



THE DEFENSE LINE

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THE SOUTH CAROLINA DEFENSE TRIAL ATTORNEYS' ASSOCIATION

NO. 3



**NINETEENTH ANNUAL JOINT MEETING
SOUTH CAROLINA DEFENSE TRIAL ATTORNEYS' ASSOCIATION
CLAIMS MANAGEMENT ASSOCIATION OF SOUTH CAROLINA
JULY 24 - 26, 1986
GROVE PARK INN, ASHEVILLE, NORTH CAROLINA**

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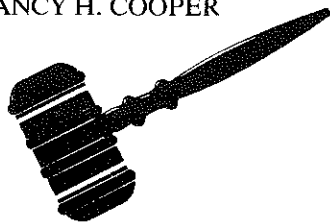
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EDITOR

JACKSON L. BARWICK

ASSOCIATE EDITOR

NANCY H. COOPER



PRESIDENT'S LETTER

This is the time of year your Executive Committee becomes increasingly concerned with continuing legal education. The planning for the joint meeting in Asheville has been completed. As usual, the meeting has been approved for 6.0 CLE hours. The theme of this year's meeting, the insurance crisis, is most timely and ties in with other activities of our Association this year. Glenn Bowers and Tim Bouch and their Committee are to be commended for much hard work in putting this program together.

Glenn and Tim also successfully coordinated a products liability seminar which our Association co-sponsored with the South Carolina Trial Lawyers in May. Rounding out our Association's educational activities for the year will be the Annual Meeting. Your Executive Committee is working hard trying to make this year's convention the best ever. We expect that the program will be approved for 6.0 CLE hours as it has been in the past so that our members can fulfill their entire annual CLE requirement by attendance at our two meetings.

The Executive Committee has been considering the needs of some of our members (and others who are interested in joining our organization) who work in specialized areas such as workers compensation and labor law. We hope to provide, through the use of break-out sessions at this year's Annual Meeting, programs for some of those specialized areas. This requires, of course, more speakers and more work by the Programs and Seminars Committee, but we feel it is important to offer something tailored for those specific areas.

Our membership has reached an all-time high, but our Membership Committee, chaired by Hugh McAngus, is not finished yet. If you know of any potential candidates for membership in our Association, please contact Hugh and his Committee will follow-up with any interested attorneys.

Clare and I look forward to seeing you in Asheville.

Make your reservations early.

T. Eugene Allen III



TEN YEARS AGO

JACKSON L. BARWICK, JR., President-Elect of the South Carolina Defense Trial Attorneys' Association, was the delegate for our association to the Ninth National Defense Conference of local defense associations sponsored by the Texas Association of Defense Counsel at San Antonio, Texas, 1976. Our association was again honored for outstanding performance by the Defense Research Institute.

The Defense Line is a regular publication of the South Carolina Defense Trial Attorneys' Association. All inquiries, articles, and black and white photos should be directed to Nancy H. Cooper, 3008 Millwood Avenue, Columbia, SC 29205, 252-5646.

NATIONAL CONFERENCE OF STATE AND LOCAL DEFENSE ASSOCIATIONS

By Theron Cochran, *President-Elect SCDTAA*

The 19th National Conference of State and Local Defense Associations was held in Orlando, Florida, April 23-26. The meeting was co-hosted by the Florida Association of Defense Lawyers and the Defense Research Institute, Inc. (DRI) In addition to myself, Ed Mullins, Chairman of the Board for DRI and Dewey Oxner, a member of the Board of Directors also attended the meeting.

The primary topic was "tort reform", although we were able to exchange ideas on other topics in "breakout sessions". I came away from the meeting feeling very proud of the accomplishments of our association and I am very pleased about the future.

Ernest Lageson, president of DRI, William Wallace, president of International Association of Insurance Counsel (IAIC) and Daniel V. Flatten, President of the Association of Insurance Attorneys (AIA) also attended the conference. Our meeting on Thursday, April 24, 1986 began with a "pep talk" from the above individuals. We were then divided into three groups which they called "breakout sessions." We had a total of four "breakout sessions" on Thursday and Friday. A moderator was appointed for each session and after each session we would assemble and the moderator would report on what had been discussed within each particular group. I was a moderator for one of the sessions and found it to be an interesting experience. In the "breakout sessions" we discussed what our associations were doing in regard to sharing of information on expert witnesses, other services to members, public relations, position papers, lobbying, PACs, education and other programs.

