



# Sokolove/Co-counsel 2011-2012 Significant Verdicts and Settlements

SETTLEMENT	CASE TYPE	CO-COUNSEL FIRM
\$41,800,000	Mesothelioma and other Asbestos-related diseases	Multiple Co-counsel Firms
\$2,500,000	Failure to Diagnose Cancer	Lubin & Meyer Boston, MA
\$1,000,000	Medical Malpractice	Lubin & Meyer Boston, MA
\$850,000	Two Clients in a Clinical Trial	Sherman, Silverstein, Kohl, Rose & Podolsky, Pennsauken, NJ
\$850,000	Medical Malpractice	Lubin & Meyer Boston, MA
\$425,000	Failure to Diagnose Cancer	Donahue & Horrow El Segundo, CA
\$290,736	Securities Arbitration Award	Oakes & Fosher St. Louis, MO
\$270,108	Securities Arbitration Award	Oakes & Fosher St. Louis, MO

## UNDER INVESTIGATION

Sokolove Law is currently investigating potential litigation and case generation opportunities for injuries/losses arising from the following:

### ► Consumer Fraud

Accepting cases involving losses from unfair debt collection, auto fraud, identity theft, and other deceptive practices.

### ► Covidien Duet TRS®

Tissue reinforcement product used in medical staplers linked to serious injuries and death when used in thoracic surgery.

Covidien® is a registered trademark of Covidien AG.

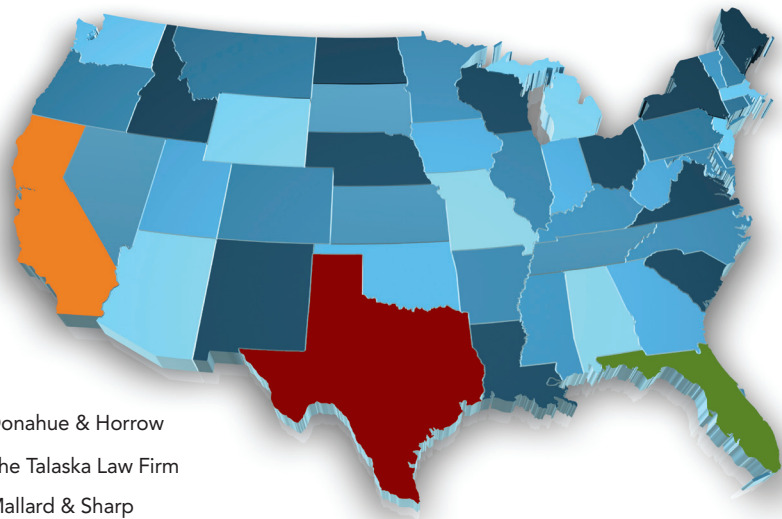
# SOKOLOVE SUCCESS

SOKOLOVE MEANS SUCCESS. Volume 12, March 2012

## Thriving Despite Tort Reform: A Tale of Three Firms

With the advent of tort reform, personal injury law has undergone a profound change. States have seen a flood of restrictive laws including damage caps, forced arbitration, and other legal changes that chisel away at citizens' rights and the ability of counsel to represent them.

Yet despite tort reform, Sokolove Law's co-counsel firms continue to help victims of birth injury, malpractice, and nursing home abuse have their day in court. Three co-counsel discuss the challenges they face and how they've succeeded despite the odds.



- Donahue & Horrow
- The Talaska Law Firm
- Mallard & Sharp

## Tort Reform

Continued from page 1

However, Donahue notes that "there are good malpractice cases to pursue here that have substantial economic damages, such as birth injury and brain injury malpractice cases."

Donahue & Horrow has flourished in part because it is very selective: less than 5 percent of cases reviewed proceed to litigation. But there's another factor: "Our long relationship with Sokolove Law has increased the number of referrals to our firm and thus the number of cases we litigate," says Donahue.

He points to a recent win in a birth injury case received from Sokolove to illustrate how a firm can help people and be successful in California. After substantial discovery and multiple mediation sessions, a \$5.8 million settlement was reached in the case. The family bought a van for their disabled daughter and a

house near her therapy facility with the proceeds. A substantial lifetime annuity was purchased to pay for the child's 24/7 care and a special needs trust established.

### The Talaska Law Firm, Houston, TX

In 2003, the Texas Legislature passed one of the nation's most stringent set of medical malpractice laws, limiting court access for patients and the amounts of their recoveries.

