

# PROFILES & PRECEDENTS

This Report Summarizes Cases Concluded from January 2011 to December 2011



THE LAW FIRM OF  
**Pajcic & Pajcic**  
Since 1974

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*This is the twenty first periodic report of Pajcic & Pajcic.*

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## \$13 Million Verdict in Log Truck U-Turn on U.S. 1



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*The case was tried in the old Victorian courthouse on Center Street in historic Fernandina Beach. The jury represented the broad demographics of modern day Nassau County. The verdict rendered justice to Jane Doe who had been doomed to permanent adolescence by a poorly lit log truck attempting a U-turn on U.S. 1 in pre-dawn hours.*

Jane had spent the night at her boyfriend's house near the Okefenokee Swamp in Georgia. He was driving Jane back home so that she could get ready for school at Hilliard High where she was completing her senior year. The homestead was in the woods back behind the DOT weigh station just across the state line.

*continued on page 2*

## 1 Old Spare Tire: 3 Deaths and 1 Quadriplegic

Old, unused spare tires may be the deadliest product defect in motor vehicles today. Despite all the safety improvements in occupant protection and rollover prevention, tire manufacturers still hide the age of tires in obscure sidewall codes intelligible only to trained mechanics.

*A spare tire can sit in the trunk of a vehicle for years and still look brand new even though its inside has rotted away so much that the tire can detread without warning. The tire is especially dangerous on vans, SUVs and light trucks because of their high propensity to spin out of control and rollover after a detread.*

The detread in this case killed three people and paralyzed a fourth. They were all Haitian nationals legally visiting the United States and traveling from New Jersey to Florida in a 13 year old 12 passenger van.



*continued on page 3*



Reprinted with the permission of Sulzbacher Center:

### Pajcic Donation Feeds Hungry

The rising cost of food, a decrease in donations and a dramatic increase in the number of hungry people in our community created the perfect storm at Sulzbacher. The Florida Times-Union ran a story about the crisis and it caught the eye of two local philanthropists, Steve and Anne Pajcic. "First we said, 'Can you believe this? People are really going without food,'" Steve said. "Then we said, 'Well, that's something we can help with.'" The Pajcics wrote a check to the Sulzbacher Center for \$50,000 to allow the center to continue lunch service to hungry men, women and children. We are so grateful for this generous gift and for a community that believes that no one should ever go hungry.

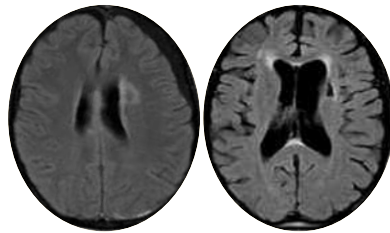


## \$13 Million Verdict in Log Truck U-Turn on U.S. 1 (continued from page 1)

Log trucks coming from Georgia timberlands to Fernandina mills routinely took backroad detours to avoid the scales on U.S. 1 and potential fines for overweight loads. On the morning of the accident, a DOT officer caught one of those log trucks and led it back north to the station.

When the truck left the station, it was now headed back to Georgia. The trucker then did what he and his company had done on numerous prior occasions when they had been caught trying to bypass the station. Barely a mile north of the station at a median opening to a dirt road, the log truck slowly made a U-turn.

Jane's boyfriend braked and swerved into the median but still slammed up under the truck. Logs shattered the windshield and the boyfriend's toolbox came up over the back of Jane's seat.



Jane suffered a catastrophic brain injury. She has recovered enough to superficially look and seem normal. But she still limps and has intermittent tremors. Most tragically, the brain injury has left her without the mature judgment necessary to live independently.

At trial liability was hard fought with dueling experts on accident reconstruction, visibility, seatbelt biomechanics, and trucking safety. The jury weighed the testimony and decided against any punitive damages. It allocated 55% of the fault to the driver of the log truck and 10% to the company owner. DOT got 25% for the design and signage of the cut-through. Jane got 10% for not wearing her seatbelt.

*The jury was able to appreciate the magnitude of Jane's injury despite the normalcy of her outward appearance. They awarded \$6,582,861 for economic damages, mostly attendant care, and \$6,325,000 for pain and suffering and loss of capacity to enjoy life.*

The trial court has denied the defense motion for new trial, but the log truck defendants have filed a notice of appeal. Jane's family still watches over her and waits for the day when they will have help and Jane will have her own place on the family homestead with a little consignment shop in downtown Hilliard.





## 1 Old Spare Tire: 3 Deaths and 1 Quadriplegic *(continued from page 1)*

The owner and driver of the van was also a Haitian national who had bought the van used only a year before the accident. Although all of the other tires on the van had been changed out over the years, the spare sat unused in the back with no sign of wear or tear until the new owner placed it on the right rear of the van shortly before the trip.

