O.J. McDUFFIE RECEIVES $11.5M JURY VERDICT, BUT HIS FIGHT CONTINUES...

ALSO IN THE NEWS
Ratzan Law Group Secures $11.8 Million for Brain Injured Child
Insulin Insufficiency Case: Family Wins $8.8 Million Verdict

FEATURES
Going Into the Hospital? Take Precautions for Your Own Safety
Ratzan Law Group Big Game Tailgate Party
Hello and welcome to the inaugural issue of *The Verdict*, the official newsletter of Ratzan Law Group.

With this newsletter, we hope to share information about our firm, but also about our practice. We hope this is both a resource for you should you ever wish to retain our services or recommend our services, as well as a resource for you in your own practice.

At Ratzan Law Group, we are committed to providing first class legal representation. We tailor our firm, and our case list, to handling a select number of cases. By limiting our case load, we dedicate more of ourselves to each cause. Our lawyers work as a team, with a staff of paralegals and legal support to provide personal, devoted advocacy and counsel. We prepare our cases for trial, not settlement. Our experience teaches us that readiness for trial is the only true means of obtaining fair and appropriate compensation for our clients.

At the end of the day, we measure our success by the degree we improve the lives of our clients. Our success rises or falls on our ability to put our clients’ lives back on track, by strengthening them financially to help them withstand the pain and devastation that has befallen them.

I have been a practicing lawyer since 1991. In that time, I have dedicated my life to representing children and families victimized by the negligence of others. A large focus of my practice has been advocating on behalf of patients in medical malpractice cases. But, I have also successfully represented scores of clients in automobile, trucking, product liability and general liability cases. I have also had the privilege of handling significant commercial matters.

In my career, I have devoted myself to the art of courtroom advocacy. I have successfully presented cases to juries throughout Florida.

Most recently, I am honored by the vote of confidence several out of state clients have bestowed on our firm. We are currently prosecuting catastrophic brain injury cases in Texas, Louisiana and Alabama.

We hope that this newsletter can give back to our community. If you are a trial attorney, the examples of our success, and lessons we have learned from our daily experience in the trenches may energize you in your practice. Also, we hope that our Resources Pages will help you in handling similar matters.

Welcome to this window into our life in the practice of law. Welcome to *The Verdict*.

Best wishes,

Stuart N. Ratzan
CHAMPIONS for TRUTH
O.J. McDuffie’s rush for victory moves into overtime.

O.J. McDuffie was the Miami Dolphins’ star receiver in the late 90’s, and was on his way to becoming one of the best receivers in the history of the National Football League (“NFL”). That is, until he hurt the big toe of his left foot in a game against the New England Patriots on November 21, 1999.

At halftime of that game, he was x-rayed in the locker room and examined by orthopedic surgeon and team physician Dr. John W. Uribe, who assessed the injury as a probable simple hyper-extension contusion. After injecting O.J. McDuffie’s foot, Dr. Uribe cleared him to continue playing.

O.J. McDuffie later had magnetic resonance imaging tests at a Fort Lauderdale hospital, where a doctor concluded he had torn part of a tendon and suffered other injuries. The test results were sent to Dr. Uribe who read the film differently, noting a complete tear of the ligaments protecting the toe joint. Dr. Uribe never told O.J. McDuffie about the ruptured ligament diagnosis. Dr. Uribe ordered a second MRI at Doctors Hospital in Miami.

“We think Stuart Ratzan is the best trial lawyer we have ever worked with,” noted Herman Russomanno. “His command of the facts, his cross examination skills, and his ability to bond with and capture the imagination of the jury are truly exceptional in every way.”

After reviewing the second MRI, Dr. Uribe determined McDuffie’s tendon was fine, but again noticed the complete tear of the ligaments. Dr. Uribe never advised O.J. McDuffie of the ligament tears. Instead, Dr. Uribe told O.J. McDuffie he would heal without incident. Dr. Uribe never recommended or made a referral to a foot and ankle specialist, and he never immobilized O.J. McDuffie’s foot in an ankle boot or cast. Indeed, Dr. Uribe immediately cleared O.J. McDuffie to return to the NFL playing field.

