

# PROFILES & PRECEDENTS

This Report Summarizes Cases Concluded from November 2007 to June 2008



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

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*This is the seventeenth periodic report of Pajcic & Pajcic.*

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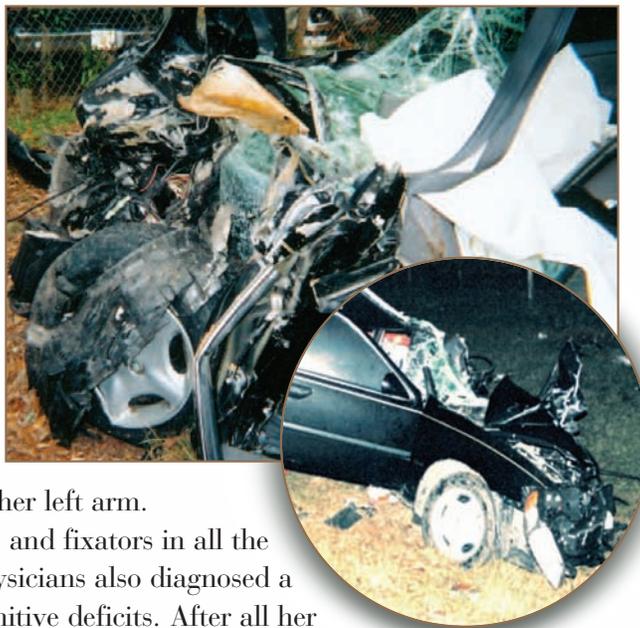
## \$5 Million from Drunk Driver Without Punitive Damages

Jane Doe was an attractive, athletic college student hoping to become a teacher in South Georgia like her mother. Then one night a drunk driver coming around a curve crossed the center line and crashed head on into Jane's small car. The impact caused multiple fractures to both legs, her pelvis and her left arm. She had six surgeries implanting rods and fixators in all the fractures. The Shands Gainesville physicians also diagnosed a traumatic brain injury with mild cognitive deficits. After all her treatments Jane ended up with a limp and numerous scars.

According to traditional analysis, maximum recovery in Jane's case depends on several key factors. First, evidence of drunk driving would motivate the jury and enhance the verdict. Even with an admission of liability the jury would find out about the drunk driving through a punitive damage claim. Second, the extensive injuries would probably preclude teaching and severely limit Jane's recreational joys such as her avid horseback riding.

None of these factors played out in this manner. Of course, Jane still suffers from significant injuries. Her past medical bills are \$350,000 and the present value of her

*continued on page 2*



## \$8 Million for Paralyzed Young Man Despite Inadequate Insurance

John Doe's young life was shattered as he chatted with his boss on the way to work one morning. John was riding shotgun when his boss could not negotiate a curve at the bottom of an overpass. Their pickup and utility trailer crossed the center line and rammed into the side of a garbage truck. John's limp body fell to the ground when his door was opened. The crash left him paralyzed from the neck down.

*continued on page 3*

**\$5 Million from Drunk Driver Without Punitive Damages** *(continued)*

estimated future medicals is over \$1 million. Yet Jane is such a motivated young woman that she did not let her injuries stop her from obtaining her degree with honors and becoming a teacher.

In the same honest, determined way Jane strove to make the rest of her life as normal as possible. Although she has given up competitive riding, she insists on getting out on her horse as often as she can and living her life as normally as possible.

The normal factors did not work out on the liability side either. The defendant driver died at the scene, and under Florida law his estate cannot be sued for punitive damages. Moreover, his employer had no knowledge of, or involvement in, his drunk driving.

Nevertheless, Pajcic & Pajcic was able to argue persuasively that the defendant's drunk driving would have to come before the jury as part of the damages aspect of the case. Although Jane was striving mightily to overcome her injuries, the accident took a heavy mental and emotional toll on her. Her mental health counselor and a prominent forensic psychiatrist both concluded that the defendant's drunkenness was a significant factor in Jane's psychiatric reaction to her injuries.

A defense psychologist hired to rebut evidence of Jane's brain injury unwittingly provided strong support for the relevance of drunk driving to her mental state. In minimizing any traumatic brain injury in a 47 page report, the prominent defense expert focused on Jane's "significant psychiatric distress" because of her "anger and bitterness toward what has unjustly happened to her" "because of an irresponsible drunk driver?"

In the end truth and justice prevailed. Without punitive damages and with Jane in the classroom and back on horseback, the case still resolved for a fair settlement of \$5 million.

