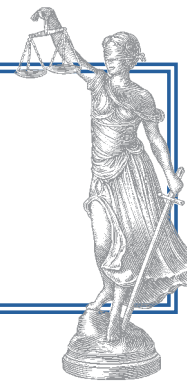




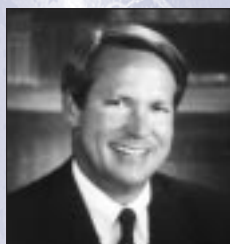
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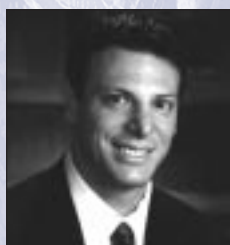
WINTER 2007



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**Handling Cases Involving  
Serious Injury**

Automobile Accidents  
Aviation Accidents  
Insurance Litigation  
Medical Malpractice  
Nursing Home/HMO Abuse  
Personal Injury & Wrongful Death  
Products Liability  
Toxic/Mass Tort Litigation

## SUPREME COURT HOLDS TOBACCO COMPANIES' FEET TO THE FIRE

By Jason D. Weisser



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The Supreme Court of the State of Florida recently decided the landmark case of *Engle v. Liggett Group, Inc.*, ending ten years of litigation regarding the class-action claim of cigarette smokers against the cigarette companies for smoking-related injuries. The decision by the Florida Supreme Court established that five major tobacco companies, most notably R.J. Reynolds Tobacco Company, Philip Morris Company, and Lorillard Tobacco Company, placed cigarettes into the marketplace that were defective and unreasonably dangerous. The yearlong trial established that the aforementioned cigarette companies knew that nicotine in cigarettes was addictive and caused numerous health issues, and concealed this information from the public. These cigarette companies committed this deception knowing that the public would rely on this information to their detriment. Additionally, the Court found that smoking cigarettes caused a host of health problems and diseases, most notably lung cancer, throat cancer, stomach cancer, bladder cancer, cervical cancer, laryngeal cancer, pancreatic cancer, peripheral vascular disease, coronary heart disease, and chronic obstructive pulmonary disease, to name a few.

The decision by the Florida Supreme Court in *Engle* decertified the class that had been established in the original *Engle* case, primarily because of the individualized issues regarding causation of injuries, and that damages for each claimant differed so greatly. The Supreme Court, in its Order, opened the door for people who suffered from the various diseases caused by cigarette smoking to bring their own individual claims against the respective tobacco companies between July 6, 2006, and July 5, 2007.

The good news for victims of illnesses caused by cigarette smoking was the Court's finding that the jury in the *Engle* case correctly found against the tobacco companies regarding general causation, strict liability, fraud by concealment, civil conspiracy/misrepresentation/concealment, breach of implied warranty, and negligence. After decertifying the class, the Court held that all Florida residents who fit the class description (meaning a person's condition had to have shown symptoms prior to

(continued on back page)

**We believe no one deserves to have insult added to injury.**

# TRIAL LAWYERS

America's trial attorneys, who protect everyone's rights and champion their legitimate causes, pledge access to our civil justice system for working families who may lack the resources to take product grievances to court.

Lawyers promote the public good through their efforts to secure safer products, better workplaces, cleaner environments, and quality health care by protecting the rights of the injured and preserving the right to trial by jury.

Trial attorneys typically handle cases like these:

- A child paralyzed after being struck by a drunk driver.
- A young woman unable to have children because of a medical mistake.
- A person denied a promotion due to racial discrimination.
- An elderly person mistreated in a nursing home.
- A community whose water was made toxic by a local manufacturer.



*I've never filed a lawsuit!*

## Question:

Although I was injured in a fall, I'm really reluctant to talk to an attorney about filing a lawsuit. Basically, I'm not really a litigious person. I've never filed a lawsuit, and I feel really uncomfortable about initiating one. Is that right?