With completely ruptured toe ligaments (still unknown to O.J. McDuffie), he received pain numbing injections each time he took the field. O.J. played the remainder of the 1999–2000 season under these conditions. By doing so, his unsupported, unprotected toe joint suffered irreversible arthritic damage.

At season’s end, Dr. Uribe stepped down from his position as head team physician, and his replacement, Dr. Dan Kanell, referred O.J. to Fort Lauderdale foot and ankle specialist Dr. Robert H. Mills Jr. Dr. Mills immediately recommended surgery. Within two weeks, after a second opinion, O.J. was on the operating table. But his toe joint was badly damaged. His career was all but over.

At trial, Dr. Uribe blamed McDuffie’s shortened career on the care provided by Dr. Mills. In his deposition, however, Dr. Uribe testified that Dr. Mills did nothing wrong. At trial, under examination by Mr. Ratzan, Dr. Uribe testified that he intentionally gave false deposition testimony under oath.

Dr. Uribe stated that he testified falsely in his deposition under oath in order to protect Dr. Mills. When asked, at trial, why he no longer wished to protect Dr. Mills, Dr. Uribe retreated, providing an altogether different reason for intentionally testifying falsely, at deposition: Dr. Uribe now stated that he testified falsely under oath at deposition because he wanted the deposition to end, he wanted to go home, and he did not want to answer any more questions. The case went to trial over a three week period in April 2010 con-
cluding with a jury verdict on May 5, 2010 in favor of O.J. McDuffie for $11.5 million. For a copy of the verdict form, visit our website at www.ratzanlawgroup.com/resources.htm.

On September 30, 2010, Miami-Dade Circuit Court Judge Michael Genden granted Dr. Uribe’s Motion for New Trial and vacated judgment. For a copy of Judge Genden’s Order and relevant pleadings, visit our website at www.ratzanlawgroup.com/resources.htm.

Previously, on July 8, 2010, Judge Michael Genden denied Plaintiff O.J. McDuffie’s request for prejudgment interest, thereby denying prejudgment interest on O.J. McDuffie’s economic losses arising from his 2001-2004 NFL contract with the Miami Dolphins. Judge Genden’s Order wiped out approximately $4,800,000 in prejudgment interest. For a copy of Judge Michael Genden’s Order, and relevant pleadings, visit our website at www.ratzanlawgroup.com/resources.htm.

The case is pending in the 3rd District Court of Appeal. Ratzan Law Group, P.A. was co-counsel with the law firm of Russomanno & Borrello, P.A. “Working with Herman Russomanno and Robert Borrello, and their firm, was a pleasure,” said Stuart Ratzan. “They are first class attorneys and top notch intellects. Herman is a winner, but he is also a gentleman, the very definition of professionalism. And Bob Borrello is as fine a legal writer and advocate as you can know.”

“We think Stuart Ratzan is the best trial lawyer we have ever worked with,” noted Herman Russomanno. “His command of the facts, his cross examination skills, and his ability to bond with and capture the imagination of the jury are truly exceptional in every way.”

The firms have added the legal talents of Joel Eaton of the Podhurst Orseck firm to pursue the appeal.
Family of Brain-Injured Child Receives $11.8 Million Settlement

Stuart N. Ratzan represented a permanently brain-injured toddler and his parents in a medical negligence lawsuit against two Miami hospitals. The family settled for $11.8 million. The child in the case suffers from a severe brain injury which he sustained after a 20 hour delay in receiving proper treatment.

After being born at a local hospital, the child was discharged on a Wednesday with rising bilirubin levels. His parents were told they could wait until Monday to see a pediatrician. On Saturday, his parents rushed him to the emergency department at the same hospital where he was born, because he was lethargic and had yellow eyes.

After several hours of delay, they were transferred to yet another Miami hospital where the baby’s bilirubin levels were exceedingly high, requiring an urgent blood transfusion. The transfusion was delayed by 12 hours, causing the child to have prolonged hyperbilirubinemia and suffer irreversible brain damage due to a condition known as kernicterus. The lawsuit alleged that the Miami hospitals were negligent in their care of the child.

