



RETAKING THE HIGH GROUND: HOW A CULTURE OF SAFETY CAN DEBUNK ALLEGATIONS OF PROFIT OVER SAFETY

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RETAKING THE HIGH GROUND

Overcoming Allegations of “Profits over Safety”



Jamie Hood
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“Profits Over Safety”





TODAY'S LEGAL CLIMATE

Jury Awards \$9B In 1st MDL Actos Bladder Cancer Trial Against Takeda, Eli Lilly

Record Breaking \$327 Million Verdict Announced in Janssen Case

Chrysler Hit With \$150 Million Penalty in Boy's Death

Case put a spotlight on safety of older vehicles with fuel tanks behind rear axle

New Orleans Jury Returns \$51 Million Verdict against Merck

Jury awards \$42 million verdict to victims of 2010 crash

Texas jury awards \$281M verdict for wrongful death of Eagle Ford Shale worker

Florida Jury Awards \$23.6B Verdict in Big Tobacco Lawsuit

\$58M verdict in death suit could be New Mexico record

NEWS
SANTA FE ♦ NEW MEXICO

TODAY'S MEDIA CLIMATE

Massey CEO Don Blankenship's Long History of Ignoring Mining Safety for Profit



Don Blankenship (Blankenship)
Chairman of Corporate Responsibility
April 6, 2010



Photo via ABC News

The Man Behind the West Virginia Coal

Are Oil Refiners Putting Profits Over Safety in Lawsuit Against Buffett's BNSF Railways?

Fear over the dangers of trains hauling crude oil is spurring new standards. Is BNSF being proactive, or taking advantage of refiners? Will this lawsuit settle the question?

Profit over Safety: BP Faces Billions in Fines for "Grossly Negligent" Role in 2010 Gulf Oil Spill



TODAY'S JURORS

- 2015 Projections: Millennials will surpass Boomers this year
 - Baby Boomers: 74.9 Million
 - Generation X: 66 Million
 - Millennials: 75.3 Million

Source: Pew Research Center

PERCEPTION OF CORPORATE AMERICA

- Survey – Over 26,000 thousand people surveyed
- What is the first word that comes to mind?

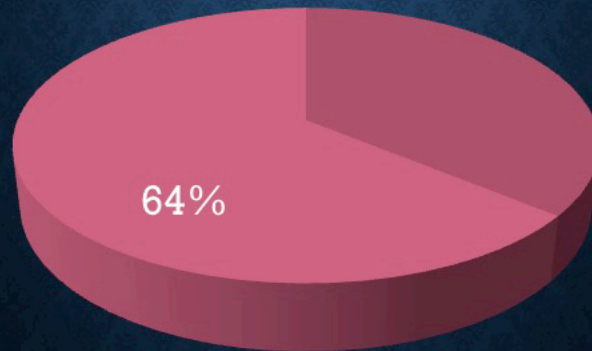


- Corporate CEOs less respectable than: entertainers, professional athletes, and heads of government.



PERCEPTION OF CORPORATIONS

Executives Don't Care About Income Inequality → They Are Getting Wealthier



CONNECTING WITH TODAY'S JURORS

- **Identify YOUR jurors' values and beliefs:**
 - Transparency
 - Collaboration
 - Empowerment
- **Develop themes that incorporate YOUR jurors' core beliefs and values**
- **Develop themes that forces jurors to reexamine profits over safety**

HUMANIZING THE CORPORATION

- Jury Research/Theme Testing
- Witness selection
 - Identify individuals below management level
 - Designers
 - Testers or QA
 - Corporate Representative Selection
- Witness preparation
 - 3:1 Rule
- Corporate Safety Story

CULTURE OF SAFETY

- Safety as a Corporate Value
- Internal, focus on own workers
- Shared responsibility for safety
- Resonates and spreads among peers
- Top Down
 - Begins with CEO

CULTURE OF SAFETY



SAFETY MOTIVE

- Tie Safety to \$\$\$\$
- Reaffirms commonly-held beliefs
- Designers don't cut corners
- Testers aren't looking at the bottom line



CULTURE OF SAFETY

- **Position of Safety Managers**
 - What message is being sent?
 - Internally
 - Externally
- **System of Accountability**



TO WHAT END?

- What story do you have to tell?
- Who will a jury listen to?
- Does your client fit or break the stereotypes?
- At trial, the Culture of Safety:
 - Humanizes
 - Allows Jurors to Assign Blame
 - Minimizes Punitive Exposure

Defense Verdict Returned In 1st DePuy Pinnacle Hip Bellwether Case

Jury defense verdict for a large printing company on a multi-million dollar claim

DEFENSE VERDICT FOR FORTUNE 500 CONSTRUCTION COMPANY

FBT Receives Unanimous Defense Verdict for Ford Motor Company

Defense Verdict Returned In Purported 1st Zolofit Birth Defect Trial

FACULTY BIOGRAPHY



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James B. “Jamie” Hood is a partner at the Hood Law Firm, LLC. He focuses his practice on civil litigation, including defense of products liability, commercial litigation, admiralty, negligence, personal injury, construction litigation, medical malpractice and insurance coverage litigation. Jamie has extensive trial experience in multiple jurisdictions, having litigated cases across South Carolina and in Florida, New York and Pennsylvania.

Jamie graduated with a B.A. from the University of the South in 1999. He then earned his J.D. from the University of South Carolina School of Law in 2002. Upon completion of law school, Jamie decided to further his legal education by earning his LL.M. from Tulane University School of Law, where he was awarded the Edward A. Dodd Jr. Award, graduating with the highest grade point average of his graduating class. Jamie joined the Hood Law Firm in 2003.

Jamie is listed in Best Lawyers in America (2013-2014). He is recognized as a “Rising Star” by SC Super Lawyers and as an “Up and Coming Attorney” by Chambers USA.

Honors

- Best Lawyers in America (2013-2014)
- South Carolina Super Lawyers, “Rising Star” (2012-2013)
- Chambers USA “Up and Coming Attorney” (2012-2013)

Professional Memberships and Activities

- South Carolina Defense Trial Attorneys’ Association, Current; Member of Executive Committee
- Defense Research Institute
- Association of Defense Trial Attorneys
- Network of Trial Law Firms
- Charleston County Bar Association
- South Carolina Bar Association
- American Bar Association

Local and Civic Associations

- Widows and Orphans Society of the Charleston Medical Society
- Propeller Club
- Huguenot Society of South Carolina
- St. Andrew’s Society
- Hibernian Society

Education

- LL.M., Tulane University School of Law, 2003; Recipient of the Edward A. Dodd, Jr Award (awarded to the individual graduating with the highest G.P.A.)
- J.D., University of South Carolina School of Law, 2002; South Carolina Environmental Law Journal; John Belton O’Neal Inn of Court
- B.A., University of the South at Sewanee, 1999