



# THE DEFENSE LINE

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VOLUME 15

THE SOUTH CAROLINA DEFENSE TRIAL ATTORNEYS' ASSOCIATION

NO. 2

## LEGISLATIVE REPORT

*Carl B. Epps*  
*Legislative Chairman*

Several pieces of important legislation continue to be debated. The House passed a Tort Reform Bill after short discussion. In brief, the Bill amends Section 15-3-530, which is the general statute of limitations, to shorten it to three years. We continue to be a "discovery" state, i.e., the statute does not commence to run until the person knows or by the exercise of reasonable diligence should know that the cause of action exists.

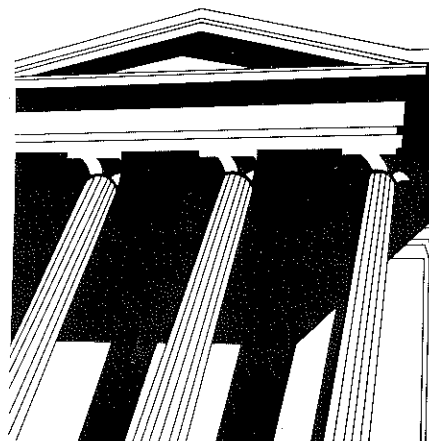
Section 15-3-545, which is the statute of limitations for health care providers, was amended to provide that the tolling period for minors was no greater than seven years. The tolling period was not extended to all classes of persons nor does it effect people suffering from other disabilities, such as imprisoned or insane persons.

Section 15-33-125 provides that a trial judge can only grant a new trial on the issue of damages if the only reasonable inference from the evidence was that the Plaintiff was entitled to a directed verdict as a matter of law.

Section 15-33-135 codifies a standard for punitive damages. It provides that "Punitive damages may be awarded for the purpose of punishing a tortfeasor for such acts or omissions in conduct which constitute malice, fraud, oppression, the conscious disregard of the rights of others, or the intentional disregard and invasion of the Plaintiff's rights". The language codified existing case law and probably has no meaningful impact on punitive damages.

Section 15-1-300 will abolish contributory negligence in favor of comparative fault. It provides that a Plaintiff may recover from a Defendant or Defendants so long his negligence is not "equal to or greater than the combined fault of the Defendants". This is the "Old Wisconsin" rule. The bill further provides that there is no setoff if one or more party recovers against the others, but that should have little application in view of the fact that a Plaintiff cannot recover from a Defendant and vice versa unless his or her negligence is less than the other.

The bill also provides for contribution among joint tortfeasors, and for fees and costs against a person who institutes or con-



tinues a frivolous lawsuit or defense. The frivolous lawsuit language is very weak and should have less effect than Rule 11 is intended to provide.

It is more important perhaps to talk about what the bill does not provide than what it provides. It does not call for any changes in the collateral source rule, for any limitations on joint and several liability, or for caps on non-economic damages. Also, the language on comparative negligence is drafted such that a Plaintiff still has the option to choose his defendants, and no offset is provided for absent Defendants nor is a right of joinder provided to enable those Defendants who are named to bring in absent parties. Additionally, contribution statute only provides for contribution among those who were judgment Defendants, again allowing a non-named Defendant to escape responsibility both to the Plaintiff and to the named Defendants. Also, as mentioned earlier, it probably does not contain any meaningful language to make it more difficult to obtain punitive damages.

The bill is being considered by the Senate Judiciary Committee at the time of this writing. A sub-committee chaired by Senator John Martin conducted a public hearing on March 26, 1987, and is expected to deliberate the bill this week. We are hopeful that we can obtain amendments in the Senate to include modification of joint and several liability and to change the burden of proof for punitive damages.

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# PRESIDENT'S LETTER

*Theron G. Cochran*

Members of our Association have been very active in the past few weeks debating members of the Trial Lawyers and giving talks in various forums around the State on the issue of tort reform. Most groups have been receptive and in agreement with the position that we have taken on this very important issue. The visibility of our Association has certainly increased during the past few weeks. I want to thank Carl Epps, President-Elect and chairman of the Legislative Committee, for all the time he has spent in coordinating our efforts and participation in the tort reform area.

It is not too early to begin thinking about our Joint Meeting in Asheville which begins on July 30, 1987. Bill Helms and his committee have put together a tentative schedule of events and will finalize those within the next few weeks. Bill Grant and Bill Coates and their committees are finalizing the educational portion of the convention. You will probably be receiving your registration packages before the next newsletter, so remember to register early and send in your room reservations promptly. We should have plenty of rooms available, but they will release the rooms at the given deadline for reservations.

I also want to take this opportunity to thank J. Brantley Phillips, Jr. and Natalma M. McKnew of Greenville for their participation on behalf of the Amicus Curiae Committee of this Association in an appeal involving the South Carolina Unfair Trade Practices Act to the United States Court of Appeals.

The constitutionality of the statute was one of the grounds for appeal. Even though the court did not declare the Unfair Trade Practices Act unconstitutional, the court reversed the District Court and held the South Carolina statute is aimed at two distinct kinds of conduct, unfair and deceptive practices and anti-competitive practices.

At our recent Executive Committee meeting, it was reported that membership renewals are doing quite well. Also, our treasurer's report indicates we are financially sound. Therefore, it appears that everything is doing well for our Association.

## TEN YEARS AGO

In February, 1977, **THE DEFENSE LINE** published No. 1 of Volume 5, **JACKSON L. BARWICK, JR.**, was President succeeding **DEXTER POWERS**. Claims Management Officers were **GARRY W. ANTHONY** of Charleston, President, and **C.A. WHITAKER** of Florence, Vice-President. South Carolina Claims Association Officers were **JOHN WOODS**, President, and **DEWEY EASLER**, Vice-President. We also noted our Association receiving the Exceptional Performance Citation Program for the Tenth National Conference of Local Defense Associations.

