

Andrea Davis

From: Stewart Clontz & David Larson [ncaj@ncaj.com]
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To: Andrea Davis
Subject: ATS: Check It Out!



AUTO TORTS Section Newsletter

March 2011

From the Communications Co-Chairs

In addition to our awesome *Interrogatories* feature, the March issue of the Section e-newsletter includes information on NCAJ's Annual Convention and a call for mentors!

If any Section member would like to be an *Interrogatories* participant or contribute an article of interest in upcoming issues of the e-newsletter, please contact us directly at SClontz@Farrin.com or DLarson@lawmed.com and include SECTION NEWSLETTER in the header of the email.

Many Thanks!

Stewart Clontz & David Larson
Communications Co-Chairs, Auto Torts Section

Interrogatories



Each month an Auto Torts Section member responds to a few questions regarding his/her practice and experience, growth and changes in the auto torts practice area. This month, the *Interrogatories* spotlight is focused on **Ruth Smith**. On behalf of all Section members, we thank **Ruth** for her terrific contribution to this newsletter! Enjoy! -- **Stewart & David**

Ruth Smith has been practicing personal injury law in Western NC since 1999. In 2010, Ruth opened her own firm in Asheville. She is licensed to practice in NC, SC and Cherokee Tribal Court. Ruth is a member of NCAJ, NC Association of Women Attorneys and is a superior court mediator. For more information on Ruth or her firm, visit www.mywncattorney.com.

1) What was your first personal injury trial and how did it go?

My first case was here in Buncombe County, I had been out of law school maybe a year. The firm I was working for didn't have any trial lawyers, so I went in without ever having seen a *voir dire*, opening, direct, you name it, and basically had to learn as I went along. The case involved a young lady who was in an auto wreck and had facial scarring. I won the case, beating the insurance company's offer by over \$20K. I learned a lot, but it also spoiled me into thinking that all trials would be this easy. They weren't and my ego came crashing down to earth very, very quickly over the next set of trials.

2) What was your most memorable personal injury trial and why?

"Memorable" means the one you remember the most, and I'd probably be better off talking about one that I had success with. But, to be true to the question, the one I remember most was a wrongful death case that I lost. It involved a man killed on a motorcycle. He wasn't married and had no children. He was his mother's world. The mother was 78 years old. He visited her every day and they had supper together every night. After he died, she would still set his place at the table, go to the porch and wait for him to arrive.

The evidence on liability was scant, it was a red light case. Two months prior to trial, a new witness showed up, and totally destroyed liability for us.

I knew that our chances of winning were slim, however, I thought that we were already invested in the case, we had no offer, so what was there to lose?

What I am ashamed to admit was that I never considered that although I invested my time and my money in the case and had little to lose, my elderly client had a lot to lose. True, she didn't lose any money, but the case was never really about money where she was concerned. I put her through a four-day trial that I don't believe she ever quite recovered from.

I learned that you never put your needs above your client's needs. That trials might be great for attorneys, but there is a human cost to our clients. Our clients will take our advice, and look to us to do what is best for them. We cannot take that responsibility lightly, and we must understand all that their "best interest" encompasses.

3) What did you learn most from mentoring lawyers when you started?

I lost my mentor suddenly last year to cancer. She was a wonderful lady and a very good trial attorney. She taught me:

- Believe in yourself. If you don't, don't expect other people to believe in you.
- You are responsible for your own well-being.
- Being a woman is not a disadvantage. It doesn't make you a second-class citizen or a second-rate attorney.
- Take chances. Happiness doesn't always land on your doorstep. Sometimes you have to step outside and go find it.

4) What would you share with new lawyers now?

I believe the future of what we now know as a traditional injury/disability practice will change. The primary reason is pure demographics. With the aging of the Baby Boomers, over the next 10-15 years, people will be exiting the workplace in record numbers. Ten people will retire for every one new worker coming in. Thus, I believe that the future of worker's comp as a practice area ten years from now will be strained, regardless of whatever tort reform is passed.

Similarly, SSDI will be diminished as the majority of the population ages out of benefits. Further, the system will be financially tapped out, and we will likely see some type of benefits reductions/ means testing/ or a combination of the two.

