



# THE LEGAL EDGE



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December/January  
2017/2018

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Clark, Fountain, La Vista, Prather, Keen & Littky-Rubin is pleased to help you evaluate any factual scenario or potential case you may have. We handle cases on referral or co-counsel basis around the state and country. Please visit our web site for details or call us at 866.643.3318

## Case Resolution

### Needless tragic loss of life.

Recently, Michael Smith and Nancy La Vista successfully represented a surviving spouse for the tragic loss of her husband due to alleged medical negligence. When her husband of many years who was recovering from knee surgery, re-entered the hospital for anemia, hospital staff failed to timely recognize and report signs and symptoms of an ileus {a common bowel obstruction that can occur after surgery}.

Days later, despite the wife's bedside complaints of her husband's discomfort and expanding abdominal girth, the patient vomited, aspirated and went into a respiratory arrest. Although healthcare providers tried resuscitation, sadly with the patient's wife watching, her husband died. The surviving spouse sought justice for this senseless death and reached out to Clark, Fountain, La Vista, Prather, Keen and Littky-Rubin for help. Hopefully, holding the healthcare providers accountable will prevent such a tragedy from occurring to other families.

### When doctors delay, patients pay a steep price with either a loss of their life, limbs or the possibility of being permanently disabled.

Mike Smith and Nancy La Vista reached a confidential medical malpractice settlement on behalf of a patient left with a severe loss of function and mobility after a doctor failed to timely address an acute change in the patient's medical condition. This type of situation should underscore the importance and serious need for patients to advocate for themselves or in the least to have friends and families advocate on their behalf . Demanding medical attention in the face of a change in a medical condition is the right thing to do. It may save your life or the life of those you love.

## Legal Insights

Referrals →

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Learn about our more than 220 years of combined experience exclusively focused on the practice of personal injury law, what distinguishes Clark Fountain from others, and our case results that have translated to hundreds of millions of dollars for past clients.



Website →

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## IKEA Reissues Dresser Recall After Death of 8th Child



IKEA has re-announced its recall of chests and dressers following the death of a 2-year-old California boy who died after he was struck by a MALM three-door dresser that had not been fastened to the wall.

The recent death now means 8 children have died from injuries caused by recalled IKEA dressers since 1989. There have also been nearly 200 reports of MALM dressers tipping over, resulting in 91 injuries, and 113 reports of other dressers tipping, resulting in 53 injuries.

[Our blog](#) discusses the recent death, IKEA's re-issued recall, and the more than 17.3 million IKEA child and adult dressers affected. Visit our website to learn more about recalled products and whether an IKEA dresser you may have purchased is affected.

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## Who Pays When a Personal Injury Lawsuit is Won?

Personal injury lawsuits allow victims [harmed by negligent and wrongful acts](#) to recover financial compensation for their damages, including their medical expenses, lost income, and pain and suffering, among other economic and non-economic damages. Who pays these damages, however, is always a matter of who can be held at-fault and liable.



Generally, the party that *more likely than not* (the burden of proof in civil lawsuits) caused a victim's injuries will be held responsible for paying damages. Because every case is unique, however, the party who is liable for damages will vary. In our blog, we discuss examples of parties typically held liable in various cases, including those involving car accidents, truck accidents, defective products, and medical malpractice.

## RECALLS

### Ford Recalls Over 200,000 Trucks and SUVs Due to Loose Front Power Seats



On December 1st, Ford issued a recall for roughly [202,000 vehicles equipped with loose front power seats](#). The recalled vehicles may experience problems with front power seat adjusters, which can become loose or fall out or see increased movement in a crash, according to the automaker. As a

result, riders involved in crashes may not be properly restrained, and face greater risks of injury.

Affected vehicles in the recall include 2016 Ford F-150 trucks and 2016 Ford Explorer SUVs. Ford reports that 177,264 vehicles being recalled are in the United States. Vehicle owners can take vehicles into a licensed dealer for testing and necessary repairs, free of charge.

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### Toys “R” Us Recalls Clay Craft Kits Over Mold Exposure Risks

Toys “R” Us has recalled “totally me!” clay craft kits sold at Toys “R” Us and Babies “R” Us retail stores nationwide between January 2017 and October 2017 due to [risks of mold exposure](#). Mold present in the clay can pose risks of respiratory and other infections in individuals with compromised immune systems, damaged lungs or an allergy to mold.



Roughly 6,000 units of the clay kit, which sold for about \$10, are being recalled. Kits include clay, air dry acrylic paints, and various tools and are labelled with a “totally me!” logo on the front of the box. Several reports of mold have been received by Toys “R” Us, and consumers are advised to stop using the craft kits and return them to a retail store for a refund or store credit. xDrive, 335i xDrive and 335is, and the 2009-2011 335d.

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### Nearly 27,000 Kubota RTV-X Series Utility Vehicles Recalled Due to Injury Hazard



Kubota has recalled 26,900 RTV-X series utility vehicles due to [increased risks of injuries in crashes caused by seat belt stays that may break](#). The diesel-powered utility vehicles were sold at Kubota dealers nationwide between June 2015 and June 2017 for between \$15,000 and \$25,000. Vehicles come in orange and camouflage, and include the RTV-X900, RTV-X1100, RTV-X1120D, and RTV-X1140.

Owners of recalled vehicles are urged to stop using recalled utility vehicles and to contact an authorized dealer for a free repair.

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### Allura Decking Recalled Due to Fall and Injury Hazards

Plycem Construsistemas has recalled Allura fiber cement decking and fascia that can deteriorate and crack, causing the deck surface to break. Consumers can fall through the broken decking and suffer serious injuries. The recalled decking includes 27,500 boards



some serious injuries. The [recalled decking includes 57,500 boards that were sold in 12-foot lengths](#), 6 inch width, and one inch thickness, and came in two styles: a hidden fastener application and a direct screw application. The recalled Allura fiber cement fascia, which was for vertical applications only, was sold in 12-foot lengths, is 8- and 12-inches wide and 7/16 inches thick. The decking and fascia were sold in a natural wood color with a wood grain texture. There are no labels or other identifying marks on the decking materials.

Recalled decking has resulted in reported cracking, as well as injuries caused by consumers who stepped through material. They were sold at Kelseyville Lumber, Trademark Exteriors, and Home Depot between February 2014 and June 2017. Owners are advised to stop using decks constructed with recalled materials and to contact Plycem for a free repair.

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### **BMW Recalls i3 Electric Vehicles After Crash Tests Show Higher Risks of Injury**



BMW has recalled all 2014 to 2018 model year i3 electric cars sold in the U.S. following National Highway Traffic Safety Administration (NHTSA) tests that show [higher risks of neck injuries for small female drivers who do not wear seat belts in front-end crashes](#). BMW has reported that their testing did not indicate greater risks of injuries, but that it is working with the NHTSA to investigate test result discrepancies. The automaker has also told dealers to stop selling recalled i3 vehicles until repairs are made.

Because investigations are still ongoing, BMW has not yet reported what repairs will be made. Owners will be notified in January, and are encouraged to always wear seat belts when operating vehicles.

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