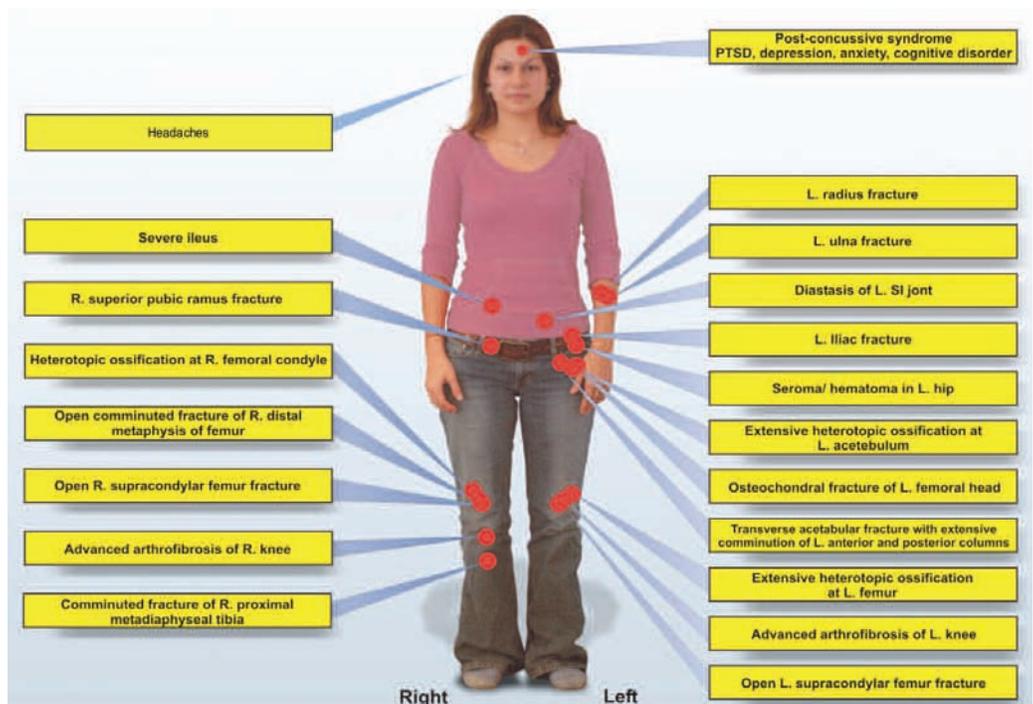


**Weight Loss Bonuses**

Sabrina Williams is the poster person for Pajcic & Pajcic bonus programs for exercise and weight loss. Not only has she earned all the bonuses every year, but her fellow employees voted her the special prize for most improved body. Sabrina doesn't stop with the required exercise. She formed a Pajcic team for The River Run and she is in the upcoming three day, 60 mile cancer walk. It is hard to believe, but Sabrina still has a few more pounds to lose before her BMI (Body Mass Index) is perfect. After that she can only get the \$1,000 weight maintenance bonus instead of it plus the \$2,000 weight loss bonus. No matter, she looks and feels like a million dollars.



**Jane Doe**  
SUMMARY OF  
MULTIPLE INJURIES



## \$8 Million for Paralyzed Young Man Despite Inadequate Insurance *(continued)*

The small company John worked for had no workers compensation coverage and only a small policy on the truck. Pajcic & Pajcic's investigation and analysis showed minimal fault on the garbage truck and no feasible crashworthiness claim against the pickup manufacturer.

The best hope for helping John seemed to be a case based on the dangerous road design. The crash occurred in rural west Jacksonville where Normandy Boulevard passes over train tracks before intersecting US 301. It is a tricky proposition to put a viaduct over the tracks but not the highway because the tracks are so close to 301.

While the state's liability is limited by sovereign immunity, when it decided to rebuild the overpass, the state hired private engineers who changed the design so that Normandy makes an unexpected sharp right turn at the bottom of the steep overpass. Although drivers cannot see the hairpin turn until the last minute, at the time of the accident the only warning was a confusing sign on the down slope of the bridge.

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*Pajcic & Pajcic's engineering experts criticized both the dangerous design of the overpass and the inadequate signage.*

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The bad news for John's case was that the engineering firm had less than \$1 million in insurance. John's past and future medical bills far exceeded all the available insurance.

The good news for John was that, when Pajcic & Pajcic presented the claims to the two insurance companies with all relevant information, both companies chose to defend the claims and bargain them down instead of paying up on a timely basis.

The insurance company for the pickup finally resolved its part of the case at a final mediation just before trial. The other defendant filed a bankruptcy petition a few days before trial, but with new attorneys it finally paid its share at a subsequent mediation. The total recovery of \$8 million included more than \$7 million above the limits of the policies.

Of all the cases handled by Pajcic & Pajcic, the most rewarding are those where the recoveries help a catastrophically injured client cope with his disabilities. The money is never enough, but every dollar counts. John has a handicapped equipped house and van, financial security for life, and a new optimism about the future.

