



 **LEGAL
EDGE**

CLARK · FOUNTAIN
LA VISTA · PRATHER
& LITTKY-RUBIN

PERSONAL INJURY

WRONGFUL DEATH

PRODUCTS LIABILITY

MEDICAL MALPRACTICE

BUSINESS LITIGATION

APPELLATE LAW



Firm Obtains \$15.5 Million Verdict for Teenager, Whose Single Father Was Killed Due to a Defectively Designed Commercial Pumper Truck

ATTORNEYS:
Don Fountain & Julie H. Littky-Rubin

At 9:00 p.m. on the Friday evening before Memorial Day weekend, May 25, 2018, a Palm Beach County jury returned a \$15.5 million verdict for 19-year-old Tyler Letterman, who tragically lost his single father when he was only 14 years old. Tyler's grandmother, Susan Letterman, brought the wrongful death suit as the

Personal Representative of the Estate of her son, Werner Letterman, who was only 41 years old at the time of his untimely death. Her lawsuit sounded in theories of product liability and negligence against National Truck Center, Inc., a Florida corporation based in Miami.

Partners Don Fountain and Julie Littky-Rubin convinced the jury that National Truck's transformation of a six-year-old tractor with over 600,000 miles on it, into a sewage pumper truck with a 4,000-gallon tank, effectively created a "new" product. The plaintiff asserted that modifications made by National Truck, e.g., extending the truck's frame by five and a half feet, moving the rear tandems back five feet, adding heavier front axle springs, and changing the steer axle rims and tires from stock 11R22.5 tires, to much wider 385/65 R22.5 tires, substantially changed the steering system, due to the load when the truck's sewage tank had fluid in it.

Then, when the Shandong Linglong tire (385/65 R22.5) blew out while the vehicle proceeded at 65 mph during rush hour traffic on I-95 on Friday, December 27, 2013, the vehicle was rendered uncontrollable. The vehicle left the road and rolled over, killing Tyler Letterman's 41-year-old father.

The jury also learned that Werner Letterman was an unmarried single father, who was left with Tyler when he was less than a year old. Because Werner Letterman himself had been abandoned by his own father, his mother testified he was committed to being the best possible father he could be. Several witnesses testified about how Tyler was Mr. Letterman's entire world, and, as Tyler himself explained at trial, on that day, he "lost his best friend, his father, his Mr. Mom."



TOPVERDICT™ Includes Clark Fountain \$4.1M Jury Verdict in Top 50

TopVerdict™ has selected a \$4,122,316 jury verdict obtained by Partner David C. Prather and our legal team as one of its Top 50 Verdicts in the state of Florida. The verdict was secured on behalf of a client who suffered serious injuries after being rear-ended by a drunk driver. The case was notable for the fact that Attorney Prather effectively illustrated the full scope of our client's damages, including physical and emotional injuries that will persist for the rest of her life. The case result was the 38th largest plaintiffs' verdict in the entire state of Florida last year.

**Nancy La Vista and Michael Smith
Resolve a Malpractice Case Where the
Firm's Client Was Left Paralyzed Below
the Waist Following Back Surgery**

ATTORNEYS:
Nancy La Vista & Michael Smith



After back surgery, the client bled into his spine. The injury went undiagnosed too long such that the proper treatment was ineffective. The confidential resolution of the lawsuit will allow the patient and his family to obtain future medical care and be financially secure.



Multi-million Dollar Confidential Recovery from Commercial Trucking Company for Catastrophic Injuries Including Quadriplegia



ATTORNEYS:
Mark W. Clark & Christa L. McCann

Mark W. Clark and Christa L. McCann represented a family of five on vacation in Florida, who sustained catastrophic injuries including quadriplegia and traumatic brain damage when a commercial semi-tractor-trailer made an improper right turn from the left lane across the clients' lane of travel. As a result, the driver of the clients' vehicle was forced to take evasive action, but was still unable to avoid colliding with the trailer of the rig.

Clark and McCann were able to establish that the driver of the tractor-trailer violated key provisions of the Federal Motor Carrier Safety Regulations (FMCSR), which require drivers of commercial vehicles to make a right hand turn "as close as practicable to the right-handed curb or edge of the roadway" and to ensure that no vehicles are passing them or otherwise in their path of travel before beginning their turn. One of the clients was rendered quadriplegic requiring 24-hour-a-day care for the remainder of his life. The initial medical bills alone were well over \$1 million and his future medical care needs exceeded \$15 million. Our client's doctors opined that he could live into his 70s with quality medical care. Fortunately, our firm was able to obtain a multi-million dollar recovery from the trucking company's insurance carriers, and provide financial security for our clients in this case.