“This was a terrible tragedy that should have been prevented,” Stuart Ratzan said. “This beautiful child will forever live with a devastating brain injury. At least with this settlement, his family will have the means to care for him for the rest of his life.”

Mr. Ratzan worked with Daniel Weinstock, from the Philadelphia firm of Feldman Shepherd Wohlgelernter Tanner Weinstock Dodig, LLP on this matter. “Dan is a brilliant lawyer. We made a synergistic and dynamic team,” said Mr. Ratzan.

“Working with Stuart Ratzan was a great experience. I think Stuart is a great trial lawyer,” said Mr. Weinstock.

“Working with Ratzan Law Group was a great experience. I think Stuart Ratzan is a great trial lawyer” said Mr. Weinstock.
Ratzan Law Group Wins $8.8 Million in case against Baptist Medical Center in Jacksonville

Gail Gallagher, a type 1 diabetic, was admitted to Baptist Medical Center in Jacksonville after suffering a heart attack. A few days after her admission she was treated with quadruple bypass surgery. Throughout her post-operative recovery, Gail Gallagher was on an insulin drip with blood sugar monitoring every two hours.

On April 3, 2005, her fourth post-operative day, Gail Gallagher was taken off the drip and placed on a sliding scale insulin regimen with insulin injections instead of insulin IV. The order for the sliding scale insulin regimen called for pre-meal testing and pre-meal insulin injections, and testing before bedtime.

On April 3, at approximately 4 p.m., Gail Gallagher’s insulin drip was turned off. At approximately 5 p.m., Gail Gallagher’s meal was delivered, but no pre-meal blood sugar testing or pre-meal insulin administration was done by the nurse. She received no insulin or blood sugar testing despite repeated requests and complaints that her blood sugar was high. At 8:56 p.m., the nurse’s aide took Gallagher’s blood sugar which came back at 363, requiring 10 units of short-acting injectable insulin. No insulin injection was ever given.

Also, Gail Gallagher’s long-acting insulin injection was due at 9 p.m., but she never received that insulin either. At 9:20 p.m., Gail Gallagher went into a cardiac dysrhythmia and at 9:30 p.m., she was in complete arrest. Gail Gallagher’s arrest lasted until 10:20 p.m. when the code was ended and her heart rhythm was normalized. Gail Gallagher’s blood sugar during the code was five hundred eleven and her potassium, a key component of normal heart rhythm, was critically elevated.

Gail Gallagher’s experts opined that insufficient insulin is a known cause of cardiac arrhythmia, like she had. Her experts contended that there was no plausible explanation for the high potassium level other than insulin insufficiency. The following day’s neurologic testing showed that Gail Gallagher had suffered several large strokes as a result of the cardiac arrest. The defendant claimed that this was a second heart attack, a known risk that can occur after bypass surgery. The defendant also attempted to blame Gail Gallagher for eating the meal that was provided to her in Defendant’s CVICU.

After deliberating for five hours, the jury awarded Gail Gallagher and her husband David $8.8 million. The trial court judge, The Honorable James Harrison of Jacksonville, reduced the verdict to comply with Florida’s medical malpractice cap on damages, but not completely. Judge Harrison agreed that the global cap of $1.5 million is an unconstitutional violation of the Equal Protection Clause. Gail and David Gallagher each were entitled to their own cap on damages. Judge Harrison ruled that each of them should recover separately. Ratzan Law Group received excellent litigation support on the post-trial motions from attorney Lincoln Connolly of Rossman, Baumberger, Reboso, Spier and Connolly, PA. For a copy of the Court’s Order, relevant pleadings and post-trial motions, visit our website at: www.ratzanlawgroup.com/resources.htm
You would think the hospital is among the safest of places, with all those doctors and nurses around. But there are a lot of sick people around, too, and sometimes those doctors and nurses become too busy and make mistakes. It turns out that hospitals aren’t always so safe after all.

About 10 years ago the Institute of Medicine published a report called “To Err is Human” which said that 98,000 Americans died each year from medical errors. It was headline news at the time, but things have not improved. In fact, last year Hearst Newspapers, in its national investigation “Dead by Mistake,” reported that now 200,000 Americans a year die from preventable medical errors and hospital infections. The problem is getting worse!

