

THIS REPORT SUMMARIZES CASES CONCLUDED FROM OCTOBER 2004 TO MARCH 2005

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

## \$10.2 Million Verdict for Death from Explorer Roof Crush

Ford Motor Company claims roof strength is irrelevant to safety, but a Jacksonville jury has decided otherwise.

After a four week trial the jury found that Ford should pay \$10,184,315 to the husband of a woman killed when the roof of their 2000 Explorer collapsed and crushed her skull during a rollover. It is the first verdict against Ford in a case focusing exclusively on the defects in the Explorer's roof and related seatbelt system.

Jane Doe was driving the Explorer on I-95 in Virginia in May 2001 when she swerved to avoid a merging Winnebago. During the ensuing five rolls the Explorer roof crushed down to the back of the driver's seat, and the deformed B-pillar caused 7 inches of slack in her seatbelt, which allowed her head to be crushed against the outside of the roof rail. Her husband and sister, who were passengers in the



*The roof crushed down to the seat.*

*continued on page 2*



*The wrecked plane was found in a swamp near JIA.*

## Trial Shows Controllers Liable for Plane Crash

The last day of trial provided one of those Perry Mason moments.

Among the thousands of potential exhibits, a seemingly insignificant photograph taken at the crash scene by the Jacksonville Sheriff's Office provided critical proof that air traffic controllers had failed to advise the pilot about rapidly deteriorating weather conditions. The pilot and his three passengers had perished in the crash of a single-engine Piper Cherokee at Jacksonville International Airport on the evening of December 12, 2001.

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## Sandy Reddish

When Gary Pajcic picked Mary Ann Jarvis to be his personal assistant, Mary Ann had the perfect pick for her old spot at the firm — her long-time phone friend, Sandy Reddish. Like Mary Ann, Sandy had worked for half a dozen firms and the two had become friends while scheduling depositions and hearings for their opposing bosses. Sandy came to Pajcic & Pajcic because Mary Ann said “we’ll retire from here.” Sandy has the ideal combination of people and paper skills to work as one of Gary’s legal assistants in the automobile pre-suit area of the practice. Sandy was a police dispatcher when she met Sergeant Tim Reddish at a crippled children’s Christmas party. Yes, Tim’s kindness was the initial attraction. They were engaged within six months and now have a ten year old daughter Katie, who is an aspiring gymnast. After 21 years of marriage Sandy says Tim is still kind, “but mostly, he makes me laugh — and that’s the only thing that really lasts.”

## \$10.2 Million Verdict for Death from Explorer Roof Crush *(continued)*

Explorer, walked away with minor orthopedic injuries. All occupants were wearing their seatbelts.

In contrast to other Explorer cases around the country, Pajcic & Pajcic decided not to focus on the Explorer’s instability and propensity to roll over as a product defect. Instead, Pajcic & Pajcic argued that Ford should provide protection for vehicle occupants when the rollover occurs.

Pajcic & Pajcic expended over half a million dollars on crash tests, experts, exhibits, and other case costs. The firm organized over 940 exhibits into digitized formats

for a multi-media presentation to the jury and built a full scale model of the Explorer driver compartment to bring into the courtroom.

Mrs. Doe was a chemical engineer and graduate student in the University of Florida School of Pharmacy at the time of her death. She and John Doe had been married two and a half years and had no children.



*Dynamic tests clearly showed the roof defect.*



*Although they were not legal survivors under Florida’s wrongful death law and had no pecuniary interest in the outcome, Jane’s parents and sisters were present throughout the trial and provided compelling evidence of Jane’s character and personality and, thus, the magnitude of John’s loss.*



After the verdict John re-emphasized what he has told Pajcic & Pajcic from the first time he came to the office: his mission is to get Ford to build the Explorer with a stronger roof and better seatbelts so as to prevent others from suffering Jane’s fate.