**ED MULLINS, JR.** and **JIM ALFORD** were our Legislative Chairmen.

*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.*

# RECENT DECISIONS

## All-Dav, Inc., vs. Soren Shirt Company, Inc.

A unique factual situation required an in-depth interpretation of Section 15-5-150, South Carolina Code, the South Carolina Door-Closing Statute, in the recent case of **All-Dav, Inc. vs. Soren Shirt Company, Inc.**, United States District Court, Greenville Division, Civil Action No. 6:86-2585-17.

In that case, the plaintiff and defendant had entered into a contract whereby the defendant, a New York corporation, was to supply the plaintiff, a North Carolina corporation, with specially manufactured shirts. The contract was negotiated in New York and was to be performed by delivery of the shirts in North Carolina. The shirts themselves were manufactured in South Carolina.

Suit was initially filed in New York. Subsequent to that first suit, a second suit was filed with the District Court for South Carolina by All-Dav, Inc. The defendant Soren Shirt Company, Inc. sought to dismiss this action based upon the South Carolina "Door-Closing" Statute.

Federal Judge Joe Anderson, in applying Section 15-5-150, found that South Carolina courts are closed to suits brought by a foreign plaintiff against a foreign defendant where the cause of action is foreign and the subject of the action is foreign. The dispositive issue in the case was where the situs of the cause of action was located and what was the "subject of the action." The court determined that the contract was breached by a failure to deliver goods. The situs of that breach would be in North Carolina, where the goods were to be delivered. The court determined that the location of the manufacturer of the shirts actually had nothing to do with the breach of contract.

With regard to the issue of what was the "subject of the action," the court was called upon to differentiate between two definitions of the term "subject of the action." The court noted that the South Carolina Supreme Court had settled upon a statement which contained two definitions: (1) that the subject of the action is the "contract and the subject matter," and (2) that the subject of the action is "the plaintiff's main primary right." However, these definitions yield different results. If the subject of the action was the "contract and its subject matter," then the shirts would be the subject of the action, and, accordingly, the plaintiff could bring this action in South Carolina. However, if the subject of the action was "the plaintiff's main primary right," then the contract which embodied this right would be the subject.

The court determined that the latter definition was applicable and that the "plaintiff's main primary right" or the contract was the subject of the action. Accordingly, the court lacked subject matter jurisdiction over the case, and the Motion to Dismiss was granted.

The court also noted that the Motion to Dismiss should be granted for a second reason. The claim of the plaintiff in the South Carolina suit was actually a compulsory counterclaim for the New York suit, pursuant to Federal Rule 13, and would therefore have to be raised in New York.

## General Accident Group vs. Annette Edwards, et al Case No.: 86-CP-23-5904

The above declaratory judgement action was brought to distribute the remaining policy proceeds of approximately \$23,000.00 of the carrier's single limit liability coverage in the original amount of \$35,000.00 arising out of a three car motor vehicle with circumstances of aggravated liability and involving five claimants, all of whom had personal injury claims and two of whom had property damage claims with aggregate totals of approximately \$12,000.00. One of the claimants filed her property damage claim in arbitration which was thereupon settled immediately by the carrier. The carrier paid approximately \$12,000.00 on the two property damage claims and brought the above action to distribute the remaining \$23,000.00 to the personal injury claimants. The claimants were represented by counsel and took the position that the carrier's policy violated the statutory minimum mandates for bodily injury coverage in the amount of \$30,000.00 per accident by the carrier's failure to reserve \$30,000.00 for the personal injury claimants. C. Bruce Littlejohn, sitting as Special Circuit Judge, held that the carrier could not be made to pay more than its policy limits of \$35,000.00. The Order, at the time of this writing, has not been appealed.

*The submitting attorney believes that the following order substantiates what he has always believed to be a commonly used tool for judicial decision making "the coin flip"*

## James Scott, Plaintiff, vs. Fruehauf Corporation and Piedmont and Southern Leasing Company, Defendants.

This matter comes before me upon the defendant Piedmont and Southern Leasing Company's Motion for a protective order requiring that the deposition of Dr. Robert C. Atkinson noticed for March 28, 1987, be changed to an alternative date. The attorney for Piedmont and Southern Leasing Company objects to the deposition being taken on the noticed date because it conflicts with social plans that he has made. The only other time that the doctor can be available for his deposition is on April 11, 1987, at which time the attorney for the Plaintiff is to take care of his children while his wife is on an out of state trip. The attorney for Fruehauf Corporation prefers the deposition to be taken on March 28, 1987, because he is scheduled to commence a trial on April 13, 1987. The attorneys have been notified that the doctor will be available for his deposition at 1:00 p.m. instead of 11:00 a.m. as noticed. Because the inconvenience to the attorneys appeared to be equal to each attorney, it was suggested by the Court that a coin flip determine the date of the deposition. Both attorneys agreed to be bound by the coin flip. The flip of the coin determined that March 28, 1987 should be the date for the deposition. If is therefore,

**ORDERED**, that the defendants motion for a protective order and to quash the taking of Dr. Atkinson's deposition on March 28, 1987, at 1:00 p.m. is hereby denied, and the deposition is ordered to be taken at that time. William T. Howell, Circuit Court Judge Fourteenth Judicial Circuit, March 25, 1987, Hampton, South Carolina

## The South Carolina Civil Justice Coalition Report

1. As of April 2nd it is not known when the Senate Judiciary Tort Reform Subcommittee will act on the House-passed bill.
2. When talking with Senators, remind them that the House bill is **unacceptable** to the Coalition. Remind them that **the only interest group that appeared in support of the House bill was the trial lawyers' association (plaintiff attorneys).**
3. If the House bill is amended, however, to include **Coalition amendments** on joint and several liability and on punitive damages, it would be a bill worthy of support.
4. We are confident that support for the Coalition position among members of the Subcommittee assigned to this bill has significantly improved. Senator James Waddell has been personally involved in lobbying the Subcommittee and other Senators in support of the Coalition's position, and his involvement has been tremendously helpful.