To make sure you come out in better shape than you went in, there are a number of things you can do to protect yourself.

**Take charge**

This is your life, and your medical care. The doctors and nurses are the experts, but you still should protect yourself by taking control and fully understanding what is happening and why.

You’re not likely to be at your best in the hospital, so one of the smartest things you can do is appoint a family member or someone else you trust to be there with you, and help you watch over your care.

**Keep Track of Medications**

It’s not unusual for a hospital patient to be getting ten or more different medications. Rather than trusting that you are getting the right drugs in the right doses at the right times, keep a drug list with you at all times. It’s a good idea to keep a medical history with you also, so each caregiver has access to it before treating you.

**Prevent Infection**

Infections are a huge problem in hospitals, especially with the emergence of so-called “superbugs” such as MRSA. The best precaution you can take is to make sure that caregivers who treat you wash their hands. If you don’t see them do it, ask them. Bring your own antibacterial wipes with you, and wipe down high-touch surfaces such as tabletops, phones and doorknobs.

**Take Precautions Before Surgery**

If you are going to have surgery, it’s a good idea to try to schedule it for times when the hospital will be well-staffed. Weekends and nights might not be the best time for you to receive the attention you want. If it’s possible you might need a blood transfusion, you could bank some of your own blood, so you know you have a safe supply. To ensure you get the right surgery, you can have the surgeon sign or initial the site on your body to be operated on. Know your risk level for heart attack or blood
clots, and discuss with your doctor whether you may need beta-blocker or blood thinner.

Communicate

Good communication is a key to good care while you are in the hospital. You should know who is in charge of your care, and don’t be afraid to ask questions about anything you don’t understand. Don’t wait until you wake up in the middle of the night in discomfort to talk to your doctor about a pain management plan. And certainly don’t wait until you go home to talk about a recovery plan.

It’s always a good idea to be polite and considerate of the people who are providing your care, but at the same time you should be willing to be assertive enough to make sure you receive the care you deserve.

Information

Check out your doctor or hospital. Ask friends, family, and co-workers about the credentials of each doctor.

Use public information to research the track records of your doctor and hospital. You can utilize the following information sources:

www.z.doh.state.fl.us
(Doctors/Nurses/Staff)
(License verification)
www.floir.com/liability
(database Doctor/Hospital claims)
www2.miami-dadeclerk.com/civil
(Doctor/Hospital Lawsuit Search Miami-Dade)

Also, be sure your doctors and hospitals are skilled in the field you need. Many doctors and hospitals have fine reputations, but they may not be skilled or capable of treating your condition. For example, a knee expert may not be the right provider to operate on your elbow or neck. Never be afraid to ask your doctor or hospital to tell you about their experience and training!
On October 9, Ratzan Law Group hosted its 3rd Annual Big Game Tailgate Party at SunLife Stadium with the University of Miami playing host to the Florida State Seminoles.

FSU won big (45-17), but the event was still a great success with the firm’s legal colleagues, judges, politicians, athletes, friends and family who all enjoyed a delicious catered affair, complete with a steel drum band.

Perhaps former UM great Lamar Thomas said it best. Shortly after the game while co-hosting a post game wrap up show on WQAM-510 AM, Thomas shared this nugget, “It was a horrible day for UM. The only good part was the Ratzan Law Group tailgate. It was great food, great music and great people.”

“We truly enjoyed this year’s event, getting together with so many friends and colleagues,” said Stuart Ratzan. “The Big Game Tailgate Party is a nice opportunity to spend time together in a non-business setting and just enjoy each other’s company.”

Ratzan Law Group will soon announce plans for the 4th Annual Big Game Tailgate Party. Check our site, www.ratzanlawgroup.com, for upcoming details.
Get to know G. Scott Vezina

Scott Vezina made his first court appearance as a 15-year-old in Louisiana when for the first and last time in his life, he was on the wrong side of the law. Sent for a speeding ticket, Scott, accompanied by his father, who was also an attorney, remembers being mesmerized by his surroundings and thinking to himself, “I want to do this.”