Many associations did nothing in regard to expert witness banks and simply depended on DRI for their expert witnesses. However, the general feeling of those present felt that some sharing of information within the Association on expert witnesses, particularly plaintiffs' experts, was important as often times DRI does not have information on "local" witnesses. Of course DRI encouraged us to participate more in the use and exchange of information with DRI. DRI has recently employed an individual by the name of Cindy Berry to coordinate their efforts in that regard. Participation is the key to any research bank.

Some associations attempted to "target" troublesome plaintiffs' expert witnesses who prostitute themselves and collect sufficient information on those witnesses to destroy their credibility.

Some associations have local jury verdict reporting systems. Some associations have trial academies for young lawyers. Many associations have PACs. Many states elect

their judges by popular elections so the majority of their funds from their PAC are used in support of a particular judiciary candidate. Most associations felt PACs were essential. Southern California raises approximately \$750,000.00 annually from various groups for their PAC.

Many associations have now formed coalitions on tort reform. This was a big topic at the meeting and everyone was in agreement that tort reform is essential to the survival of the tort system. However, needless to say, everyone was not in agreement as to how it should be done. All associations were concerned about the caliber of the judiciary and some representatives felt that tort reform could better be accomplished by obtaining a better caliber judiciary than by legislation. However, no one had any real answers as to how that could be accomplished, and it was the general feeling that in the interim that we should go to the legislative route as far as tort reform is concerned.

Many associations have paid lobbyists and those that have paid lobbyists felt they were necessary if the association was going to participate in legislative matters.

Many associations have executive directors and those that have executive directors reported positively concerning same. Most were part time similar to our arrangement with Carol Davis and her group.

Many associations have amicus committees which intervene in appellate cases of interest to the association.

A number of associations have speakers bureaus which furnish speakers to interested groups and before legislative committees. Several associations were active in writing position papers on legislation of interest to the association. However, a minority felt that position papers were useless because they were usually "trashed" without ever being read.

Most of the associations represented at the meeting provided some form of educational programs where the members of the associations could obtain required CLE from association meetings or seminars. Quite frankly, I feel that we rank at the top in our meetings. We are the only association which invites the entire trial and appellate judiciary to a meeting at the expense of the association. Everyone felt that was a great idea, but did not see how we could afford it.

Practically all associations send DRI material and local news letters to the state and federal trial judges.

One association maintained a library of video tapes on various topics of interest which were available to the members of the association.

The Southern California Association sponsored a management seminar for members of law firms within the association who were willing to exchange ideas and share information concerning office administration, salaries, personnel, etc.

A few associations had scholarship programs for law students, and one association had a student membership at substantially reduced price for law students which appeared to be more of a public relations move than anything else.

Saturday morning was devoted primarily to the national coalition which DRI is involved with on tort reform. Several individuals spoke with us on various aspects of the national effort including Frederick Krebs, director of the U.S. Chamber of Commerce.

The message we received is that the time is right and that tort reform is probable if we put forth a concentrated effort.

DRI's position on tort reform, which they refer to as "Litigation Cost Containment," is a ten point program as follows:

(1) Make the public aware of the cost of all of the ever expanding size of damage awards for injuries, the multiplication of unjustified theories of recovery and the spiral cost of litigation.

(2) Limit or eliminate punitive damages.

(3) Limit discovery abuse.

(4) Seek the cooperation of the judiciary in taking a more active role in case management.

(5) Diligently explore methods to administer claims efficiently and to deliver quality legal services to defendants in civil cases at reasonable cost.

(6) Pursue and encourage the use of alternate dispute resolution techniques as appropriate.

(7) Limit or eliminate joint and several liability.

(8) Eliminate the collateral source rule allowing inappropriate double recovery of damages and allow full disclosure of all facts bearing on plaintiff's financial loss.

(9) Control the use and amount of contingent fee contracts to appropriate limits.

(10) Improve the quality of judicial education and selection and increase judicial compensation.

The meeting ended with an awards luncheon and an address by The Honorable James C. Hill of the Eleventh Circuit Court of Appeals, Atlanta, Georgia. SCDTAA's President Gene Allen received recognition for the work that he has done in our Association this year, and a plaque was sent to him honoring that service.

