

CLARK • FOUNTAIN • LA VISTA
PRATHER • KEEN & LITTKY-RUBIN



LEGAL EDGE

SUMMER 2015

CLARK FOUNTAIN CELEBRATES FIVE YEARS
FIRM WINS \$1.5 MILLION BINDING ARBITRATION AWARD IN FORT MYERS
SUCCESSFUL LITIGATION AGAINST FDOT RESULTS IN SAFER TURNPIKE
DEFECTIVE TIRE SUIT FILED AGAINST 6 LOCAL, INTERNATIONAL COMPANIES
FIRM OBTAINS RECOVERY FOR CALIFORNIA FAMILY IN WRONGFUL DEATH CASE
ALL SIX PARTNERS RECOGNIZED, "TOP LAWYERS," "SUPER LAWYERS"

PERSONAL INJURY

WRONGFUL DEATH

PRODUCTS LIABILITY

MEDICAL MALPRACTICE

BUSINESS LITIGATION

APPELLATE LAW

WELCOME //
\$1.5 MILLION AWARD



From left: W. Hampton Keen, Donald R. Fountain, David C. Prather, Julie H. Littky-Rubin, Nancy LaVista, Mark W. Clark

When we opened the doors of Clark, Fountain, La Vista, Prather, Keen & Littky-Rubin nearly five years ago, we knew we wanted to do things differently. As a team, we took a step back to reimagine and reevaluate how to best serve our clients. Today, we are proud of how we represent you. We take an intensive, unparalleled team approach, and the outcome is worth the effort. We work to ensure the best possible results for our clients every single day.

From our vast network of referring attorneys, to the many clients we have represented over the years, we feel grateful that you continue to place your trust in us to represent you and the people you care about.

From the moment we receive a phone call, email or meet a client at the door of their home, that person can expect a nearly 8:1 ratio of team support. Each case is assigned a managing attorney, associate attorney, paralegal, legal assistant and additional support staff, and this same team is on board for the entirety of the case, through trial and appeal. Our knowledgeable, well-entrenched team works to ensure that all of the legal and non-legal components of every case are handled swiftly and appropriately. We seek to achieve the maximum settlement amount or verdict in every client's case.

Please reach out if we have not had the opportunity speak with you in person. We welcome the time to learn more about you, and to share with you our mission to help and protect the rights of the injured.

Enjoy your summer!

The Partners of Clark, Fountain, La Vista, Prather, Keen and Littky-Rubin

ATTORNEYS:
CHRISTA L. MCCANN // MARK W. CLARK

**CLARK FOUNTAIN ATTORNEYS
WIN \$1.5 MILLION BINDING
ARBITRATION AWARD FOR
WRONGFUL DEATH CASE**



Christa L. McCann and **Mark W. Clark** recently obtained a \$1.5 million binding arbitration award in a wrongful death case arising out of a fatal automobile accident in Fort Myers, Fla. McCann and Clark represented the Personal Representative of the estate of the unmarried decedent, who was 63 years old at the time of her death and working as a licensed practical nurse [LPN].

Despite the fact that the survivors were in their 40's and lived out of state with children of their own at the time of their mother's death, McCann and Clark were able to establish that the survivors had suffered significant mental pain and suffering as a result of the untimely and preventable death of their mother, which produced a substantial award in an otherwise conservative county.



ATTORNEYS: POORAD RAZAVI // DONALD R. FOUNTAIN, JR.



**FIRM WINS SETTLEMENT
IN DEADLY CAR CRASH,
RESULTS IN NEW
GUARDRAIL ON
FLORIDA TURNPIKE**

Attorneys **Poorad Razavi** and **Donald R. Fountain, Jr.** recently reached confidential settlements in three devastating Miami-Dade cases of negligent roadway design and construction that led to the deaths of three young women in two separate, yet eerily similar accidents. The cases involved a massive 120 ft. tall light pole located too close to the Florida Turnpike, directly violating long standing Florida safety standards.