He went on to obtain a bachelor’s degree from Holy Cross College and his J.D. and L.L.M. from Loyola University School of Law. He created his own firm with 6 other attorneys and concentrated primarily on medical malpractice defense. Later, he was National Panel counsel for CNA Insurance Company and tried catastrophic injury cases throughout the United States.

While continuing his career as a defense attorney, he was soon assigned a case against a well-know plaintiff’s attorney named Stuart Ratzan.

“Going up against Stuart was very challenging. He had obviously researched his case very well before he even filed it,” remembers Vezina. A joking remark about Scott coming to work for Stuart got the ball rolling on their professional relationship, but one big problem remained. How could an attorney who has spent his life fighting against plaintiff’s attorneys possibly work for one?

Scott admits he had a negative view of plaintiff’s work, but carries a much different perception now.

“When I was assigned my first case in 2007 and actually sat in the living room of Gail Gallagher and saw her struggles, I knew that my professional life was no longer a job, but a mission,” said Scott. “Now that I have been in the trenches and lived it, I know how important our work is for families and individuals who are suffering with catastrophic injuries.”

Scott is quickly becoming a leader in his profession having obtained awards yearly from Florida Trend’s “Legal Elite” and Florida Super Lawyers.

Scott is licensed to practice in Louisiana, Texas, and Florida. He holds an “AV” rating from Martindale-Hubbell, the highest ranking available for that legal guide.

“When I was assigned my first case in 2007 and actually sat in the living room of Gail Gallagher and saw her struggles, I knew that my professional life was no longer a job, but a mission,” said Scott.

To see Scott’s credentials please visit our website at www.ratzanlawgroup.com
Lawsuits against cigarette makers are front and center on many Florida court dockets this year. Since a Florida appeals court broke up the Engle class action case in 1993, as many as 8,000 plaintiffs have been waiting to file individual cases against the tobacco companies.

Ratzan Law Group has been handling several of these cases in Florida and is currently involved with a case in Marianna, set to begin in July.

Despite the lawyers for tobacco companies riding a recent wave of success in Florida courts, our firm is confident that we will present a valid and compelling argument on behalf of our client.

Miami-based Ratzan Law Group, P.A. announced that Stuart N. Ratzan, shareholder, will begin his third year on the board of directors at Temple Beth Am this April.

Ratzan’s family has held a membership at Temple Beth Am for more than 35 years. With two children attending Beth Am Day School, he and his wife, Mycki Ratzan, have taken an active role in the Temple’s activities.

He is also a basketball coach in the Beth Am Basketball League, where he has coached both the girls’ and boys’ leagues.

Temple Beth Am is located in the Village of Pinecrest in south Miami-Dade County. Beth Am offers a multi-faceted program encompassing a variety of religious, educational, cultural and enrichment activities throughout the year.

Over the course of the past several months, Ratzan Law Group has been recognized and received awards from several prestigious publications that cover the legal industry. We are proud of these accomplishments and wanted to share them with our readers:

- *Florida Trend’s “Legal Elite”* - Stuart Ratzan named “Legal Elite”
- *South Florida Legal Guide* - Stuart Ratzan named “Top Lawyer” in trial practice, medical malpractice (plaintiff)
- *Super Lawyers* - Stuart Ratzan named “Super Lawyer” and Scott Vezina named “Rising Star”

Taking advantage of the commercial real estate market in Miami, Ratzan Law Group relocated to a brand-new building in October: the spectacular new 1450 Brickell building.

The firm took 6,000 square feet in the new building, which is billed as setting the highest standards for Class-A office buildings in Miami. Rising 35 stories above the heart of the Brickell Business District, Miami’s newest Class-A corporate tower offers headquarters prominence with unparalleled water views and commuter convenience.

It features high-speed elevators, concierge services, valet parking and panoramic views of Biscayne Bay and Downtown. Located in the least-congested part of Brickell Avenue, 1450 Brickell will be the most desirable office address in Miami.