Practice and Procedure Committee Report

Frank H. Gibbes, III, *Chairman*

The new amendments to the S.C. Rules of Civil Procedure became effective May 1, 1986. The following are key changes.

Rule 6 (b) - The standard for enlarging the time to answer, on motion made after the time to answer has expired, is changed from "excusable neglect" to "good cause". This makes the rule consistent with Rule 55(c) and should substantially liberalize a party's ability to set aside a default at any stage before a default judgment is entered.

Rule 11 (a) - An attorney's certification that there are good faith grounds for a particular matter is extended beyond pleadings to motions and other papers.

Rule 33 (b) (8) - The limit for serving 50 additional interrogatories is increased from \$10,000 to \$25,000.

Rule 40 (b) (2) - As amended, the rule

specifically provides that a party who is joined sometime after the original suit is commenced gets a full 120 days for discovery.

Rule 50 (e) - The rule is clarified to provide that the time for appeal runs from "receipt of written notice" of an order granting or denying a motion for judgment N.O.V.

Rule 59 (f) - Similar change pertaining to motions for new trial.

Rule 68 (b) - Provision added providing punitive aspects if offer of judgment is not accepted.

The South Carolina Bar is apparently going to publish a book which will contain the amended rules in their entirety. The notice which appeared in the last issue of the *Transcript* is set forth below.

Rules Book Will Be Available

Just prior to press time the Board of Governors authorized the publication of an amended version of the *South Carolina Rules of Civil Procedure*. The book will be in a briefcase format.

The publication will be available to members at \$10 per copy. Advanced orders may be placed with the S.C. Bar at P.O. Box 11039, Columbia, SC 29211. Checks should be made payable to the S.C. Bar.

Since the book must be completely reprinted, please allow at least six weeks before receiving copies.

LEGAL LOGIC

Don't ever make a speech with more than one thousand words. The speech should contain and repeat certain key words like: "people," 81 times; "our country," 26 times; "liberty," 17 times; "the poor," 33 times; "I promise you," 77 times; and call all opponents "incompetent" as many times as you can say it.

If written correctly, legalese is perfectly incomprehensible.

No man's life, liberty, or property are safe while the legislature is in session.



AMICUS CURIAE

W.G. "Bill" Lynn, Jr., *Chairman*

The fourth circuit has allowed the South Carolina Defense Trial Lawyers Association to file an *amicus curiae* brief in the case of *Chuck's Feed and Seed Company, Inc. v. Ralston Purina Inc.* as to the constitutionality of the South Carolina Unfair Trade Practice Act. Our arguments are based on due process and unconstitutional delegation of legislative functions.

The brief was prepared by J. Brantley Phillips, Jr. and Natalma M. McKnew of the Leatherwood firm, L. Sidney Connor, IV of the Nelson, Mullins firm and William H. Davison, II of Nauful and Ellis.

Joint Seminar Report

The South Carolina Defense Trial Attorneys' Association, under the direction of the Program & Seminars Committee Co-Chairmen, Glenn Bowers and Tim Bouch co-sponsored a Video/CLE Seminar, Friday, May 9 in the U.S.C. School of Law auditorium. Through a cooperative effort of the SCDTAA, the South Carolina Trial Lawyers Association and the South Carolina Bar, the Practical Products Liability Seminar was a success. Approximately 50 people in Columbia and 50 people in the remote sites attended. The final figures are not in but SCDTAA should make between \$500 and \$800. Thanks go to the co-chairmen and Steve Morrison, Mark Wall and Bill Grant for their work in connection with the seminar. The program qualified for 6.5 credit hours under the mandatory CLE regulations.

Thursday, July 24:

3:00 to 5:00 p.m.
4:00 to 6:30 p.m.
7:15 to 8:15 p.m.
8:15 to 9:30 p.m.
9:30 to 11:00 p.m.

Friday, July 25:

8:00 a.m. to 12 Noon
8:15 to 9:00 a.m.
8:45 to 9:00 a.m.

9:00 to 9:20 a.m.

9:20 to 9:50 a.m.

9:50 to 10:30 a.m.

10:30 to 10:45 a.m.

10:45 to 11:45 a.m.

11:45 a.m. to 12:15 p.m.

12:00 a.m. to 12:15 p.m.

12:15 to 1:15 p.m.

12:32 p.m.

1:00 p.m.

1:00 p.m.