### Senate Judiciary Committee Members

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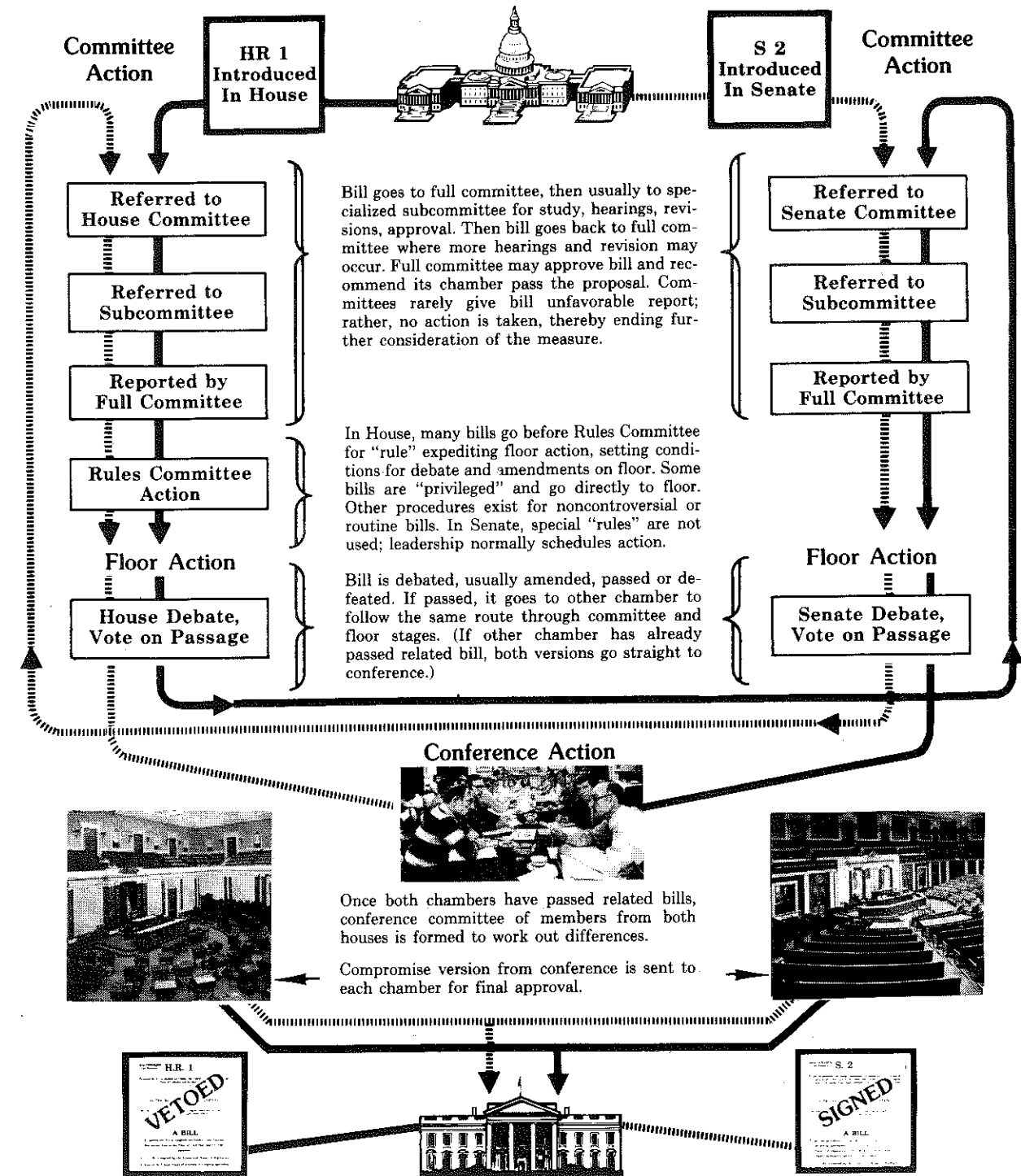
\* **DENOTES SUBCOMMITTEE MEMBERS CALLS FOR SENATORS DURING LEGISLATIVE SESSION: 734-2323 (State House Lobby)**

## GOVERNMENT RELATIONS UPDATE

### Do You Remember How a Bill Becomes Law?

This graphic shows the most typical way in which proposed legislation is enacted into law. There are more complicated, as well as simpler, routes, and most bills never become law. The process is illustrated with two hypothetical bills, House bill No. 1 (HR 1) and

Senate bill No. 2 (S 2). Bills must be passed by both houses in identical form before they can be sent to the president. The path of HR 1 is traced by a solid line, that of S 2 by a broken line. In practice most bills begin as similar proposals in both houses.



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**You, too, can influence proposed legislation! Help Support State & Federal legislative efforts.**

## MEMORIALS

*The following article appeared in The Evening Post, Charleston, South Carolina, Friday, March 6, 1987. It was written by L. Mendel Rivers, Jr., a judge of the Family Court and a former member of the State House of Representatives.*

The newspaper report described him simply as an "excellent trial lawyer." He was that, of course. But he was also a friend, a man highly esteemed in his chosen craft, only 54 years old, and in good health. He was a major asset to our community. He had so much life, perhaps the best part of all, still ahead of him.

