

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



# LEGAL EDGE

RECENT VERDICTS AND SETTLEMENTS:  
IT'S BEEN A BUSY 2011!

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REFERRAL RESULTS

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IN THE NEWS

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COMMUNITY CONNECTION

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MEET OUR NEWEST PARALEGALS

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PERSONAL INJURY

WRONGFUL DEATH

PRODUCTS LIABILITY

MEDICAL MALPRACTICE

BUSINESS LITIGATION

APPELLATE LAW

Welcome to the second installment of Clark Fountain's **Legal Edge** newsletter. We have been humbled by the kind, positive feedback from our first issue, and we hope this and future editions provide you more insight into our firm and attorneys.

It already has been an exhilarating 2011. Our referring attorneys here in Florida, and as far away as California, have kept our legal team busy handling various catastrophic personal injury, products liability and medical negligence cases. We are grateful for the confidence other attorneys and their clients have placed in us to co-counsel their complex cases.

This year has also brought us speaking engagements, appointments to the boards of community and professional organizations, media coverage, pro-bono work, awards from prestigious entities, and much more than we could fill in these pages.

We thank you for your interest in **Clark, Fountain, La Vista, Prather, Keen & Littky-Rubin**. Please do not hesitate to contact us if we ever can assist you or your client with a case or matter.

We recognize that lives can change in an instant. From the less serious to the catastrophic, learn how we can help at [www.forinjuryhelp.com](http://www.forinjuryhelp.com).



**JULIE LITTKY-RUBIN'S** impressive reversal on an appeal of a major automobile case and multi-million dollar verdict against Mitsubishi was featured in the **Daily Business Review**, **Law.com** and **The Palm Beach Post**. She was also profiled in **The Palm Beach Post's** Neighborhood Post.



**NANCY LA VISTA** was profiled in the prominent "Moving Up" column in the business section of **The Palm Beach Post**. The piece highlighted that Nancy was the first female president of the Palm Beach County Chapter of the American Board of Trial Advocates (ABOTA), which was recently recognized as America's Chapter of the Year.

ATTORNEY: DAVID C. PRATHER

CLIENT RECEIVES REMARKABLE \$650K SETTLEMENT IN AUTO NEGLIGENCE CASE

Days before trial, attorney **David Prather** convinced an insurance company to pay more than six times the available insurance policy limits to 42-year old Thomas Siebert, after a car accident that ultimately caused him to undergo lower back surgery.

Another car crashed into Mr. Siebert from behind, driving more than 35 mph. The offending driver admitted to accidentally putting his foot on the accelerator instead of the brake. While our client was not immediately hospitalized, he quickly started suffering from back pain and eventually required surgery.

Though the insurance policy was limited to \$100,000, Prather successfully settled for \$650,000 because the insurance company was given the opportunity to pay the policy limits prior to surgery and did not. Fortunately, the carrier ultimately decided to protect the best interests of its insured defendant, who is no longer subject to an excess financial resolution. Mr. Siebert is feeling better and is very pleased with his settlement.

ATTORNEYS: DAVID C. PRATHER // CYRUS NIAKAN



ATTORNEYS SOLVE RUNAWAY TRUCK MYSTERY THAT ALMOST COST CLIENT HER LEG

As you can imagine, attorneys **David C. Prather** and **Cyrus Niakan** were initially skeptical when their client said that she was run over by her own truck even though no one was behind the wheel, and the gear shift was in park. Still, the initial investigation showed that the truck actually did move while in park.

Working with the firm's design and electrical experts through multiple forensic inspections, the firm discovered that the likely cause was an improper adjustment that occurred during maintenance service.

Prather and Niakan were very pleased with the confidential settlement, and most importantly, the financial stability they helped the client obtain.



HAMPTON KEEN

Attorney... and an adventurer!

The March issue of **Florida Trend's** Lifestyle section featured Hampton sharing his passion for spearfishing and diving.



COMMUNITY CONNECTION

More than a dozen members of the firm, along with their friends and family, participated in a fundraising walk for Race for the Cure, a national event that raises money for breast cancer awareness and research.





**WPBT 12**

**David Prather** has been named a member of the

prestigious Federal Magistrate Judge Merit Selection Panel to the United States District Court for the Southern District of Florida. He was also appointed to the Board of Directors of Community Television Foundation of South Florida, which is the non-profit organization that operates PBS station WPBT2.



**Hampton Keen** has been named to the Board of Directors of the **Legal Aid Society of Palm Beach County** and to the **Florida Bar Grievance Committee** within the 15th Judicial Circuit.

ATTORNEYS: **MARK CLARK // TIM MURPHY**



**DEFECTIVE FUEL SYSTEM CLAIMS LIVES OF TWO COLLEGE STUDENTS**

The lives of two 21-year old college students were tragically cut short after the car they were traveling in was struck in the rear by another vehicle. Upon impact, the students' car burst into flames and both died from thermal injuries. The case was complicated by how fast the other vehicle was traveling at the time of impact.