Halfway to Florida, the group stopped for lunch in North Carolina, and the owner went to a nearby tire store where he bought a new tire to replace another one on the van. Soon after the group got back on the interstate, the old spare tire detreaded and the van rolled over in the median with the resulting tragic deaths and injury.



*On behalf of the victims and their families, Pajcic & Pajcic sued the tire store, the tire manufacturer and the car company. The cases highlighted a salient public safety concern, but also presented challenging factual and legal issues.*

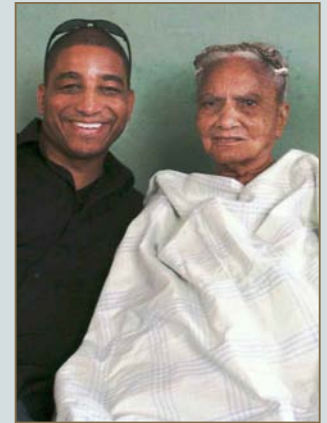
Both manufacturers pointed out that under either the Florida or the North Carolina statute of repose, the tire was too old for a product liability suit. The tire store had its own defense based on the owner's signature on the invoice declining a free inspection. All defendants pled driver error and failure of all the victims to use a seatbelt.

Language barriers and immigration laws complicated everything. The driver's deposition required an interpreter and stretched out over three full days. All of the decedents' families were stuck in Haiti where climatic disaster and civil disorder made communication difficult.

The decisive legal issues were all choice of law questions. After extensive briefing and argument worthy of an appellate setting, the trial judge ruled that the controlling law on the statute of repose defense was the state of manufacturer, which had no statute of repose.

Conflicts of law questions also dominated the debate over seatbelt usage and joint and several liability. All parties filed lengthy briefs, but oral argument was postponed at the last minute to allow mediation to proceed. All claims were subsequently resolved to the mutual satisfaction of all parties.

*The settlements have done much to improve the lives of the victims and their families. Hopefully, claims like these will ultimately save the lives of others as tire manufacturers decide to plainly label their tires and to warn consumers that all tires, regardless of tread depth or tire usage, have a useful life of only 5-6 years.*



### Raymond Reid

Ray Reid, one of our partners, celebrating his tenth year with Pajcic & Pajcic, took advantage of some downtime in December to take a quick trip to visit his grandmother in Haiti. She is in her nineties and still lives there having survived several dictators and natural disasters. Ray has helped found an organization for the advancement of Haitians at home and abroad, and Pajcic and Pajcic recently donated \$25,000 to assist in the effort. Ray is fluent in three languages which comes in handy at times for cases in the firm, especially those involving Haitians since so few Americans can speak Creole. Ray's talents span from piano to karate and everything in between including technology. In fact, Ray lectures nationally teaching other lawyers how to incorporate technology into their law practice.





Excerpts from article by Martin Dyckman in Tallahassee Democrat

**College Paper**

What if one of those [college] papers could alter the course of Florida history? This is about one that did.

The author was Steve Pajcic of Jacksonville, an undergraduate in the Woodrow Wilson School of Public and International Affairs at Princeton University.

For the senior thesis required for his graduation in 1968, he would write "The Economic Desirability of a Corporation Income Tax for Florida."

Pajcic's 158-page paper...was recognized as the Wilson school's best domestic thesis that year. It rivaled any doctoral dissertation for its originality and its scholarship, and certainly for its prompt and profound results.

Pajcic went off to law school, and his thesis eventually made its way [to]...Sen. Reubin Askew, a long-shot candidate for the Democratic nomination [who made] a corporate tax his issue.

The "fair share" plank became Askew's bridge to the governor's office.

Thanks in large measure to Pajcic's senior thesis, Florida would eventually collect more than \$1.5 billion a year from corporations.

But Florida now has a governor who intends to repeal the tax.

It's hard to imagine how...Florida would benefit from that. But the corporations surely would.

**\$3.5 Million for Drunk Driving After Holiday Office Party**

*The employee was obviously drunk. His ETOH was .25.*

*He was driving northbound in the southbound lanes of I-95. The question was whether his employer was liable because he had been drinking at the company's annual holiday party earlier that night.*



The party had been held at the home of a company officer. All local employees were invited and the company paid for the alcohol, bartender and entertainment.

Nevertheless, the company moved for summary judgment arguing that the party was a social occasion not a business event. The guests included family and friends as well as employees. The drunk driver was not paid for his time, nor reimbursed for his mileage.



The case did not settle until less than a month before trial when the court denied the motion for summary judgment.