Pledger M. Bishop Jr. died in a one-car accident on Interstate Highway 26 at 9:30 Tuesday morning, Feb. 18, 1987. The road was clear and dry. Apparently, he simply fell asleep and lost control of his car. In an instant, all the labor, learning, suffering, and striving of 54 years were snuffed out. For no reason.

South Carolina's I-26 is some of the finest highway on earth. Big smooth, and straight, it whisks you along at almost any speed you might choose, from the ocean to the mountains. (Any experienced road builder will tell you it is political speed limits and the mechanical limitations of mass-produced automobiles that keep us at 55 miles per hour. The highway could handle double that speed.) The curves are well banked, the shoulders and median well tended. No sir, there is nothing wrong with that highway.

Except, of course, that it kills people.

In our state, we build marvelous highways. We always have. But building perfect highways, although difficult, is a straightforward engineering obstacle. We've cleared that hurdle. Educating people to handle that perfection is something else. Completely.

A road as perfect as the Big I removes the adventure from driving. With little to look at but uniform, standardized highway over the endless miles, the motorist soon becomes bored. Boredom leads to drowsiness. And along the Big I, drowsiness leads to death.

Just what do you do when you become

sleepy while motoring the I-26? The alternatives are bleak indeed:

If you continue driving you run a serious risk of driving off the highway, at a very high speed. The result can be tragedy.

If you pull off onto the shoulder to rest and relax, you may well be struck from behind by some other drowsy driver, who just happened to nod at that point. Another friend of mine died on I-26 that way.

If you persevere long enough to make it to a rest area, you face an uncertain future. Rest areas, especially at night, can be dangerous. Muggers, drug dealers, even hijackers roam some rest areas. The native traveler who parks in the rest area for a nice snooze risks a rude, perhaps violent awakening.

I faced that agonizing dilemma several years ago, returning late one night from Columbia. My clearest recollection is of the misery of wanting to sleep when sleep is impossible. You try absurdly loud

singing and whistling. You invent games, you plan tomorrow's activities, you roll down the windows and shake your wrists and ankles. You'll do anything, just to stay awake.

I remember veering all across that huge highway. Completely sober, I nevertheless felt almost intoxicated by my drowsiness. As I drifted over to the shoulders, the pavement became rough, changing the pitch in tire noise. That change in pitch awakened me over and over. I knew I was driving dangerously, but in my "drowsy-drunk" condition, I could think of no alternative to driving on. So I drove on. It was terrifying.

I made it home that night. Soon thereafter, I installed a stereo radio cassette deck. I use it now to blast out raucous sounds during long, sleepy drives.

The loud radio helps, but the problem remains. Just how do we protect those lulled to sleep by a large, safe highway?

Some have suggested security guards at all rest areas. A good, expensive idea. Others propose dispensing caffeine or amphetamines to nodding motorists. "Just say yes," on the highway, that is. Or perhaps the shoulders could be enlarged. Perhaps.

The core of the problem is the nature of the interstate highway itself. It is a "limited-access facility," in Highway Department-ese. That means it is intentionally hard to get on it or off it. If it is smooth, straight, and boring, it is supposed to be.

High-speed, modern highways are not quaint byways to amaze and amuse. They are mighty troughs in to which we pour our massive steel and plastic chariots, lunging straight and fast. They deliver the freight, superbly.

But somewhere along the way, we forgot about the operators. It just never occurred to the highway designers that drivers might have trouble paying attention. Yet we do.

I have no real answer to the I-26 death-trap. I can only point out the obvious: This is a people problem. The highway is safe. It is we who must adapt.

We can find solutions. We owe it to each other, and to the memory of a good man who should not have died, to try.

### PLEDGER M. BISHOP, JR.

Pledger M. Bishop, Jr. died on February 17, 1987, as a result of an automobile collision on Interstate 26. "Joe" Bishop was born in Walterboro on September 14, 1932. He was a gold star student at The Citadel, where he graduated in 1954. He served on active duty as a Second Lieutenant with the United States Air Force from 1954 until 1959. He entered the University of South Carolina Law School following his discharge and was graduated in 1962. For two years, he worked with a corporation in New Orleans and then returned to South Carolina, where he became Judge Charles E. Simons' first law clerk, serving from '64 til '66. He joined the firm of Moore, Mouzon & McGee as an associate in 1966 and became a partner in 1969. He was a partner in the firm Baist, Moore, Smythe & McGee from its formation in 1970 until his death. He was active in the South Carolina Defense Trial Attorneys' Association and served on the Executive Committee for one term. He also belonged to the Maritime Law Association and the Southeastern Admiralty Law Institute. He was a Lieutenant Colonel in the United States Air Force Reserve.

### EXPERT WITNESS INDEX

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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 \_\_\_\_\_

## HUGER SINKLER

Huger Sinkler, distinguished senior partner in the Charleston, South Carolina, firm of Sinkler, Gibbs & Simons, died on January 26. He was widely credited with securing and maintaining South Carolina's triple-A rating, and represented the state in its pending Supreme Court action, joined by twenty-four other states, challenging the constitutionality of the Federal bond registration requirements.

Mr. Sinkler was born in Charleston in 1908. Because of his father's tuberculosis, the family relocated to Asheville, North Carolina, where Mr. Sinkler's father died in 1923. He sat for the bar examination after two years in law school at the University of South Carolina, and was then permitted, so that he could begin practicing soon. He finished second in his law school class and began practice with Mr. Nathans, his father's former law partner, in June 1929. After Mr. Nathan's death, Mr. Sinkler practiced alone until 1939, when he was joined by Charles Gibbs. In 1948, Albert Simons, Jr., join the firm. At Mr. Sinkler's death, the firm consisted of twenty-three lawyers, with offices in Charleston and Columbia, South Carolina.