Some firms shut down their practices—but not The Talaska Law Firm. Founding partner Robert J. Talaska instead continued to focus his Houston malpractice firm on birth injury and birth trauma cases and has thrived despite caps on non-economic damages and a vast array of procedural hurdles.

Says Talaska, "We have overcome these challenges by being fortunate enough to have both the experience before tort reform and the experience anticipating what would happen with tort reform.

The key is case selection, case selection, and case selection."

Case selection is critical, he says, because you have to think of what the recovery is in any case with limited economic damages.

Fortunately, the Texas caps do not affect economic damages. Because of that, birth injury cases still have tremendous value.

Talaska's success includes recent record settlements with large private hospitals. He says working with Sokolove Law has allowed the firm to help more families.

"What Sokolove and I accomplish with these cases not only helps the families, it often leads to safer labor and delivery rooms in hospitals. And that is a good thing!"

1-800-305-4009



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### Mallard & Sharp, Miami, FL

"When I started practicing in Florida in the late 1990s, victims of medical malpractice, nursing home malpractice, and general negligence had more rights and avenues to recovery than they do now," says Richard "Bo" Sharp, partner at Mallard & Sharp, whose specialties include medical malpractice and nursing home abuse.

Indeed, medical malpractice tort reform has been devastating. In 2003, the law capped the amounts malpractice victims and families could receive from doctors and hospitals. Many Florida hospitals were already protected by sovereign or teaching hospital immunity, which also caps damage claims.

To succeed, Mallard & Sharp is highly selective about these cases, signing up only 1 out of 20 medical malpractice cases it screens.

Tort reform also hurt nursing home cases. The punitive damage standard was raised so victims could only recover

damages against nursing homes if recklessness/conscious indifference on the part of a managing agent was proven. Attorney fees were no longer recoverable. Nursing homes began requiring residents to sign a binding arbitration agreement.

Yet Mallard & Sharp still garners six-figure recoveries against nursing homes, doctors, and medical facilities. Recent successes include a multi-million-dollar medical malpractice settlement and a high six-figure recovery in a fall case against an adult daycare center.

Mallard & Sharp began working with Sokolove Law in May 2011. Since that time, "We have added no less than 20 cases with significant damages to our case list thanks to Sokolove," says Sharp. "We couldn't be happier with our working relationship."

Donahue & Horrow,  
El Segundo, CA

Most medical malpractice cases need large economic damages to be finan-

cially viable for a law firm. That's why the main challenge for medical malpractice firms in California relates to specific laws that hold non-economic damages to \$250,000 and limit attorneys' fees. For some firms, "meritorious cases are not being pursued because they are not economically viable," says partner Tom Donahue of Donahue & Horrow, which has medical malpractice and bad faith practices.

Continued on page 4

inside  
this issue

- Co-counsel SPOTlight ..... 2
- Campaign Highlight ..... 3
- Under Investigation ..... 4



SOKOLOVE LAW



## Co-counsel SPOTlight

### The Graham Law Firm Florence, SC

The Graham Law Firm's small size bears no correlation to its big successes in the courtroom.

Under the direction of founder Ed Graham, attorneys for the birth injury law firm have won a number of cases involving brain damage and brachial plexus injuries to children that have yielded seven-figure confidential settlements and jury verdicts.

Based in Florence, S.C, the firm is known primarily for its birth injury work. It also handles other medical negligence cases, including emergency room misconduct and surgical errors, plus other catastrophic injury and wrongful death cases.

Before heading out on his own in 2001, Graham honed his legal skills at Zeigler & Graham in Florence. Today, The Graham

Law Firm has two offices and a staff of eight, including three attorneys.

Although the firm's practice is about 70 percent birth injury, Graham makes it a point to speak with all clients regardless of case type. This practice paid off by landing Graham his largest case ever—a \$15.15 million verdict in an insurance bad faith case, *Mitchell v. Fortis Insurance Co.*, 385 S.C. 570, 686 S.E.2d 176 (2009), involving a young man denied benefits for HIV treatments. Graham's successful efforts on behalf of his client received national media coverage.

Graham has worked with Sokolove Law since 2004 and attributes approximately 40 percent of his birth injury case load to Sokolove's National Birth Injury campaign.



ED GRAHAM  
Founding Partner

"Working with Sokolove has been a significant part of my firm's growth in recent years," he says. "Ironically, I had initial reservations. I had never worked with a national referral service and had some concerns. Working with Sokolove's professionals and seeing the quality of the referrals quickly removed those concerns. The experience has been an unqualified success."