Another attorney referred these tragic cases to our firm because of our national reputation for successfully handling product liability cases. **Mark Clark** and **Tim Murphy** represented the Personal Representatives of both estates, and brought suit against the vehicle manufacturer, alleging it designed a defective fuel system in the accident vehicle, which caused the students deaths. The defendant manufacturer contended that no vehicle could be designed to withstand such a high-speed and high-energy impact.

After several years of litigation and extensive discovery, Mark and Tim were able to reach confidential settlements with the vehicle manufacturer on behalf of the survivors of both accident victims.



ATTORNEY: **HAMPTON KEEN**

**TIRE DEFECT FOUND IN TRUCK SET FOR DESTRUCTION**

Fortunately for our client, he did not let a "no" stop him. After an attorney from another firm told him that he could not receive a recovery for severe orthopedic injuries due to a car accident-because the driver and owner of the vehicle had no insurance coverage-he contacted another attorney who noticed the case could involve a defective tire.

Knowing that attorneys at Clark Fountain are experts in motor vehicle and tire defect liability, that attorney contacted the firm to investigate. **Hampton Keen** and the firm's investigator located the truck and its failed tire at a salvage yard just before it was scheduled for destruction. Experts hired by the firm determined that the vehicle lost control after the tire's tread separated and that the tire failed as a result of a manufacturing defect. With extensive experience handling multiple cases against both the manufacturer of the vehicle and the tire, Keen successfully resolved the case within 12 months after locating the vehicle and tire.



**Julie Littky-Rubin**, through her work with the Education Foundation of Palm Beach County, recently served as a volunteer judge for the prestigious Dwyer Awards, given each year to Palm Beach County's most outstanding teachers. She also served as a volunteer judge to help select the recipient of the Palm Beach Post's 2011 Pathfinder Award [scholarship awards given to outstanding high school seniors in the Forensics category].

While these are fun, helpful new tools, remember to be safe when using them. **NEVER TEXT OR TWEET AND DRIVE!**



**LEGAL UPDATE: BE SOCIAL MEDIA SAVVY**

As we continue to embrace social media, remember that your postings do not 'disappear' after they're gone from your screen. Many judges are now allowing discovery of clients' Facebook profiles, Twitter feeds, MySpace pages and more. Keep in mind that even if your security settings are set to private, these pages - as well as your private emails and texts - are all fair game in any lawsuit you may file.

ATTORNEY: **NANCY LA VISTA**

**MOTHER REQUIRES KIDNEY TRANSPLANT FROM ALLEGED MEDICAL MALPRACTICE**



The birth of a baby is usually one of the most blissful times in a woman's life. However, the happy occasion turned tragic when our client - who just delivered a healthy baby girl - went into renal failure due to alleged medical malpractice just after being discharged from the hospital.

Fortunately, doctors were able to perform a transplant using a kidney provided by her father. **Nancy La Vista**, a skilled and experienced medical malpractice attorney as well as a critical care nurse, successfully settled the case for a confidential amount.

**MEET: SANDY DUNCAN**  
Paralegal / investigator



A recent addition to the firm, Sandy Duncan is a paralegal with more than 20 years of experience in the legal field. Serving first as a legal assistant, ultimately working her way up to the status of a certified paralegal, Sandy has been passionate about the law since junior high school. It shows. You can see her commitment to each case as she works with each client. Sandy is proficient in all aspects of litigation including personal injury, wrongful death, managed care, medical malpractice, products liability, insurance defense and complex-issue cases.

"I have a compassion and strong commitment to helping others receive the justice they deserve. There's real complexity to the cases we handle here, so it's both fascinating and rewarding to assist our highly skilled attorneys in obtaining a verdict or settlement favorable to our clients."

Sandy primarily handles personal injury and wrongful death cases, working hands-on with the clients from the moment they walk in the door until the case concludes, diligently helping to ensure there's a satisfactory resolution either through a verdict or settlement.



**MEET:**  
KEN DISHMAN  
// Medical Paralegal

When clients meet Ken Dishman, they can immediately sense his concern, knowledge and understanding of their situation. After all, he has been a paralegal for the past 15 years.

From catastrophically injured, brain-damaged children to paralysis and wrongful deaths, Ken is adept to serving on the front line investigating the claims from the injury stage through trial. As a medical negligence paralegal, Ken's job includes recruiting the world's best experts on behalf of Clark Fountain clients while communicating with the client's doctors and other health care providers.

After working elsewhere for 10 years, Ken recently rejoined the Clark Fountain team, most of whom he worked with a decade ago. "It's an incredible team I'm working with. I'm continually impressed by their level of care and commitment to each individual client."

