



The Voice - May 27, 2009

VOLUME 8 ISSUE 21

## And The Defense Wins!

DRI members [Rich Dukes](#) and [Chris Dorsel](#) of **Turner Padgett Graham & Laney** in Charleston, South Carolina, recently obtained a defense verdict for their client, a landlord and owner of a federally subsidized rental property in Charleston. The case involved wrongful death and survival actions brought by and on behalf of the estates of a mother and her 15-year-old daughter, who were residents of an apartment who died in a fire that consumed their apartment. Both victims died of smoke inhalation before the first responders arrived on the scene. The plaintiff elicited expert testimony that, had there been a working smoke detector in the apartment, both victims would likely have survived the fire. The plaintiff additionally attempted to establish that the firefighters found no evidence of smoke detectors in the apartment and that the firefighters found no smoke detector bases affixed to any wall or ceiling in the unit. The plaintiff thus attempted to show that there were never smoke detectors in the apartment and that the defendant had failed to comply with state and federal regulations in failing to provide the residence with a working smoke detector. The defense was able to establish that the tenants had a history of disabling the smoke detectors in their apartment and of removing the smoke detectors from their walls. The defense also was able to prove that, as of approximately two months before the fire, there were two working smoke detectors, in the apartment. The smoke detectors installed by the defendant were the type that did not have a separate base that would be attached to the wall or ceiling.

Prior to trial, the plaintiff's demand was \$750,000. At trial, plaintiff's counsel asked the jury to award \$4 million. On March 12, after just an hour and a half of deliberation, the jury returned a defense verdict. However, when polled at the request of plaintiff's counsel, the foreman of the jury recanted, and the jury returned for more deliberations. After another 30 minutes of deliberation, the jury returned a unanimous defense verdict.