While Mr. Sinkler's father, for a time Chairman of the Judiciary Committee in the State Senate, had had a small practice in municipal finance, the firm's reputation in the field developed during the 1950's, when Messrs. Sinkler and Simons devoted their practices to it. Mr. Sinkler's was one of the first recognized legal opinions in the South.

Mr. Sinkler served several terms in the State General Assembly and on the Charleston City Council in the 1930s and 1940s. In the early 1970s, he rewrote Article X of South Carolina's 1985 Constitution and related legislation to reform the State's tax and government borrowing practices. A resolution passed by the General Assembly in 1977 expressed the State's appreciation for his "monumental contribution", and noted that Mr. Sinkler performed it "without any thought of reward or remuneration" and without reimbursement even for expenses.

Mr. Sinkler was also the architect of home rule for county governments in South Carolina. Charleston's Mayor Joseph P. Riley, Jr., and currently President of the National Conference of Mayors, characterized Mr. Sinkler as "the dean of America's bond lawyers", and State Treasurer Grady Patterson called him a "giant among his peers". His death and his accomplishments were noted editorially and in the news columns of every major newspaper in the state, as well as in **The Bond Buyer**.

Effective April 1, Sinkler, Gibbs & Simons merged with Boyd, Knowlton, Tate & Finlay of Columbia to form the 51-lawyer firm of Sinkler and Boyd, P.A. Mr. Sinkler had been working to arrange the merger.

Mr. Sinkler was a member of the South Carolina Bar, American Bar, Charleston County Bar, National Association of Bond Lawyers, Permanent member of the U.S. 4th Circuit Conference, and on the Steering Committee of Bond Attorney's Workshop.



## BEN SCOTT WHALEY

A long-time member of the Association, Ben Scott Whaley, passed away on March 12, 1987 in Charleston. At the time of his death, he was Senior Partner of the Charleston law firm of Barnwell, Whaley, Patterson and Helms.

He was born June 28, 1909 on Edisto Island, South Carolina. He was a graduate of the Citadel and the University of South Carolina Law School. In 1930, while still a student in Law School, he was elected to the South Carolina House of Representatives and, in 1933, he resigned to become Administrative Assistant to then U.S. Senator James F. Byrnes in Washington, a position he held for four years. He was then appointed as Assistant U.S. Attorney for the Eastern District of South Carolina, a position he held until 1947 when he became U.S. Attorney for the Eastern District of South Carolina. He held this position until he entered private practice in Charleston in 1954. While still in private practice he served as attorney for Charleston County from 1961 until 1982, and then continued as County Attorney emeritus until his death. He was President of the Charleston County Bar in 1962 and was President of the South Carolina Bar Association from 1967-68. He was a Fellow of the International Academy of Trial Lawyers and of the American College of Trial Lawyers.

He was active in many civic, Church and cultural organizations and was a past Senior Warden of St. Phillip's Church and a past President of the St. Andrews Society, the Agricultural Society of South Carolina, the Historic Charleston Foundation, and the Historic Church Street Foundation. He loved the outdoors and was an avid hunter and fisherman.



# DRI

Donald F. Pierce, President  
Defense Research Institute

DRI held its Annual Meeting on February 3-4, 1987 and at that meeting I assumed the Presidency of DRI. Archie Robinson of California was elected Vice-President for Information and has the responsibility of nurturing the DRI membership and of serving you as your principal contact within DRI management.

Elected to the DRI Board of Directors from Regional Vice-President positions were Bill Moss of Texas, Claude Smart of California and Hal McVey of Virginia. New Regional Vice Presidents include *Steve Morrison of South Carolina*, Charles Lynberg of California and Bob Sheehy of Texas.

The theme of my year as DRI president shall be to raise the visibility and involvement of the defense trial lawyer. I have written about this in recent issues of **For The Defense**, and repeat myself here to say that the time has come for the defense trial lawyer to stand up, to be seen and, above all, to be heard and recognized as the spokesperson for the defendant.

At its meeting last month, the Board of Directors created a new Standing Committee on Legislation. Tony Barrett of California has agreed to serve as its first chairman. The committee will explore ways in which DRI may be of assistance to those in the defense community who are engaged in legislative activities at the State level. In developing its program, we need your input. We are convinced that the drive for legislative reform within a given State must come from within that State. Only you, as the leaders of the defense effort within your respective jurisdictions, can determine what, if anything, needs to be done and what DRI can do to be supportive.

As you may recall, DRI was one of the founding sponsors of the National Coalition for Litigation Cost Containment. Since its creation, the Coalition has been staffed by DRI. At its most recent meeting, the leaders of this Coalition determined that the organization had progressed to the point that it could and should seek to employ its own staff. It was determined

that the staff should be located in Washington. DRI will, of course, continue to be interested in and supportive of the work of the Coalition.

In adopting its budget for the current fiscal year, DRI has made provision for greatly upgrading its computer capabilities. We have done so to provide improved ser-

vice to our members and to you.

Three months ago, we let you know that we had installed an 800-654-4296. We have also installed a automated telecopier machine available to receive your message 24 hours a day in DRI's office. Its number is 312-944-2003.

## Defense Trial Lawyers Offer Free Catalog

(Chicago) A new, free, nine-page catalog highlighting more than 100 publications for those who defend insurance, corporate and personal injury litigation is available through the Defense Research Institute (DRI) the 13,000 member Defense Research and Trial Lawyers Association.