The Plaintiffs, John, Jane, and Baby Doe were an attractive family traveling from Virginia to Florida for a holiday vacation. The father, John, was retired military with his own plumbing company.

The mother, Jane, was a Head Start teacher and the daughter, Baby Doe, a recent college graduate.

John recovered well from the accident, but Jane and Baby Doe each had over \$100,000 in past medical expenses and continuing problems from fractured extremities and neuropsychological injuries.



*The Does had retained the nationally prominent plaintiff's firm of Langdon & Emison who associated Pajcic & Pajcic as Florida counsel for the cases.*





## Policy Limits from Another Deadly Log Truck

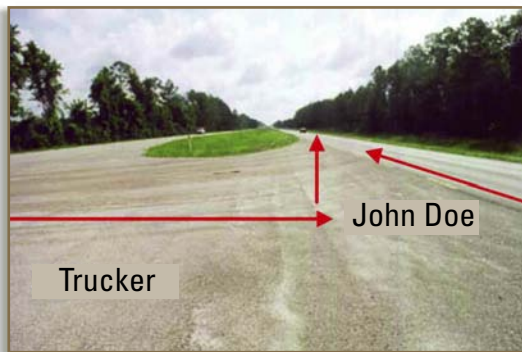
*They are a curse of North Florida: The poorly lit log trucks slowly pulling out onto the rural highways in front of oncoming traffic in the darkness before dawn. They travel before dawn so that they will be first in line when the mill opens. The trailers do not have the bright lighting of modern day box trailers because the Florida Legislature continues to give agriculture and log trucks special exemptions.*



Over the past three decades, Pajcic & Pajcic has time and again dealt with paralysis, brain injury and death caused by these almost invisible behemoths. The case of John Doe was especially heartrending because it involved the death of a grandson of one of Pajcic & Pajcic's first employees who is like family to Gary and Steve.

John was 22 years old living in Gainesville, but working in an apprenticeship training program in Jacksonville so as to become a pipefitter like his dad. John would drive his pickup to Jacksonville early Monday mornings and then spend the weeknights with an aunt and uncle in Jacksonville.

At 5:00 a.m. on June 23, 2009, John was halfway from Gainesville to Waldo. He was in the left lane of the two northbound lanes with his headlights on and his pickup set on cruise control.



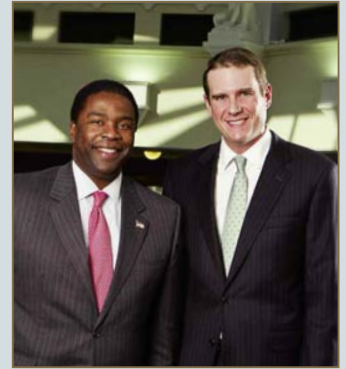
The log truck pulled out from the woods on the other side of the highway and turned into the left lane in front of John. It was going about 35 mph when John crashed into its rear. The logs penetrated the windshield and John died instantly.

The log truck had 11 DOT violations including several that should have kept it off the road.

The truck driver was 74 years old and blind in his right eye, which would have kept him from driving under Federal rules had they applied. The overhanging logs did not have the flashing light with multidirectional lens, which is one of the newer, minimal Florida regulations that do apply to log trucks.

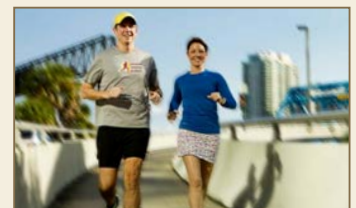
Incredibly, as it so often occurs, despite all this the crash report and the traffic homicide report placed all the blame on John.

*continued on page 7*



### Seth Pajcic

All the Pajcics supported the campaign of new Jacksonville Mayor Alvin Brown. Then Seth Pajcic continued the family heritage of public service as a member of the mayor's transition team. But Seth had to politely decline the Mayor's request that he serve full time in the new administration. That request conflicted with Seth's desire to continue in that other Pajcic heritage, the law firm founded by his father and uncle almost 40 years ago. Seth and his wife Kathleen did, however, demonstrate their commitment to Jacksonville's downtown with their recent move into one of the riverfront condominiums only a five minute walk across the bridge from Pajcic & Pajcic.



Seth and Kathleen often run the bridges. And it is a "run", not a "jog" like his father Gary used to do. Seth has now run 13 marathons, Kathleen only 5, but her times are even more competitive than his.



### Monthly Cookoff

It all started with some post trial banter between Raymond Reid and Antonio Kirkland about who could make the best lasagna. Their cookoff in the firm lunchroom for the entire staff proved such a success that every month since then two others in the firm have volunteered to showcase their culinary skills. The competitions have ranged from shrimp pialu (“perlo”) versus dirty rice to Buffalo chicken wings versus chicken tortilla casserole. The firm uses the cookoff as a time to recognize employees whose employment anniversary occurs during that month. The honored employees appreciate their anniversary bonus of \$100 for each year of employment almost as much as everybody else appreciates the feast.