“We’re fortunate that the current real estate environment worked in our favor,” said Stuart Ratzan. “Our new location will be comfortable and convenient for our people and our visitors, and it will reinforce the image we want to project, that of meeting the highest standards.”
Personal Injury: Automobile Negligence

Miami resident John Doe was driving his scooter to work on the highway when he was first struck by a vehicle and fell over the hood to the ground. Shortly thereafter he was struck by a second vehicle crushing his leg. Finally a third vehicle struck him. Action was brought against the operator of the third vehicle alleging that in the third collision his head was struck causing him permanent traumatic brain injury which rendered him permanently disabled. The case was aggressively defended, on the argument that the collisions with the prior two motor vehicles were the cause of the brain injury. Despite these very challenging facts on causation, Ratzan Law Group attorneys secured a settlement on the eve of trial in the amount of $1.65 million for John Doe. The success of this case is primarily due to the collection and analysis of the little physical evidence available, consisting primarily of paint markings on the plaintiff’s helmet, and analysis of the paint of each of the vehicles involved in the several collisions, as well as testimony of a biomechanical engineer specializing in brain trauma. Complimenting this evidence, the accident scene and event was reconstructed with the help of eyewitnesses.

Medical Malpractice: Federal Tort Claims Act

Ratzan Law Group attorneys Stuart N. Ratzan, G. Scott Vezina and Stuart J. Weissman won a $1.674 million medical malpractice judgment on behalf of a woman who sustained a permanent brain injury in a case against the United States government representing the Miami Veterans Affairs Medical Center (VAMC). The Federal Tort Claims Act case was tried from March 8 – 11, 2010 in the Southern District Court of Florida as a bench trial before the Honorable William Hoeveler. Judge Hoeveler’s decision was issued on July 2, 2010. The case was based on the injuries sustained by Susan Atkisson, who received reconstructive breast surgery on April 19, 2007 following a bout with cancer. While in recovery at VAMC, she suffered a morphine overdose and prolonged period of respiratory depression. This led to an episode of hypoxemia which caused Susan Atkisson to suffer a permanent brain injury. Due to her injuries, Susan Atkisson requires permanent medical care, therapy and treatment. She will also require future attendant care, supervision and assistance because her brain injury makes her dangerous to herself and others, and also because she cannot properly care for herself due to significant lapses in judgment, memory and executive function. Ratzan Law Group attorneys challenged the constitutionality of Florida statute § 766.118 which places limits on non-economic damages in medical malpractice cases. They argued, and the Court found, that the non-economic damages of the Plaintiffs exceeded the caps. However, the Court reduced the non-economic damages to the capped amount set forth in Florida Statute §766.118 based on a recent Florida District Court opinion. Ultimately, the judge awarded Susan Atkisson and her husband $1,674,242. The judgment will be distributed with $924,242 in compensatory damages to the Atkissons for present and future care for Susan Atkisson and $750,000 in compensatory damages to the Atkissons for past, present and future non-economic losses. For a copy of the Court’s opinion visit our website at www.ratzanlawgroup.com/resources.htm

Also, a critical issue in this case was the standard of care for post-operative electronic monitoring of patients receiving morphine, via injection or PCA pump. For a copy of the American Society of Anesthesiology, Anesthesia Patient Safety Foundation White Paper on the topic, visit our website at www.ratzanlawgroup.com/resources.htm

