

# PROFILES & PRECEDENTS

This Report Summarizes Cases Concluded from July 2009 to February 2010



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

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## \$5.2 Million Verdict is Twice the Final Offer

*The trucker blew through a stop sign at 55 mph and walked out on a drug test, and his company "misplaced" his personnel file. The crash killed Jane Doe and hospitalized John, her husband of 34 years. Yet the defense's best offer, finally made after the commencement of trial, was only \$2 1/2 million.*



*continued on page 2*



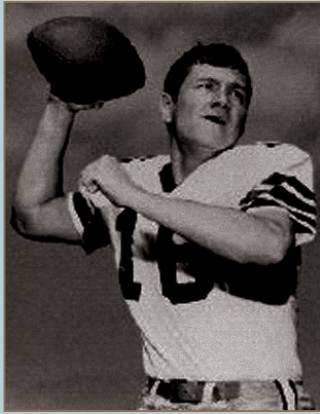
## Over \$11 Million in Recoveries Despite Only \$25,000 in Insurance

The rear end crash left John Doe a quadriplegic totally dependent on others for everything. The accident also transformed Jane Doe's life because she had to quit her job to take care of John 24 hours a day. Because John was on the job when it all happened, John and Jane do receive the minimal benefits provided by worker's compensation, but John's catastrophic injury and the loss of both their jobs left them destitute and desperate.

The 88 year old driver who crashed into John's pickup only had \$25,000 in insurance. When the insurance company started nitpicking Jane, her sister put her in touch with Pajcic & Pajcic. Through a combination of three different lawsuits over the past four years, Pajcic & Pajcic was able to recover in excess of \$11 million for the Does.

The first lawsuit resulted in a significant recovery from the other driver's insurance company because of its bad faith conduct in handling Jane's claim. The second, a medical malpractice lawsuit, provided a modest recovery.

*continued on page 3*



### Gator Bowl Hall of Fame

Gary Pajcic posthumously entered one more hall of fame this year when, before the FSU vs. West Virginia game, the Gator Bowl inducted him along with former Notre Dame and NFL linebacker Bob Golic. Gary's eldest son Curt accepted on behalf of the family and noted his dad would be proud to see him at the head table with Charlie Ward and Bobby Bowden. FSU's victory over West Virginia would have also made Gary proud. The only blemish on FSU's undefeated record in the Gator Bowl is Gary's sophomore year when Bill Peterson's Seminoles tied Joe Paternos' Nittany Lions 17-17. The ceremony highlighted Gary's humanitarian contributions, but Coach Bowden appreciated that Gary's Seminoles had denied Coach Paterno an additional victory.

### \$5.2 Million Verdict is Twice the Final Offer (continued)

It was not surprising that the defense tried to minimize John's losses. And it is true that John has made a good recovery and that Jane was 67 years old with serious health problems that required her to sleep with an oxygen mask.

What was surprising to Pajcic & Pajcic was that, in a case of egregious trucking liability, the defense tried to shift the blame. Even though John was driving within the speed limit and both he and Jane were belted, the trucking company claimed comparative negligence right up to opening statements at trial.

But the main culprit, according to the defense, was Flagler County. The trucker's reconstruction expert said the stop sign was not big enough and that the warning signs approaching the intersection did not comply with standards.

The defense did have a valid point in that the county road department had recently paved over rumble strips before the stop sign.

*But Pajcic & Pajcic argued that the rumble strips would have made no difference to a trucker who was tired and upset about being overworked and underpaid. Using data downloaded from the truck's GPS system, Pajcic & Pajcic showed the jury a road map outlining the many long trips the driver had already taken in the 12 hours preceding the crash.*



The jury put 60% of the blame on the truck driver and 40% on his company.

*The jury gave its biggest award, \$3 million, for John's pain and suffering for the loss of his wife in the past - during the time the defense had continued to suggest that John shared in the responsibility for Jane's death.*

## Over \$11 Million in Recoveries Despite Only \$25,000 in Insurance *(continued)*

The final lawsuit was a products liability action against the manufacturer of John's pickup.

*Inspection of the vehicle showed that the crash had bent the pickup's frame and broken John's seat adjustment mechanism. The vehicle also lacked an "all belts to seats" design that would have kept John in his seat and his head off the roof.*



Experts hired by Pajcic & Pajcic testified that these defects made the pickup uncrashworthy and caused John's injuries. The case resolved at mediation.

The greatest reward for Pajcic & Pajcic is seeing the transformative effect a substantial recovery can have on the families of catastrophically injured clients.

John and Jane have built a new house that has all the latest handicap accessories, including lifts for the pool, the bathroom and the bed.

Of course, they would trade it all to have John's body back the way it was.

## PAJIC PROFILE



### 50 Most Influential

Jacksonville's business magazine 904 recently named Steve Pajcic as one of the Fifty Most Influential



Jacksonvillians. Twenty five years ago the Florida Times Union actually ranked the city's most powerful citizens and put Steve at number three. Steve has no delusion that he would be anywhere near the same rank today. On the other hand, Steve is now old enough to know there are more important things than power. If he could just remember what they are?

