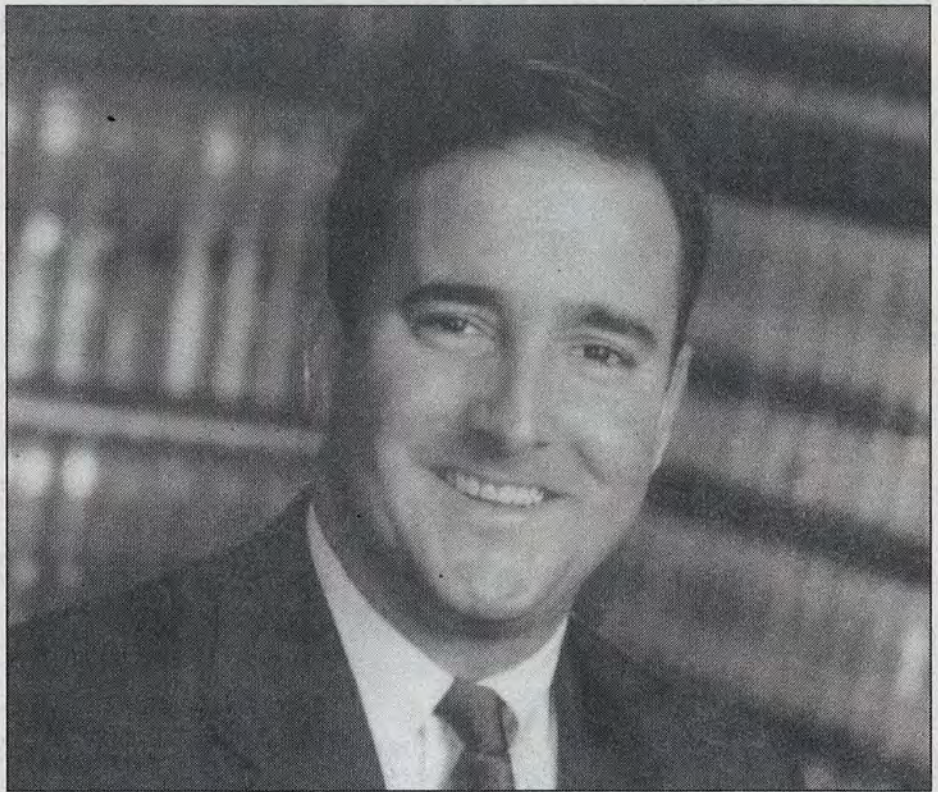
JANUARY 29 - FEBRUARY 4, 2009 • FREE

## Haggard named 'Most Effective Personal Injury Lawyer'

Michael Haggard, partner at the Coral Gables based Haggard Law Firm, was recently named the Most Effective Lawyer in the Personal Injury Category by the *Daily Business Review*. He received the award at the publication's fourth annual luncheon held at the Four Seasons Hotel in Miami.

Haggard received the award for his work on *Barrak vs. Report Investment Corporation*. Sami Barrak was shot in the neck at a shopping center in North Miami Beach and rendered a ventilator-dependant quadriplegic. The jury found that Report Investment Corporation, Inc., was negligent in the security of its patrons and had the duty to maintain it in a reasonable safe condition commensurate with the activities conducted on the property. The \$102 million verdict awarded to Barrak is the largest jury verdict awarded judgment in history for a negligent security case. This is the third \$100 million verdict for the Haggard Law Firm.

Most Effective Lawyers is a look at South Florida attorneys who performed the most impressive work this year and cases where they made their mark. Over 220 nominations were received in about two



**Haggard.**

dozen practice areas. In each category, editors selected the once case that featured attorneys worthy of being recognized as South Florida's Most Effective Lawyers.

Haggard concentrates his trial practice in personal injury litigation specializing in pool drownings, premises liability, negligent security, wrongful death and medical malpractice. Currently, Michael Haggard serves as

President-Elect of the Florida Justice Association. Haggard's other achievements include serving as past president of the Miami-Dade Justice Association as well as serving as a member of the American Association for Justice (Inadequate Security Section) and the Million Dollar Advocates Forum. Haggard earned his bachelors degree from Florida State University and his law degree from the University of Miami.



# TOP TEN Jury Verdicts OF 2008

— January 2009 / 2009 LUSA 26

## Where are they now?

A look back at the top verdicts of 2007

By Reni Gertner — Staff writer

### #1 \$109 million *Dockery v. Sprecher*

Medical malpractice  
July 24, 2007, New York

Status: An appeal is pending.

In last year's largest verdict, a New York jury awarded a brain-injured man

and his wife \$109 million after their lawyer asked for just \$18 million. The verdict included \$67 million for past and future loss of services for the wife.

**Plaintiff's attorney:** James Wilkens of Duffly, Duffly & Burdo in Uniondale, N.Y.  
**Defense attorneys:** Patrick Brea of Brea Yankowitz in Floral Park, N.Y.; Kenneth Reiser of Bartlett, McDonough, Bastone & Monahan in Mineola, N.Y.; Glen Dopf of Kopfli, Nardelli & Dopf in New York City.

In a trial where the defense seemed to fold its case after two unsuccessful witnesses, a flight instructor and his student won a \$54.5 million verdict for injuries they suffered in a private airplane crash.

The plaintiffs claimed the crash was caused by a faulty carburetor, which the manufacturer knew had a long history of problems. They sued the manufacturers of both the carburetor (Precision Airmotive Corp.) and the airplane engine (Teledyne Continental Motors).

**Plaintiff's attorneys:** Arthur Wolk, Philip Ford and Cheryl DeLisle of The Wolk Law Firm in Philadelphia; Terence Perkins of Smith, Hood, Perkins, Loucks, Stout, Bigman, Lane & Brock in Daytona Beach, Fla.

**Defense attorneys:** Neal Manne and David Orozco of Susman Godfrey in Houston, and Mary Gaston, Clark Nichols and Brendon Murphy of Perkins Cole in Seattle for Precision Airmotive Corp.; Henry Knoblock of McCormack and Knoblock in Miami for Teledyne Continental Motors.

A Florida jury awarded \$50 million to the family of a boy who was severely brain-injured when a pickup truck driven by a drunk driver crashed into his family's car.

**Plaintiff's attorneys:** David Kleinberg, Robert Pinkiert and Alan Neufeld of Neufeld, Kleinberg & Pinkiert in Miami.

**Defense attorneys:** Raymond A. Haas of Haas, Dalton, Blackburn, Lewis & Waltons in Tampa, Fla.; and James B. Thompson of Thompson, Goodis, Thompson, Groeclose & Richardson in St. Petersburg, Fla.

### #7 \$50 million *Krantz v. A.O. Smith Water Products Co.*

Wrongful death  
Oct. 18, 2007, Alabama

Status: The case has been settled for an undisclosed amount.

An Alabama jury awarded \$50 million to the family of a man who was killed by an exploding water heater, which the plaintiffs' lawyer likened to a "time bomb."

**Plaintiff's attorney:** Joseph M. "Buddy" Brown of Cunningham, Bounds, Crowler, Brown & Breedlove in Mobile, Ala.

**Defense attorney:** Kenneth Anselment, Jr. of A.O. Smith Water Products Co. in Ashland City, Tenn.; Donald H. Carlson of Crivello Carlson in Milwaukee.

### #8 \$47.6 million

(one of three verdicts that totaled \$134.1M)  
*Rowatt v. Wyeth Pharmaceuticals, Inc.*

Pharmaceutical negligence/failure-to-warn  
Oct. 10, 2007 compensatories;  
Oct. 15, 2007 punitives, Nevada

Status: The case is pending on appeal before the Nevada Supreme Court. Briefing has not been scheduled yet.

The eighth of the top ten verdicts of 2007 was part of a \$134.1 million verdict to three Nevada women. The plaintiffs won the biggest verdict to date in the hormone

Continued on page 10

### #2 \$102.7 million *Barak v. Report Investment Corp., Inc.*

Negligent security  
Nov. 28, 2007, Florida

Status: The case settled for \$26 million.

A Florida jury awarded a Tunisian cruise ship waiter who is paralyzed from the waist down \$102.7 million for negligent security. The plaintiff was shot in the neck in an attempted carjacking by an unidentified man.

**Plaintiff's attorneys:** Michael A. Haggard, William A. Haggard and James C. Blecke of The Haggard Law Firm in Coral Gables, Fla.; Robert J. Dickman and Manny Appelbaum in Coral Gables, Fla.

**Defense attorneys:** Thomas J. McCausland, Seth Goldberg, Hinda Klein and Lynn Johnson of Conroy, Stenberg, Ganon, Krevans, Abel, Larvey, Morrow & Sheffer in Hollywood, Fla.; Richard Cole of Cole, Scott & Kissane in Miami.

### #3 \$55.2 million *Mraz v. DaimlerChrysler*

Product liability  
March 7, 2007, California

Status: An appeal is pending.

In the first major punitive damages award after the U.S. Supreme Court placed new limits on punitive damages in February 2007, a Los Angeles jury ordered DaimlerChrysler to pay \$5.2 million in compensatory damages and \$50 million in punitives to a man run over by his own truck.

**Plaintiff's attorneys:** Robert Nelson and Scott Nealey of Lief, Calraser, Heimann & Bernstein in San Francisco; Chuck D. Naylor in San Pedro, Calif.

**Defense attorneys:** Robert M. Hanlon Jr. of Hanlon, Bogioli & Hanlon in Edison, N.J.; Barry R. Schirm, Dommond E. Lowrie and David Schultz of Grace, Coagrove & Schirm in Los Angeles.

### #4 \$54.5 million *Godfrey v. Precision Airmotive Corp.*

Product liability  
July 26, 2007, Florida

Status: The Precision defendants settled for a confidential amount. The Teledyne Continental Motors case is still pending on appeal. Teledyne hasn't filed its responsive brief yet.

### #5 \$54 million *Barber v. Manor Care*

Personal injury  
June 28, 2007, New Mexico

Status: An appeal is pending. All briefing has been completed.

A New Mexico jury awarded \$54 million to the family of a woman who bled to death in her nursing home.