7:00 to 8:15 p.m.

8:15 to 9:30 p.m.

9:30 to 11:00 p.m.

Saturday, July 26:

8:15 to 9:15 a.m.

8:30 to 9:00 a.m.

9:00 to 10:15 a.m.

10:15 to 10:30 a.m.

10:30 to 11:45 a.m.

11:45 to 12:15 p.m.

12:15 to 1:15 p.m.

PROGRAM

Executive Committee Meeting
Registration
Welcome Reception - Grove Park Inn
Dinner - Grove Park Inn
Entertainment & Dancing - "The Eddie Byrd Trio"

Late Registration
Coffee
Welcome

T. EUGENE ALLEN, III, Esquire, President, SCDTAA
THOMAS H. HESSE, President, CMASC
TORT REFORM: POLITICS AND POLICY
Moderators: TIMOTHY W. BOUCH, Esquire
GLENN BOWERS, Esquire

Tort Reform: Legislative Overview
CARL B. EPPS, III, Esquire
Tort Reform Legislation: South Carolina Activity
The Honorable DAVID H. WILKINS, Member, South Carolina House of Representatives; Chairman, Greenville County Legislative Delegation
Tort Reform Legislation: U.S. Congressional Proposals
W. STEPHEN CANNON, Deputy Assistant Attorney General, U.S. Department of Justice, Washington, D.C.

Coffee Break

Good Faith Claims Handling or The Bad Faith Menace

BRAD J. WARING, Esquire

When Bad Faith Comes To Court

The Honorable JOHN HAMILTON SMITH, Presiding Judge, Fifth Judicial Circuit

Spouses Brunch and Self Defense Workshop

Bloody Mary and Screwdriver Break

Golf Tournament

Tennis Tournament

Racquetball Tournament

Reception - Deepark Plantation

Dinner and Entertainment - Deepark Plantation

Optional Candlelight Tour of the Biltmore House and Cordials (ticketed function)

Coffee

Business Meeting for Both Organizations To be Held Separately

The Insurance Crisis/The Insurer's Perspective

(a) MONTY W. SKELTON, Regional Claims Director for the Southeast Region
Maryland Casualty Insurance Company

(b) RON DENOVI, Director of Environmental Pollution, Claims Services,
Crawford & Company

Coffee Break

The Insurance Crisis/The Insured's Perspective

(a) WALTER J. ROBERTS, JR., M.D., President, South Carolina Medical
Association

(b) ROY D. BATES, Esquire, City Attorney, Columbia, S.C.; Special Counsel
the Municipal Association of South Carolina

(c) FRANCIS HERNDON, Manager of the Financial Institution Division of Marsh
& McLennan, Inc.

The Insurance Crisis/The Insurance Commissioner's Perspective, The Honorable JOHN
G. RICHARDS, Chief Insurance Commissioner

Farewell Bloody Mary and Screwdriver Break



EXPERT WITNESS INDEX

South Carolina Defense Trial Attorneys' Association
3008 Millwood Avenue, P.O. Box 11187
Columbia, SC 29211
(803) 252-5646

Name of Expert _____

Address _____

City _____ State _____ Zip _____

Phone _____

Area of Expertise/Specialty _____

Type of Case _____

Case Name _____

Did you consult _____ or confront _____ this expert?

If you consulted this expert, would you consult

him/her again? Yes _____ No _____

Do you have a file on this expert? Yes _____ No _____

Anything significant and/or unusual about expert and/or testimony? _____

Name of Submitting Attorney _____

Telephone _____

RECENT DECISIONS

Steven Bolick, Jr., as Administrator of the Estate of Pamela M. Zublick, Plaintiff, vs. Firestone Tire and Rubber Company, Defendant. (C/A 4:86 - 1066-2) (C/A 4:86-1067-2)

These are actions for wrongful death and conscious pain and suffering arising out of an automobile accident which took place in Dillon County, South Carolina, on September 22, 1983. They were originally instituted in the Common Pleas Court for the County of Dillon, State of South Carolina, and removed to this court. We are now called upon to decide the plaintiff's motion to remand.