## Trial Shows Controllers Liable for Plane Crash (continued)

Attorney Don Weidner had flown his clients, John and Jane Doe, and his associate, Thomas Bowden, from St. Augustine to Fort Lauderdale that morning for a deposition. On the return flight that evening low-lying fog forced Weidner to execute missed approaches at the St. Augustine airport and then again at Jacksonville's Craig Airport. The crash occurred when Weidner pulled out of his subsequent attempted approach at JIA, which had also become enveloped in the fog.



*Family with John and Jane Doe.*

Federal Judge Timothy J. Corrigan found Weidner himself was partly responsible for the crash because he decided to attempt an instrument approach at JIA while fatigued and on medication for a respiratory illness. The question was whether the air traffic controllers were even more at fault because they had failed to advise Weidner of the rapidly deteriorating ceiling and visibility at JIA.

The FAA routinely records all communications between controllers and pilots, but this crash occurred during a brief shutdown of the JIA air traffic control tower for renovation. The final approach controllers were operating out of a trailer placed between the runways, and communications between pilots and the trailer were not recorded.

Had the controllers told Weidner that the fog was now blanketing JIA? That was the critical question. The key controller's testimony had evolved through five versions until at trial he testified that he told Weidner everything.

To the surprise of the FAA and its final expert witness, the JSO photograph proved otherwise.



*The photograph showed a gauge from the plane's instrument panel almost hidden in the swamp, but the setting of the dial on the altimeter was unmistakable.*

It clearly showed that, in setting the dial during his approach to JIA, Weidner was still operating under a tragically outdated weather advisory.

After Judge Corrigan entered an order assigning 65% of the responsibility to the FAA, the parties resolved all four death cases for a total of \$9.48 million.

Since the passengers' claims against Weidner had been resolved before suit was filed, the plaintiffs' trial presentation was a cooperative effort of Weidner's attorneys: Spohrer, Wilner, Maxwell and Matthews; Bowden's attorneys: Soud & Soud; and Pajcic & Pajcic, representing the Does' two adult daughters.

The tragic sorrow of the surviving family members was compounded by their discovery of an eerily similar case involving the father of golfer Davis Love, III. The families and their attorneys are hopeful that after this second case FAA controllers will finally fully accept responsibility to provide pilots with current weather conditions and that America's exemplary system of air traffic safety will be even better in the future.

## PAJCIC PROFILE



### Mary Ann Jarvis

Mary Ann Jarvis' easy going competence and contagious chuckle made her the perfect choice to be Gary Pajcic's personal assistant. Mary Ann's connections with Gary and Steve go all the way back to when she was born and her dad was a storekeeper first class at Jax NAS while Steve Pajcic, Sr. was foreman of the road crew at the base. Mary Ann comes with plenty of experience. She started in retail at age 14 and has since worked for the railroad, the draft bureau, four hospitals (including the one where she was born) and a half dozen law firms. She has wanted to work at Pajcic & Pajcic for years and was glad when the right opportunity came this year. After her long-time husband died of leukemia, Mary Ann married his best friend and stock car racing partner, Jimmie Jarvis. The children are all grown, but Mary Ann mothers her dog (Jacob) and two cats (Pepper and Tommy). She says Jacob reminds her of Gary — a pit bull who thinks he's a lap dog.



## Janet Rodriguez

Janet Rodriguez says it's the challenges of life that make us strong. Janet has had plenty to make her strong, and she still manages a ready smile for everybody. Janet never met her mother, who died when she was one. She was raised in Nicaragua by her aunt, who was the secretary to Somoza's chief of staff, so that the family had to flee to the U.S. as political refugees after the 1979 coup. At 15 years of age Janet started high school in Louisiana not knowing a word of English. Janet's most recent heartbreak has been the move from Miami to Jacksonville with her new husband George, which meant separation from her beloved children, Bernardo and Leonor. Janet has spent most of her career in banking. She came to Pajcic & Pajcic with Fran O'Connor, Pajcic & Pajcic's business manager, who was her boss at the bank. At Pajcic & Pajcic Janet coordinates the opening of new files. Janet's latest challenge is feeding Santos, her 70 pound basset hound.