#### Contributing Editor

### The Battle for the Civil Justice System *By Robert Weissman*

The civil justice system is arguably the country's most important form of corporate accountability. Lawsuits against corporate wrongdoers afford victims an opportunity to receive compensation for harm suffered and help to deter future misconduct. The civil justice system also provides direct justice to victims, circumventing the need to persuade government officials to act.

It's for exactly these reasons that corporations have worked to undermine the civil justice system. And it is for those same reasons that Public Citizen's Civil Justice Project aims to preserve and expand access to the courts for victims of corporate wrongdoing. Our Civil Justice Project combines legislative advocacy to preserve the right to trial by jury, litigation to preserve access to courts, and data-driven research to influence legislation and policy debates about dangerous products and egregious corporate practices.

For decades, the U.S. Chamber of Commerce and the Big Business lobby have employed a multifaceted strategy to undermine the civil justice system. In courts and legislatures at the federal and state levels, they've achieved considerable success.

Right now the broadest attack on access to justice involves the spread of forced arbitration contractual provisions,

which aim to trick and coerce consumers, employees, and others into sacrificing their Seventh Amendment rights. In *AT&T Mobility v. Concepcion*, a case we argued before the U.S. Supreme Court last year, the court held that the Federal Arbitration Act gives companies the right to include forced arbitration contractual provisions that deny class action rights, irrespective of relevant state law. That was a big blow—but not the end of the story.

Public Citizen and its allies are pushing hard to ensure arbitration doesn't eliminate the right to trial by jury. We've had some big successes.

In January, the National Labor Relations Board ruled that class action bans in employment arbitration contracts violate the National Labor Relations Act. And thanks to the work of Public Citizen and others, the Consumer Financial Protection Bureau has authority to ban forced arbitration provisions in consumer financial contracts.

Our Civil Justice Project is premised on this core concept: The right to a jury trial makes our country strong and just. We believe in fighting hard to protect this essential right.

*Robert Weissman serves as the president of Public Citizen, a national non-profit advocacy group in Washington, D.C.*



#### Campaign Highlight

### Making Banks Pay for Unfair Debt Collection Tactics

Unfair debt collection tactics recently grabbed the spotlight with the U.S. Supreme Court's decision (*Mims v. Arrow Financial Services, LLC*, 10-1195) to allow a man hounded by recorded calls from a debt collection company to sue the company in federal court.

Yet even before that decision, Sokolove Law was taking action. Late last year, we launched a campaign targeting Santander Consumer USA—one of the country's largest originators of subprime auto loans—for its unfair debt collection tactics against borrowers with late or missed car loan payments and repossessions.

Sokolove employed television as a primary channel to create awareness within a target audience that was largely unaware that Santander's practices were illegal. Online marketing complimented television's broad reach. Paid search and digital display ads prompted response from motivated clients eager to take the next step in finding legal remedy. Social media outreach addressed client concerns in an immediate, relevant way. This integrated media channel approach targeted Santander's victims and delivered thousands of qualified leads (with significant signed conversion projections) for co-counsel.

#### Operations Update

### Customer Contact Chalks Up Successful 2011

Sokolove Law's Customer Contact Department had a banner year in 2011. Our experienced service operations team handled a significant increase in new callers and packet fulfillment services while maintaining our high levels for case screening and customer service.

What does all this activity signify for our co-counsel? That Sokolove Law delivers more quality leads to grow your business.

Team members handled over 1 million calls last year, a 10% increase from 2010. Of the total calls handled, 30% of new callers converted to leads, 31% of those leads met screening criteria for referral, and 10% of those referrals resulted in open cases. The team also evaluated thousands of calls in 2011 for quality assurance.

The younger skew of this audience also led to the use of text response in our ads, in addition to a traditional 800 number, to expedite the intake process by prequalifying leads upfront. Not only was the response positive and cost effective in generating qualified lead and signed case volume, it also provided insight into the need of callers to have multiple and convenient avenues to respond to advertising.

The end result? The successful delivery of highly qualified leads in a cost-efficient manner to our co-counsel.

Meanwhile, the packet fulfillment services for our asbestos campaign and many of our pharmaceutical and medical device campaigns continued to grow in 2011. For several campaigns, we offered prospective clients the option to sign their paperwork electronically. It's had a positive impact on return rates and speed-to-sign; we plan to expand this sign-up option.

Finally, the number of packets sent in 2011 reflected a 22% increase from 2010. Our packet return rate has held steady at 68% for the last two years. Our goal is to achieve a 70% packet return rate in 2012.