After the death of plaintiff's intestate, a resident of the State of Maryland, her sister Kimberly Zublick was appointed personal representative in the State of Maryland. The heirs to the decedent's estate were Kimberly Zublick, sister, Mildred E. Pitman, mother, and Donald J. Zublick, father, all residents of the State of Maryland. At some later date, Steven Bolick, Jr., a resident of Ohio, was appointed administrator of the estate of Pamela M. Zublick. He has no interest whatsoever in the estate of Pamela M. Zublick, and was apparently made personal representative purely and simply to defeat the diversity of citizenship jurisdiction of this court.

In deciding the question of subject-matter jurisdiction in cases such as these, the Fourth Circuit Court of Appeals had made it abundantly clear that we must disregard the residence of the administrator and look to that of the beneficiaries, the real parties in interest. See *Messer v. American Gems, Inc.*, 612 F.2d 1367 (4th Cir. 1984); *Vaughan v. Southern Railway Co.*, 542 F.2d 641 (4th Cir. 1976); *Bishop v. Hendricks*, 495 F.2d 289 (4th Cir. 1974); *Miller v. Perry*, 456 F.2d 63 (4th Cir. 1972); *Lester v. McFaddon*, 415 F.2d 1101 (4th Cir. 1969). Since all of the beneficiaries to this estate are residents of the State of Maryland, and the defendant is an Ohio citizen, diversity of citizenship exists. The cases were properly removed to this court, and plaintiff's motion to remand in each case is denied.

It is so ordered by C. Weston Houck, United States District Judge.

E. Diane Culbertson v. Charlie Tillotson, ET AL, U.S. District Court, Greenville Division, (C/A 6:85-2504-3)

This case, defended by Theron Cochran of Love, Thornton, Arnold & Thomason, involves a Civil Rights claim by the Plaintiff against the City of Greer and two police officers under 42-USCA, § 1983. The plaintiff brought a claim for damages and injunctive relief, claiming that the City of Greer had a "custom and policy" of discriminating against minorities and that the individual officers violated her civil rights by "poking" Plaintiff in the stomach when she stepped between two police officers who were attempting to arrest her brother.

Judge G. Ross Anderson, Jr., in granting summary judgment for the Defendants, held that the Plaintiff's claim was without merit. Judge Anderson further held that the evidence clearly indicated the degree of force used by the police to prohibit the Plaintiff from interfering with the arrest of her brother did not exceed the degree necessary and privileged to accomplish that purpose. The evidence indicated that the striking of the Plaintiff was inadvertent, and any claim of the Plaintiff would be a state constitutional tort claim and not a civil rights claim under § 1983.

PRESIDENT SCDTAA RECEIVES AWARD

(Chicago, IL) — Attorney T. Eugene Allen, III, was named the recipient of the Defense Research Institute's prestigious Exceptional Performance Award at the recently held 19th National Conference of State Defense Trial Lawyers Associations in Orlando. A native of Columbia, Allen resides in Irmo and is associated with the law firm of Nexsen, Pruet, Jacobs & Pollard.

Mr. Allen was cited by Minneapolis attorney David F. Fitzgerald, chairman of the Institute's state association liaison committee for, "having supported and improved the standards and education of the defense bar, and for having contributed to the improvement of the administration of justice." The purpose of the award is to acknowledge the efforts of defense trial lawyer association leaders who selflessly volunteered their time in furthering the professional development and education efforts of their association.

The Institute is an association of approximately 13,500 lawyer and corporate members nationwide. It provides research and educational services on topics such as asbestos litigation, products liability, medical malpractice, and insurance law for its members. It also supports the efforts of the National Coalition for Litigation Cost Containment in the public interest.

19TH ANNUAL JOINT MEETING

Theron G. Cochran, *Chairman*

You should be making your plans for Asheville. The joint meeting with the members of our Association and the claims managers will be from July 24-26, 1986 at the Grove Park Inn.

Glenn Bowers, Tim Bouch and their committee have put together an excellent program which will focus on the insurance crisis, bad faith and tort reform. You will receive 6 hours CLE credit for attending the educational part of our program.

The social program will offer some changes. This year we will remain at the Grove Park on Thursday evening for cocktails and the dinner meal. We will be entertained by and dance to the music of the Eddie Byrd Trio, who have played at the Summit Club in Columbia for many years.