On the bright side, many attorneys will be retiring...which will open up opportunities for the rest of us, particularly newer attorneys. My dad always told me "old dogs can't do new tricks," however, if newer attorneys can gain exposure to different practice areas, they can capitalize and position themselves for the future. Due to the changes outlined above, there may be an expansion in the practice areas of estate/tax planning, elder law, business law (for exiting, valuation, etc). My advice would be to work where you can find work in this economy, however be prepared for a practice area shift in the next 10-15 years and to take advantage of these changes.

5) How has the insurance defense bar changed?

In Western NC, I've seen fewer and fewer local attorneys willing to represent insurance companies. This may be due to local firms being undercut by larger firms from Charlotte and also that more experienced attorneys have become more selective in their work. Whatever the reason, I have noticed one or two law firms with newer attorneys handling the majority of the defense work in Western NC.

6) Please comment on the current state of the auto injury practice in North Carolina?

Obviously, we, as personal injury attorneys, are under attack. It's not a new problem, shells have been lobbed and bullets have been flying in our direction for years. It may be that we've been able to ignore the smaller hits (jury verdict sizes decreasing, jokes about us, etc.), however our opponents are now in a position to make a full-frontal assault against us and our clients. I am concerned about what lies ahead for our profession, but more importantly what will happen to our clients and future clients.

7) Who was the first personal injury client who touched you and why?

A woman came to me whose son was injured in a trampoline accident. As we worked together on the case, I learned that her other son had autism. My son is also autistic. Luckily, she had a doctorate in child psychology, and she was able to assist me in convincing our school to give my son better-suited services. As an attorney, I was able to assist her with her son. We have become good friends over the years.

I know this sounds corny, but I've become friends with a number of my former clients. One of my clients is now a regular fishing buddy with my dad. Another is my "UNC fan buddy", which means we swap congratulations after the games and discuss Roy. I believe the important thing to all of this, and to life, is to not treat your interactions with clients as once-in-a-lifetime opportunities, but as opportunities to build relationships which can last a lifetime. Yeah, OK, that's corny, but that's who I am!

Get Involved in the Career of a New Attorney – Volunteer to be a NCAJ Mentor!

In anticipation of a new and eager bunch of new admittees to the North Carolina Bar from the February Bar exam, **NCAJ needs a pool of NCAJ members statewide, in all practice areas, participating as mentors** for these new admittees as they join NCAJ!

Being a NCAJ mentor is very fulfilling! As a NCAJ mentor, you have the opportunity to share your expertise and knowledge with a new attorney and to shape that new attorney's future career.

NCAJ mentors are NCAJ members who have practiced more than ten years or who participate on the NCAJ Board of Governors. Every effort is made to pair a mentor with a new attorney who shares the same practice area and lives in the same town or geographic region. Contact AndreaD@ncaj.com to volunteer as a mentor today!

Call for Nominations – Section Leadership!

It's that time of year again...NCAJ Section & Division Chairs are busy putting together their officer rosters for the upcoming year (2011-12). **Don Higley & Al Patrick**, your Outgoing & Incoming Auto Torts Section Chairs, are making a call for your nominations for Auto Torts Section leadership!

Positions are available in every area - CLE, Communications, Legal Affairs, Legislative, Membership, PAC, and Publications. Participating in Section leadership is very satisfying and fun. Section leaders have the opportunity to shape a Section agenda in all aspects of NCAJ; to network and form working relationships with other NCAJ members statewide; and to have a voice with NCAJ leadership. If you are interested in participating Auto Torts Section leadership or wish to nominate a NCAJ member for Auto Torts Section leadership, contact AndreaD@ncaj.com.

Convention 2011: Online Registration OPEN!!

June 18-22, 2011
Hilton Riverside
Wilmington

Online registration is NOW OPEN for Convention 2011 which will be held at the Hilton Riverside in historic downtown Wilmington on June 18-22!

Convention 2011 Program Co-Chairs, **Emily McNamara**, *Wilmington* and **Vernon Sumwalt**, *Charlotte* have planned a tremendous Convention for you!

Convention Highlights:

- *Keynote Speaker*: consumer advocate **Erin Brockovich**
- *Saturday's Luncheon Speaker*: North Carolina's own **Roger Smith**
- *Civil Masters in Advocacy Seminar*: Hone your skills at **Arguing Motions** (morning) and **An Introduction to Reptilian Trial Advocacy from the Founders** (afternoon)
- *Criminal Masters in Advocacy Seminar*: **Hit & Runs: Fast-Paced Multi-Subject Hot Button Topics for the Everyday Practitioner**
- *Summer Conference for Paralegals*: Get a full year's CPE credit!