**Plaintiff's attorneys:** Carl Bettinger of Shapiro Bettinger Chase, LLP in Albuquerque, N.M.; Michael Gross and Steve Leibel of Dines and Gross, P.C. in Albuquerque, N.M.

**Defense attorney:** R.E. Thompson of Modrall & Sperling in Albuquerque, N.M.

### #6 \$50 million *Ladler v. Yow*

Personal injury  
Oct. 31, 2007, Florida

Status: A confidential settlement was reached between the parties in 2008. The settlement allows the plaintiffs' child to receive a lifetime of 24-hour medical and rehabilitative care.









# Jury Verdicts & Settlements



## VERDICTSEARCH

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### Security guard shot three times settles with hotel for \$5.25 million

**Case:** Donald Eugene, Sindy Eugene, Daron Eugene and Donovan Eugene v. Latrun Realty

**Case no.:** 07-12894 CA 27

**Description:** Negligent security

**Filing date:** May 2, 2007

**Settlement date:** Jan. 5, 2009

**Judge:** Miami-Dade Circuit Judge Maria Espinosa Dennis

**Plaintiff attorneys:** Mike Haggard, Doug McCarron and Jim Blecke, Haggard Law Firm, Coral Gables; Garrett Biondo, Biondo Law Firm, Miami.

**Defense attorneys:** K. Stuart Goldberg, Marlow Connell Abrams Adler Newman & Lewis, Fort Lauderdale

**Outcome:** \$5.25 million settlement

**Details:** Donald Eugene was working as a security guard for Denson Protective Services at the Holiday Inn on Golden Glades in North Miami Beach in 2005.

Around 3 a.m. on Sept. 13, a gunman burst into the hotel, confronted Eugene in the lobby and shot him in the leg, arm and abdomen. His left leg was amputated below the knee. He spent four months in the hospital, suffered temporary renal failure and now walks with the use of a prosthetic leg.

Although the defense contended police had a suspect in mind, no one was charged.

**Plaintiff case:** The plaintiffs claimed the defendant, a Holiday Inn franchisee, had a duty to its employees, guests and Eugene to protect the premises and failed to use adequate security measures in a high-crime zone where 12 armed robberies occurred in three years.

They also alleged security procedures were in place at the time of the robbery, but the defendants neglected to use them. They contended Eugene was the only security guard on duty at the time but also performed housekeeping and reception work.

**Defense case:** The defense contended its liability was questionable since Eugene was an armed security guard hired by a third party to perform security functions when he was shot.

**Comments:** Haggard said Eugene's employer was a third-party security firm rather than the hotel, which made his case challenging.

"If he was a guest, it would have been a slam-dunk case," he said, adding part of the defendant's liability stemmed from ordering Eugene to perform tasks other than security work. "They were taking him away from his security duties when the robbery happened."

Biondo added, "The defendant basically had their security guard running all sorts of errands, and there were a bunch of prior incidents where hotel employees had been robbed repeatedly, and the hotel chose not to take additional security measures."

Goldberg said his client's potential exposure was "horrendous" although the liability issue was questionable and added he was pleased with the settlement.



A.M. HOLT

Plaintiff lawyer Mike Haggard said his case was complicated because his client was employed by a security company, not the hotel where he was shot.

**Plaintiff lawyer Mike Haggard said, 'If he was a guest, it would have been a slam-dunk case, adding part of the defendant's liability stemmed from ordering the guard to perform tasks other than security work. "They were taking him away from his security duties when the robbery happened.'**

"He was performing security guard services when he was shot, but he had tremendous injuries," Goldberg said.

"We were able to reach a fair compromise, which enabled us to provide for that family for the rest of their lives and enabled us to avoid the uncertainties of a trial."

**Post settlement:** Eugene is looking for a job and has enrolled in Miami Dade College. Goldberg left Marlow Connell to join Boyd & Jenerette in Fort Lauderdale. ■

— Billy Shields



# TOP TEN Jury Verdicts OF 2007

## Top Ten of 2007 is smallest in 14 years

By Bill Ibelle  
Staff writer

**T**he nation's largest verdicts just keep getting smaller.

After climbing towards the stratosphere from 1997 to 2002, the largest verdicts to individual plaintiffs have been in a steady decline ever since.

The total Top Ten awards for 2007 dropped 25 percent from 2006 - which was 72 percent lower than in 2005.

To put this trend in perspective, the total of the Top Ten verdicts in 2002 was 41 times larger than the amount awarded in 2007.

But, despite the relatively low awards (can anyone really call \$109 million to an individual plaintiff low?), last year's Top Ten includes several significant verdicts.

2007's #2 verdict was the largest negligent security award in the nation's history - \$102.7 million to a man shot and paralyzed in the parking lot of a Miami strip club. The trial included an interesting battle over damages, with the defense arguing medical costs should be calculated based on care in Tunisia, where the plaintiff was from, while the plaintiff's attorneys argued he could not get adequate care in his native country.

The #3 verdict may well have longstanding implications, since it was the first large punitive damages award following the U.S. Supreme Court's decision in *Philip Morris USA v. Williams*, 127 S.Ct. 1057, to place new limits on punitives. The Los Angeles jury ordered DaimlerChrysler to pay \$5.2 million in compensatory damages and \$50 million in



AP Photo/Mel Evans

punitives to a man run over by his own truck when a faulty transmission caused it to slip from park to reverse.

Last year's Top Ten also included two pharmaceutical cases. For the third year in a row, Merck was held liable for its widely-

*Top Ten: Punitives have declined dramatically.*

Continued on page 2



## TOP #2 TEN

## JURY VERDICTS OF 2007

\$102.7 MILLION

**\$102.7M in Florida negligent security case**By Nora Lockwood Toohar  
Staff writer

A Tunisian cruise ship waiter who is paralyzed from the waist down was awarded \$102.7 million by a Florida jury this fall in the largest negligent security verdict ever.

Sami Barrak, 30, was leaving Tootsie's Cabaret, a Miami strip club, on July 31, 2002, when his friend went back inside the club to retrieve a pack of cigarettes. As Barrak sat waiting in his car for his friend, an unidentified man shot Barrak in the neck in an attempted carjacking.

The assailant was never found. Barrak, who was born in France to Tunisian immigrants, was left paralyzed from the waist down.

During a month-long trial, lead plaintiff's counsel Michael A. Haggard argued that Report Investment Corp., the Florida compa-

**"[The previous violent crimes] ran the gamut from medieval weapons to AK47s."**



— Michael Haggard

ny that owned the mini-mall where Tootsie's was located, was liable because it failed to keep the parking lot safe for customers.

"This was all about a corporation that truly put profits over safety," Haggard said.

Defense lawyer Thomas McCausland declined comment. But Haggard said the defense argued during the trial that the crime could not have been prevented and that Tootsie's, not the strip mall owners, should have been responsible for patrons' safety.

Haggard told the jury that the property owner had turned a blind eye to years of violence. In the seven years before Barrak's shooting 26 violent crimes had been reported on the property.

During the trial, Report Investment admitted that it had never spent a single dollar on security or safety.

The six-person jury found the mall owner solely liable, and awarded Barrak \$102.7 million in damages.

**Medieval weapons to AK47s**

Plaintiff's security expert Greg McCrary testified that "he had never seen a commercial block with this type of crimes," Haggard said.

Previous violent crimes had included a murder, shootings, a machete attack and a holdup with automatic assault rifles.

"It ran the gamut — from medieval weapons to AK47s," said Haggard.

Questioned about each of the 26 previous violent crimes, Report Investment's property manager testified repeatedly that he was not aware of any of the crimes.

"It was almost like the Iran Contra hearing where Ollie North kept saying 'not to my recollection,'" Haggard said.

The defense also argued that the shooting of Barrak wasn't preventable. But Haggard told the jury that, "You don't get the right to say that unless you tried to do something."

At the time of the shooting, there was only one security guard on duty, who had been hired by Tootsie's. The defense argued that the security provided by Tootsie's was adequate, and that there was no need for the mall owner to provide additional security.

But Haggard pointed out that Tootsie's had hired a guard solely to protect the dancers when they left work — not the patrons. Report Investment should have kept the mall's parking lot safe at night for patrons by installing security cameras, providing better lighting and hiring security patrols, he contended.

**'Waiting to die'**

After the shooting, Barrak was treated at a rehabilitation center in Florida. But because he was unable to work, he was sent back to Tunisia when his visa expired in 2003.

A year before the trial, Haggard spent a week in Tunisia visiting Barrak, who is being cared for at home by his aging father. Haggard brought a replacement ventilator with him because one of Barrak's two ventilators was not functioning.

Tunisian military authorities briefly detained Haggard, but ultimately allowed him to bring the ventilator into the country.

During the trial, Haggard showed jurors a "day-in-the-life" video shot in Tunisia, as well as photos of Barrak hooked up to a ventilator being held together with a fishing line.

"He was sitting in the bed waiting to die," Haggard said.

A vocational rehabilitation expert and life-care planner estimated it would cost \$28 million to care for Barrak in Miami. In contrast, the defense's expert estimated Barrak could be cared for in Tunisia for \$2.4



Plaintiff Sami Barrak is now confined to a bed in his native Tunisia, hoping to collect enough money to return to the U.S. for better medical care.



Barrak was shot in his car while waiting for his friend to retrieve cigarettes from a strip club.

million in lifetime costs.

Tunisian doctors testified in video depositions, however, that they were unable to care properly for Barrak, who had not seen a respiratory therapist since he left the United States.

In his closing argument, Haggard told jurors: "The Tunisian medical experiment is over."

During his closing argument, Haggard again showed jurors portions of the day-in-the-life video of Barrak. And he re-showed a clip of the operations officer denying he knew about previous violent crimes.

"It was much more effective than either a poster board or reading from a transcript," he said.

**Lone juror folds**

Barrak's immigration status was not an issue, according to Haggard, because Miami is such a melting pot. The jury consisted of three men and three women, five of whom were Latinos and one of whom was African-American.

Jurors deliberated a day before telling the judge they were unable to reach a verdict. When the judge polled jurors, the vote

was 5-to-1 in favor of Barrak.

Haggard said the defense made a mistake in not offering to settle the case at that point. Instead, the defense counted on the lone juror holding out. But after another two hours of deliberations, the jury voted unanimously to hold Report Investment liable.