On Friday we will have a cocktail hour and dinner at the Deerpark Restaurant at the Biltmore Estate. In addition there will be an optional candlelight tour of the Biltmore Mansion following our dinner. There will be an extra charge for this function which you can sign up for on your registration form. I would encourage you to take advantage of this special tour even if you have already visited the Biltmore Estate as we understand this is a different type tour. Also, the Eddie Byrd Trio will again be with us on Friday evening at the Deerpark. We will also have the usual golf and tennis tournaments. This should be an entertaining and educational weekend. We encourage you to attend.

For those of you who may choose to travel by air rather than by automobile, Young Transportation Service has agreed to provide transportation from the Asheville Airport to the Grove Park Inn. The cost for this transportation is \$8.00 one way or \$15.00 both ways. If you would like to make a reservation on this transportation system, please call (704) 258-0084 during normal business hours or contact the Grove Park Inn to make reservations.

The Grove Park Inn is out of rooms for the Joint Meeting July 24-26. We have reserved a block of rooms at the Inn on the Plaza. When making reservations, identify yourself as being with SCDTAA to get a special \$56.00 single/\$60.00 double rate. Call the Inn on the Plaza at 1-800-438-3960.

PROGRAMS & SEMINARS

Glenn Bowers—Tim Bouch, *Co-Chairmen*

The 19th Annual Joint Meeting of the Defense Attorneys and the Claims Management Association will be held July 24 through 26th. The location is the Grove Park Inn, Asheville, North Carolina. The program theme is TORT REFORM: POLITICS AND POLICY. Friday, the current legislative efforts on tort reform both within South Carolina and in Congress will be discussed. The Honorable John Hamilton Smith and Brad Waring will speak on the bad faith issues currently facing the courts. The Honorable David H. Wilkins of the South Carolina House of Representatives will speak on the South Carolina tort reform activity. On Saturday the program will continue with several speakers addressing aspects of the insurance crisis. Monty Skelton, Regional Claims Director for the Southeast Region of Maryland Casualty Insurance Company and Ron

DeNoville, Director of Environmental Pollution Claims Services, Crawford & Company, will present the insurer's perspective. Dr. Walter J. Roberts, Jr., President of the South Carolina Medical Association will speak concerning the Medical Association's efforts on the various tort reform issues presently pending in the legislature. Roy D. Bates, Esquire, City Attorney for Columbia, South Carolina will address the group concerning the municipality's decision to go self-insured and the unavailability of vital coverages to certain city services. Francis Herndon, Manager of the Financial Institution Division of Marsh & McLennan, Inc. will also speak on the insured's perspective of the insurance crisis. The meeting will conclude with an overview by the Honorable John G. Richards, Chief Insurance Commissioner. The program qualifies for 6 hours of CLE credit.

SCDTAA
ANNUAL MEETING
October 30 - November 2
The Cloister, Sea Island, Georgia

LEGISLATIVE REPORT

The Appropriations Bill has taken much of the Legislature's time since last report. The South Carolina Civil Justice Coalition for tort reform continues to grow, with a current list of membership being as follows:

Carolina Lumber and Building Material Dealers' Association
Home Builders Association of South Carolina
Consulting Engineers of South Carolina
South Carolina Society of Professional Engineers
The Association of South Carolina Property and Casualty Insurance Companies
Associated General Contractors
South Carolina Petroleum Council
Motor Transportation of South Carolina
National Association of Independent Insurers
South Carolina Oil Jobbers Association
Union Camp Corporation
South Carolina Chapter of American Institute of Architects
South Carolina Hotel and Motel Association
South Carolina Merchants Association
South Carolina Restaurant Association
South Carolina Railroad Association
South Carolina Self Insurers
South Carolina Chamber of Commerce
National Federation of Independent Businesses
Greater Columbia Chamber of Commerce
Independent Insurance Agents of South Carolina
South Carolina Medical Association
South Carolina Insurance News Service
South Carolina Defense Trial Attorneys' Association
South Carolina Farm Bureau
South Carolina Association of CPA's

A Steering Committee has been appointed and much work is transpiring in paving the way for next year's session.

Thom Salane prepared a statement of purpose for the South Carolina Civil Justice Coalition, which is appropriate for reprinting here. Thom, Gene Allen, Ed Poliakoff, Bob Herlong, and Costa Pleicones, have worked very hard in organizing the Coalition, and our Association has provided a great service to its clients.