Of specific interest to Auto Torts Section Members:

- *Auto Torts Law Update* - **Sean Cole**
- *Civil Law Update* - **David Pishko**
- *Insurance Law Update* - **Doug Maynard**
- *Medicare, Medicaid and Liens* - **Julie Bell**
- *Annual Auto Torts Section Meeting*

[Click here](#) for a Convention Schedule-at-a-Glance.
[Click here](#) to register.

WAIT! You've registered...Make your room reservation NOW! NCAJ has reserved room blocks at the following locations. *Be sure to mention the NC Advocates for Justice for discounted rates!*

- **Hilton Riverside** - \$159/night - 910.763.5900 (*Both river view and city view rooms available.*)
- **Best Western Coastline** - \$129/night - 910.763.2800 or 800.617.7732 (*All river view rooms, less than two blocks from the Hilton.*)
- **Riverview Suites** - \$159/night - 910.772.9988 (*One-bedroom condos, all river view, one-half block from Hilton.*)
- **Shell Island Resort** - \$199/night - 910.256.8696 or 800.689.6765 (*In Wrightsville Beach, oceanfront one-bedroom condos.*)

Wrightsville Beach is a 20-minute drive from downtown Wilmington. For those who wish to rent beach cottages, NCAJ recommends the following realtors:

- **Intracoastal Rental** - 800.533.1840 or 910.256.4503 - www.intracoastalrealty.com
- **Bryant Real Estate** - 800.322.3764 or 910.256.3764 - www.bryantrealestate.com

Awesome CLE Just for You – Register Today!

Voir Dire Trial Skills: Putting Theory Into Practice - [REGISTER TODAY!](#)

April 8, 2011

Embassy Suites

Cary

*CLE Co-Chair & CLE Program Chair, **Adrienne Blocker**, has put together a tremendous CLE to study voir dire in action! You won't want to miss this CLE.*

[Click here](#) for more detailed information.

[Click here](#) to register.

Proving Economic Damages: Non-Traditional Wage Earners - SAVE THE DATE!

May 13, 2011

NCAJ

Raleigh

CLE Program Chair, **Kurt Aktug**, is putting together an awesome CLE for Section members. Stay tuned to future issues of the Section e-newsletter, and your email inbox and snail mailbox for additional CLE details and registration information.

Interested in Other CLE Topics?

[Click here](#) for the full schedule of upcoming live educational seminars and video replays.

On-Point: Topics from the Section Listserv

If you do not participate in Section listserv, you are missing out on one of the most valuable (and free) benefits of being an Auto Torts Section member!

Below is a list of wide-ranging topics that have been recently discussed by Section members on the listserv that greatly benefited all members of the Section listserv.

- Mecklenburg Verdict
- Spousal allowance and Medicare
- Trial ruling - Need Input
- Boyd v. Sandling - Won appeal on issue of SOL and Service
- Durham MIST Trial Verdict
- Non-Resident Non-Party Deposition
- Judgment, who pays what? Primary v. UIM
- Williams UIM Selection Rejection DJ Trial
- Slightly OT - Release v. Covenant
- Cabarrus county- a good verdict report
- Choice of Judge
- Bad Faith in Liability Context?
- Appellate Guru Needed
- Nominations for Auto Torts Officers
- Positive civil justice reforms
- Plaintiff's counsel appearing at defense physical
- Bad Meck (*Mecklenburg) Co Result
- SB 33 passes State Senate
- Contrib?
- Carter Wrenn's article
- NCFB Advance Question
- Need input on framing "bill v. paid" for the public message
- Diabetic Seizure - Negligence
- Challenge For Justice
- Minor settlement - ethical question
- Davidson County Verdict Yesterday
- OT: DePuy Hip Claims
- Failure to Bill Medicare/Medicaid
- Skype depositions
- Jury Trial - Lost on Issue of Contrib – JNOV

So don't delay - make the most of your Section membership, email AndreaD@ncaj.com today to set-up your Section listserv account.

2010-11 Auto Torts Section Officers

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Vice Chair & Ethics Chair: [R. Alfred Patrick](#) (Greenville)

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