The catalog has special appeal for insurance claims executives, risk managers, and corporate and defense trial counsel. It offers a broad range of monographs, special publications and seminar coursebooks exclusively within the spectrum of the defense of damages litigation.

A hallmark of the Institute's publication is the practice oriented, problem solving approach given to the defense of damages litigation. Nearly all of the publications contain case citations which can reduce the amount of research time that may be necessary for litigation.

Among the areas of law explored by the Institute are admiralty law, adverse representation, asbestos, aviation law, "bad" faith, construction law, damages, duty to defend, employment law, environmental law, excess liability, expert witnesses, fidelity and surety, governmental liability, insurance law, medical malpractice, negligence, products liability, professional liability, tort reform, toxic torts, trial practice and procedure, and workers' compensation. A special section has also been included. The section highlights back issues of **For The Defense**, the Institute's monthly magazine which carries many timely articles within those areas of the law.

The institute's editorial staff under the direction of Research Director Donald J. Hirsch included the special section based on strong reader demand for articles from **For The Defense**. Defending police (alleged) misconduct, psychological injury claims, forecasting future earnings, and discovery problems and solutions are among the offerings.

The publication is available by writing: Defense Research Institute, Suite 500, 750 N. Lake Shore Drive, Chicago, Illinois, 60611. Please mention the name of the publication which carried this courtesy message to you when requesting the free catalog.

## LAW FIRMS MERGE

Sinkler, Gibbs and Simons of Charleston and Boyd, Knowlton, Tate & Finlay of Columbia, two of the state's oldest and most prestigious law firms, will merge on April 1.

The new firm, Sinkler and Boyd will blend the public finance and litigation background of the Sinkler firm with the corporate, banking and litigation strengths of Boyd, Knowlton, Tate & Finlay to enhance the statewide presence of both groups.

Sinkler and Boyd will have 51 attorneys working in the two cities.

"We represent different clients in different areas of the law and the new firm will be stronger than its component parts because of the way it falls together," said Charles W. Knowlton, Senior Partner of the Columbia firm. "The fit is obvious. Both are strong in business and both are strong in litigation.

We also share the same commitment to quality services for our clients and an exciting vision for the future," Knowlton said.

We're proud of our successes in the past, but our eyes are fixed on the practice opportunities ahead."

The merger comes a month after the death of Huger Sinkler, the senior partner of the Charleston firm and the acknowledged dean of bond law in the state.

"Huger Sinkler was the first to see the potential of the merger and he wanted the negotiations to succeed," said Albert Simons, Senior Partner of the Sinkler firm. "We had long recognized Boyd, Knowlton, Tate & Finlay as being one of the state's most respected and accomplished law firms."

The Sinkler firm established a Columbia office in 1982, and G. Dana Sinkler said the merger with the Boyd firm was a logical step.

Francis P. Mood, a managing partner in the Boyd firm, said the Columbia firm wanted to expand its presence in municipal and public finance and viewed a merger with the Sinkler firm as a natural affiliation.

"We have always admired the caliber of their lawyers and the quality of their work and are excited about the opportunity to join with them," he said.

The Boyd and Sinkler law firms have long offered a full range of legal services and have certain clients in common, but Mood said it was the diversity of their client base that drew them together.

Boyd, Knowlton, Tate & Finlay's 30 lawyers represent major financial institutions and utilities, and numerous state and national corporations in the areas of tax, securities, finance, and real estate, and civil litigation.

The Columbia firm was founded in 1951, as Boyd, Bruton and Lumpkin by the late W.C. Boyd, the late John C. Bruton and John H. Lumpkin, Sr. and became Boyd, Knowlton, Tate & Finlay in 1969. Kirkman Finlay was mayor of Columbia for eight years.

The Sinkler firm, which at 21 lawyers, is among Charleston's largest, handles public finance, tax, real estate, insurance and commercial litigation, worker's compensation, and admiralty law.

The Charleston firm was founded prior to World War II by Huger Sinkler who then formed Sinkler and Gibbs in 1947 with Charles H. Gibbs. Albert Simmons, Jr. joined them in 1949 to create the firm of Sinkler, Gibbs and Simons. Charles H.

Gibbs said that he will remain as of counsel to the firm and is personally delighted with the merger.

For more information, contact: Francis P. Mood or William C. Boyd, III—779-3080 or G. Dana Sinkler or John P. Linton—722-3366.

## COLUMBIA ATTORNEY AWARDED

Attorney Edward W. Mullins, Jr., a member of the Columbia law firm of Nelson, Mullins, Riley and Scarborough was named as the recipient of the Defense Research Institute's Special Gavel Plaque Award in a brief ceremony at the Institute's Board of Directors Meeting held recently in Palm Beach.

Mullins was honored for his, "outstanding leadership, and his efforts to promote improvements in the administration of justice and preserve the tort system," according to W. Richard Davis. Davis, a member of the Dallas law firm of Strasburger & Price served as chairman of the Institute's Awards Committee.

Mullins recently completed a one-year term of service as Chairman of the Board of the Institute, and prior to that had served as president of the 13,000 member association of defense trial lawyers.

Mullins has also served in a number of other key positions within the organization, including that of vice president of administration, vice president of public relations, as South Carolina State Chairman and as Mid-Atlantic Regional Vice President.

He has also distinguished himself as a speaker and author on a variety of specialized law related topics, and has served as a faculty member for the Institute's nationally recognized defense practice seminar series.

He is a signatory to the statement and report of the **Defense Trial Lawyers' Task Force on Litigation Cost Containment** which led to the development of the National Coalition for Litigation Cost Containment.