The jury awarded Barrak \$1.4 million for past medical expenses, \$164,000 for past lost earnings, \$28 million for future medical expenses, \$650,000 for lost earning ability, \$2.5 million for past pain and suffering and \$70 million for future pain and suffering.

The award was the third verdict of \$100 million or more for Haggard, 37, whose firm specializes in personal injury and negligence cases.

In December, both sides agreed to settle the case for \$26 million — the limit of the defendant's insurance policy. More than half of that amount is expected to go Barrak.

Haggard said he is working with an immigration lawyer so that Barrak can return to the United States for treatment.

Questions or comments can be directed to the writer at: [nora.toohar@lawyersusaonline.com](mailto:nora.toohar@lawyersusaonline.com)

**AT-A-GLANCE**

**Verdict:** \$102.7 million total  
no punitive damages

**State:** Florida

**Type of case:** Negligent security

**Trial:** 5 weeks

**Deliberations:** 2 days

**Status:** Settled for \$26 million

**Case name:** *Barrak v. Report Investment Corp., Inc.*

**Date of verdict:** Nov. 28, 2007

**Plaintiffs' attorneys:** Michael A. Haggard, William A. Haggard and James C. Blecke of The Haggard Law Firm in Coral Gables, Fla.; Robert J. Dickman and Manny Appelbaum of Coral Gables, Fla.

**Defense attorneys:** Thomas J. McCausland, Seth Goldberg, Hinda Klein and Lynn Johnson of Conroy, Simberg, Ganon, Krevans, Abel, Lurvey, Morrow & Sheffer in Hollywood, Fla.; Richard Cole of Cole, Scott & Kissane in Miami.

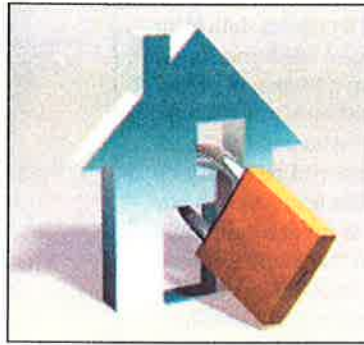
## Locking in negligent security claims

By Nora Lockwood Toher  
Staff writer

A decade ago, Florida personal injury lawyer Michael Haggard's firm averaged two negligent security cases a year. This year, his firm is handling 13.

Haggard, the principal in a four-lawyer firm in Coral Gables, Fla., is among a small group of plaintiffs' lawyers who have developed an expertise in inadequate security suits.

As recently as the mid-1980s, personal injury actions against landlords for crimes committed within their buildings were virtually unheard of. Now these cases – which can result in multi-million dollar verdicts – constitute a large percentage of the cases filed in urban jurisdictions, according to Alan Kaminsky, chair of Lewis Brisbois Bisgaard & Smith's general liability practice



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team in New York, and author of "A Complete Guide to Premises Security Litigation."

Since 1999, Haggard's firm has won \$13 million in negligent security verdicts and settlements, including:

- a \$2 million settlement in May



# Defense lawyers more aggressive in security cases

Continued from page 1

2007 on behalf of Bryan Pata, a University of Miami defensive lineman who was shot and killed in the parking lot of a Miami apartment complex.

- a \$6 million settlement in September on behalf of five people who died earlier this year in an Immokalee, Fla. trailer park fire caused by arson. The trailer park should have provided residents with security after two failed attempts to burn a mobile home, according to Haggard.

Haggard said the rising crime rate in south Florida is fueling the explosion of premises security suits.

"There's no question security is not a revenue-producing expense. That's why it's the first thing to get cut," he said. "I'm running into places that don't have access control or guard gates, and that have terrible lighting and terrible security. When you go into an impoverished area, the crime rates are really terrible."

Earlier this year, Haggard's firm filed a lawsuit on behalf of a chiropractor who was shot and killed in a Miami Beach restaurant parking lot. And in late October his firm was slated to begin trial in the case of a Florida man who was shot in the neck during a July 2002 robbery in the parking lot of Tootsie's Cabaret, a Miami strip club. The plaintiff, who was paralyzed from the neck down, claims the property owners knew the club was located in a high crime area and that there had been numerous attacks in the area, but they failed to provide proper security.

Peter A. Law, the head of a four-lawyer Atlanta firm, has had similar success representing violent crime victims in premises liability suits. In September, he convinced an Alabama jury to award \$9 million to a 66-year-old woman who was raped by

a maintenance man at an apartment complex – the largest negligent security verdict in Alabama's history.

"For a long time, these cases were difficult to win. Lawyers didn't want to take them," Law said. "[Now] I think juries have become more understanding that security does work, and they have the expectation that apartment complex and hotel owners should take measures aimed at deterring crime."

Ralph Witherspoon, a security expert in Cleveland, agreed: "People are more aware of their rights, and the fact they have possible recourse."

## Victims' rights

Premises security case law is still evolving. But most states recognize some type of negligent security claim.

Virginia, for example, last year recognized a hotel's duty to protect its guests from criminal acts. In a case filed by a hotel patron who was shot in a hotel parking lot. (*Taboada v. Daly Seven, Inc.*, 626 S.E.2d 428 (Va.)).

But as more negligent security suits are filed, defense lawyers have become more aggressive representing landlords.

"I think defense attorneys have gotten much savvier in handling these cases. In the past they were more likely to settle," Witherspoon said. "Now, they're more likely to file for summary judgment, and if they are unsuccessful, take it to trial."

"Obviously, the real culprit is the assailant, not the landlord," said Kaminsky, who has defended about 100 negligent security lawsuits. "Just because the crime happened in a building doesn't mean it's the building owner's fault."

Defense lawyers focus on whether the victim was targeted, how the assailant entered the building, whether the assailant knew anyone who lived in the building and whether

**"There's no question security is not a revenue-producing expense. That's why it's the first thing to get cut."**



**– Michael Haggard**

the assailant would have committed the crime even if there were additional security.

Another tactic by defense lawyers is to challenge plaintiffs' security experts and their standards for determining whether security at a crime scene was adequate.

"I think we're seeing *Daubert*-type challenges more," said Witherspoon, who withstood a recent defense challenge to his testimony in a negligent security suit against a Paducah, Ky., mall where an 18-year-old Kentucky man was stabbed in 2004. (*Childress v. Kentucky Oaks Mall Co.*, No. 5:06-CV-54-R; (D.Ky)).

Norman Bates, president of Liability Consultants, a Massachusetts security consulting firm, said he has also withstood several recent challenges to his testimony.

"I've been trying to stay on the cutting edge and develop protocol and standards for experts to adhere to," he said. "Those experts who don't do that are really putting themselves at risk."

Even if an expert clears a *Daubert*-type challenge, he is likely to face a tough cross-

examination from defense lawyers.

"I've been very successful challenging them on cross-examination," Kaminsky said. "There's no way anyone can say with a reasonable degree of certainty a locked door or additional security or lighting would have prevented a crime."

## 'Challenging cases'

To counter aggressive defense arguments, plaintiffs' lawyers have to convince the jury that the crime should have been foreseen and could have been prevented if the property owner had taken proper precautions, such as providing adequate security, lighting and supervision.

"They're very challenging cases," said Amanda Farahany, a partner in Barrett & Farahany in Atlanta, who has represented several college campus sexual assault victims.

Tort reform has also reduced the liability of property owners in many states. In Georgia, for example, juries are required to apportion fault between the criminal and the property owner, which can significantly reduce the amount of damages.

But Jeffrey Dion, director of the National Crime Victims' Bar Association in Washington, D.C., said that plaintiffs' lawyers have become adept at finding ways to bring victims' civil claims to trial.

For example, after a federal court in Virginia dismissed his client's negligent security claim, Peter S. Everett, a principal in Blankingship & Keith in Fairfax, Va., successfully brought a fraud claim on behalf of a rape victim against a landlord who covered up information about a previous rape.

"It's all about finding what cause of action is going to let you get to a jury," Dion said.

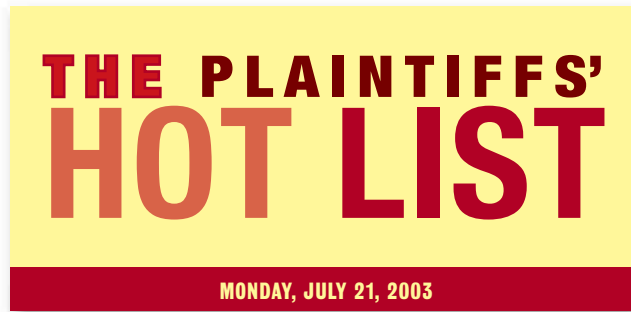




# THE PLAINTIFFS' HOT LIST

- **BARON & BUDD** ●
- **BERGER & MONTAGUE** ●
- **BERNSTEIN LIEBHARD & LIFSHITZ** ●
- **BUTLER, WOOTEN, FRYHOFER, DAUGHTERY & SULLIVAN** ●
- **CLIFFORD LAW OFFICES** ●
- **COHEN, MILSTEIN, HAUSFELD & TOLL** ●
- **COTCHETT, PITRE, SIMON & MCCARTHY** ●
- **GIBBS & BRUNS** ●
- **GIRARDI & KEESE** ●
- **GREENE, BROILLET, PANISH & WHEELER** ●
- **HAGGARD, PARKS, HAGGARD & BOLOGNA** ●
- **KOHN, KOHN AND COLAPINTO** ●
- **KOREIN TILLERY** ●
- **KRAMER, DILLOF, LIVINGSTON & MOORE** ●
- **LEVIN, FISHBEIN, SEDRAN & BERMAN** ●
- **LIEFF CABRASER HEIMANN & BERNSTEIN** ●
- **MILBERG WEISS BERSHAD & SCHULMAN** ●
- **SHUTE, MIHALY & WEINBERGER** ●
- **SPRENGER & LANG** ●
- **SUSMAN GODFREY** ●
- **VLADECK, WALDMAN, ELIAS & ENGELHARD** ●
- **WATTS LAW FIRM** ●
- **WEITZ & LUXENBERG** ●
- **WIGGINS, CHILDS, QUINN AND PANTAZIS** ●

# THE NATIONAL LAW JOURNAL



## Haggard Parks

Since its 1995 founding, *Haggard, Parks, Haggard & Bologna* in Coral Gables, Fla., has represented individual clients in aviation disaster, premises liability and many other bodily injury cases, recovering more than \$180 million in verdicts and settlements. One notable exception was the five-lawyer firm's foray into class actions as co-local counsel in Florida's Microsoft antitrust case. In April 2003, preliminary approval was granted for a \$200 million settlement.

