

# Petition

Via Fax

From the Florida Offices of **Leesfield Leighton Rubio** 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

## Fast Pizza = Human Cost \$1 Million Settlement Cites \$78 Million Award

Since the boom of pizza delivery in the 80's and the 90's, the streets have been flooded with compact cars displaying light up logos and magnetic signs.



The king of pizza delivery during the 80's and 90's was Domino's Pizza, who promised to deliver the pizza in 30 minutes or less.

Domino's even offered their drivers an extra incentive for speedy delivery by giving their top delivery driver of the year an all-expense paid trip to the Indianapolis 500. Their 30-minute policy left a trail of destruction.

Consider the following:

- In 1988 alone, twenty of Domino's own drivers were killed in accidents while delivering pizzas.
- Well over 300 claims were filed for wrongful death and personal injury.
- In 1993, the 30-minute delivery policy was publicly condemned by an outraged St. Louis jury which slapped Domino's with \$78 million in punitive damages. *Kinder v. Domino's*, St. Louis, MO Cir. Ct.
- Shortly thereafter, Domino's discontinued the 30-minute policy.

Even after the Domino's verdict, a recent wrongful death action brought by **Leesfield Leighton & Rubio** against a pizza delivery



franchise resulted in a \$1 million settlement. "The pizza delivery industry has still not abandoned their profits over people approach," states **LLR's** Ira Leesfield, who represented the family. A second case for the wrongful death of a five year-old has now been filed. *Case No. 96-11617-CA 13, Mary Luz Arroyo, as Personal Representative of the Estate of Ismael Ortiz, Deceased vs. Pizza Hut of Titusville, Inc., et al.*



## Negligent Infliction of Emotional Distress – \$690,000 Verdict Follows a \$5.3 Million Settlement

Often overlooked in delivery and commercial cases is the family member's claim for negligent infliction of emotional distress. On April 15, 1996, Marisol Soto's vehicle was hit broadside by the defendant's truck causing her serious personal injuries and killing her mother, a passenger. Marisol witnessed her mother's tragic death, *Case No. 96-007839 CA 13, Estate of Angela Rodriguez, et. al. vs. Hialeah Grandstand Company, Inc., et al.* **Leesfield Leighton & Rubio** represents this family for claims arising from this wrongful death. After the conclusion of the wrongful death case, the personal injury case of Marisol Soto as well as her claim for the negligent infliction of emotional distress will be filed following *Champion v. Gray*, 478 So.2d 1048 (Fla. 1995), *Brown v. Cadillac*, 468 So.2d 903 (Fla. 1985) and *Zell v. Meek*, 665 So.2d 1048 (Fla. 1995). In the earlier case of *Lemus v. Winn Dixie*, **Leesfield Leighton & Rubio** represented Antonia Lemus who was a passenger in her daughter's car when that car was obliterated by a Winn Dixie tractor-trailer. Mrs. Lemus watched her daughter suffer massive injuries. Based upon the negligent infliction of emotional distress, a jury returned a verdict for \$690,000. **Leesfield** obtained a \$5.3 million settlement for injured daughter Yolanda Preston.

### Elements of a Claim for 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 negligent injury to another.
- The plaintiff must have a close personal relationship to the directly injured person.



## Key West Tragedy

### Tractor-Trailer Takes Life of Key West Fire Chief, Wife and Friend

**Leesfield Leighton & Rubio** has filed a wrongful death suit on behalf of the family of Richard Wardlow and his wife Nina, and the family of John Long. On April 9, 1996, a tractor-trailer operated by Ayers Transportation ran over the top of their car, resulting in an explosion and the tragic death of these very fine members of our community. The case has been assigned to Judge Donner, Case No. 96-08521 CA 23. Trial has been set for the Spring of 1997. Fire Chief Richard Wardlow and his wife Nina were survived by two daughters and John Long was survived by his wife Marie and three children.

## 10 Discovery Tips For Commercial Delivery Cases:

- 1 Obtain all common policies, rules and procedures for driving and delivery.
- 2 Be sure to depose company safety manager.
- 3 Discover every document related to the driver, the vehicle and applicable company policies, including driver's logs for a three-month period.
- 4 Don't forget theories of negligent hiring and retention – obtain state issued driving record and application for chauffeur's license.
- 5 Check Federal (ICC), State (DOT), county and local rules, regulations, ordinances and laws related to delivery.
- 6 Depose the corporate representative most knowledgeable of all items listed above.
- 7 Obtain all maintenance and repair records on subject vehicle.
- 8 Obtain training manuals, and training classroom materials.
- 9 Obtain all of driver's job applications, worker's compensation file, injury reports and incident reports.
- 10 Notice the production of driver's personnel record and health/medical file.