*The truck dragged the scooter 40 to 50 feet.*

a flatbed truck. The driver of the flatbed missed his destination, stopped suddenly and backed up over John.

***John spent four months in hospitals and had 15 surgeries.***

***His left leg has multiple plates and screws.***

***John's right leg had to be amputated.***

The defendant driver had four prior DUI's, two involving accidents, and numerous other criminal convictions involving alcohol abuse. He had been fired by two of his prior three employers for misconduct including batteries on fellow employees.

Contrary to federal law, the defendant employer did no background check before giving the defendant driver his first job driving a big truck. Not surprisingly, the defendant driver admitted to drinking the night before the accident, although his delayed drug/alcohol test came back negative.

The case settled for \$3,500,000 just before trial.

## \$3 1/2 Million from Trucker Who Backs Up Over Motor Scooter

Both men had multiple DUI convictions, but one rode a motor scooter to his factory job while the other, who had the more serious problem with alcohol, was hired to drive a big truck.

In the pre-dawn hours of September 5, 2003, John Doe was riding his scooter to work behind

a flatbed truck. The driver of the flatbed missed his destination, stopped suddenly and backed up over John.



*The truck driver ignored the safety sticker right in front of him.*



## Paul Shorstein

Paul Shorstein's father may have given Gary Pajcic his first job as an attorney and Paul's mother may have been Steve Pajcic's campaign manager in all his political races, but fortunately Paul's intellect, character and his sense of humor were enough to overcome those considerations and land Paul his position as Pajcic & Pajcic's newest attorney. Paul graduated Phi Beta Kappa from Florida and then finished in the top three percent of his class at California's prestigious Hastings College of Law. He then spent two years with Kilpatrick Stockton in Atlanta, followed by five years as a prosecutor in DeKalb County, Georgia. Paul is a sprint triathlon participant and is already playing on the Pajcic & Pajcic sports teams. He and his wife Tracy enjoy vacationing in Napa Valley and Tuscany, but now their leisure time and attentions are happily directed toward their new baby girl. Paul's parents are glad to have their first grandchild in Jacksonville. Although Harry Shorstein is known as a muckraking prosecutor, he still carefully manipulates his babysitting duties to avoid Sarah Ann's dirty laundry.

## \$1.3 Million for Driver Wrongly Charged

It was hard to believe that John Doe would ram into the rear of another vehicle at 55 mph since John was a professional driver without a single accident in over 39 years.

Yet, the accident report said John's tractor-trailer had struck TK's boat trailer from the rear as TK slowed to make a right hand turn. Unfortunately, John had suffered serious injuries and could not remember anything about the crash.



*John's tractor was totaled and he suffered serious injuries.*

Pajcic & Pajcic's accident reconstruction and investigation suggested an entirely different version.



*The damage to the boat and trailer, the skid marks, and witnesses not listed on the accident report seemed to prove that TK had actually been in the on-coming lane and turned left in front of John.*

To prove he was going the same direction as John, TK came up with a receipt from his neighborhood convenience store a mile back up the road in the direction from which John was coming. The receipt was anonymous, but did have a date and time stamp of just a few minutes before the estimated time of the crash on the accident report.

Pajcic & Pajcic rebutted this receipt with information obtained from the black box in Jane's truck, which showed the exact time of the crash was actually a few minutes before the time on the receipt.

Even though TK filed a counterclaim blaming John, TK's insurance company and the underinsured motorist carrier both eventually tendered their policy limits to John. Pajcic & Pajcic also demanded the policy limits from the carrier insuring the boat, which denied coverage on the grounds that the boat was not being "used" as a boat as required by the policy.