Firm Selected as Best Law Firm in U.S. News and World Report



Clark, Fountain, La Vista, Prather & Littky-Rubin named "Best Law Firm" by U.S. News & World Report-Best Lawyers Publication in four practice areas for 2018. The firm was selected for Personal Injury Litigation, Product Liability Litigation, Medical Malpractice Law and Appellate Practice.



Firm Reaches Confidential Settlement in Products Liability/Wrongful Death Scissor Lift Case

ATTORNEYS:
Mark W. Clark & Ben J. Whitman



The Personal Representative of the Estate and survivors of the decedent who was killed using a scissor lift, retained Clark Fountain. The scissor lift fell to the ground while it was extended to its maximum height. Mark W. Clark and Ben J. Whitman filed a lawsuit against the manufacturer of the aerial lift, alleging the product was defective in its design which caused it to fall over. After several years of litigation and numerous depositions Clark and Whitman were able to reach a confidential settlement based on the information uncovered during discovery. Over the years the Firm has successfully handled multiple scissor/aerial lift products liability cases and the firm's expertise in handling these complex cases lead to a favorable resolution of this case.



Firm Wins Confidential Settlements in a Complex Wrongful Death, 17 Party Road Construction / Design Case

ATTORNEYS:
Don Fountain & Ben J. Whitman



Tragedy struck a North Dakota family that travelled to Orlando, Florida to enjoy the area's world famous theme parks, when a drunk driver rear-ended the family's van on State Road 528. The collision caused the vehicle to leave the highway and crash into a massive concrete pole. Miraculously, all of the occupants of the vehicle walked away unharmed with the exception of the wife and mother of two children who was killed instantly, when her passenger door collided with the concrete pole.

Clark Fountain's investigation revealed that a recent construction project had impermissibly allowed the installation of a large concrete pole in the

right of way. There were no guardrails or other safety devices installed to protect motorists from the concrete pole.

After the case was turned down by multiple law firms, the family's North Dakota and Minnesota counsel contacted firm attorneys Don Fountain and Ben J. Whitman because of the firm's nationwide reputation and prior experience handling complex road design and defect cases.

The firm conducted site inspections, identified dozens of companies involved in the construction project, and retained professional engineer experts, resulting in a lawsuit naming 16 defendants. After months of negotiations, Whitman and Fountain were able to reach confidential settlements with all parties on behalf of their grieving clients.



Six Clark Fountain Attorneys Recognized in U.S. News' Best Lawyers in America Publication for 2019

We are proud to announce that six of our firm's attorneys have been selected for inclusion in the prestigious publication The Best Lawyers® in America. Partners Mark W. Clark, Donald R. Fountain, Jr., Nancy La Vista, David C. Prather, Julie H. Littky-Rubin as well as Associate Christa L. McCann have been recognized in the 2019 Edition of Best Lawyers®.

For more than three decades, Best Lawyers® has used a confidential peer review process to select the most successful and reputable lawyers in 75 countries. Candidates for the Best Lawyers® publication must go through an extensive selection process that includes five steps.



Attorney Donald R. Fountain, Jr. has also received the Lawyer of the Year award by Best Lawyers® for his work in Product Liability Litigation. This is Mr. Fountain's second time receiving the honor. The recognition is granted to just one attorney in each specific practice area and region, and is reserved for those who have received the highest overall peer-feedback. We congratulate Attorney Fountain on this outstanding achievement.



Clark Fountain Attorneys Earn Achievements with Florida Justice Association

Clark, Fountain, La Vista, Prather & Littky-Rubin is happy to report on two significant achievements recognized by the Florida Justice Association (FJA) to members of our legal team:

Firm Partner Donald R. Fountain, Jr. received the Florida Justice Association's "Award of Appreciation." Each year, the FJA recognizes members of the legal community who have dedicated their professional careers and personal lives to protecting Florida's civil justice system. This award speaks volumes about Mr. Fountain's legal abilities and commitment to justice, which have earned him national recognition as a top trial lawyer, particularly in challenging cases involving catastrophic injuries.

The Florida Justice Association also elected associate Ben J. Whitman to its Board of Directors. This appointment is a significant achievement and speaks to Whitman's reputation among the local and legal communities, as well as the record of success he has earned protecting the rights of victims in the civil justice system in cases involving serious injury, wrongful death, and product liability. Whitman's passion for ensuring equal access to justice is distinctly aligned with the FJA's mission, and will make him an invaluable resource for the organization.

The Florida Justice Association, formerly the Academy of Florida Trial Lawyers (AFTL), is one of the state's leading legal organizations that strives to protect the rights of everyday citizens and consumers. Over the years, many of our firm's attorneys have been recognized by the FJA and have held a number of important membership and leadership positions in the association. Of note, Firm Managing Partner, Mark W. Clark, is a past president of the FJA.