Statement follows:

The South Carolina Defense Trial Attorneys' Association has announced its support for the South Carolina Civil Justice Coalition. The Coalition is an association of business, professional, trade and other organizations pledged to support legislative reforms in the tort system. Unlike other efforts, the Civil Justice Coalition does not advocate any reform peculiar to one group or class of litigants; rather, the Coalition is seeking broad-based support for reforms for all civil litigation defendants in an effort to restore both balance and sense to the system. It does not seek to deprive injured parties redress for the fair value of their injuries but it does seek to eliminate those unjust and unfair results given much publicity in recent months resulting from undue liberality in verdicts involving "deep pocket" defendants.

Foremost on the agenda of activities of the Coalition is a unified effort at legislative reform of some of the most abused parts of the civil justice system. Currently, the Coalition has announced its unqualified support of the Doar-Courson Bill, recently introduced in the General Assembly. This Bill provides for a reduction in the time a party is required to file a lawsuit from the current six (6) years to three (3) years [South Carolina's current (6) year statute of limitations for personal injury actions is among the longest of any in the nation]. It calls for abolition of the "collateral source" rule which currently permits an injured party in certain circumstances to recover his damages twice. The Bill limits non-economic damage to a maximum of \$250,000. As to punitive damages, trials would be divided into two (2) parts and punitive damages would be assessed only under specifically defined circumstances. Awards of punitive damages would not be a windfall to successful suitors, rather 95% of such awards would be paid to the state's general revenue fund. Finally, the Bill would modify the doctrine of joint and several liability so as to require an injured party to collect only that portion of his damages causally attributable to a particular defendant's degree of fault.

Among the concerns of many of the members of the Coalition is the current affordability and availability crisis in liability insurance. While this crisis has resulted from a number of factors, a significant contributing factor has been the undermining of the fault system in litigation which tends to shift liability to "deep pocket" defendants who have only limited or tangential involvement in causing the injury. Moreover, the vagaries of the current tort system have led to tremendous uncertainty as to underwriting of risks by the insurance industry so that naturally occurring problems in the insurance marketplace have been severely exacerbated. In the view of President Reagan's Tort Policy Working Group's Report of February, 1986, effective tort reform of the kind supported by the Coalition is a practical necessity for making liability insurance available at affordable prices.

Through a heightened public awareness and reasoned discussion, the South Carolina Defense Trial Attorneys' Association and the South Carolina Civil Justice Coalition hope to prevail on the next session of the General Assembly to restore balance and fairness to the civil justice system. All members of the South Carolina Defense Trial Attorneys' Association are encouraged to support these efforts by contacting your local representatives in the General Assembly and requesting their support. Your views or questions would be greatly appreciated and may be directed to the South Carolina Defense Trial Attorneys' Association's office or to the Coalition's offices at 3008 Millwood Avenue, Columbia, South Carolina 29205.

We, as members of the Legislative Committee, will appreciate your comments and continued support. Carl Epps





**SOUTH CAROLINA
DEFENSE TRIAL ATTORNEYS' ASSOCIATION**

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CALENDAR OF EVENTS

| | | | |
|------|--|-------------------------------------|--|
| 1986 | International Association of Insurance Counsel (Annual) | June 29-July 5 | The Greenbrier, White Sulphur Springs, West Virginia |
| | Defense Research Institute, Inc. | June 29-July 1 | The Greenbrier, White Sulphur Springs, West Virginia |
| | Joint Defense Conference SCDTAA and Claims Managers | July 24-27 | Grove Park Inn, Asheville, NC |
| | Federation of Insurance Counsel | July 30-August 3 | Ritz Carlton, Laguna, CA |
| | American Bar Association (Annual) | August 7-14 | New York, New York |
| | American College of Trial Attorneys (Annual) | August 8 | New York, New York |
| | SCDTAA Annual Meeting | October 30 -November 2 | The Cloister, Sea Island, GA |
| | S.C. Bar Association (Mid-Year) | January 23-25 | Omni Hotel, Charleston, SC |
| 1987 | Federation of Insurance Counsel | February 25- March 1 | Rancho Las Palmas, Palm Springs, CA |
| | S.C. Bar Association (Annual) | June 5-7 | Inter-Continental, Hilton Head Island, SC |
| | Joint Defense Conference SCDTAA and Claims Managers | July 30- August 2 (Tentative) | Grove Park Inn, Asheville, NC |
| | Federation of Insurance Counsel | August 5-9 | Broadmoor, Colorado Springs, Colorado |