## Answer:

You're not alone. Even though the media make it look like people file lawsuits at the drop of a hat, the exact opposite is true. Lawsuit numbers are declining.

However, many people like you often feel somewhat uneasy about seeking recourse for harm, even when their injuries came through no fault of their own.

Being Good Samaritans like you, they think, "I should have noticed that slippery spot in the supermarket aisle where I fell."

However, most of our cultural, religious, and civil history shows that those who have been harmed have the right to seek fair recompense. It's important not to confuse justice with reprisal. Asking a place of business to pay for medical care for harm that its employees were responsible for is not revenge; it's expecting fair treatment, especially when a party responsible for harm refuses to acknowledge or accept responsibility.



# Vehicle rollover accidents

Auto, truck, and sport-utility-vehicle rollover accidents unnecessarily kill 10,000 Americans annually. Another 24,000 suffer severe injuries.

Long-suppressed internal documents show that automakers knew as early as 1966 that car and truck roof designs were so weak that occupants could be crushed to death in rollover accidents. Ford could have fixed this deadly problem for \$43.13 per vehicle. Instead, manufacturers hid the information for years and continued selling dangerous vehicles.

In 2005, the National Highway Traffic Safety Administration—despite specific direction from Congress to increase vehicle roof safety—established auto industry-sympathetic standards mandating only minimal improvements to existing standards. The regulations also prevent lawsuits against manufacturers who ignore their own internal safety researchers to bolster their bottom lines.



## No \$43.13 safety improvement

Gary Skinner of Graysville, Alabama, was an avid fisherman with a love for music, says his wife Angela. But on July 28, 2005, Angela lost her 48-year-old husband in a rollover accident when his 1999 Ford Ranger blew a tire, causing Gary to lose control of the vehicle. As Gary's car rolled over, the roof caved in on him, causing a fatal head injury.

## **FOR YOUR SAFETY** **Recalled product roundup**

Here are some recently recalled products you may have in your home or at work:

- ✓ **Arctic Cat, Inc.**, has recalled 41,000 Arctic Cat Snowmobiles with fuel tanks that can crack, leak, and burn riders.
- ✓ **Arctic Cat, Inc.**, has also called back 2,120 Arctic Cat Prowler XT Off-Highway Utility Vehicles. Rear brake calipers may leak brake fluid, reducing braking ability and potentially injuring riders.
- ✓ **Tyco Fire & Security** asks buyers to return 21,000 Fire Detection Systems. Sensors may have reduced sensitivity to smoke in conditions of high humidity and high temperature and delay smoke detection in a fire. Tyco Fire & Security also has requested that buyers return 128,000 smoke detectors that also may have reduced sensitivity to smoke.
- ✓ **BRK Brands, Inc.**, a subsidiary of First Alert, Inc., has recalled 145,890 First Alert® ONELINK™ Battery-Powered Smoke and Combination Smoke/Carbon Monoxide (CO) Alarms. The alarms drain battery power rapidly and will chirp to alert consumers to replace the batteries. Failure to replace batteries before the battery power terminates may cause the alarm to fail to detect smoke and carbon monoxide in a fire.
- ✓ **PTI Sports, Inc.**, has asked buyers to return 14,000 Schwinn Deluxe Bicycle Child Carriers. Plastic guide tabs on the carrier seat rack can break and injure child riders.



## **Nursing homes...** **...and accident prevention**

Families with elderly relatives who reside in nursing homes should be particularly vigilant about nursing home and rehabilitation center accident-prevention protocols.

Since many older people may have mobility or physical-dexterity problems, residences and facilities should get rid of accident hazards, such as low objects, floor obstructions, unstable chairs and beds, and unsafe restraint devices.

### ***Dangerous restraints***

A 77-year-old patient admitted to a nursing home was asphyxiated after she slid down in her wheelchair and became trapped in restraints. Her daughter sued, alleging care providers had used restraints without physician's orders or family consent. A jury awarded damages for the death and the daughter's loss of society with her mother.



