

# Philip DeBerard

## P.I. REVIEW

Devoted to excellence, justice and maximum compensation for victims of serious injuries, neglect and wrongful death



### Tractor-Trailer Crash — \$975,000 Settlement at Mediation

**M**r. and Mrs. A were involved in a terrible accident when a tractor-trailer pulled out in front of their car. Mr. A immediately braked but was unable to avoid crashing into the rig, driven by its owner, an employee of a trucking company.

Both Mr. and Mrs. A were wearing seat belts, and their airbags deployed, but they were trapped in their pickup, which was caught under the tractor-trailer. They had to be extricated with the “jaws of life” and were both trauma-hawked to Holmes Regional Medical Center in Melbourne.

Mr. A’s injuries included a cerebral concussion, cerebral bleeding, hemorrhage, left knee injury, and a leg fracture requiring two surgeries with insertion of pins and a rod.

Following his release from the hospital, Mr. A stayed in a nursing home for two months for rehabilitation. He continues to have problems with his leg, which still has not healed properly, and he has to use a cane or walker.

Mrs. A’s right ankle was nearly twisted off in the accident. She sustained an open fracture-dislocation and had to undergo immediate surgery. Her ankle required numerous debridement and irrigations down to the bone. She also was admitted to the nursing home for several weeks and has needed extensive treatment for her ankle. Subsequently, her ankle gave out, and she fell in her home and broke her hip. 

### \$700,000 For Victims of Tractor-Trailer Crash

**R**eturning from a summer vacation in South Carolina, a man and his wife were enjoying their retirement dream. The couple was traveling south on I-95 in the right lane, towing their boat, with Mrs. K seated in the front passenger seat and Mr. K driving. A semi-truck was also headed southbound on I-95 and gained speed as it approached the couple’s vehicle.

In attempt to speed up and pass another tractor-trailer in the left lane, the truck driver struck our clients’ boat and trailer in the rear. The violent impact caused the boat to travel about 360 feet on I-95, blowing off the trailer, which jackknifed and pulled the car into the Savanna River Bridge and rammed it into a series of guardrails. The car was almost dragged off the bridge.

The crash was so severe that the truck driver got out and took pictures of the couple, presuming they were dead. Paramedics arrived at the scene carrying body bags. Fortunately, Mr. and Mrs. K were wearing seat belts and survived.

However, both suffered serious bodily injury, post traumatic stress syndrome, disability and disfigurement. Mrs. K endured seven major surgeries — including knee arthroscopy, spinal discectomy, cervical discectomy and multi-level spinal fixation and fusion — and lengthy recoveries. The necessary medications led to severe, bleeding ulcers. Mrs. K also developed abdominal hernias from the seat belt injury, that had to be surgically repaired. Mrs. K. is facing additional surgeries in the future, and retirement is not what the couple had hoped.

The driver negligently operated his large vehicle by driving carelessly and traveling in excess of the speed limit for the conditions. The driver also failed to use due care. 

### Did You Know?

During 1999, Florida was second only to Texas for the most fatalities in children age 0 to 18 involving **truck-related accidents**.

The deadliest Florida county in 2001 was **Palm Beach County**.

Two good Web sites on this topic are: [www.trucksafety.org](http://www.trucksafety.org) and [www.nhtsa.gov](http://www.nhtsa.gov)

# MANAGING YOUR HealthCare

## A Shortage of Care

Not having enough nurses in a hospital can be dangerous to your health and your life. The organization that accredits hospitals said a shortage of nurses is a factor in a quarter of patient injuries or deaths in hospitals, and a Harvard study found that preventable deaths and patient complications were up to nine times higher when care was provided by licensed practical nurses and aides instead of registered nurses.

The Institute of Medicine has recommended a ban on nurses working longer than 12 hours a day. Nurses complain their workload and paperwork are so heavy that they do not have enough time for direct patient care, and they've been fighting for minimum-staffing laws. In January 2004, California passed the nation's first nurse-to-patient ratios. A nurse there may care for six patients at most, and only four in the emergency room and two in critical-care units. Six other states — Florida, Kentucky, Nevada, Oregon, Texas and Virginia — have staffing regulations but not ratios.

However, finding enough qualified nurses to meet staffing goals can be tough. Many experienced nurses have left the field due to the heavy workload, and the U.S. government predicts the RN shortage could reach 750,000 by 2020, as aging baby boomers need more care and the nursing work force gets older. 



## Nursing Home Staffing Issues

A new law went into effect in 2003 that requires all nursing homes that participate in Medicare and Medicaid to begin posting — in a visible place — the number of nursing staff on duty for each shift and for every day. RNs, LPNs, and CNAs directly responsible for resident care must be included in the daily report.

Properly monitored and enforced, the law will be a strong tool to help residents, families, consumer groups and ombudsmen monitor staffing adequacy, quality of care and compliance with state and federal staffing requirements. However, to make this law work, consumers must take extra steps to assure that its intent is met.