Ken's background lets him understand not only the paralegal side of the law but the political side of the law, which frequently involves medical malpractice issues. During President George H. Bush's administration, he received an appointment from the White House to serve as a special assistant, working for the U.S. Department of Labor. Prior to his appointment he worked with former Tennessee Senator and Chief of Staff, Howard H. Baker.

An avid bicyclist, Ken has embraced Florida as his home. We at Clark, Fountain, La Vista, Prather, Keen & Littky-Rubin are delighted to have him back.



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



**NEWS OF SETTLEMENT WITH HOSPITAL PROMPTS JUROR MISCONDUCT, PARALYZED CLIENT GETS NEW TRIAL**

Attorneys Nancy La Vista and Mark Clark proceeded to trial in Collier County, Fla. against several physicians on behalf of their client, allegedly rendered paraplegic due to medical negligence. During the second day of the trial against those physicians, the local newspaper reported that our client had settled her claim against the hospital before the trial.

After a verdict for the defendant doctors, it was learned that one juror, against the judge's repeated instructions, read a newspaper article during the trial about the confidential settlement with the hospital. That juror misconduct caused the judge to order a new trial. The defendants appealed.

The firm's appellate attorney, **Julie H. Littky-Rubin**, convinced the Second District Court of Appeal to uphold the trial judge's decision. Our client will now have the opportunity to get a fair trial from an impartial jury.

ATTORNEYS: DON FOUNTAIN // HAMPTON KEEN



**TRAGIC DEATH CAUSED BY DEFECTIVE SEATBELT**

The 31-year old wife of a local minister thought she was safe when she put on her seatbelt in her SUV for a drive to Miami on I-95. However, the vehicle was dangerously unstable and when she attempted to avoid another vehicle on the highway, her SUV careened out of control and rolled over. The driver's seat belt failed to lock, and as a result, she was partially ejected from the vehicle during the rollover. She died from head injuries.

This catastrophic case was referred to the firm by another attorney in order to take advantage of the firm's significant experience and expertise in product liability litigation.

The case was handled by **Don Fountain** and **Hampton Keen** who were able to obtain a substantial confidential settlement with the vehicle's manufacturer. Our hope is that this result helps the clients' family obtain some closure as they cope with their tragic loss.



NANCY LA VISTA

Attorney **Nancy La Vista** recently presented "What Women in Business Need to Know About Personal Injury" to a crowd of prominent business executives during a breakfast for the Women in Business division of the Chamber of Commerce of the Palm Beaches. She also co-presented, "Bringing in the Rain: Successful Strategies for Women Rainmakers," to the Palm Beach County chapter of the Florida Association for Women Lawyers [FAWL].

**MEET:**  
MICHELLE BERRY  
Paralegal / investigator



Accidents causing personal injuries or death are traumatic events. When it's necessary to pursue a claim, it is comforting to those involved to have Michelle Berry greet them when they arrive at Clark Fountain. During her nearly 10 years in the legal field, Michelle has handled a myriad of personal injury and wrongful death cases. She's there every step of the way with clients from the initial meeting through a trial, ensuring they're continually updated on their case.

Following an initial interview with the client, Michelle gathers all the necessary information to pursue the claim, including photographing accident scenes, taking witness statements and obtaining medical records and bills. In addition, she continues to assist the attorneys in preparation for settlement negotiations and trial in order to obtain the best resolution possible for every client.

As Michelle noted, "I am impressed by how many cases our attorneys take to trial, as well as the number of cases they settle in pre-suit. Due to the extensive trial experience of our attorneys, each client receives superior representation on their case."

GRAB THE MOVING BOXES!



As you're reading this newsletter, our team at Clark, Fountain, La Vista, Prather, Keen & Littky-Rubin is settling in to a brand-new, 10,250-sq.-ft. office on the Intracoastal Waterway at 1919 N. Flagler Drive in West Palm Beach. The custom-

built, state-of-the-art space is filling up quickly as the firm continues to hire new attorneys and support staff.

With our rapid growth thus far, we remain thankful for your support and the cases you've referred to us. We're handling an increasing number of cases throughout Florida and nationwide, with many going to trial. Within a four-week span this year, five attorneys faced three jury trials. Please keep us in mind if you would like us to examine a potential case. We're accessible by phone, email and now, a large-screen, video conferencing system.

If you'd like to receive a free electronic copy of attorney Julie H. Littky-Rubin's popular Florida Case Law Summary, *The Week in Torts*, weekly summary or an e-version of the Legal Edge, sign-up on the Referral tab of our web site, [www.forinjuryhelp.com](http://www.forinjuryhelp.com).

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866.643.3318 // 561.899.2100 // [www.forinjuryhelp.com](http://www.forinjuryhelp.com)

Clark, Fountain, La Vista, Prather,  
Keen & Littky-Rubin  
1919 N. Flagler Drive  
West Palm Beach, FL 33407