Commercial Litigation: Maritime Insurance Broker Negligence

Multi-million dollar recovery for an aggrieved investment trust whose insurance agent failed to procure appropriate and recommended insurance coverage. In 2000, the Plaintiff, an investment trust comprised of investors from around the country, executed a loan agreement to a mining company in an amount over $2 million. The mining company ultimately defaulted on the loan, and the Plaintiff initiated a lawsuit which was settled by way of a mortgage secured by an ocean-going vessel.
In 2002, the Plaintiff hired Defendant Law Firm, a Florida company that provided legal, accounting and management services for yacht owners. Defendant Law Firm held themselves out as admiralty law specialists. When the balance of the loan proceeds from the mining company was not timely paid, the Plaintiff began foreclosure proceedings on the ocean vessel. Defendant Law Firm assured the Plaintiff they could handle all steps necessary to seize, possess, and foreclose on the vessel, manage and maintain the vessel, and assist the Plaintiff in selling it. The Plaintiff hired Defendant Law Firm to perform those services. Defendant Law Firm allowed the vessel’s existing insurance to expire, and acquired new insurance through Defendant Insurance Broker, one of the largest insurance brokerage firms in the world. Defendant Broker failed to procure the appropriate insurance for the vessel, even though they knew or should have known it was available. In fact, the new insurance policy was substantially deficient. Several stipulations were required, including that the vessel be fully crewed at all times. In violation of the terms of the new insurance policy, Defendant Law Firm, in managing the vessel, permanently dismissed the “live on board” crew members. In 2004, the vessel caught fire and sank, and was declared a total loss. No crew was on board because of Defendant Law Firm’s management. Defendant Broker, meanwhile, knew or should have known of the crewing arrangement, yet it made no recommendations and provided no advice regarding the fact that the crewing arrangement was in violation of the policy. Moreover, Defendant Broker never advised the insurer and took no steps to modify the policy. Defendant Law Firm reported the insurance claim to Defendant Broker who, in turn, reported it to the underwriters. However, the underwriters denied the claim because the vessel was not fully crewed at all times, and was not crewed at the time of the fire – thus violating a requirement of the new insurance policy. Had the proper insurance been in place, or had Defendant Law Firm managed the vessel such that it met the terms of the warranties in the insurance policy which was in place, the Plaintiff would have received significant payment for the loss of the vessel. The case involved breach of fiduciary duty, negligence, and vicarious liability on the part of the Defendants. Losses included the insured value of the vessel, attorneys’ costs, salvage fees, and litigating abroad. The case was settled for approximately $3 million, the value of the insurance policy, on the eve of trial.
Stuart N. Ratzan

- Practice devoted to medical malpractice, catastrophic personal injury and commercial litigation trial practice in state and federal courts
- Has taken on the most powerful hospitals, doctors, manufacturers and insurance companies in Florida and has also won cases for countless consumers in catastrophic injury cases against property owners, trucking companies, consumer product manufacturers, automobile insurance companies and government entities
- AV rating from Martindale-Hubbell, the highest rating available
- Member of the Multi-Million Dollar Advocates Forum
- Executive committee member of the Board of Directors of the Florida Justice Association (FJA), formerly the Academy of Florida Trial Lawyers
- Member of the American Association for Justice, the Dade County Bar Association, Miami-Dade Justice Association, the Florida Bar Association (Trial Lawyers Section) and the American Bar Association
- Former board member of the Florida Bar Association’s Board of Governors and past president of the Florida Bar’s Young Lawyers Division Inc.
- Named in the 2009, 2010 and 2011 editions of Florida Super Lawyers
- Named as a 2009 Florida Trend “Legal Elite”
- Cum laude graduate of Amherst College 1987, J.D., cum laude from the University of Miami School of Law 1991
G. Scott Vezina

- Specializes in medical malpractice, products liability and aviation accidents
- Has handled more than 30 jury and more than 40 non-jury trials in the last 14 years
- Member of the American Bar Association, Florida Bar Association, the Louisiana State Bar Association, the Texas Bar Association, the Aircraft Owners and Pilots Association, the Miami-Dade County Bar Association, the Florida Justice Association, Miami-Dade Justice Association and the Broward County Bar Association
- Selected as a 2008 & 2009 “Up and Comer” in Florida Trend’s Legal Elite
- Selected as one of the 2009 and 2010 “Rising Stars” in Florida Super Lawyers
- Bachelor of science degree from the Holy Cross College, J.D. and L.L.M from Loyola University School of Law
- AV rating from Martindale-Hubbell, the legal guide’s highest rating

Stuart J. Weissman

- Specializes in catastrophic negligence and commercial disputes
- Member of the American Association for Justice, Florida Justice Association, Miami Dade Justice Association and Young Lawyers Division of the Florida Bar
- Received B.A. from the University of Michigan in Ann Arbor and his J.D. from Stetson University College of Law
**Alabama Medical Malpractice**

Unlike many other states, Alabama has no pre-suit requirements in medical liability cases. Thus, a plaintiff can initiate a medical malpractice lawsuit at any time and proceed through to discovery and ultimately trial in a manner consistent with most other states. In Alabama, a health care provider may testify as an expert witness against another health care provider only if he or she is similarly situated as defined by the statute.[1]