Razavi and Fountain were initially called upon to investigate potential defects in their clients' vehicle that led to the death of these young women. Their investigation revealed no plausible claim for a vehicle defect; however, a visual examination of the design of the roadway and location of the pole prompted them to conduct further inquiries. After examining tens of thousands of pages of documents, they discovered that the expansion construction of the Florida turnpike just years earlier had erroneously permitted the pole to be placed too close to the newly added travel lanes, violating Florida Department of Transportation roadway safety standards. If the pole had been located properly, the accidents most certainly would have been avoided, and these two women's lives would have been spared.

Razavi and Fountain had to sue more than 20 defendants, including the Florida Department of Transportation (FDOT), the design engineers, the general contractors, and various other sub-contractors involved on the project.

The attorneys are especially proud that their work resulted in the installation of a guardrail on the Florida Turnpike's southbound ramp at Northwest 41st Street, which now protects and shields motorists to ensure that no one else meets this tragic fate.



**DAVID C. PRATHER
HONORED WITH
THE F. MALCOLM
CUNNINGHAM, SR.
BAR ASSOCIATION'S
PRESIDENTIAL
AWARD**

Trial attorney **David C. Prather** was honored with the F. Malcolm Cunningham, Sr. Bar Association's Presidential Award. The voluntary bar association, where Prather currently serves as one of its advisors, aims to promote the personal and professional development of black lawyers in the legal profession.

Prather was also appointed Vice Chair of the Board of Directors for the Miami, Fla.-based WPBT2, the community-licensed public television station serving South Florida. He previously served as Chair of the Audit Committee for the Board.



ATTORNEY: JASON CORNELL

DEFECTIVE TIRE LAWSUIT FILED AGAINST SIX LOCAL AND INTERNATIONAL COMPANIES

Attorney **Jason Cornell** recently filed a defective tire complaint against six local and international corporations on behalf of the firm's client whose son was killed in a 2013 crash in West Palm Beach. Werner Letterman was driving a large commercial tanker truck northbound on I-95, when his right front tire separated and blew out, causing the truck to leave the highway and crash into a tree. He was pronounced dead on the scene.

The pre-suit investigation revealed that the tire manufactured in China by Chinese corporation Shangdong Linglong Tire Co., Ltd had numerous design and manufacturing defects. Shangdong, along with the company that imported and sold the tire in the United States, Horizon Tire, Inc., and the president of one of the companies face allegations of negligence and strict liability.



PBG Lifestyle Magazine recently highlighted the efforts of Partner **Julie Littky-Rubin**, who co-founded the "We Are Dwyer" Foundation in June of 2014 to support the students and community of William T. Dwyer High School.

Super Lawyers

The partners were distinguished again by being named "Super Lawyers" for 2015. Associate **Poorad Razavi** was recognized as a legal "Rising Star." The list honors less than five percent of attorneys in the state.



All six partners again have been recognized as "Top Lawyers" by the South Florida Legal Guide. The firm was also recognized as a "Top Law Firm" by the publication.



Attorneys **Mark W. Clark**, **Donald R. Fountain, Jr.** and **W. Hampton Keen** have been distinguished as "Legal Elite" by Florida Trend magazine.



ATTORNEYS: W. HAMPTON KEEN // DAVID C. PRATHER

**FIRM OBTAINS RECOVERY FOR FAMILY OF DRIVER
KILLED IN DEVASTATING TIRE BLOW OUT**

A 55-year old husband and father was operating his SUV on I-95 in Central Florida when the right rear tire suffered a tread and outer steel belt separation that caused the tire to blow out, ultimately resulting in him losing control of the vehicle. The four-door SUV entered the median and rolled over multiple times before landing on its roof.

Although the driver of the vehicle was properly seat belted, the roof structure over his seated position crushed downward and inward causing extensive head injury and cervical spine fractures. The driver died at the hospital from a cardiac arrest attributed to massive traumatic spinal damage and brain injury inflicted by the collapsing roof.