## PAJCIC PROFILE



### Free legal Clinic

Brenda Bagley, Curry Pajcic and others from Pajcic & Pajcic recently helped with a free legal clinic at Philipian Community Church. Brenda, who is a member of Philipian coordinated the event. Under its pastor, Bishop Virgil C. Jones, Sr., the community outreach of Philipian includes health clinics, career fairs, tutoring, food baskets at Thanksgiving, and a Christmas Angel program. In addition to local attorneys providing free individual consultations, students were encouraged to stay in school and were given the opportunity to talk with the attorneys about a legal career. Pajcic & Pajcic sponsored a sumptuous buffet from the famous Philipian kitchen. Unfortunately, the lawyers ate most of the sausage biscuits.



### Commencement Address

This May Steve Pajcic gave his fifth commencement address at his and Gary's alma mater Paxon High School. After reminiscing about the state basketball championships in 1965 and applauding the new diversity at Paxon, Steve gave the graduates the Pajcic philosophy of life. There are only three important things (and it's not money, sex and power): In athletics, it's: (1) being a good sport, (2) playing hard for the team and (3) having fun, and the winning will work out. In law or business it's: (1) being ethical, (2) doing your best for the client or customer and (3) making it all as pleasant as possible, and the success will come. The students thought the speech was (1) honest, (2) studious and (3) boring.

## Substantial Recovery for Teen's Death Despite Med Mal Limitations

Jane Doe was an energetic, ambitious 17 year old. Before seeking the medical treatment that caused her death, Jane had tried out for her middle school volleyball team, taken professional voice lessons, roller-skated, done hip-hop dancing, and volunteer work for a local rugby club. Despite all of these extra-curricular activities she managed to finish high school early and go straight into the work force. She did suffer from shortness of breath upon exertion, which her parents attributed to asthma, which had been her diagnosis since elementary school.

Because of her continued shortness of breath Jane sought more medical treatment. The doctors correctly determined that Jane had a congenital heart defect, a hole between her left and right atriums.

*Tragically and inexplicably the doctors overlooked a second more critical congenital heart defect, by which her oxygenated blood returned to her right atrium instead of her left.*

The hole in the heart actually was the body's way of correcting the circulation defect. When the surgeons closed the hole without first redirecting the oxygenated blood, Jane died instantly.

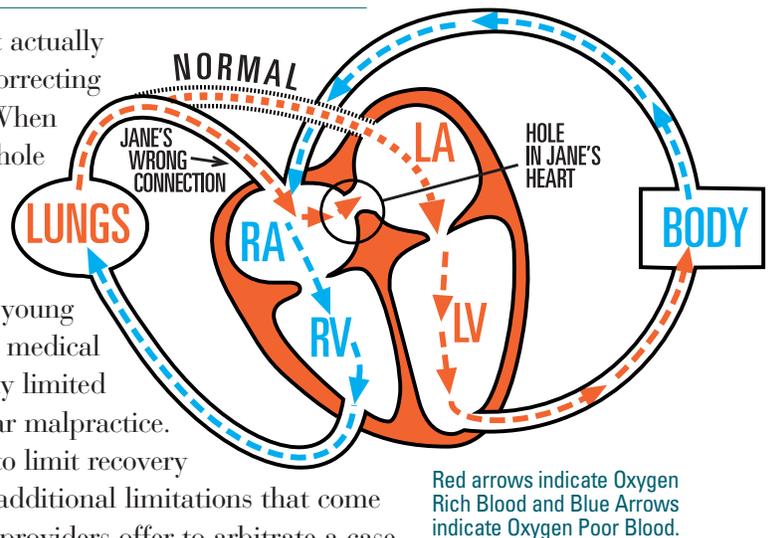
Because Jane was so young with no dependents, the medical malpractice caps severely limited the recovery for this clear malpractice. The defendants sought to limit recovery even more through the additional limitations that come into play when medical providers offer to arbitrate a case.

After careful analysis of the law as it applied during the relevant time, Pajcic & Pajcic concluded that they could maximize the recovery by Jane's parents by taking the unusual action of accepting arbitration of the case against the hospital (where liability was problematic) and refusing arbitration against the doctors (even though that would require proof of negligence).

In the arbitration proceedings Pajcic and Pajcic argued that language in the arbitration statute regarding economic damages actually enhanced the potential recovery in a case like Jane's. The case against the hospital resolved at mediation before arbitration.

In the circuit court case, one group of doctors offered their insurance limits when timely demanded in accordance with the bad faith provisions of the medical malpractice statutes. A second group of doctors settled at mediation.

While Jane's parents will never get over the loss of their precious daughter and will never understand why the Florida legislature has enacted so many limitations on recovery in a case like hers, they appreciate that the hospital and doctors could not so easily wash their hands of Jane's death.