## Practice Tip: Knowing Your Client

Pajcic & Pajcic's philosophy has always been that every client is a unique and interesting person and that you have to know personal details in order to present the case for damages effectively.

*In the Doe trial it was a pretrial trip to the client's house that unearthed the most compelling evidence on damages: the first valentine John had given Jane 35 years ago. His words made their own eloquent argument for the full value of his loss:*

*Our happiness  
is our wealth.*



### Lots of Losers

In 2008 only two people qualified for Pajcic & Pajcic's maximum weight loss bonus of \$3,000. So, for 2009 the firm offered some special incentives, and there was a healthy response. Sixteen employees qualified for the \$3,000 bonus and another six for \$1,000. To add a little fun the firm even added voted prizes for those who lost a lot but did not qualify and for those who guessed the losers best. Almost 90% of the winners were support staff, but who has sympathy for overpaid, overweight lawyers?

## Jury Verdict for 3 1/2 Times Insurance Policy Limits

*John Doe was sitting on his motorcycle, stopped in traffic, when he was hit from behind by a high school student and pushed into the pickup in front of him. After the accident Doe began to feel numbness and tingling in his hands which over time progressed to weakness that caused him to drop things.*

The Shands Jacksonville neurosurgeons diagnosed central cord syndrome and performed a four level cervical fusion. The surgery stabilized John's spine, but he can no longer do all the athletic things he used to and faces significant medical complications and costs in the future.



After the surgery was scheduled, and before filing suit, Pajcic & Pajcic sent all of the medical records to the insurance company for the student and offered to settle all claims for the \$250,000 limits. The insurance company only offered \$100,000.

Just before mediation on the eve of trial, the insurance company finally offered the \$250,000 and filed proposals for settlement totaling that amount. The Does declined and filed their own proposals for settlement totaling \$550,000. The insurance company accepted the proposals to the student's mother who owned the car, totaling \$110,000, but rejected the ones directed to the student.

The jury returned a verdict of \$902,000. The plaintiffs have a pending motion for not only costs, but also for attorneys fees since the final judgment exceeded plaintiff's proposals for settlement to the student by more than 25%.

Pajcic & Pajcic expects the student's insurance company to end up paying the full amount of the final judgment, as other companies have always had to do in previous cases where they have rejected Pajcic & Pajcic's policy limits offers.



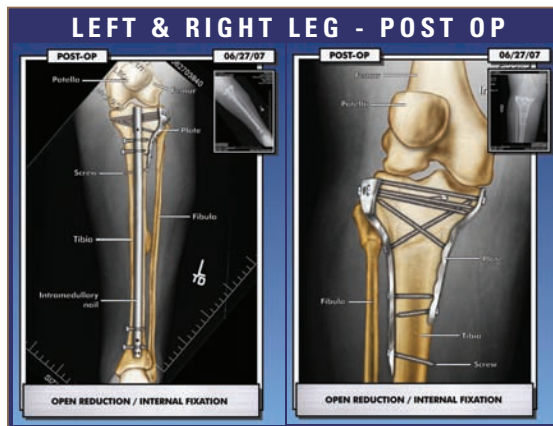
*Like most plaintiffs the Does felt bewildered by all the technical legal maneuvering, but they now feel relief and gratification that our jury system is working to do justice.*

## Contractors Pay \$1.6 Million When Attic Ladder Collapses

*Jane Doe was standing on the top step of the attic ladder in her newly purchased home when the entire*



*staircase and its framework fell almost 10 feet to the concrete garage floor. The fall broke both of Jane's legs so that she could barely crawl. She finally reached a mop and with it was able to open the garage door. A kindly neighbor heard her cries and called 911.*



Pajcic & Pajcic's inspection revealed shoddy construction practices in Jane's expensive home. The ladder had a few nails, but no nail or bolt through any of the manufacturer's pre-drilled holes in the ladder and its frame.

Pajcic & Pajcic sued the homebuilder, but its insurance policy included a million dollar self insured retention and, like

most homebuilders, the company was having financial struggles. Fortunately the homebuilder required its subcontractors to carry insurance. With the help of the homebuilder's lawyer, Pajcic & Pajcic was able to identify and depose the subcontractor who had installed the ladder nine years earlier.

The subcontractor's dismissive attitude at his deposition made the case for his \$1 million of insurance a slam dunk. The homebuilder and its insurance company then argued over whether the subcontractor's one million satisfied the retention requirements. Ultimately, the homebuilder and its insurance company each paid half of the next \$600,000 to settle the case at mediation.

A word to the wise: Jane had been careful enough to have the house inspected before she purchased it, but not only did the inspection company overlook the attic ladder, it had no insurance of its own.