Attorneys **W. Hampton Keen** and **David C. Prather** brought product defect claims against the designer and manufacturer of the tire, as well as the designer and manufacturer of the SUV. The tire claims were based on the lack of nylon overlays in the tire, a well-known separation countermeasure. The claims against the vehicle centered on the design of the vehicle's suspension that rendered it uncontrollable in the event of a rear tire separation, coupled with the lack of rollover occupant survival space protection due to the weak roof structures.

Keen and Prather achieved confidential settlements from both the tire and SUV manufacturer before trial started.



ATTORNEYS: MARK W. CLARK // CHRISTA L. MCCANN

FIRM OBTAINS RECOVERY FOR FAMILY OF A CALIFORNIA BICYCLIST KILLED BY MOTORIST

Mark W. Clark and **Christa L. McCann** recently obtained a confidential settlement in a wrongful death case brought by the survivors of the estate of a California resident who suffered multiple blunt force injuries resulting in his death. At the time of the accident, the decedent, who was visiting Florida on business, was operating a bicycle while crossing an intersection in Jupiter, Fla. The initial homicide investigation found the bicyclist [our client] at fault for failing to yield the right of way. As a result, the Defendant's insurance carrier initially denied liability.

However, after a much more thorough accident reconstruction, Clark and McCann were able to establish that the motor vehicle driver had an unobstructed view of the area where their client entered the intersection, and sufficient time and distance to avoid the collision. As a result, the team argued that the driver acted negligently. Ultimately, the Defendant's liability carrier accepted responsibility and agreed to a confidential settlement with the man's surviving wife who also resided out of state.

COMMUNITY CONNECTIONS



Spearheaded by paralegal assistant, Laura Brihn, the firm recently collected hundreds of baby items including diapers, baby wash, shampoo and personal care items for the local shelter, Pat Reeve's Village, in West Palm Beach. Brihn coordinated the drive in partnership with her grand-daughters' Girl Scout Troop 20024, where she serves as the troop leader. The firm also gathered Christmas gifts with the troop for the shelter.

ATTORNEYS:

W. HAMPTON KEEN // POORAD RAZAVI



FIRMS' SUCCESS IN DIVING CASE RESULTS
IN MANUFACTURER MODIFYING DESIGN

Recently, attorneys **Hampton Keen** and **Poorad Razavi** resolved a tragic case involving carbon monoxide poisoning that occurred while a young man was diving for lobster. Keen, who is a certified NAUI scuba instructor, and the firm have handled multiple cases involving diving over the years.

In the lawsuit, the firm contended that the air compressor utilized by the diver was defectively designed and that the design defects resulted in the diver's carbon monoxide poisoning and subsequent drowning. After the lawsuit was filed, the manufacturer of the compressor modified the design to include more prominent warnings to avoid similar tragedies.



ATTORNEYS: JULIE H. LITTKY-RUBIN // NANCY LA VISTA

FIRM'S APPELLATE DEPARTMENT CONTINUES SUCCESS

Florida Bar Board Certified appellate attorney and partner, **Julie H. Littky-Rubin**, continues to provide research and writing support for trial lawyers, both inside and outside the firm, by handling complex legal issues that arise out of major cases.

Ms. Littky-Rubin recently obtained two appellate victories for her clients:

In *Alvarado-Fernandez v. Mazoff*, 151 So. 3d 8, the Fourth District [Fla. 4th DCA 2014] agreed with Littky-Rubin that the efforts engaged in by a tenacious Broward County trial lawyer to obtain service on a citizen of Colombia who had injured Mr. Mazoff while she drove a rental car in Broward County, were sufficient to obtain jurisdiction over the defendant in Florida.

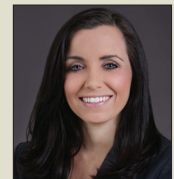
Littky-Rubin also teamed up with partner, **Nancy La Vista**, on an appeal where La Vista had successfully convinced the Administrative Law Judge that Palms West Hospital had failed to provide proper notice under Florida's Birth-Related Neurological Injury Compensation Association Act [NICA], paving the way for the baby's civil lawsuit.