### NOTEWORTHY CASES:

■ *Hinton v. 2331 Adams Street Corp.* (Broward Co., Fla., Cir. Ct. 2003), lead attorney—Michael Haggard. A toddler sustained brain damage after nearly drowning in a pool improperly secured by an apartment complex.

The jury awarded \$100 million—one of the largest jury verdicts in Florida history.

■ *Gafen v. Tim-Bar Corp.* (S.D. Fla. 2002), lead attorney—Jeanette Bologna. The plaintiff was injured by flying debris from a collision between a tractor-trailer and an Amtrak train. It settled for \$14 million.

■ *Bustos v. Leiva* (Miami-Dade Co., Fla., Cir. Ct. 2001), lead attorney—Michael Haggard. A Miami jury awarded \$21 million to a woman who was injured when her car was struck by another driver, who was using his cellphone at the time of the crash.

# THE PLAINTIFFS' HOT LIST

- BARON & BUDD ●
- BERGER & MONTAGUE ●
- BERNSTEIN LIEBHARD & LIFSHITZ ●
- BERNSTEIN LITOWITZ BERGER & GROSSMAN ●
- CLIFFORD LAW OFFICES ●
- COHEN, MILSTEIN, HAUSFELD & TOLL ●
- COTCHETT, PITRE, SIMON & MCCARTHY ●
- GIBBS & BRUNS ●
- GREENE, BROILLET, PANISH & WHEELER ●
- HAGGARD, PARKS, HAGGARD & BOLOGNA ●
- KOREIN TILLERY ●
- LERACH COUGHLIN STOIA GELLER RUDMAN & ROBBINS ●
- LIEFF CABRASER HEIMANN & BERNSTEIN ●
- MILBERG WEISS BERSHAD & SCHULMAN ●
- O'D5QUINN, LAMINACK & PIRTLE ●
- PHILLIPS & COHEN ●
- SACKS & SACKS ●
- SUSMAN GODFREY ●
- WATTS LAW FIRM ●
- WILKES & MCHUGH ●

# THE NATIONAL LAW JOURNAL



## Haggard Parks

The five-attorney firm of *Haggard, Parks, Haggard & Bologna* has litigated nearly all categories of personal injury claims since its founding in 1995. Located in Coral Gables, Fla., the firm has recovered more than \$500 million in verdicts and settlements for individual clients in wrongful death claims, aviation disasters, medical malpractice and admiralty cases. Departing from its core practice areas, the firm served as local counsel in Florida's antitrust suit against Microsoft, which settled for \$200 million in 2003.

### NOTEWORTHY CASES:

■ *Olivares v. Ecuacar Rental Corp. & Rudnitzky* (Miami-Dade Co., Fla., Cir. Ct. 2004), lead attorneys Michael Haggard and Dan Dolan. The plaintiff was struck by a rental car, severely damaging his leg, which was amputated. The case settled for \$6.5 million.

■ *Peterson v. Sta-Rite Industries* (Miami-Dade Co., Fla., Cir. Ct. 2003), lead attorneys Michael Haggard and Robert Parks. A 14-year-old boy suffered permanent brain damage when he was trapped by the suction of a malfunctioning swimming pool pump. The jury awarded \$104 million—at the time the largest single personal injury verdict in Florida history.

■ *Hinton v. 2331 Adams Street Corp.* (Broward Co., Fla., Cir. Ct. 2003), lead attorneys Michael Haggard and William Andrew Haggard. A toddler sustained brain damage after nearly drowning in a pool improperly secured by an apartment complex. The jury awarded \$100 million.

## Alum's Law Firm NAMED ONE OF THE TOP PLAINTIFF FIRMS IN THE U.S.

*The Coral Gables, Fla., law firm of Haggard, Parks, Haggard & Lewis, PA, has been named one of the top plaintiff firms in the United States.*

The five-person personal injury law firm, whose managing partner is Mercer alumnus William Andrew "Andy" Haggard, JD '67, was named once again to the *National Law Journal's* "Plaintiffs' Hot List" featuring 20 of the most exemplary and noteworthy plaintiff trial law firms in the United States. Haggard, Parks, Haggard & Lewis is the only firm from Miami-Dade County to be listed in this year's "Plaintiffs' Hot List," and the only firm from Florida to be listed on

the "Plaintiffs' Hot List" for two years in a row since it began in 2003.

The *National Law Journal*, one of the legal industry's top trade publications, used research and referrals to develop the "hot list" that is intended to

showcase the top plaintiff trial law firms from around the country on their most noteworthy achievements in the courtroom within the last few years that make them "stand out" from the rest.

The honor also highlighted that Haggard, Parks, Haggard & Lewis has been responsible for more than \$500 million in verdicts and settlements for individual cases in

the past few years.

The article and listing featured recent notable cases handled by Haggard, Parks, Haggard & Lewis, which consisted of two record-breaking verdicts dealing with pool drowning negligence cases that left two children with irreversible brain damage. The firm was responsible for attaining a \$100-million verdict in a case where a toddler nearly drowned in a pool at her apartment complex because she gained access to the pool area through a broken pool gate (*Hinton v. 2331 Adams Street Corp, January 2003*), as well as a \$104-million verdict in a case where a boy got trapped underwater by the suction of a defective and unsafe pool pump (*Peterson v. Sta-Rite, August 2003*).

The article also featured the firm's involvement in the Florida Microsoft Class Action lawsuit that ended with a \$200-million settlement and a \$6.5-million settlement in a case where a Brinks employee lost his leg after he was struck by a tourist in a rental car on Miami Beach (*Olivares v. Ecuacar Rental Corp and Rudnitzky, June 2004*).

"We are very honored to be listed once again in the *National Law Journal's* 'Plaintiffs' Hot List,'" Haggard said. "We are happy that a reputable publication, such as the *National Law Journal*, took the time to appreciate our client commitment and achievements." "We are very honored to be listed once again in the *National Law Journal's* 'Plaintiffs' Hot List.' We are happy that a reputable publication, such as the *National Law Journal*, took the time to appreciate our client commitment and achievements." **L**

*"We are very honored to be listed once again in the National Law Journal's 'Plaintiffs' Hot List.' We are happy that a reputable publication, such as the National Law Journal, took the time to appreciate our client commitment and achievements."*

— ANDREW HAGGARD

# The Miami Herald

SATURDAY, AUGUST 2, 2003

## Pool drain victim wins \$104 million

### Award is one of the largest in Fla.

BY JAY WEAVER

A North Miami teenager who suffered severe brain damage when his arm got stuck in a pool drain won a \$104 million judgment against the manufacturer Friday when the jury found the product unsafe.

The compensatory award, one of the largest in Florida, will help cover the medical costs of treating Lorenzo Peterson. He went into a coma on June 17, 2000, after he was trapped underwater by the suction of the drain at the bottom of the pool in the Village Apartments, 1600 NE 126th St.

His grandmother and guardian, Eva Mae Peterson, had already received a \$7 million settlement from the insurers for the apartment complex and the pool maintenance company.

The family's attorneys, Michael Haggard and Robert Parks, said they were "happy" with the Miami-Dade Circuit Court jury's verdict against Sta-Rite Industries, the manufacturer of the drain cover and P2R single-horse-power suction pump.

They would not comment further because there is an upcoming punitive trial to determine whether the company, owned by Wisconsin Energy Corp., intentionally disregarded Peterson's safety.

The manufacturer, found negligent by the jury, expressed disappointment

"This was a terrible and tragic accident, and a young man's life was changed forever," said

company spokesman Chris Iglar. "While that should remain the primary focus, we're disappointed with the jury's decision in this case. And we're reviewing our options going forward."

Lorenzo, 14 at the time, was visiting his mother at the Village Apartments. The teen and his best friend, Antonio Boudreau, were playing in the deep end of the pool.

The friend was able to remove the drain cover because the screws holding it in place had rusted and come loose. Lorenzo was submerged under water for at least 10 minutes because he could not remove his arm from the drain. The force of the pool's suction pump kept him down.

Six people tried unsuccessfully to pull the boy out of the six-foot-deep end. Finally, a police officer turned off the switch in the pump room, which had been locked, to free the boy.

Lawyers for Peterson's family argued that Sta-Rite could have easily fixed the defect if the company had installed an emergency shut-off mechanism.

The Peterson case is similar to other pool accidents that have exposed defects in the company's drain cover and suction pump.

In 1993, a North Carolina girl was disemboweled when her bottom became pinned to the drain of a kiddie pool because of the force of the pump made by Sta-Rite.

Four years later, her family was awarded \$25 million in compensatory damages. The company then reached a settlement of \$5.9 million on punitive damages.

# DAILY BUSINESS REVIEW

Monday, August 11, 2003

## JURY VERDICTS & SETTLEMENTS

### \$104 MILLION AWARDED IN POOL-PUMP ACCIDENT

**Case:** Lorenzo Peterson v. Sta-Rite Industries, MiamiDade Circuit Court

**Case No:** 01-20887-CA-i5

**Plaintiff attorneys:** Michael A. Haggard and Robert L. Parks of Haggard Parks Haggard & Bologna in Coral Gables

**Defense attorneys:** Joel D. Adler and Karl E. Sturge at Marlow Connell Valerius Abrams Adler & Newman of Coral Gables

**Judge:** Harold Solomon

**Details:** In June 2000, while swimming with friends at the Village Apartments in North Miami, 14-year-old Lorenzo Peterson got his arm stuck in the pump drain at the bottom of the pool and was unable to free it because of the suction pressure. The drain was unprotected because the cover was loose. Six adults formed a human chain to pull the teenager free, but they failed. A police officer finally got into the locked pump room and shut the pump off. Peterson suffered catastrophic brain damage and will require around-the-clock medical care for the rest of his life.