## Over \$1 Million for Death After Bus Hits Manlift

*John Doe was standing on the lift platform above his work truck repairing the traffic light in the middle of the intersection. The bus plowed over the warning cone and hit the lift truck at 37 mph. The impact catapulted John off the lift to his death below.*

In Jacksonville an independent governmental entity, the Jacksonville Transportation Authority, owns and operates the bus system. The JTA fired the bus driver for gross negligence, but then offered only the \$200,000 statutory limit on governmental liability for a presuit settlement.

In an earlier, still pending case involving Jane Roe, another client struck by a bus, Pajcic & Pajcic discovered that JTA does not directly employ bus drivers, but does it through a private, shell corporation it controls, Jacksonville Transportation Management, Inc. The JTA set up JTM at the time it purchased the bus company so that bus drivers could be private employees and retain the right to strike and a separate pension fund.

In both Jane and John’s cases, Pajcic & Pajcic sued not only the JTA, but also JTM and the bus driver. In John’s case, the parties reached a settlement at an early mediation for \$1,250,000, with the amount above \$200,000 to be paid after the enactment of a claims bill. The Legislature approved the claims bill and Governor Scott signed it this year. After the passage of the claims bill, Pajcic & Pajcic also settled the products liability case arising out of the accident.

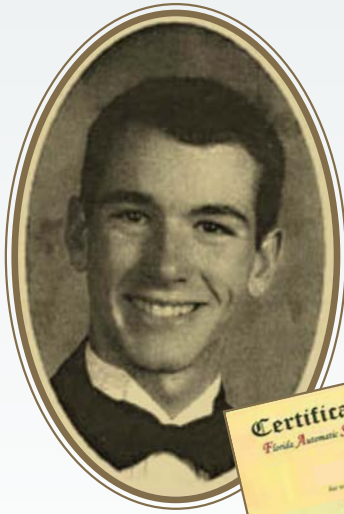
John and his wife, Jane, had met and married in their native Philippines before the Navy brought them to the U.S. The settlement provides Jane and their two children with welcome financial relief.



*As for Jane Roe, she still awaits justice. The Florida Supreme Court recently heard oral argument on the important, but complicated procedural and substantive issues raised by her case.*



**Policy Limits from Another Deadly Log Truck** *(continued from page 5)*



Similarly blaming John for the crash, the insurance company offered only \$100,000 presuit. Pajcic & Pajcic rejected the request for presuit mediation and filed suit on behalf of John's grief stricken parents.

The depositions of the truck driver and logging company highlighted the egregious nature of defendants' normal business practices. In fact, less than a year before John's death, another driver for the same logging company had been involved in the same kind of fatal predawn crash with an overload of logs lacking the required multidirectional flashing light.

After these depositions and some clarification of insurance coverage questions, Pajcic & Pajcic gave the insurance company one last chance to pay its policy limits. The company paid, but justice has not been done, and the invisible behemoths still continue to haunt our rural highways.



## F I L S & J A L A

*Pajcic & Pajcic prides itself on representing people in need of justice without regard to their ability to pay, but realizes that not all worthwhile lawsuits pay for themselves. Crucial legal services to the deserving poor depend on public and charitable funding.*

Because of hard economic and political times – with the Great Recession, zero interest on lawyer trust accounts and disappearing state and federal funding – Pajcic & Pajcic has increased its support for legal aid. Pajcic & Pajcic has given \$10,000 each to two worthy firms.

FILS (Florida Institutional Legal Services), based in Gainesville, is the primary source of legal assistance to those committed to Florida institutional care. Bob Link, who currently serves as the legal guardian for a plaintiff in a suit filed by FILS, delivered the check to FILS Executive Director, Christopher Jones, and Managing Attorney, Kristen Lentz.



JALA (Jacksonville Area Legal Aid) provides free legal service to Jacksonville indigents in a broad array of civil contexts from property to family law disputes. Tom Slater, who is one of the Pajcic & Pajcic lawyers who has served as a JALA president, delivered the check to JALA Executive Director, Michael Figgins, and Development Director Christa Figgins.





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- William S. Burns, Jr.
- Lee T. Griffin
- Robert J. Link
- Curry G. Pajcic
- Curtis S. Pajcic
- Gary C. Pajcic (1947-2006)
- Michael S. Pajcic
- Seth A. Pajcic
- Stephen J. Pajcic, III
- Raymond P. Reid, Jr.
- Benjamin E. Richard
- Thomas F. Slater

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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.