In 1987, the Alabama legislature passed the Medical Liability Act of 1987, which in part, limited noneconomic damages to a global sum of $400,000.[2] However, in 1991, the Alabama Supreme Court held this statute on noneconomic damages unconstitutional. [3] The statute was again recognized as unconstitutional in 2004.[4]

The Alabama legislature also passed provisions requiring periodic payments in certain circumstances where future damages are awarded.[5] However, in 2005, the Alabama Supreme Court held this statute on periodic payments unconstitutional.[6] Also, an older statutory provision provides that when a plaintiff recovers a judgment from a health care provider in excess of $100,000, the court may order that the award be paid in monthly installments.[7]

Alabama is one of the last remaining jurisdictions to utilize joint and several liability. Where multiple tortfeasors combine to create an indivisible injury, each tortfeasor is considered jointly and severally liable for the entire judgment.[8]

While there are no published opinions finding liability based upon apparent agency in Alabama, the courts do recognize the theory of vicarious liability based upon apparent agency should the facts of a particular case so align.[9]

**Florida Medical Malpractice**

Florida’s Medical Malpractice statute is contained in Chapter 766 of the Florida Statutes. Before a lawsuit can be filed, Florida requires claimants to participate in a pre-suit process. A claimant must conduct an investigation to ascertain that there are reasonable grounds that a health care provider was negligent and such negligence resulted in injury.[10]

The claimant must submit a verified medical opinion by a medical expert which is sent with the notice of intent to initiate litigation.[11] After completion of the investigation, the claimant must notify each prospective defendant of an intent to initiate litigation for medical negligence.[12]

No suit may be filed for 90 days after the notice is sent, during which time, the prospective defendant must conduct its own investigation into the alleged claims.[13] At or before the 90 days have elapsed, the defendant must respond to the claimant rejecting the claim, making a settlement offer, or making an offer to arbitrate.[14] A plaintiff can also offer to arbitrate.

Like many states, there are stringent guidelines as to the qualifications of an expert witness. [15]

Florida places limitations on the amount of noneconomic damages recoverable in medical liability cases. This issue is hotly contested and its constitutionality is consistently being challenged. In an action against a practitioner, noneconomic damages are limited to $500,000 per claimant.[16] However, if the injury resulted in a permanent vegetative state, catastrophic injury or death, the total noneconomic damages are limited to a total of $1 million.[17]
In an action against nonpractitioner defendants, non-economic damages are limited to $750,000 per claimant, regardless of the number of nonpractitioner defendants. [18] However, if the injury resulted in a permanent vegetative state, catastrophic injury or death, the total noneconomic damages are limited to a total of $1.5 million. [19]

Medical liability under the concept of vicarious liability is often pled based upon theories of actual agency, apparent agency and also upon the theory of non-delegable duty. The state of the law on this topic is fluid and ultimately depends on the facts of each particular case. [20]

Should you or your firm need the services of experienced medical malpractice litigators anywhere in the United States, Ratzan Law Group, P.A. would be happy to assist you in navigating the rules, laws, and nuances associated with those cases.

[12] 766.106
[13] 766.106 and 766.203
[14] 766.106
[15] See 766.102
[16] 766.118
[17] Id.
[18] Id.
[19] Id.
[20] See eg. Wax v. Tenet Health System Hospitals, Inc., 955 So.2d 1 (Fla. 4th DCA 2007); Pope v. Winter Park Healthcare Group, Ltd., 939 So.2d 185 (Fla. 5th DCA 2006); Shands Teaching Hosp. & Clinic, Inc. v. Juliana, 863 So.2d 343 (1st DCA 2002); Irving v. Doctors Hosp. of Lake Worth, Inc., 415 So.2d 55, 57-58 (Fla. 4th DCA 1982); Cuker v. Hillsborough County Hospital Authority, 605 So.2d 998 (Fla. 2nd DCA 1992); Roessler v. Novak, 858 So.2d 1158 (Fla. 2nd DCA 2003).