In June 2000, Peterson's family sued Roberta Segal, the owner of the apartment complex, as well as the pool maintenance company, All Florida Pool Distributors for negligence. The suit claimed they failed to properly shield the drain cover. In February 2001, the defendants settled for a total of \$7 million.

In July 2001, Peterson's family sued the pump manufacturer, Wisconsin-based Sta-Rite Industries, for negligence. The plaintiff attorneys alleged that the pool pump was a defective product and that the manufacturer failed to warn pool owners about the product's dangers.

**Plaintiff's case:** Peterson's attorneys argued that the pump had a design defect that Sta-Rite knew about and should have fixed. Sta-Rite, they said, should have installed a safety device that cuts off pressure if something gets stuck in the drain. The second theory was that Sta-Rite knew about previous similar accidents and failed to warn pool owners that drains must always be covered.

**Defense case:** Lawyers for defendants could not be reached for comment. At trial, according to the plaintiff attorneys, the defense argued that the apartment owner failed to maintain the pool in a safe manner. The defense also claimed that the pool cleaning company



**Coral Gables plaintiff lawyers Michael A. Haggard, left, and Robert L. Parks presented evidence of 20 previous suction entrapment cases involving Sta-Rite pumps.**

should have properly secured the drain cover. The defense also argued that no pool pumps on the market have a safety cut-off device.

**Turning points:** According to Haggard, the key was the presentation to the jury of 20 previous suction entrapment cases involving Sta-Rite pumps, including one North Carolina case in which a 5-year-old girl's intestines were pulled out by a pump.

**Outcome:** After a two-week trial, the six-person jury deliberated for an hour and a half. It found that the Sta-Rite pump had a design defect that caused Peterson's accident and that the company had failed to warn consumers about the defective product. **The jury awarded Peterson \$32.4 million in past and future damages and \$72 million in past and future pain and suffering.**

The jury found Sta-Rite 80 percent liable for the accident and the apartment complex 20 percent liable. A date has not been set on when the jury will reconvene to determine punitive damages.

**The \$104 million verdict appears to be the largest single personal injury award in Florida history, breaking the previous record of \$100 million by Haggard and his father, William A. Haggard, in a swimming pool drowning case in Broward Circuit Court in January.**

**-Matthew Haggman**



# The Miami Herald

SATURDAY, FEBRUARY 1, 2003 • FINAL EDITION

## Jurors find for girl, 4, who fell in pool \$100 million awarded to child

BY SARA OLKON

A Broward jury has awarded \$100 million to a brain-damaged 4-year-old girl who nearly drowned in a Hollywood pool. It is one of the largest personal injury verdicts in Florida history.

Loren "Tookie" Hinton, then 2, was in the middle of a game of hide-and-seek in May 2001 when she walked through a broken gate inside the Tropisun apartments and ended up at the bottom of a six-foot-deep pool.

When neighbors pulled her out, she was glassy-eyed, pale and unconscious, said her attorney Michael Haggard.

Today, she can't walk or talk. Plastic tubes snake her rigid form, protruding from her trachea and stomach. She has a nurse by her side at all times. She has learned to roll over on one side, said mother Lorri C. Hinton.

Thursday evening, the jury found the 2331 Adams Street Corp., owner of the 26-unit apartment complex where the Hintons lived, 99 percent responsible for the accident. They affixed 1 percent blame to Loren's father, Lonnie W. Hinton Jr., who had been supervising his two kids, but stepped away.

The family sued the corporation for not enclosing the pool area with a secure fence and for not repairing a broken pool gate.

Especially damning, said the family's attorney, was alleged evidence that other tenants had warned the apartment manager about the broken gate before Hinton slipped in.

"The manager did nothing," Haggard said. "It was callous indifference."

Calls placed to Miami defense attorney John F. Kennedy from The Herald were not returned Friday.

The family said they hoped for the creation of a state law making secure pool gates and fences mandatory for apartments and hotels.

Laws now vary by municipality; Hollywood requires self-latching and self-closing devices.

"If you let a latch go unfixed, it's just an



**SCENE: Attorney Michael Haggard displays a photo of the pool where Loren Hinton nearly drowned. The photo shows the shoes of the victim as she left them after she took them off to get on the slide.**

accident waiting to happen," said state Sen. Debbie Wasserman Schultz, D-Weston. She said her office intends to propose a bill to have the state Department of Health inspect gates.

"Children cannot protect themselves from these tragedies," she said.

The Hintons, of course, are not the only victims of swimming-pool tragedies.

Drownings are the No. 1 cause of unintentional death in children ages 4 and younger in Florida, according to the Centers for Disease Control and Prevention.

This week, two young boys drowned in a pool at a Pembroke Pines apartment complex. The lock on the gate to the pool also was broken.

Haggard said the large judgment demonstrates "how horribly she was injured."

A videotape supplied by the law firm, dated October 2002, shows a forlorn Loren as she

is fed, bathed, dressed and entertained by her parents. Her breathing is loud and labored. Her expression is one of resignation, at times exasperation, as she is attended to by nurses and therapists.

She cries silently in pain and shakes after a deep-suctioning procedure. The daily routine is necessary because she can't cough to remove mucus and other secretions.

Her chest visibly heaving, Lorri Hinton said her baby was "trapped inside her body."

"She is like a 6-month old infant," she said.

She said her daughter used to love Vienna Sausages, salad and chewy fruit snacks. Now she gets her nourishment through her tubes and is visited by a succession of physical, occupational, speech and respiratory therapists.



**PARENTAL WORDS: Lonnie W. Hinton Jr. and Lorri C. Hinton speak after the award for their daughter, who is brain-damaged.**

# LITIGATION WEEK

JANUARY 7, 2002

## ■ VERDICT OF THE WEEK

# Cellphone-using driver hit with \$21 million verdict

By Margaret Cronin Fisk  
STAFF REPORTER

ON MARCH 29, 2001, Alicia Bustos, then 78, was a passenger in the back seat of a Buick eastbound on East 25th Street in Hialeah, Fla. As the driver attempted to make a left turn, the Buick was hit by a Ford Explorer going west. Bustos, who was wearing a seatbelt, sustained a crushed chest, a ruptured aorta, liver lacerations and multiple fractures. The accident left her ventilator-dependent, requiring physical and occupational therapy for the rest of her life.

Bustos and her husband sued the driver of the Explorer, Lazaro Leiva, and his employer, Dyke Industries Inc., a lumber wholesaler. The defendants countered that the driver of the Buick was to blame for "making a left turn in front of our driver," said defense counsel Patrick Knight.

The plaintiffs' team argued that Leiva had to have been distracted. "He slowed at the red, then as it turned green, accelerated right through

her car," said plaintiffs' counsel Michael Andrew Haggard, noting that there was no physical evidence indicating that Leiva applied his brakes. "We knew a jury would ask why."

At his deposition, the plaintiffs asked Leiva if he had a cellphone. Leiva said he did, but only used it after the accident to call 911. His phone records told a different story. "It showed that 46



**WINNING COUNSEL: Andy Haggard, left, and Michael Haggard used phone records to show that the defendant had to have been distracted.**

seconds before he called 911 he was on a phone call." Confronted with this fact, Leiva recalled that he had made a "brief" sales call after the accident but before he called 911. The phone call at issue was 74 seconds long. "We showed just how long that was," Haggard said, recalling that he stopped questioning and had the jury watch the clock for 74 seconds. The long silence harmed Leiva's credibility. "No one would have made a sales call for 74 seconds while this woman was bleeding," Haggard said.

On Dec. 14, a Miami jury awarded the plaintiff's \$20.98 million. The claim that Leiva was using a cellphone was "a red herring," and served only to confuse the jury, said Knight. But there will be no appeal. Five days after the verdict, the case settled for \$16.1 million, plus \$83,000 in court costs. Haggard reported.

**PLAINTIFFS' ATTORNEYS:** Michael Andrew Haggard and William Andrew (Andy) Haggard, Haggard, Parks, Haggard & Bologna, Coral Gables, Fla.

**DEFENSE ATTORNEYS:** Daniel Draper and Patrick Knight, Kubicki Draper, Miami

### At a glance

CASE TYPE: Motor vehicle

CASE: Bustos v. Leiva  
No.01-13370 CA 30

COURT: Miami-Dade Co., Fla.,  
Cir. Ct.

VERDICT: \$20.98 million



## Boy caught in pool drain is awarded \$7 million

BY JAY WEAVER

A teenage boy whose tragic accident in a North Miami swimming pool might have been prevented by a few cheap screws for fastening a drain cover will receive a \$7 million settlement from the insurers for the apartment complex and the pool maintenance company.

The settlement, announced Thursday, will help pay for the medical costs of treating Lorenzo Peterson, 15, who went into a coma on June 17 after he got his arm stuck in the drain at the bottom of the pool in the Village Apartments, 1600 NE 126th St.

The boy's grandmother and guardian, Eva Mae Peterson, sued the complex owner, Roberta Segal, and the pool maintenance company, All Florida Distributors, alleging they should have been aware of the loose drain cover and secured it. Lorenzo was submerged under water for at least 10 minutes because he could not remove his arm from the drain. The force of the pool's suction pump kept him down.

Six people tried unsuccessfully to pull the boy out of the six-foot-deep end of the pool. Finally, a police officer turned off the switch in the pump room, which had been locked, to free the boy.

"Hopefully, this case will compel apartment owners to make sure

### The settlement will help pay for Lorenzo Peterson's medical costs.

the drain covers are secure on their pools," said Peterson's attorney, Michael Haggard. "A simple rod with a hook fastening the cover could prevent this from happening again."

Lorenzo was visiting his mother at the Village Apartments. The teen and his best friend, Antonio Boudreau were playing in the deep end of the pool. The friend was able to remove the drain cover because the screws had rusted and come loose. Lorenzo, 14 at the time, got his arm trapped in the drain.

The teen suffered irreversible brain damage. He is receiving neurological rehabilitation at a HealthSouth facility in South Dade, with the bills being partly paid by the state's Medicaid program. The settlement, which will be established as a special needs trust, will help offset the costs.