Despite the absence of a Florida case directly on point, Pajcic & Pajcic had persuasive arguments for coverage, including the Florida presumption in favor of coverage, the motor vehicle cases interpreting "use" as broader than "operation",

*continued on page 7*



## Monica Robinson

Monica Robinson's life is worthy of a novel. In fact, she has already written 75 pages of her autobiography and has not even reached her teenage years. Monica is the love child of a mixed race couple back when such things were kept concealed in the South. Her father owned the plant nursery in Thomasville, Georgia, where her mother worked. Monica was given up for adoption at seven weeks. Monica's adoptive mother was 61 years old with ten other children, but still had the energy to make sure Monica was raised right with a thirst for knowledge and reading. After seven years with a defense firm, Monica joined Pajcic & Pajcic this summer where she uses her aptitude for composition and compassionate attitude in the medical malpractice area. Monica met husband Cary while she was a student at FAMU and he at FSU. They now have twin three year old girls, Cara and Sage, who are now the real story of Monica's life.

## \$1,650,000 for Failure to Treat Woman's Heart Attack

It was yet another case of failure to treat heart problems seriously enough when the patient is a woman.

*The day after her discharge following a caesarian delivery Jane Doe had to be air flighted back to the hospital because of severe chest pains and rapid respiration and pulse.*

Jane was seen in the ER by a pulmonologist whose admitting diagnosis included a suspected heart attack, but then said she could be seen by a cardiologist in the morning.

*During the night Jane's pain became so excruciating that it required morphine.*

*At 4:05 a.m. lab results showed that Jane was experiencing a massive heart attack; yet Jane was not seen by a doctor until the pulmonologist came in at 8:00 a.m. By then it was too late.*



**DEPOSITION EXCERPT**

7 A. The next morning I came in to make  
8 rounds in ICU and found out she had been having  
9 chest pain all night that nobody called me about and  
10 that her cardiac enzymes that were drawn at 4:00  
11 a.m. were elevated.

Jane's heart damage is so extensive that she will probably need a heart transplant. She had to quit work and requires assistance with her children and housework.

Between mediation and trial the two defendants settled for a total of \$1,650,000. Jane still cannot resume normal activities, but at least she can now afford help around the house and the health care she needs.

## \$1.3 Million for Driver Wrongly Charged (continued)

and the contrast between “use as a boat” in the medical payments section of the policy and simple “use” in the personal liability section.

The boat's insurance company tendered its limits after a summary judgment in favor of coverage. Even though John is unable to return to work, the settlements will

help him and Jane, his wife of over 50 years, enjoy their golden years together.

TK continued to trial on his counter-claim and won a verdict of \$225,000.



*John and Jane Doe with Pajcic & Pajcic employees.*

## Elementary School Raises Its Grade from F to A

Gary and Steve Pajcic believe that their old elementary school is special and that others could be too.

Annie R. Morgan raised its FCAT score from F in 2000 to A in 2004. Its achievement is so singular that both Florida's Lieutenant Governor Toni Jennings and the General

Counsel of the U. S. Department of Education have personally visited the school to applaud its progress.

A few years ago Gary and Steve and their wives Sallyn and Anne donated \$1 million to supplement teacher salaries at Annie R. Morgan for the next ten years so that it could attract the quality teachers desperately needed by a failing urban school. The Pajcics also sponsored dinners, awards and scholarships for the teachers and a celebratory carnival for the students.

The Pajcics believe that all failing schools could be just as special as Annie R. Morgan if they were only given the resources to attract high quality teachers and administrators.



*Kindergarten teacher, Alison Watson, with students.*

## PAJCIC PROFILE



### Eva Scott

Eva Combs Scott's wedding was a big occasion for Pajcic & Pajcic. Eva has worked for Pajcic & Pajcic since she was 16 years old.

Everyone at the firm remembers her progress from Senior Class President to an A student college graduate with the fling as a model and the fun trip to Mexico.

Jonathan was a music leader at Eva's church for a long time, but they hardly spoke. Then a group from the church went to a concert at the beach which turned out to be sold out. Eva offered Jonathan a ride back to the church before she went to her father's golf course to clean the toilets. Jonathan said, "I'll go with you and help." Eva decided right then Jonathan was who she wanted changing her children's diapers.



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