- ◆ Do your own count of how many staff members are actually available to care for residents in different sections or wings of the facility, and ask the administrator or director of nursing to post that information on each unit.
- ◆ Do your own count of residents so you can calculate staffing ratios. The National Citizens' Coalition for Nursing Home Reform recommends a 1:5 ratio days, 1:10 evenings, and 1:15 nights.
- ◆ Monitor the accuracy of any posted numbers. If they aren't accurate, discuss your concern with the administrator or director of nursing.

Remember that the law is the minimum requirement; facilities can do more, and states can require more. 



### Are You Taking a Statin for High Cholesterol?

In March 2004, Public Citizen, a consumer watchdog organization, filed a petition with the FDA asking it to remove AstraZeneca's statin Crestor (rosuvastatin) from the market, charging that there have

been post-marketing cases of life-threatening rhabdomyolysis (muscle pain and weakness) and kidney failure/damage at even the lowest approved doses. The FDA must respond.

Doctors are increasingly concerned about this news. Doctors who read the petition found it credible and said it raised significant questions that the FDA must now address. Some health plans also have decided not to cover Crestor.

If you are taking Crestor — or any other statin — and have experienced muscle pain or weakness, renal insufficiency, kidney failure or kidney damage, call your doctor immediately and then contact the Accident Law Offices of Philip DeBerard at (772) 286-1000. 

## \$500,000 Settlement

### Lack of protective and support services

A 57-year-old quadriplegic was admitted to a local hospital for vascular surgery. Afterwards, he suffered a stroke and was temporarily unable to turn and reposition himself. The hospital staff failed to turn him as required, and he developed a huge Stage IV pressure sore, which required three surgeries and a diverting colostomy to heal.

## \$300,000 Settlement

### Bed sores to the bone

An elderly client was placed in a local nursing home for professional nursing care and supervision after a stroke. Because the staff didn't fulfill its commitment to quality care, an emergency surgery for Stage IV bed sores had to be performed. The open wounds went all the way to the bone. Extended hospital stays, pain and suffering were experienced by this client due to the facility not living up to its original "care plan."

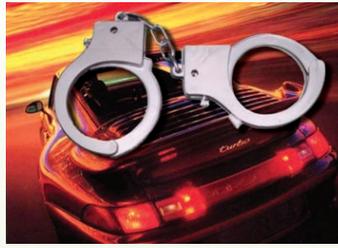
## \$125,000 Settlement

### Near amputation from lack of staffing

Following a hospital visit for leg surgery, the client was transferred to a local nursing home for supervised rehabilitation. Due to inadequate staffing, poor care and lack of supervision, the innocent patient developed a Stage IV heel ulcer that turned gangrenous. The nurses put socks on both her feet and did not remove them for five days. The facility did not do a comprehensive assessment, or the staff would have known that a diabetic patient needs vigilant medical supervision. Adequate or appropriate healthcare and support services to this 84-year-old woman were denied, putting her in foreseeable harm. 

## Ignition Locks for DUI Drivers

Losing your driver's license, getting fined and perhaps spending some time in jail are not the only penalties for driving under the influence of drugs or alcohol. If you've been convicted of a DUI and want your driver's license reinstated, you may have to have an ignition interlock device installed on your car. You also will have to pay for this ignition "service," which costs \$70 for the device and \$67.50 a month for monitoring and calibration. Getting it calibrated may be a hassle as well, since there are no sites in the Stuart-Ft. Pierce area that can do this.



### Ignition Interlock Device Penalties For DUI Convictions

DUI Conviction	Ignition Interlock Requirement
First conviction	If court ordered
First conviction with blood alcohol of 0.20 or minor in car	Up to 6 months
Second conviction	At least 1 year
Second conviction with blood alcohol of 0.20 or minor in car	At least 2 years
Third conviction	At least 2 years

The Accident Law Offices of Philip DeBerard proudly supports MADD Martin County!



YOU ARE ONE OF A KIND

\$1,000

### Scholarship Winner!



Justin Bellamy (left) and Philip DeBerard at Okeechobee Scholarship Night 2004.

Justin Bellamy of Okeechobee High School. The **You Are One of a Kind Scholarship** recognizes a student who exemplifies leadership and citizenship, strength of character, and a balance between family and civic responsibilities. Justin has been employed at Big Lake Title Company for five years and is training to be an abstractor. Justin has demonstrated a mature sense of priorities and is a self-starter at school and on the job. Justin will pursue a career in business and law and has already taken his mortgage license exam. Justin has a long track record of volunteering in the community. Eventually, Justin would like to return to Okeechobee to assist his father in his business.

### Students of the Month - Okeechobee High School

All Winner's Receive a Collegiate Dictionary/Thesaurus Set and Certificate of Excellence.

Tosha Craig, Shannon Tyson, Eric Sims, Justin Bellamy, Leo Guy, Cristal Perez Nunez, Robert Elsemiller

### Eagle Award Winners - Morningside Academy

All Winner's Receive an Engraved Bible and Certificate of Excellence.