"He will need this treatment for the rest of his life," Haggard said. "The trust is set up so it will never run out money to pay his medical bills."

The attorney for Segal's insurance company, Lloyd's of London, initially blamed All Florida

Distributors, which was responsible for cleaning and maintaining the pool. But as the negligence suit headed for trial, attorney Benjamin Esco said his client realized that a jury could find the apartment owner liable for at least \$20 million.

"Our experts had looked at the boy's condition, and it was horrible," Esco said. "The owner of the premises, who visited the boy, wanted the settlement done as much as anything for the boy's sake."

Segal's primary insurer, Lloyd's, will pay \$1 million and her secondary insurer, TIG Insurance, will pay \$3 million.

The attorney for All Florida Distributors, Peter Murphy, could not be reached for comment. The company's insurer, CGU Insurance, will pay the other \$3 million.

The pool firm, which originally said it only cleaned the swimming pool at the Village Apartments, faced a potential liability problem because it either didn't check the loose drain cover or checked it and did nothing about securing it.

Lorenzo's accident was one in a series of Florida tragedies involving uncovered pool drains last year. An 11-year-old Miami girl drowned last June when she was sucked in by her hair, and an 8-year-old Hollywood boy drowned last May while trying to recover a ball.

## Verdicts & Settlements

# Lawyer Maneuvers Around Damages Cap With Bad Faith Claim

By Natalie White

Sometimes it pays to get a little extra insurance. It sure did in a recent Florida case, allowing a plaintiff to combine an extra insurance policy with bad faith claims to obtain a **\$6.5 million settlement**.

Oddly, it wasn't the plaintiff who bought the additional insurance policy.

At first blush, plaintiffs' attorney Daniel Dolan II said it looked as if the suit brought by Luis Gustavo Olivares wouldn't amount to much because of a state cap limiting the liability of car rental companies to \$600,000 in automobile accidents.

Olivares suffered a severe leg injury in February 2002 when the car driven by Argentine tourist Miguel Luis Rudnitzky slammed into the back of the Brinks armored truck Olivares was loading. He sued Rudnitzky for negligence and the Miami-based Ecuacar Rent Co. for vicarious liability.

Dolan said that the car rental company's liability appeared to be limited by tort reform laws passed six years ago in Florida. But when he rented the car, the defendant driver accepted the option to add a \$100,000 liability policy issued by the same insurance company that insured the rental car company.

**"Mr. Olivares was very fortunate in the sense that the laws worked out in his favor in this case," said co-counsel Michael Haggard. "This case is significant in the sense that we never would have been able to get full recovery for Mr. Olivares without the driver's additional insurance. Without that, we would have been limited to that cap, with or without bad faith."**

He said he hoped the case highlighted the weakness in the law, showing how it protected rental car companies at the expense of people who are injured.

"We have this terrible law in Florida because of special interests that gives this cap to rental car companies," Haggard said. "There's no reason for it. There's never been a rental car insurance crisis. We're one of the only states that has this. It just shows you where tort reform can go if it gets in the hands of special interests. Hopefully our legislature will revisit it."

### Beating The Caps

Olivares was loading cargo into the rear of his Brinks Inc. truck in March 2002 when Rudnitzky's car slammed into his truck, pinning Olivares between the two vehicles and crushing his leg so severely that it had to be amputated above the knee.

Since then, the plaintiff has suffered from phantom leg pain, which has prevented him from being fitted for a prosthetic or resuming his employment.

Rudnitzky testified that he was traveling behind



a vehicle that blocked his view of the stopped Brinks truck. He said the car in front of him abruptly swerved out of the lane, leaving Rudnitzky no time to avoid Olivares. The defense contended that it was reasonable for the insurer to refuse to pay the driver's \$100,000 policy because he was not at fault in the accident.

But Dolan attacked this defense with an eyewitness who testified in depositions that there was no other vehicle.

The plaintiff and his family were able to negotiate a settlement 65 times the driver's insurance policy because the driver had taken out a policy of his own when he rented the car.

Without Rudnitzky's separate policy with the defendant insurance company, claims would have been capped at the state limit of \$600,000. Rudnitzky's additional policy meant Olivares could pursue a bad faith claim, which was barred by Florida law on the insurance of the rental car company.

The bad faith claim - based on the contention that the insurer failed to process the driver's claim in a fair and timely manner opened the defendant up beyond its policy limit on Rudnitzky's policy, said Dolan. The Insurance Company of Pennsylvania was the insurance carrier for both Ecuacar and Rudnitzky.

"We sued both the driver and the rental car company. The cap was not effective as to the driver's policy. He asked for an additional coverage of \$100,000. The insurer was advised of the accident and the damages and it failed to tender that policy. It was a classic bad faith claim," said Dolan.

Indeed, it was the bad faith claim that contributed to the large settlement, said defense attorney Josh Lerner.

"This was a case with quite serious injuries and severe ramifications for the plaintiffs and his family," Lerner said. "What drove this settlement were the allegations of bad faith. Had those

allegations not been present the settlement would not have been anywhere near the amount it was." He said the defense felt that the case could have generated an even higher jury verdict. "Obviously the carrier and those associated with the defense felt that the potential for a verdict substantially higher than this was likely," Lerner said.

### A Question Of Service

One of the challenges the plaintiffs' team encountered was serving Rudnitzky, who left the country to return to Argentina the day after the accident.

**"If we didn't get jurisdiction on the driver then we would have been stuck with the cap," Haggard said. "So we had to get service on him. We had to make him a defendant in this case. Without him, it would have just been the rental car company as a defendant in the case."**

Eventually, the plaintiffs took the unusual step of using video to serve the defendant. Dolan said that the idea was born out of frustration.

Although the plaintiffs' lawyers had never heard of it being done this way before, they were searching for a way to convince the courts that the defendant had actually been served.

Under Florida law, if a defendant has been in the state and left, plaintiffs can file service through the secretary of state's office. Dolan did this, but the defense objected, saying it wasn't done properly. So Dolan refiled and, as an extra safety method resorted to the video service.

"We knew it wasn't really an authorized way of doing it but we did it out of sheer desperation," Dolan said.

He said the plaintiffs felt that the defendant was evading them and said the defense would not even give them the defendant's last known address. So, after the video deposition was set up, the plaintiffs' team decided they would serve the defendant during the video conference.

"Both the plaintiff and the defense preferred to do a conference for his deposition," Dolan said. "We hadn't been able to serve him, so we sent a package summons to where he was having his deposition taken with the complaint and service. We asked his attorney to please open the package and give it to him, so we have him being served on videotape.

"We did the substitute service twice. We really felt he was evading service and we thought that the video, showing that he knew he was being sued in the state of Florida, would give us the benefit of the doubt here."

The courts agreed and ruled that the defendant had been served.

### The Settlement

The case settled on June 4, shortly before trial was scheduled to begin. Dolan believes the settlement will send a message to insurance companies.

"It's pretty clear cut. When you have a small policy with catastrophic damages and you fail to even attempt to resolve the case, you could end up paying much, much more than the policy," he said.

Haggard said the case should have been dealt with long before the lawsuit stage. "The insurance company could have and should have resolved this case. What more do you need to understand? Your insured rear-ended someone and took his leg off. How is that not going to be a \$100,000 case?" Haggard said.

Dolan said the plaintiffs' team had assembled a strong case and was ready for trial.

"I think it was a very reasonable settlement," said Dolan. "We have economic damages alone that were more than \$3 million with medical costs, physicians, pain management, vocational rehab, loss of earnings and more. So even if you forget the bad faith, if this case had been tried, it still would come out very substantial for a young guy who's suffered this kind of catastrophic in jury of an amputation with complications."

**Plaintiffs' Attorneys: Daniel Dolan II and Michael Haggard of Haggard Parks Haggard & Bologna in Coral Gables, Fla.; Fred Cunningham of Slawson & Cunningham in West Palm Beach, Fla.; and James Blecke of Deutsch & Blumberg in Miami.**

**Defense Attorneys: Joel Adler of Marlow Connell, Valerius, Abrams, Adler & Newman in Coral Gables, Fla.; and Joshua D. Lerner of Rumberger Kirk & Caldwell in Miami.**

**The Case: Olivares v. Rudnitzky; June 4, 2004; 11th Judicial Circuit Miami-Dade County Fla.; Judge Michael Chaves.**

# Daily Business REVIEW

DELIVERING MONEY AND POWER EVERY BUSINESS DAY

MIAMI • TUESDAY, JUNE 15, 2004

VOL. 79, NO. 4

## BAD FAITH CLAIM COSTS INSURER \$6.5M

by **Kelly Cramer**

**A** Miami man whose leg was severed when an Argentine tourist driving a car slammed into him on a Miami Beach street has won a **\$6.5 million settlement** from the rental car company's insurer.

The plaintiffs had accused the insurer of bad faith for not responding to the claim for more than 260 days, which contributed to the large settlement. The trial was set for June 7 and the case was settled during the first week of June. A Judge will have to approve the part of the settlement awarding damages to the minor.

Luis Gustavo Olivares, along with his wife and son, sued Miguel Luis Rudnitzky and Miami-based Ecuacar Rent Co. for negligence and various liability in Miami-Dade Circuit Court in March 2002.

According to the amended complaint, Rudnitzky was driving north on Collins Avenue while Olivares, a driver for Brinks Inc., was loading cargo into the rear of his truck, with his hazard lights flashing. Rudnitzky's vehicle allegedly slammed into the truck, crushing Olivares between the two vehicles.

Olivares suffered multiple fractures and severe crushing and tearing injuries to his left leg, requiring amputation above the knee. Rudnitzky testified in depositions that a car in front of him blocked his view of Olivares' stopped truck. The Insurance Company of Pennsylvania was the

insurance carrier for both Ecuacar and Rudnitzky who had purchased \$100,000 liability policy from the insurer at the time he rented the car. When Olivares filed a claim with the insurer, the carrier took almost nine months to process the claim, said Haggard Parks Haggard & Bologna attorney Daniel Dolan II, who was one of the attorneys representing the plaintiffs.

The Florida Legislature capped liability for auto rental companies in 1999 as part of a package of tort law changes. Under that law, liability for auto rental companies on claims arising from accidents their customers get into is capped at \$600,000.