He is a former president of the South Carolina Defense Trial Attorneys' Association, a member of the International Association of Defense Counsel, the Federation of Insurance and Corporate Counsel, Trial Attorneys of America, and the South Carolina, Richland County, and American Bar Associations.



## LEGISLATIVE REPORT

(continued from page 1)

With regard to other legislation, sweeping changes have been proposed in the workers compensation laws, but it is unclear whether anything significant will result.

Senator Isadore Lourie introduced a bill which provides for limited doctor-patient privilege, but thus far it has not been reported out of the Senate.

John Bradley introduced a bill which provides that the insured has the right to pick his or her attorney if sued and has a liability policy available, but despite persistent rumors to the contrary, the bill is still in the House Judiciary Committee.

We should have a final report on this year's activity by the time of our next publication.

# Congratulations

**The Best Lawyers in America** by Steven Naifeh and Gregory White Smith. Woodward/White, 623 pages.

*Reviewed by Charles Sermon*

There might be a few raised eyebrows here. For instance, you won't find the name of some of the best-known lawyers in the country listed in these pages (would Melvin Belli sue over his omission?)

On the other hand, there are quite a few famous names scattered here and there. If you're in pressing need of a good defense lawyer, try calling Edward Bennett Williams in Washington, D.C., or F. Lee Bailey in Boston. If you're into corporate law, among the high-rated attorneys are former Cabinet members Cyrus Vance and William Rogers in the nation's capital and former Kennedy administration aide Theodore Sorensen in New York City.

You'd also better have a thick wallet. They don't come cheaply.

Good attorneys, in fact, don't come cheaply, but it could be argued plausibly that you often get what you pay for. The real problem comes when you pay a lot for inferior service. That's where this volume just might help.

The authors and compilers of *The Best Lawyers in America* are Harvard-trained attorneys who have been members of law firms in New York and San Francisco and who have written a number of non-fiction books. The first edition of their book, which appeared four years ago, stirred some controversy in and out of the legal community, but it was found by most critics to be a useful, if hardly inclusive, guide.

And reactions to it from attorneys have often been based on inclusion. One Columbia attorney who made the list in 1983 and is also in this second edition says, "The lists are good ones. The attorneys in it are all good, but there are a number of other attorneys who are just as good who could have been included as well." One Charleston lawyer - who did not make the book - was a little more skeptical: "I guess it's a good starting place, but it's very subjective and a lot of good names are left out."

The names selected for inclusion here (7,128, about 1 percent of all practicing attorneys) were chosen by their peers and from efforts by the authors to narrow the lists

down to the best. "No name was ever removed from the list on the basis of a single negative vote, nor was any named added to it on the basis of a single recommendation," they write.

The "best" are chosen on a state-by-state basis in each of the 11 categories, with the address given for each (but no information about fees). For what it's worth, the attorneys from South Carolina in each category are:

**CORPORATE LAW:** Theodore B. Guerard, Charleston, O. Wayne Corley and David W. Robinson, II, both of Columbia; David L. Freeman and David A. Quattlebaum III, Greenville.

**BUSINESS LITIGATION:** Robert Hood, Joseph H. McGee, Morris Rosen, Robert B. Wallace, all of Charleston; Wilburn Brewer, Jr., Thomas E. McCutchen, Edward W. Mullins, Jr., William L. Pope, all of Columbia; Mark W. Buyck, Jr. Florence; Fletcher C. Mann, William Francis Marion, Sr., G. Dewey Oxner Jr., J.D. Todd, Jr., Wesley M. Walker, all of Greenville, Thomas H. Pope, Newberry.

**LABOR LAW:** Knox L. Haynsworth Jr. and Robert T. Thompson Sr., both of Greenville

**FAMILY LAW:** Robert B. Wallace, Charleston, Harvey L. Golden, and Kermit S. King both of Columbia.

**TAX LAW:** James G. Boyd, Charleston; J. Donald Dial Jr., Charles W. Knowlton, Robert M. Nettles Jr., all of Columbia; Daniel A. Collins, Robert A. Dobson III, Richard A. Jones, Michael D. Layman, David A. Merline, all of Charleston.

**REAL ESTATE LAW:** Rudolph C. Barnes, Sr., Edward G. Menzie, Ralston B. Vanzant, II all of Columbia; Fred D. Cox Jr., Greenville; Charles A. Scarminach, Hilton Head.

**BANKRUPTCY LAW:** Gerald M. Finkel, Donald H. Stubbs, both of Columbia.

**CRIMINAL DEFENSE:** Coming B. Gibbs, Jr., Gedney H. Howe III, both of Charleston; Terrell L. Glenn, Columbia.

**TRUSTS AND ESTATE LAW:** Clarke W. McCants Jr., Albert L. Moses, Albert C. Todd, III all of Columbia; David L. Merline, Greenville, Robert P. Wilkins, Lexington; James C. Hardin III, Rock Hill.