### PAJCIC PROFILE



#### La Dolce Vita (The Sweet Life)

Twenty years with Pajcic & Pajcic earns one a vacation of her choice. Janice Allen is the second long term employee to choose Italy as her destination. Janice has shared lots of photos, but few secrets. Even without the photos everyone can see that Janice left time for shopping. Janice has learned a lot over her years at Pajcic & Pajcic. She came back with matching purses for her and Steve.



Jane was very active prior to the accident.



### Mentoring

Almost 30 years ago Carla Harris worked as a summer clerk at Pajcic & Pajcic. Since then, Gary and Steve Pajcic have employed and coached thousands of students, including one who became an FSU football captain and others who became judges and millionaires (not the same student!). No one compares to Carla. After graduating Magna Cum Laude from Harvard and then from Harvard Business School, Carla is now a managing director at Morgan Stanley, a best selling vocalist, and a sought after inspirational speaker. In November last year Carla inspired over 500 guests at the Boys and Girls Clubs annual dinner at the Ritz Carlton at Amelia Island. Steve Pajcic was proud to introduce her, but embarrassed when she gave him more credit as a mentor than he deserves. Carla flashed her winning smile throughout her speech and sang God Bless America at the end. Steve Pajcic spent the whole speech fighting back tears.

## Million Dollar Recovery for Old Friends of Pajcics

Jane Doe's uncle from Birdville played basketball at Paxon High School with Gary and Steve Pajcic. Another Doe, who may be a cousin of Jane's husband John, played baseball with them at Woodstock Park. When Jane's car was hit from behind by a tractor trailer on I-95, John Doe called Pajcic & Pajcic immediately.

The crash caused serious injuries to Jane's lower back. When injections would not relieve her pain, Jane's doctor implanted a pain pump in her back. Jane ended up losing her job at Home Depot where she had enjoyed working with her 70 year old mother.



The accident had started when a car with bald tires spun out of control in front of Jane. The first car did not hit any other vehicle, so its insurance company refused to pay its limits when demanded by Pajcic & Pajcic.

The trucker claimed that Jane had panicked and veered into his lane. But Pajcic & Pajcic caught him in untruths at his deposition with photographs that showed damage on the vehicles incompatible with his allegations.

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*At mediation the trucking company paid \$1 million. The insurance company for the first driver subsequently paid seven and a half times its policy limits.*

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In appreciation of long time family friendships and the help of Pajcic & Pajcic, Jane's husband John Doe says he will try to reassemble his gospel quartet to sing at Pajcic & Pajcic's next Christmas party.





## NIED Is Key to Million Dollar Recoveries for Wrongful Deaths

*The deaths could hardly be more tragic. After a family visit, John Doe, Sr. asked if he could take his three year old grandson Baby Doe to the store with him.*

On the way a drunk, speeding teenager hit John’s car propelling it across the median into a head on collision with a pickup.

Family members rushed to the scene, but had to stand by in shock, unable to help or comfort the victims. Baby Doe died at the scene and John Sr. on the way to the hospital.

Though nothing could relieve the family’s suffering, Pajcic & Pajcic was able to help them deal with the insurance and legal technicalities that only compounded their pain.

Florida law limits wrongful death claims to “survivors”; in this case John Sr.’s only “survivor” is his widow and Baby Doe’s are his parents. Moreover, the insurance policy limits the amount “per claim”; in this case there is only one wrongful death claim for Baby Doe. even though he is “survived” by two parents.

The way around both of these artificial limits is through claims for negligent infliction of emotional distress (NIED). Florida law allows these claims whenever a family member sees the victim at the scene and suffers physical symptoms as a result of the emotional distress.

Thus, Pajcic & Pajcic made a “claim” for each family member who witnessed the horrors of the scene that night. For the survivors, Pajcic & Pajcic made both a wrongful death and an NIED claim.

The insurance companies involved put up varying defenses to the multiple claims, but ultimately paid their full limits per accident. Though the total recoveries exceeded a million dollars, they did little to relieve the family’s grief over the senseless deaths of young Baby Doe and the family patriarch John Sr.



## PHILLIP JACKSON, III

*Everyone at Pajcic & Pajcic and, indeed, all of Jacksonville was thunderstruck when Phillip Jackson, III inexplicably collapsed and died in the locker room during the halftime of his high school basketball game. Phillip was the son of Phillip Jackson, Jr. and Harvetta Jackson, who runs the back office at Pajcic & Pajcic. His cousin Antonio Kirkland also works with the firm.*

Phillip III had just been in the Pajcic & Pajcic office that morning and was known and beloved by all. Phillip inherited the wry, but ever present, sense of humor that his parents share. The tragedy was so shocking because Phillip was not only so full of life, but he was also such a super athlete. Phillip had an outstanding senior year as a defensive end and expected to attend college on a full athletic scholarship. Thousands of friends attended the memorial service for Phillip, and Sandalwood High School recently retired his jersey. Pajcic & Pajcic has set up a college scholarship fund for Phillip’s son Sean.



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Raymond P. Reid, Jr.  
Benjamin E. Richard  
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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.