**In this case, the plaintiff was able to obtain a settlement far exceeding the 1999 cap both because of bad faith allegations - brought up just before mediation** - and because Ecuacar Rent Corp.'s insurer was covering both Ecuacar and Rudnitzky.

An insurance company can be held liable for bad faith when it fails to process a claim in a fair and timely manner.

Rudnitzky's attorney, Joshua D. Lerner, of Rumberger Kirk & Caidwell in Miami, said the bad faith allegations drove the multi-million-dollar settlement.

Dolan agreed. "We were able to recover more than the \$100,000 policy because of the insurance company's conduct," he said.

Joel Adler, a partner at Marlow Connell Valerious Abrams Adler & Newman in Coral Gables, represented the insurance company. He was unavailable for comment.



**Michael Haggard one of the lawyers who represented the plaintiffs in a suit against a rental car company and its customer.**

Attorneys who worked on the case with Dolan were **Michael Haggard, a partner at Haggard Parks Haggard & Bologna** in Coral Gables, Fred Cunningham, a partner at Slawson & Cunningham in West Palm Beach, and James Blecke, an associate at Deutsch & Blumberg in Miami.

# Daily Business REVIEW

DELIVERING MONEY AND POWER EVERY BUSINESS DAY

MIAMI • MONDAY, APRIL 28, 2003

VOL. 77, NO. 223

## FROM THE COURTS

## FPL agrees to \$4M settlement in fatal car accident

by **Matthew Haggman**

**F**lorida Power & Light has agreed to pay \$4 million to settle a wrongful death lawsuit filed by the family of a Miami man who died after the car in which he was traveling was hit by a sport utility vehicle driven by an on-duty FPL employee.

The case was scheduled to go to trial next month in Miami-Dade Circuit Court before Judge Robert N. Scola.

Last June, Ramon Moreno and his daughter, Lissette, were passengers in a car driven by a family friend. When the friend tried to make a left turn at a Miami intersection, the vehicle was struck by an SUV driven by Gerald L. Giudici, an FPL computer programmer.

Moreno, 63, was airlifted to the Ryder Trauma Center, where he died later that day of injuries from the accident. Moreno's daughter and the family friend were not seriously injured.

In September, the Moreno family sued Giudici and FPL for wrongful death. The Moreno family, which was represented by Daniel D. Dolan II of Haggard Parks Haggard & Bologna in Coral Gables, claimed that Giudici ran a red light. The plaintiffs claimed FPL was vicariously liable because Giudici was driving his SUV from the company's headquarters in western Miami-Dade County to a branch office in the scope of his employment duties.

According to Dolan, witnesses at the scene said that the light had been red a few seconds before Giudici began to brake. At the accident scene, investigators found a 69-foot skid mark. Dolan said that meant Giudici was driving about 59 mph in a 40 mph zone. Prior to the settlement, FPL had contended that the traffic light was yellow when Giudici had entered the intersection.

Moreno, a Cuban emigre who came to Miami in 1979 as part of the Mariel

boatlift, was the primary caregiver for his daughter, Lissette. According to Dolan, Lissette has been diagnosed as having special needs and requires constant care. Moreno's wife, Nuviola Moreno, has worked at Publix to support the family.

"The family is satisfied that justice was done and that [Lissette] will get the care she needs for the rest of her life," Dolan said. Arturo Dopazo III, a Miami solo practitioner, was co-counsel with Dolan.

Attorneys representing FPL did not return calls for comment.

Guidici's attorney, Beth R. Leboff of Kubicki Draper in Fort Lauderdale, confirmed the settlement amount but declined to discuss the case.

In a separate settlement, Giudici's auto insurer, State Farm, agreed to pay his policy limit of \$15,000 to the Moreno family.

The Juno Beach-based utility declined to discuss the settlement, citing a confidentiality agreement.

# The Miami Herald

SUNDAY, JUNE 13, 1999



## \$4 million to family of man assaulted in garage

By SANDRA MARQUEZ GARCIA  
Herald Staff Writer

A patron at a hotel bar in Hialeah Gardens has a few drinks before heading out to the parking garage, where he is punched in the head, collapses and later dies.

Who's to blame? A court will begin deliberating this week whether Nevada drifter Yordany Casal fatally assaulted Hialeah auto painter Jose Valdivia in the parking garage of the Park Plaza Hotel in the early hours of May 24, 1997.

Meanwhile, a Miami-Dade circuit judge has approved a \$4 million settlement offer from the hotel owners to Valdivia's widow and his three children.

The payout is believed to be the highest known negligent security settlement in Florida's history, eclipsing a \$3.7 million verdict in 1994, according to the plaintiffs attorney Michael Andrew Haggard.

Legal trends suggest it won't be the last of its kind.

"Negligent security cases they are a lot more prevalent now," said Mitchell Lipcon, publisher of Jury Trials and Tribulations, a local

### HIALEAH GARDENS

trade publication that tracks legal cases and settlements.

"I think this will cause businesses to take a little more time to pay attention to security. And that is a good thing," Lipcon said. "But unfortunately it does take a tragedy for something like this to happen."

Valdivia, who made an impromptu stop at Rick's Bar on the night of his death might have been spared if the Park Plaza Hotel had implemented some of the recommendations in a six-page security report issued months before the assault, Haggard argued.

Instead, the hotel chose to cut back on its security personnel and Casal - the murder suspect - was allowed to frequent the bar, even though he had been banned from returning, Haggard said.

"So he obviously wasn't intimidated by their security in any shape or form," Haggard said of Casal.

At the time of the killing, the Park Plaza Hotel was owned by Kabushiki Kaisha Park Hotel Inc., a Japanese corporation, and operated by a Colorado management firm which cannot be identified under the terms of the settlement agreement.

The hotel has since been sold. Attorney Charles W. Flynn, who represented the Japanese owners during the negligence lawsuit, said his clients had little to do with the outcome of events, "We were as passive in the settlement of the case as we were in the ownership," Flynn said.

"We weren't against the settlement; we just didn't have input one way or the other. The insurance [for the management company] settled the case."

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***The payout is believed to be the highest known negligent security settlement in Florida's history.***

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# CORAL GABLES GAZETTE

AUGUST 12-18, 2004

## Gables firm named one of nation's best

The Coral Gables law firm of Haggard, Parks, Haggard & Bologna, PA. has been named one of the top plaintiff trial law firms in the United States. The 5-person personal injury law firm was named once again to the National Law Journal's "The Plaintiffs' Hot List" featuring 20 of the most exemplary and noteworthy plaintiff trial law firms in the United States. Haggard, Parks, Haggard & Bologna is the only firm from Miami-Dade County to be listed in this year's Plaintiffs' Hot List and the only firm from the state of Florida to be listed on the Plaintiffs' Hot List for two years in a row since it began in 2003.

The National Law Journal, one of the legal industry's top trade publications, used research and referrals to develop the "hot list" that is intended to showcase the top plaintiff trial law firms from around the country on their most noteworthy achievements in the courtroom within the last few years that make them "stand out" from the rest. The honor also highlighted that Haggard, Parks, Haggard & Bologna has been responsible for more than \$500 million in verdicts and settlements for individual cases in the past few years.

The exclusive article and listing featured recent notable cases handled by Haggard, Parks, Haggard & Bologna

which consisted of two record-breaking verdicts dealing with pool drowning negligence cases which left two children with irreversible brain damage. The firm was responsible for attaining a \$104 million verdict in a case where a boy got trapped underwater by the suction of a defective and unsafe pool pump (Peterson v. Sta-Rite, August 2003) as well as a \$100 million verdict in a case where a toddler who nearly drowned in a pool at her apartment complex because she gained access to the pool area through a broken pool gate (Hinton v. 2331 Adams Street Corp, January 2003).

The article also featured the firm's involvement in the Florida Microsoft Class Action lawsuit that ended with a \$200 million settlement and a \$6.5 million settlement in a case where a Brink employee lost his leg after he was struck by a tourist in a rental car on Miami Beach (Olivares v. Ecuacar Rental Corp and Rudnitzky, June 2004).

"We are honored to be listed once again in the National Law Journal's Plaintiffs Hot List," stated Wm. Andrew Haggard, senior partner of Haggard, Parks, Haggard & Bologna, P.A. "We are happy that a reputable publication such as the National Law Journal took the time to appreciate our client commitment and achievements."



# The Miami Herald

Friday, December 12, 1975

Final Edition

## *A \$5.3 Million Judgment*



- JOE ELBERT / MIAMI HERALD STAFF

**'Great, Man!' Greg Stead Exults From His Wheelchair**

... family surrounds him after judgement against helmet firm

## *Paralyzed Football Player wins Dade's Biggest Award*

By **JOE CRANKSHAW**

Herald Staff Writer

Greg Stead, the former Miami Edison sophomore who was permanently paralyzed in a 1971 football game against Norland, was awarded \$5.3 million in damages against Riddell Inc., a Chicago football helmet manufacturer, Thursday night.

Attorneys said the verdict was the largest single personal-

injury judgement ever rendered in Dade County.

"Great, man!" said a red-eyed Stead, sitting in his wheelchair while his attorneys and family milled around him following the verdict in the courtroom of Federal Judge C. Clyde Atkins.

"I just hope this will prevent anyone else from being hurt this way." "It's unbelievable. It's a godsend," murmured Greg's older brother, Marc, as he stood listening to the jury being polled on the verdict. "It's unbelievable.

## Family gets \$4 million in Air Force cadet's crash death

Associated Press

MIAMI -- The parents of an Air Force cadet killed in the 1997 crash of his propeller-driven T-3A Firefly were awarded \$4 million in damages Thursday.

A jury awarded Terri and Hank Weber half of the \$8 million they were seeking against British manufacturer Slingsby Aviation Ltd, for problems that permanently grounded the U.S. fleet. The Webers, who are divorced, were awarded \$2 million each.

"We're ecstatic," said Robert Parks, the family's attorney. "We proved that the plane was defective."

An attorney for Slingsby said the company would appeal. "I think that the record will ultimately show that this is a fine airplane," lawyer John Murray said. "This is a verdict that was a product of undue sympathy. The accident rate on this airplane was far better than the (Air Force's) general aviation fleet."