John Cunningham, Sylvia Daleb, Makaila Stierlin, Austin Mularski, Daniela Brao, Rachel Leach, Marissa Hoffman, Ulice Gillard III, Alex Thompson, Cody Richardson, Christa Lee, Sergeine Lezeau, Emily Cieslinski, Danielle Louderback, Kaitlyn Ibrahim, Allison Orr, Brittany Daly, Alex Zimmerman, Kim Parra, Daulton Isaac, Emily Thomas, Allison Cantrell, Elyssa Rowe, Jamie Wilson, Noel Jad'on, Tina Baxter, Hannah Chesterton

### Seminars Presented by Philip DeBerard

Florida Nurses Association — Vero Beach Chapter

#### Do's & Don'ts of Proper Documentation

Among the comments nurses made about this seminar:

"The handouts were exceptional."

"Mr. DeBerard could have talked the entire seminar."

"I learned a lot about the current subject matter."

### Serving the Community



#### Indian River Safe Kids

#### Treasure Coast Youth Fest

**Vero Beach Bike Safety Rodeo.** Upon completion of the bike safety track all kids received a certificate of completion, educational handouts and a Philip DeBerard water bottle.

#### Martin County High School - Project Graduation

Over 10,000 contracts have been provided to families of young drivers and organizations.

Please call our offices if you have a new young driver to get your award-winning, **FREE** S.O.S. contract.



Over 30 Years Experience!

## Refer A Friend

If someone you know has been injured, we can help!

Our convenient phone numbers: Stuart.....286-1000

Outside this area, Fort Pierce.....464-8000

Toll-Free **800-299-8878** Okeechobee.....467-7 100

Our E-mail address: [info@flainjurylawyer.com](mailto:info@flainjurylawyer.com)

Please give our number to someone who might need our services.

We appreciate the trust you have placed in us.

[www.flainjurylawyer.com](http://www.flainjurylawyer.com)

## Dump Truck Driver's Careless Driving Results in \$201,000 Settlement



Stopped at a traffic light at a busy intersection, our clients were violently slammed in the rear by a dump truck. The dump truck pushed the clients' car all the way through the intersection to the opposite side of the road.

The dump truck driver was charged with careless driving, a charge he was all too familiar with since he had a long list of driving offenses. A witness said both she and the clients had been stopped at the light for quite some time. The dump truck driver was not paying attention to the traffic conditions, or he would have seen that traffic was not only stopped in his lane but in the neighboring lane as well.

The driver admitted to the witness at the accident scene that by the time he realized there was a stationary vehicle in front of him, he could not stop his truck in time.

Due to the crash, the client, an active outdoor enthusiast, developed two spinal disc herniations, one of which impinged on his spinal cord, and both required surgery. High risk surgery on both shoulders also was needed to relieve pain. This forced the client to take an extensive medical leave of absence from work. 

## Lab Error or Cancer?

Have you been diagnosed with cancer after earlier tests showed no abnormalities? If so, you could be the victim of medical malpractice. While there certainly may be another explanation, contacting our office will help assure that you haven't been the victim of inexcusable mistakes or abuse by the lab.

Too often, the laboratory analyzing a specimen will act negligently and fail to diagnose an abnormality, causing treatment to be delayed and resulting in great harm and perhaps even death. A delay in diagnosis of weeks to a few months may not be significant, but sometimes any delay, particularly with an aggressive cancer, can materially change the outcome. Or, the lab may diagnose a condition correctly but identify the wrong subtype of disease or miss complications.

Among the various types of lab errors that can occur are: wrong biopsy results and administrative mistakes (e.g., mixing up samples). If you feel you have experienced a lab error relating to your cancer, contact the Accident Law Offices of Philip DeBerard ([www.flainjurylawyer.com](http://www.flainjurylawyer.com)) immediately for a free consultation. 

## Insurance Facts

**Q:** I am in the military assigned out-of-state and my vehicle will be stored in Florida until I return. Must I maintain my Florida insurance policy?

**A:** Yes. As long as the vehicle remains in Florida with a valid tag and registration, you will be required to maintain coverage unless you surrender your tag and registration at the nearest drivers license field office or tag agency.

**Q:** I am a Florida resident who has a vehicle registered in Florida, but I am attending school in another state. Am I required to have Florida automobile insurance?

**A:** Yes. All vehicles registered in Florida must have Florida insurance coverage. Your Florida coverage may not be valid if the vehicle is primarily maintained in another state. If you intend to stay in that state for three or four years, you may have to transfer your registration and insurance to that state. 

## Motorized Scooters:

### Fun But Dangerous

The Florida Highway Patrol is warning motorists to be on the lookout for motorized scooters illegally operating on Florida's streets, highways, and sidewalks. Many look like a skateboard with a small gasoline engine and a steering device attached.

These scooters are dangerous and you can get fined for riding them on public roads. They are particularly dangerous for children who lack experience, familiarity with traffic laws, or awareness of traffic hazards.

Motorized scooters are considered motor vehicles, so users must have a valid driver license to operate them on public roads. But they aren't allowed on public roads even with a license because they don't have a license plate or registration. 

The hiring of an attorney is an important decision and should not be based solely upon advertisements. Before you decide, ask us to send you free written information about qualifications and experience.

ACCIDENT LAW OFFICES OF

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