## **CLIENT SERVICE**

### ***Our goal: Keep you informed***

We will always strive to help our clients make truly informed decisions about their legal matters. In our counsel, we will constantly keep all clients "in the loop."

First, we will do our best to solicit client input and feelings about each case's background and developments. Clients always have insights and historic knowledge of issues that can help us fine-tune our approach. Listening to clients is very important to us.

Second, we will explain the tactics and strategies we plan to employ so clients understand why we may recommend a particular course of legal action and where we intend the strategy to lead us. We always appreciate client feedback.

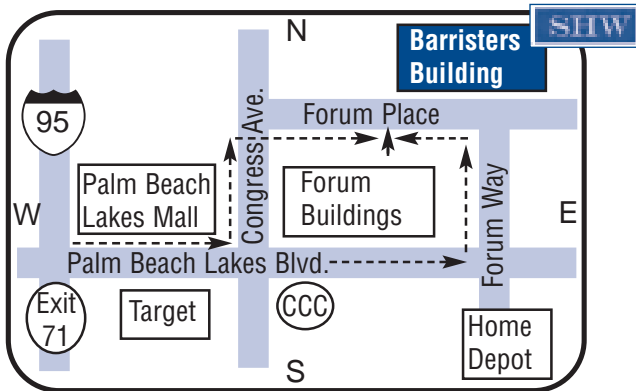
Finally, our approach always includes giving each client the opportunity to ask questions—lots of them—which we will answer right away.

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## SUPREME COURT HOLDS TOBACCO COMPANIES' FEET TO THE FIRE

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November 21, 1996) would qualify to bring individual claims against the defendant tobacco companies. Most importantly, these individual plaintiffs would not need to re-prove the allegations identified above, as they would be considered already proven in all subsequent trials between individual class members and the tobacco companies. In essence, the Court allows individuals who file their claims between July 7, 2006, and January 8, 2008, to bring suit against the tobacco companies without the necessity of re-proving the allegations of general causation, cigarette addiction, strict liability, fraud, breach of implied warranty, and negligence.

The Court reversed the jury's award of \$145 billion in punitive damages against the tobacco companies. The Court ruled that the punitive-damages award was excessive as a matter of law and that there was failure to prove a reliance as well as causation on behalf of the class members to warrant an entitlement to the punitive-damages award.

This landmark case allows for victims of ailments caused by cigarette smoking to help bring the tobacco companies to court without having to relitigate these issues, which took approximately one year to try and more than a decade to litigate with appeals. After years of defrauding the public and causing countless victims of cigarette smoking to be subjected to horrific disease, the tobacco companies are finally having their feet held to the fire.

At **Schuler, Halvorson and Weisser**, we are representing hundreds of victims of ailments caused by cigarette smoking in order to ensure that their day in court is protected. If you or a loved one has suffered from any of the ailments identified in this article as a result of cigarette smoking, we urge you to contact us so that we can review your eligibility to pursue a claim against the tobacco companies.

## Lawsuit-damages basics

There are two kinds of lawsuit damages:

■ **Compensatory damages** pay the injured party for harm or loss. Compensatory damages come in two forms:

- *Economic damages* compensate for losses easy to calculate monetarily. These may include lost wages, car repairs, medical treatment, or hospital care, for example.

- *Noneconomic damages* recompense for actual injuries and losses harder to quantify in dollars. Included here are equally important "quality of life" damages, such as compensation for severely injured patients who are paralyzed and can't use the bathroom without assistance, or a child who is brain damaged and will never have a chance to attend school, get married, or work.

■ **Punitive damages** are awarded by juries to victims specifically to punish defendants for willfully malicious, wrongful acts that go beyond mere negligence, and to deter bad behavior. Examples might include a business committing fraud or a corporation knowingly placing a defective product on the market. Juries award punitive damages very rarely, in only about three percent of cases.