Pace Weber, 20, of Miami, was between his junior and senior years at the academy when he died in the crash at the Air Force Academy in Colorado Springs, Colo. It was the third academy Firefly crash in 2 1/2 years.

The eight-member federal jury, which began deliberating the case Monday, found the design of the T-3A Firefly was "defective and unreasonably dangerous at the time Slingsby sold it to the U.S. Air Force."

In closing arguments earlier this week, attorneys for Slingsby criticized the instructor and a now-defunct Air Force policy in which veteran jetpilots train cadets in a single-engine plane capable of acrobatics.

The Weber family cited the model's record of 294 fuel-vapor locks and 66 engine failures, including nine in the air, and charged a defective fuel pump was to blame for the plane's nearly flat fall from an altitude of 700 to 800 feet.

"Slingsby had actual knowledge

that this airplane was not working properly," Parks said in closing arguments. "This airplane has an erratic character which comes and goes."

Slingsby contended that Capt. Glen Comeaux, Pace Weber's instructor, was suffering from fatigue and frustration before both were killed in the crash June 25, 1997.

The three Firefly crashes, which killed three cadets and their instructors, were the first flight training deaths of Air Force Academy cadets and prompted a policy change to send students to civilian flight school to get their pilot's licenses.

The Air Force Academy spent \$35 million under a 1993 contract for a fleet of 113 Firefly trainers and planned a \$6.2 million fix after the deaths of three cadets and their instructors. The Air Force dropped use of the plane entirely last year.

A second trial over another T-3A crash is to begin in the same courtroom in about two weeks.



## OPA-LOCKA

# Suit on market killings settled for \$2.2 million

BY TRENTON DANIEL

Attorneys for four siblings whose parents were shot to death last year in their booth in one of South Florida's largest outdoor markets announced Tuesday that they had reached a **\$2.2 million pre-trial settlement.**

The lawsuit accused operators of the Opa-locka Hialeah Flea Market of failing to provide sufficient security even though the incidence of criminal activity was well known. Better security could have prevented the murders, they said.

Three masked gunmen stormed into a jewelry shop at the flea market, 12705 NW 42nd Ave., and shot dead the booth's renters, Angela and Jonada Campos, on May 27, 2003. The motive remains unclear, though the Campos' children and lawyers said it was robbery.

No one has been arrested. **Attorneys Michael and Andrew Haggard** and the Campos siblings, Lester, 27; Soraya, 25; and 22-year-old twin brothers **Marion and**



**ANNOUNCEMENT:** Marion Campos speaks at a news conference Tuesday surrounded by **attorneys Michael Haggard, left, Andrew Haggard, right, Alexis Izquierdo, rear left, and Walter Araujo** after the pretrial settlement of a lawsuit. Campos' parents were killed last year by gunmen at the Opa-locka Hialeah Flea Market.

**Myron said an off-duty Opa-locka police officer was supposed to provide security the day of the shooting but did not show up.**

Each of the more than 900 vendors pays \$900 a month for retail space, \$120 of which is earmarked for security, a copy of an invoice supplied by the family's lawyers shows.

The case would have gone to trial next week before Circuit

Judge Ronald Dresnick had the parties not agreed on the settlement, which the flea market's insurance company will pay.

# DAILY BUSINESS REVIEW

Monday, August 1, 2005

## JURY VERDICTS & SETTLEMENTS

### INJURED SCRAP METAL WORKER SETTLES FOR \$2 MILLION

**Case:** Dwight Byrd v Trujillo & Sons Inc.

**Case no.:** 04-CA-09240, Miami-Dade Circuit Court

**Filing date:** April 22, 2004

**Settlement date:** July 27, 2005

**Plaintiff attorneys:** James A. Hannon of Hannon & Boyers, Miami, and Michael Haggard of Haggard Parks Haggard & Lewis, Coral Gables.

**Defense attorney:** Peter Murphy of Kubicki Draper in Miami.

**Details:** In November 2003, an Entenmann's Bakery in North Miami was being demolished by owner Trujillo & Sons. The company's construction supervisor was unlicensed, uninsured and inexperienced. Before working at Trujillo & Sons, the construction supervisor had sold cell phones at a mall. Without getting any permits, the supervisor sought bids and awarded the contract to the lowest bidder, Canoe Lopez, a Hialeah man who did not have

any license or insurance. As the building was being demolished, scrap metal worker Dwight Byrd asked if his employer, R.V. Fowler, could clean material for its recycling business. The supervisor agreed, and Byrd began collecting metal. As the work continued, Trujillo's construction supervisor asked Fowler if his employees could be contracted to operate blow torches in the demolition. The supervisor had run into problems with a city official and decided to outsource the blowtorching work rather than get the needed permit. Fowler's employees agreed to do the job, which included cutting down a steel column that held up a mezzanine. After the column was cut, it turned out to be filled with concrete. Thirty minutes after the steel was removed, the concrete collapsed, causing the mezzanine to fall on Byrd, then 51. He suffered a fractured skull and brain damage. He was initially comatose but recovered and was placed in a nursing



**Attorneys Robert B. Boyers, James A. Hannon, Michael Haggard:** Client critically hurt when column collapsed during building demolition.

home. Byrd has left the nursing home but is still struggling to relearn basic life skills, such as bathing himself.

**Plaintiffs case:** The plaintiff argued that since Trujillo & Sons failed to hire a licensed supervisor and obtain permits, they created unsafe conditions that led to Byrd's injury. He sued for negligence and negligent hiring and retention. "The experts said that if they had had competent people, it never would have happened," Hannon said. "Everyone knows that when you are taking down a load-bearing column, you should secure it."

**Defense case:** Defense attorney Peter Murphy did not return a call for comment. Hannon said the company initially had a number of defenses. They argued that Byrd

should have been wearing a hard hat and that he had heard a warning that the column was unstable. The defense also tried to place the blame on R.V. Fowler, saying that the worker who cut the pole was a Fowler employee and his company should be liable.

**Outcome:** Byrd and Trujillo & Sons settled last week for the company's insurance limit of \$2 million. Byrd's attorney, Michael Haggard, said the incident was indicative of a larger trend. "In Miami we have a problem with companies doing things on the cheap and unlicensed contracting," Haggard said. "It's a huge problem in the industry, and the big problem is safety."

-Jessica M. Walker

# THE NEWS-PRESS

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October 24, 2003

## Lee Copter Pilot Gets Settlement

BY MIKE HOYEM mhoyem@news-press.com

A pilot injured in the crash of a Lee County Sheriffs Office helicopter has settled a lawsuit against the aircraft's manufacturer for more than \$1 million.

Lonnie Carson, 57, suffered head injuries, numerous broken bones and a collapsed lung when he lost control of the Hughes OH-6A helicopter on Dec. 20, 1999, and crashed into the Lee County Animal Services building near the sheriffs office.

Carson and his wife, Teresa Carson, filed a lawsuit in 2001 against McDonnell Douglas Helicopter Co., which built the craft, and Heli-Tech Inc., which performed maintenance on it.

Carson's suit claimed McDonnell Douglas was negligent in the design, manufacture and testing of the helicopter - specifically a modification the company ordered in 1989 on OH-6A control rod tubes.

The suit accused Heli-Tech of failing to use "reasonable care" in the installation of a control rod that was blamed for the crash.

Carson reached a settlement with Heli-Tech on Jan. 17.

McDonnell Douglas denied responsibility for the crash and blamed the accident on faulty maintenance by Heli-Tech.

The company recently agreed to settle the case without going to trial.

Carson no longer works for the sheriffs office and couldn't be reached for comment.

His attorney, Robert L. Parks of Coral Gables, said the Carsons are pleased with the settlement, which involved "a substantial amount of money, more than seven figures."

"It was every bit what the case was worth and we were happy to get it," Parks said. "We won some very important motions and the case was going to go to trial Nov. 3. That's why they settled it."

Attorney Edward A. Moss of Miami, who represented McDonnell Douglas, couldn't be reached for comment.



## MIAMI BEACH

# Security firm settles lawsuit for \$900,000

## Rape victim sued for negligence

SONJI JACOBS

In May 1998, a 39-year-old Ukrainian woman decided to take an early morning stroll along the Miami Beach boardwalk and watch the sunrise. The experience turned into a nightmare.

The woman was savagely raped and beaten not far from her apartment at 36th Street and Collins Avenue. The viciousness of the crime was startling: She suffered a fractured skull, resulting in brain damage, a broken jaw, missing teeth and severe lacerations. Her attacker has never been caught.

The attorneys representing the woman sued Armor Security -- the firm hired by the city to patrol the boardwalk -- for negligence, arguing that the guard who was supposed to be on duty never showed up for work.

On Friday, the victim's case was settled for \$900,000 by Armor.

"I really don't think any public or private entity should hire this security company," said Michael Haggard, the attorney representing the victim. "They're negligent and they're just out there to make a buck."

Tom Morgan, Sr., an attorney representing Armor Security, did not return phone calls.

The city of Miami Beach had hired the Armor Security company in 1995 to patrol the boardwalk. The contract paid the company \$1.3 million a year, but many residents wrote

letters to the city complaining that the guards were often nowhere to be found.

The residents told city officials they had seen a guard cavorting with a boyfriend while on duty and another talking at length on a pay phone on the boardwalk.

Bruce Lamberto, the city's property management security contract administrator, wrote several letters to Armor complaining about the conduct of the guards. He cited the problem of security officers not at their posts while on duty on Lincoln Road. He also mentioned a problem with guards sleeping in their cars.

"It is apparent a complete breakdown in security procedures has taken place for this situation to occur," Lamberto wrote. He concluded: "Further negligence or part of Armor Security Inc. in maintaining any posts will not be tolerated."

The letter was dated March 10, 1998 -- two months prior to the rape.

On the day of the rape, a security guard was supposed be on patrol between 21st and 36th streets from 5 to 9 Haggard said Miami Beach police officers testified that arrived at the crime scene at about 6:02 a.m. and were there for at least two hours -- without seeing a guard.

Now, three years after the rape, the victim has no recollection of the attack, Haggard said. He said she suffers from memory loss and will no longer leave her house alone.

