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2. Our firm understands insurance coverage issues. We can make sure all available insurance coverages are located.
3. We are passionate about obtaining the maximum recovery for our clients, and will try the case to a jury if necessary to obtain the best results.
4. Recoveries in excess of available insurance coverage generate greater recoveries for our clients and larger referral fees to referring attorneys.

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

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# SARASOTA LITIGATOR Journal

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## A Vote for David

Rick Scott's idea of "meaningful tort reform" will limit society's access to the courts.



For Americans, access to the courts is a fundamental right. This right to seek justice, enshrined in the U.S. Constitution, anchors a legal system designed to protect the rights of the least powerful members of society. Access to the civil justice system levels the playing field when David meets Goliath in the courtroom.

But Rick Scott, the Republican candidate for Florida governor, doesn't see it that way. Scott thinks

Goliath needs more protection. Scott recently told reporters that he is for "meaningful tort reform." Translation: "Limit access to the courts." Limiting when, how and why a person can go to court reduces the number of cases that can be won and the amount of damages that must be paid by big business for losses of life and property. It's a high priority for big business, and Scott, the multimillionaire candidate, is all about helping big business.

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### CASE REVIEW

## Settlement preserves inheritance in complex Family Trust matter.

W&L was retained to represent Midgi Johnson as beneficiary of a Revocable Trust (Trust) created by her late father. As we find in many cases, her father had remarried and her stepmother was the Trustee. The Trust actually created two separate trusts – one trust for the benefit of the father's biological children (Family Trust) and the second for the benefit of his new wife (Marital

Trust). The Trustee refused to fund the Family Trust and Midgi feared she would lose any inheritance her father intended for her.

After a careful review of the Trust and Florida law, we were able to convince the court and opposing counsel that the Trustee was required by law to

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## A Vote for David

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Scott has enjoyed virtually unlimited access to the courts, sometimes not of his own choosing. Scott spent hundreds of thousands of dollars on lawyer fees defending his role as head of the Columbia/HCA for-profit health care chain. In March 1997, federal prosecutors announced their investigation of Columbia/HCA's Medicare billing practices. Soon after, Scott left Columbia/HCA. He walked away, cleared of any wrongdoing, a wealthy man. By June 2003, however, Columbia/HCA had agreed to pay the federal government fines and restitution totaling slightly more than \$1.7 billion.



Here's what Scott says on his campaign website about the Columbia/HCA investigation and settlement:

*"I've made mistakes in my life. And mistakes were certainly made at Columbia/HCA. I was the CEO of the company and as CEO I accept responsibility for what happened on my watch. I learned very hard lessons from what happened and those lessons have helped me become a better businessman and leader."*

Lessons learned: Big business is under attack by "frivolous lawsuits" and government oversight that stifles our so-called "free market system."

### Scott's Tort Reform: Limit Lawsuits, Damages

According to his campaign website, Scott says as "part of my economic plan, we will implement meaningful tort reform in order to reduce the number of frivolous lawsuits filed in Florida." Scott's campaign released a report that said that lawyers are abusing Florida law allowing plaintiffs to recover greater damages from insurers who act fraudulently or in "bad faith."

Sarasota attorney Steve Wittmer says Scott's plan for tort reform would be bad for you, your family and your friends.

"I am for economic growth, but not at the expense of the current tort system," Wittmer says. "Scott's premise that all potential bad faith tort cases unnecessarily increase the cost of doing business in Florida is patently false. Does the insurance industry really need this reform to operate in Florida at a profitable level?"

In addition to capping potential damages and limiting witnesses, Scott proposes "logical time frames" for insurers to investigate claims before making settlements. In other words,

let insurers delay – up to six months – settlement payments for damages in cases in which individuals suffer catastrophic injuries or are killed.

"How long should it take for an insurance company to decide to pay a \$25,000 policy benefit should their insured kill one of your family members while driving drunk?" Wittmer asks. "Should the insurance company have 30, 60, 90 or 180

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days to investigate a case of clear liability caused by a drunk driver? Scott's position advocates 180 days. Insurers would not be compelled to pay the injured family for six months. Is this really about tort reform or allowing the insurers to capture more "float" on their money?"

During Florida's most recent medical malpractice reform, reform approved by the citizens, the insurance industry used a similar ploy to protect the medical industry by claiming that physicians were leaving Florida and insurance companies could not operate in Florida at a reasonable profit. That was proven false.

"Scott wants to further limit a citizen's right to longstanding, tried and tested legal strategies," Wittmer says. "To do what? To protect insurance industry profits? Property and casualty insurers (which provide automobile insurance) are not leaving Florida because they cannot make a profit. Are Floridians willing to expose their families to a limitation on damages in the event of a catastrophic loss from an auto accident so that the insurance industry can be more profitable?"

### Free Market Myth

Scott's belief in the wisdom and ethical behavior of free markets would probably cost property insurance consumers plenty. First hit would be homeowners insured by Citizens Insurance, the insurer of last resort in Florida.

Scott disregards the fact that the Florida insurance market is not actually a "free market." Demand is fixed. Most homeowners must buy coverage. The number of insurers – the supply side of the market – varies. Most recently, insurers have been dropping wind insurance coverage or leaving the Florida market altogether.

In September, his campaign said a 10 percent rate increase for Citizens Insurance policyholders as called for in a Florida House Bill is "a step in the right direction." When asked by a Miami Herald reporter if his proposals would lead to higher insurance rates, Scott said: "I believe that in a free market economy, prices will come down."

Scott noted news reports that Citizens has paid \$247 million in sinkhole claims since 2007. Scott has told the media that he would push for clearer definitions of sinkhole damage and structural damage. By "clearer," one assumes he means "insurance industry-friendly" definitions.

An Orlando Sentinel editorial called Scott's proposals to reform the courts and to cut regulations – many in place to protect consumers – "simplistic and often extreme prescriptions ... Where he provides more detailed plans, Florida often would be the loser if he got the chance to implement them. Mr. Scott doesn't just want to reduce regulations, he wants to gut them."

## Family Trust Matter

Continued from page 1

fund the Family Trust. A settlement was reached, the trust was fully funded and Midgi's family inheritance was preserved for her and her children.

Family trust and inheritance matters can be complex, contentious and very emotional. If you or a family member find yourself involved in a dispute over an inheritance under a Last Will and Testament or Trust, or if you suspect an elderly family member is being taken advantage of by a caretaker or relative, please be sure to contact an attorney knowledgeable in the area of challenges to Wills and Trusts.

More information about our services in this practice area can be found at our website, [www.resultsmatterfl.com](http://www.resultsmatterfl.com).