



May 27th, 2009

Hi Everyone,

All of us at Estes, Sanders & Williams have had a great month of May and we hope you have as well. We have had so much rain lately that we seem to be swimming everywhere we go. The good news is the grass is green and the flowers are beautiful. Look for us to be floating by in your area soon. Just to give you a few highlights, read below.

ESW HIGHLIGHTS:

On May 7th, Matt Williams spoke at the AWCO Conference in Birmingham. His topic was on Red Flags and the things that make you go hmmm. Matt gave a great presentation and we thank all of you who attended his presentation in Birmingham.

On May 20th, ESW sponsored our Flora-Bama event for the Alabama State Conference. Jamie and Lisa were on hand and we were fortunate to meet new folks from all over the Southeast and Midwest. We had a terrific turn out and we hope that those of you who joined us had a great time (you know who you are). Thank you for joining us!!

SPECIAL THANK YOU'S:

We would like to say thank you to all of the Gallagher Bassett ladies in St. Louis for graciously having Matt Williams fly in for the day and provide a lunch & learn. Matt thoroughly enjoyed getting to know all of you! Thanks again for your hospitality.

KEEPING YOU IN THE LOOP:

As I mentioned in our February newsletter, our associate Walker Moss recently set for the Georgia Bar exam. His results should be in by the end of this month. Please keep Walker in your thoughts and I will certainly update you on his success in our June newsletter.

UPCOMING EVENTS:

Jamie Sanders will be in Atlanta Georgia on June 10th and 11th providing educational seminars to several of our clients. If you would like for us to stop by, please don't hesitate to let me know. In July, Jamie and Lisa will be in Portland Oregon with Grocers Insurance. Grocers has held a most worthy charity golf tournament for approximately 16 years. Grocers has been instrumental in an urban transitional school for homeless children. In fact, because of Grocers and its tournament sponsors the school was able to fund a beautiful physical school building this past year. The school is unique in that the students not only have a "school Building for learning they also have a "home." We are proud to be a part of this wonderful event and we look forward to spending time with our friends in the great northwest.

Conferences:

For those of you who still need Alabama credits, you have several more chances left. The next Alabama State conference will be held in Huntsville, Alabama on July 30th. Matt Williams will deliver the most stimulating topic of the year as a speaker (unfortunately we are uncertain of his topic at this time). If you are planning to attend the July 30th conference, please let me know as our law firm will host a dinner event on July 29th and I will gladly send you an invitation.

WE WANT TO EDUCATE YOU:

Don't forget to add us to your calendar for lunch & learns. We are happy to fly, drive and or (swim, if it continues to rain) to your location to provide Alabama training.

HAPPY BIRTHDAY: A special Happy Birthday to Bridgette Dennis and Liz Wynacht and to all of you that celebrated your special day this month. Happy Birthday To ALL OF YOU!!

ALABAMA WEEKLY LAW:

Melvin v. Loats, 18 ALW 19-9(2070922)

This case deals with the collateral source rule as it relates to damages in tort claims in the state of Alabama. In this case, Jimmy Loats sued Jamie Melvin for damages arising out of an automobile accident. The jury returned a verdict in favor of Mr. Loats in the amount of \$5,100.00. During the trial of the matter, Mr. Loats presented evidence indicating that medical expenses totaled \$14,713.36. On the other hand, Melvin introduced evidence indicating that third parties paid a portion of Loats' medical expenses and that Loats only incurred "out of pocket" medical expenses of \$1,700.00.

The trial court granted a new trial based on the fact that a jury's assessment of damages "must include, at the least, an amount sufficient to compensate the Plaintiff for his or her uncontradicted special damages, as well as a reasonable amount of compensation for pain and suffering." Ex parte Courtney, 937 So. 2d 1060 (Ala. 2006).

The Supreme Court, in citing Alabama Code 1975, §12-21-45 explained that the collateral source rule was abrogated and that a jury could determine that Loats was only entitled to recover \$1,700.00 that was paid out of his own pocket and an amount double that for pain and suffering. Thus, the Supreme Court concluded that the trial court erred in granting a new trial on the purported basis of inadequate damages as provided for in Alabama Code 1975, §12-13-11(4).

There is a sigh of relief in the decision of the Supreme Court in this case insofar as the decision in Marsh v. Green, 782 So. 2d 223 (Ala. 2000), which allows collateral source evidence, was upheld. As you are aware, in Alabama we are entitled to present evidence of medical expenses which are paid by third parties to enlighten a jury that the total amount of medical expenses and/or other damages being sought have actually been paid and are not true damages to a Plaintiff.

Do not hesitate to call us should you have any questions concerning this issue.

That is all I have to report for the month of May. Please let me know if there are some questions any of you might have, or some interesting topics you would like to hear about.

Please note that we are always available and will gladly answer any questions you might have.

Jamie's email-Jamie@esw-law.com Matt's email- matt@esw-law.com and of course if you need to reach me, my email is lisa@esw-law.com.

We look forward to hearing from you.

Take care,

Lisa, Matt and Jamie