

# Petition

Via Fax

From the Florida offices of **Leesfield Leighton Rubio Mahfood** Trial Lawyers

**Miami:** 2350 South Dixie Highway, Miami, Florida 33133, Telephone: **(305) 854-4900 / (800) 836-6400**

**Key West:** 615½ Whitehead Street, Key West, Florida 33040, Telephone: (800) 836-6400

email: Leesfield@aol.com Internet: www.LLRM.com

## Pleading and Proving Emotional Distress

Negligent infliction of emotional distress is a commonly overlooked cause of action. Recently, a federal court awarded \$2 million to 13 passengers aboard an American Airlines flight that encountered severe turbulence. Psychological trauma is recognized in most jurisdictions where plaintiffs have witnessed horrifying events without serious physical injury. Last month in Florida, **Ira Leesfield** and **Robert Boyers** represented David Fahrer, age 76, who witnessed massive injuries to his wife of fifty-five years and a passenger in his vehicle. They were struck head-on by the defendant. Ethel's case was settled for **\$1.2 million**. David's physical injuries were minor including premature ventricular contractions. His case squarely met the criteria for negligent infliction of emotional distress (see box below), resulting in a **\$200,000** settlement for emotional distress. *Fahrer vs. Allstate Insurance Company, et al, Case No. 98-22783 CA 32.* (See web sites on Page 2.)



### \$1,000,000 Settlement - Nursing Home Abuse

Barbara Johnson, a 64 year-old woman suffering from Alzheimer's disease, entered the Key West Convalescent Center because her family could no longer provide her the care she needed. Instead of an improvement in her care, her life went from bad to worse. Barbara was neglected and left to fall ten times in five months, suffering a subdural hematoma that required surgery. During her brief stay she lost 57 pounds – far in excess of federal standards for weight loss. KWCC had been repeatedly cited by state inspectors for a lack of staff and lack of responsiveness to its patients. **LLRM's John Leighton**

and **Tom Scolaro** secured a **\$1 million** recovery for Mrs. Johnson. She is now receiving appropriate care elsewhere in the state. (See web sites on Page 2.)



#### In Florida, to prove negligent infliction of emotional distress,

- The plaintiff **must** suffer a **physical injury**;
- The plaintiff's physical injury **must** be caused by the **psychological trauma**;
- The plaintiff **must** be involved in some way in the event causing the negligent injury to another;
- The plaintiff **must** have a close **personal relationship** to the directly injured person.

See *Champion v. Gray*, 478 So.2d 17 (Fla. 1985) and *Zell v. Meek*, 665 So.2d 1048 (Fla. 1995).



Ira H. Leesfield • John Elliott Leighton • Maria L. Rubio • George G. Mahfood • Robert B. Boyers  
Patricia M. Kennedy • Mark A. Sylvester • Thomas Scolaro

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## **\$895,000 Jury Verdict - Negligent Infliction of Emotional Distress - Passenger**

Antonia Lemus, age 59, was a passenger in her daughter's car when a Winn Dixie tractor trailer ran over that vehicle at a high speed. The daughter's lawsuit was settled for **\$5.6 million** by Senior Partner **Ira Leesfield** who then tried to verdict the passenger mother's negligent infliction claim. This loving mother saw her daughter become brain damaged before her very eyes and developed physical injuries from this psychological trauma. *Lemus vs. Winn Dixie, Inc., Dade County, Florida.*

## **\$400,000 Settlement - Negligent Infliction of Emotional Distress - Driver**

In another case handled by **LLRM's Maria Rubio**, daughter Marisol Soto watched her mother, Angela Rodriguez, be crushed and killed by a truck that had run a red light. Our client's physical injuries included a fractured wrist, a fractured pubic rami and six fractured ribs. Her own personal injury case was combined with



the negligent infliction of emotional distress resulting in a **\$400,000** settlement along with a **\$1 million** settlement for her mother's wrongful death case for a total of **\$1.4 million**. *Soto vs. Hialeah Grandstand Company, Inc., et al, Case No. 96-24462 CA 05.*

## **Electronic Trial Notebook**

Partner **George G. Mahfood** and Associate **Mark A. Sylvester** recently prepared an outline on the use of the "Electronic Trial Notebook." This innovative tool is capable of organizing and storing vast amounts of text materials, including photographs, charts, diagrams and other visual aids for use at trial. For more information, please contact Mark Sylvester at **1-800-836-6400**.

## **Putting Something Back**

Thanks to Senior Associate **Patricia Kennedy** for her involvement in leading the firm's efforts in the recent **Race for the Cure of Breast Cancer**, which was a tremendous success in our community.

### **Web Sites for Nursing Care Litigation**

Nursing Home INFO -  
The Nationwide Nursing Home Director:  
<http://www.nursinghomeinfo.com/>

Nursing Home Report Cards Now Online from  
SeniorCare Resources!:  
<http://www.seniorcarehelp.com/>

Nursing Home Information Site:  
[http://www.angelfire.com/tn/NursingHome/  
index.html](http://www.angelfire.com/tn/NursingHome/index.html)

Bedrail/Restraint Links:  
<http://duluthnews.com/docs/bedlinks.htm>

AARP Webplace - Consumer Information -  
Rights of Nursing Home Residents:  
[http://www.aarp.org/getans/consumer/  
rights.html](http://www.aarp.org/getans/consumer/rights.html)

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### **Whether emotional distress issues arise from death and injury or the every day stresses of life, there is help available for our clients' family and friends:**

American Psychiatric Association:  
[www.psych.org](http://www.psych.org)

American Psychological Association:  
<http://helping.apa.org>

Anxiety Disorders Association of America:  
[www.adaa.org](http://www.adaa.org)

National Alliance for the Mentally Ill:  
[www.nami.org](http://www.nami.org)

National Mental Health Association:  
[www.nmha.org](http://www.nmha.org)

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