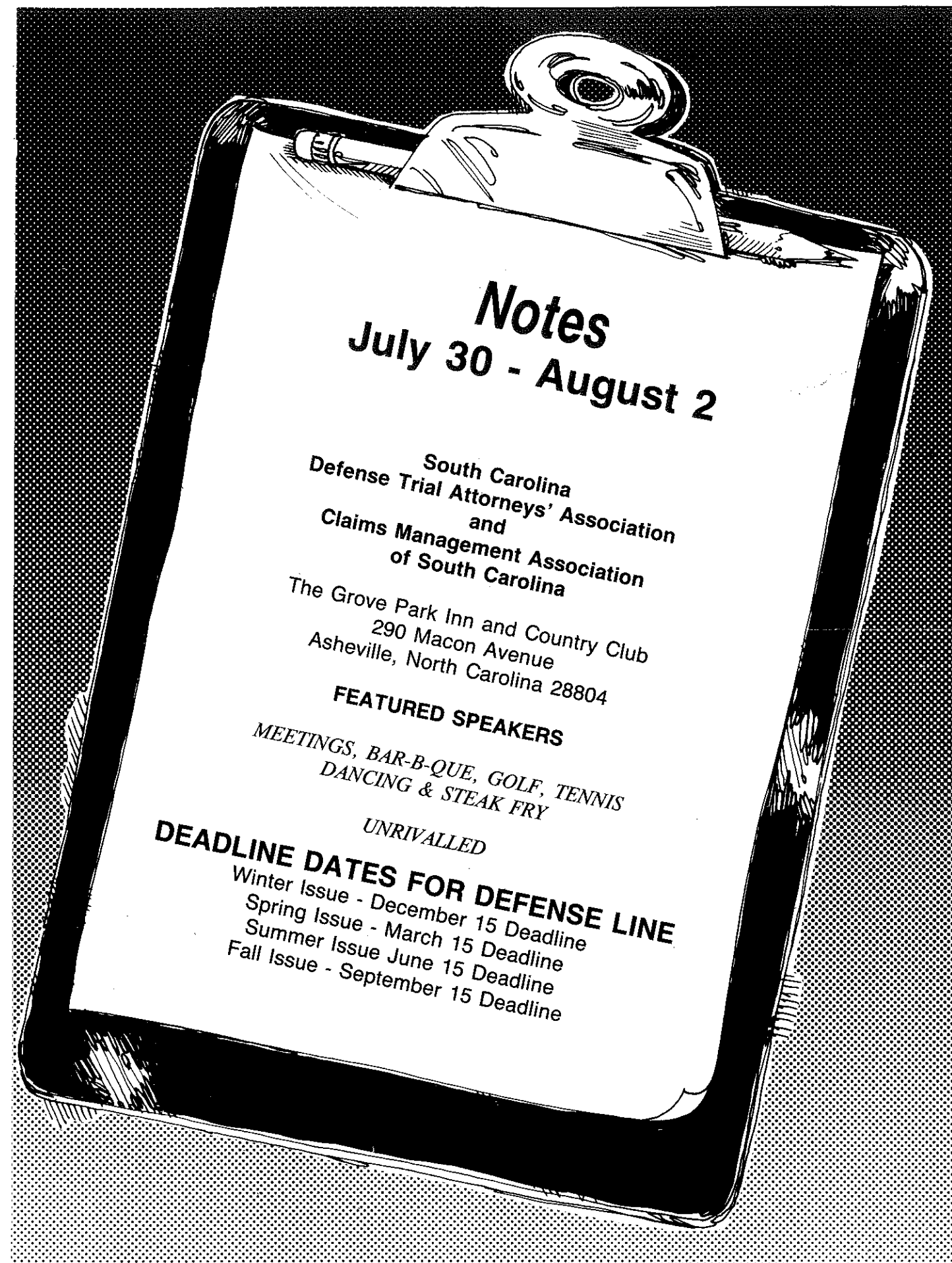
**PERSONAL INJURY:** Robert H. Hood, Arthur G. Howe, Joseph H. McGee, Morris Rosen, Robert B. Wallace, all of Charleston; Wilburn Brewer Jr., Terrell L. Glenn, Thomas E. McCutchen, Edward W. Mullins, Jr. all of Columbia; Richard J. Foster, Fletcher C. Mann, William Francis Marion Sr., G. Dewey Oxner Jr., J.D. Todd, Wesley M. Walker, all of Greenville.

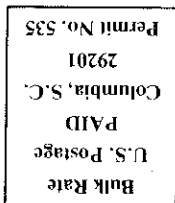
*The above appeared in The State, Sunday, April 12, 1987*

## Help!

Enclosed you will find a form to be filled out concerning the expert witnesses' files. SCDTAA Headquarters in Columbia will act as a clearing house to aid Association Defense Attorneys statewide in quickly locating needed expert witness information. The bi-Monthly **Defense Line** issues will carry a form to remind you to keep sending in the necessary updated information. Additional forms will be available upon request. Ideally a form should be filled out for each file your firm obtains, this can then be put on computer and cross referenced as to person or subject. A call to the Association could then give a quick answer as to what is available statewide on CV's and expert witnesses.

Please return the form(s) and support this important association project.





3008 MILLWOOD AVENUE, COLUMBIA, SC 29205  
**SOUTH CAROLINA  
 DEFENSE TRIAL ATTORNEYS' ASSOCIATION**



## CALENDAR OF EVENTS

<b>S.C. Bar (Annual)</b>	June 5-7	Intercontinental Hilton Head, S.C.
<b>Defense Research Institute (Mid-Year)</b>	June 27-29	The Broadmoor Colorado Springs, Colorado
<b>Joint Defense Conference SCDTAA and Claims Managers</b>	July 30- August 2	Grove Park Inn, Asheville, N.C.
<b>Federation of Insurance Council</b>	August 5-9	The Broadmoor Colorado Springs, Colorado
<b>American Bar (Annual)</b>	August 6-13	San Francisco, California
<b>SCDTAA Annual Meeting</b>	November 5-8	Intercontinental Hilton Head, S.C.
<b>1988</b>		
<b>S.C. Bar (Mid Year)</b>	January 22-24	Marriott Columbia, S.C.
<b>Federation of Insurance Counsel (Winter)</b>	February 17-21	Hyatt Regency Maui, Hawaii
<b>S.C. Bar (Annual)</b>	June 17-19	Omni Charleston, S.C.
<b>Federation of Insurance Council (Summer)</b>	August 3-7	Southampton Princess Hamilton, Bermuda