## \$1 Million Recovery Despite Inadequate Insurance and Coverage Dispute

John Doe was headed out for a lunch break when the Proclean van crossed the center lane and hit his pickup head on. John's most serious injuries were his broken left ankle, which required external fixation, and a torn anterior cruciate ligament in his right knee, which required surgical repair. The injuries immobilized John for months and made it difficult for him to return to his job as a warehouse supervisor.

Proclean had only a \$300,000 liability insurance policy. When Pajcic & Pajcic offered to take the limits, Proclean's attorney recommended settlement, but the insurance company decided to raise a coverage defense and file a declaratory judgment action against Proclean.

The key question in the declaratory judgment action was whether the Proclean driver was covered by the insurance policy. The insurance company listed him as an excluded driver, but subsequent notices from the independent insurance agency created ambiguities.

John's case against Proclean settled at mediation for a \$100,000/\$1,000,000 high-low agreement contingent on the outcome of the declaratory judgment action. After further discovery that case was resolved in favor of coverage. The insurance company is now pursuing the insurance agency and its insurer for reimbursement.

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*John and his wife Jane never tried to understand all the legal technicalities and maneuvering. They trusted Pajcic & Pajcic and showed their appreciation by bringing gifts to the closing on the final settlement.*

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### PAJCIC PROFILE



#### Voice of Sickle Cell

Everyone at Pajcic & Pajcic felt honored when our own Brandon Quintance was chosen as the "Voice of Florida" for sickle cell and the "Face of Endurance" for Northeast Florida. Brandon has endured sickle cell since infancy and several times a year ends up in the hospital. Yet he works with Pajcic & Pajcic while also attending the University of North Florida. As a part of his duties as spokesperson Brandon was interviewed by local television and featured in the sickle cell newsletter, which noted how his uplifting words inspire other patients. At Pajcic & Pajcic folks are inspired by his "sick" humor.





### Helium Arm?!?

After finishing as president of the Jacksonville Justice Association, Tom Slater is currently serving as president of Jacksonville Area Legal Aid. During Tom's term the Jacksonville Justice Association changed its name, increased its membership, doubled its budget and expanded its services. Tom's plans for legal aid include the groundwork for an endowment campaign. Tom is on the board for the Jacksonville Speech And Hearing Center and was on the vestry for his church. Tom's assistant Juli Williams says Tom has a case of "helium arm" when it comes to volunteering.

## Continued Support for Desire Street Ministries



*Gary Pajcic's oldest sons with Tim Tebow and Danny Wuerffel.*

When Hurricane Katrina devastated New Orleans former Seminole quarterback Gary Pajcic gave \$100,000 each to Gator quarterback Danny Wuerffel and Seminole running back Warrick Dunn to help with their charity programs in New Orleans. Danny Wuerffel recently returned to Jacksonville to raise money for Desire Street Ministries, the program helping under privileged youngsters which Danny now heads. Gary's widow Sallyn and Steve Pajcic gave Danny another check for \$100,000. Then Gary's oldest sons Curt and Curry got two of those dollars back from Danny and Tim Tebow on the golf course. (No gambling!! - Just autographed mementos)

## \$ 2 0 M I L L I O N I N C R A S H W

*Since its \$10 million verdict against Ford for a young wife's death from a roof crush in an Explorer, Pajcic & Pajcic has settled over a dozen crashworthiness cases against a half dozen manufacturers for \$20 million in total settlements. The settlements involved death and catastrophic injuries for a wide range of safety defects, including:*



**FIRE**



## Pajcic Twins

Twins make up less than 2% of the population. So, out of 50 employees, Pajcic & Pajcic should have one twin. How about five times that many? All the twins were invited to be special guests at the annual Pajcic & Pajcic retreat at Amelia Island. A lot of tricks were played.

## Second Obama Fundraiser

When Anne and Steve Pajcic hosted a fundraiser for Barack Obama at their house in March of 2007, they could only dream of a return engagement with Senator Obama as the presumptive Democratic nominee. The second event had to be held at the Jacksonville Convention Center and it raised almost \$1 million. Steve was especially pleased that his and Gary's old friend Chris Searcy flew from his trial in Orlando to lend his support to the campaign. He was even happier to see his daughter Helen who is traveling the world as a press advance for Senator Obama.



*Time Magazine (December 2007) Photo of Helen Pajcic and Barack Obama.*

# ORTHINESS SETTLEMENTS



**ROOF CRUSH**



**SPARE TIRE DETREAD**



**FAULTY DOOR LATCH**



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- William S. Burns, Jr.
  - Lee T. Griffin
  - Robert J. Link
  - Michael P. Moran
  - Curry G. Pajcic
  - Curtis S. Pajcic
  - Gary C. Pajcic (1947-2006)
  - 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.