Clark Fountain was honored to serve as a sponsor for the Palm Beach County FAWL [Florida Association for Women Lawyers] 31st Annual Judicial Reception at the Norton Museum of Art in West Palm Beach. More than 250 guests attended this event to support FAWL, which is designed to promote gender equality and leadership roles for women lawyers.



Attorney **Christa L. McCann** has been elected President-Elect of the Palm Beach County Hispanic Bar Association for 2015; she will assume the role of President in January 2016. She has also been named the Chair of the Mentoring Committee for the Palm Beach County chapter of the Florida Association for Women Lawyers [FAWL].



McCann has become a visible local force highlighting the importance of diversity in the practice of law, including roles for women and other minorities representing a range of backgrounds.

Fluent in Spanish, McCann also regularly works with and advocates on behalf of Spanish-speaking clients, and recently authored the article, "Diversity: Bringing a Unique Perspective to the Table," featured in the Palm Beach County *Bar Bulletin*.



Legal assistant, **Nora Fried**, and her dog Rudy participated in the annual Peggy Adams Animal Rescue League Walk in West Palm Beach.

ATTORNEYS:

MICHAEL SMITH // OLIVIA D. LIGGIO

FIRM WINS MEDICAL MALPRACTICE CLAIM AGAINST LOCAL HOSPITAL



Working with the Clark Fountain newest associate, **Olivia D. Liggio**, attorney **Michael Smith** successfully resolved a medical malpractice claim against a local hospital. The recovery allowed the client to obtain a new home with handicap accommodations to allow for a better quality of life.

All our clients have special needs individual to each client. We pride ourselves on recognizing the unique needs of each client and strive to obtain results that meet those needs.

RECENTLY FILED CASES

- Medical malpractice action against a hospital on behalf of a patient left partially paralyzed following back surgery in Miami.
Attorneys: Nancy La Vista and Michael Smith
- Medical malpractice wrongful death claim on behalf of surviving children whose mother underwent an elective hysterectomy and died during the procedure.
Attorneys: Nancy La Vista and Michael Smith
- Wrongful death claim of a 24-year old wife and mother of a two-year-old daughter killed in Arcadia, Fla. by a tractor/trailer.
Attorneys: David Prather and Olivia Liggio
- Wrongful death and personal injury claim brought after a Juno Beach couple was hit while walking in a crosswalk, killing the husband and seriously injuring the wife.
Attorneys: Mark Clark and Christa McCann
- Wrongful death filed in Ft. Walton, Fla. where a 43-year old man with six young children was killed trying to re-enter I-95.
Attorneys: David Prather and Olivia Liggio
- Personal injury claim brought by a Broward County resident severely injured in a plane crash at the Palm Beach County Glades Airport.
Attorneys: Mark Clark and Jason Cornell



Attorney **Poorad Razavi** has become a rather well-recognized up-and-coming Palm Beach County lawyer, co-chairing the Personal Injury Section for the Palm Beach County Bar Association's Annual Bench Bar Conference, as well as the Young Lawyers Division's Quarterly Judicial Relations Luncheon. He also spearheaded and moderated a sold-out CLE seminar on Florida's recently adopted Daubert expert witness standard, and served as a panelist speaker at the Florida Bar's Practicing with Professionalism CLE in the fall of 2014. Finally, the Palm Beach County Bar Association recently appointed Razavi to serve on its Personal Injury/Wrongful Death Law CLE Committee.



Nancy La Vista and Hampton Keen were honored to serve as lecturers at the spring Florida Justice Association “Workhorse” convention on mock Daubert Motion Hearings. The seminar offer an intense week of in-depth cutting-edge legal issues as well as a primer for new lawyers in all areas of personal injury.



Paralegal, Marlene Clarke, participated in a 5K race and helped to raise funds to support a nonprofit working toward a cure for brain cancer and brain tumors.

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