Low Offers by Insurance Companies Yield Big Verdicts For Clark Fountain Clients



ATTORNEYS:
David C. Prather & Christa L. McCann

In rapid succession, David Prather and Christa McCann turned "low-ball" offers made by insurance carriers into significant verdicts for their clients. In *Siegel v. Anderson and Geico*, the defendant driver rear-ended Ms. Siegel, in a low property damage collision. Prior to the trial, Ms. Siegel, a restaurateur, had undergone a series of pain injections, but no surgery. State Farm, the defendant driver's insurance company, denied responsibility for the accident, contending that Ms. Siegel caused the accident by making a sudden unexpected stop. State Farm, as well as the client's underinsured motorist carrier, Geico, also asserted that the injuries were not caused by the impact, but by pre-existing degenerative conditions.

Over a year before trial, Mr. Prather served proposals for settlement on both defendants, which were rejected. After a two-week trial, the jury chose to stay for a marathon 18-hour day, culminating with a verdict for Ms. Siegel at 2:15 a.m. The jury found Ms. Siegel was not at all at fault, awarding her more than three and ten times the plaintiff's respective proposals to settle with the defendants prior to trial.

In a similar low property damage case (*Edwin Wells v. Jordan Quinn and Peter D. Quinn*), the Prather/McCann team secured a \$500,000 verdict, where the defendant insurer had only offered \$10,000 to settle the case prior to trial.

That case also involved a rear-end accident where the defendant's Chevy struck the Jaguar in front of it, pushing it into the client's Ford Explorer. The Explorer's trailer hitch took the brunt of the impact, leaving no visible damage to the vehicle. The cost of the repairs to the Plaintiff's vehicle was \$653 (under \$900 to the defendant's vehicle and roughly \$1,200 to the Jaguar).

Mr. Wells was diagnosed with three herniated discs in his neck. However, surgery was never recommended. After a three-day trial, the jury awarded Mr. Wells \$20,000 for past medical expenses, \$26,000 for future medical care, \$2,000 for lost wages, and \$450,000 for past and future pain and suffering, again far in excess of the pre-trial offer (which never increased).

Nancy LaVista and Michael Smith Obtain Confidential Settlement for Parents of Child Who Died as a Result of Failure to Timely Diagnose Meningitis



**ATTORNEYS:
Nancy La Vista & Michael Smith**

The parents of a 5-year-old boy realized their son was not getting better after suffering with a fever for several days, causing them to take him to the hospital. The hospital examined the child and performed lab work. Despite abnormal lab results and the inability to walk or talk properly, the boy was diagnosed with the flu and sent home. Less than 24 hours later, the young boy's condition worsened and he suffered a seizure. His parents immediately called 911, but it was too late. The child died of undiagnosed meningitis. The firm successfully demonstrated a lack of appropriate medical care and was able to obtain a confidential settlement for the family, who plans to use the funds in the child's name to help prevent future similar travesties from occurring.



CHRISTA L. MCCANN Elected to FAWL Board of Directors and Palm Beach County Hispanic Bar Association



Attorney Christa L. McCann was recently appointed to the Executive Board of the Palm Beach County Chapter of the Florida Association for Women Lawyers (PBC FAWL). She will serve as Secretary for the 2018-2019 term. Prior to serving as Secretary, McCann served in various positions on the PBC FAWL Board, including as the Mentoring Chair (two years), Programming Director and Sponsorship Director.

In addition to her service on the Board of PBC FAWL, McCann is also a Past President of the Palm Beach County Hispanic Bar Association and continues to be actively involved in the organization as a Board Member.



**Meet Our New Associate
MATTHEW B. WASSERMAN**

Matthew is a South Florida native who has spent his entire legal career representing accident victims and their families. Matthew brings to the Clark Fountain team years of litigation experience acquired through representing individuals across the state of Florida who have suffered catastrophic injuries. Prior to joining Clark Fountain, Matthew was an attorney at a boutique law firm in Palm Beach County focusing on a wide range of personal injury and commercial litigation matters.

Matthew is an adept litigator and negotiator who handles personal injury and wrongful death cases, including claims on behalf of victims of automobile accidents, defective products, and other matters that result in severe physical and emotional injuries. In addition to being a zealous advocate for his clients, Matthew believes it is equally as important to be an advisor and counselor for his clients during the difficulties and vulnerabilities of litigation. He has successfully litigated against some of the nation's major insurance companies, securing maximum results for his clients.



Firm Helps Families of Four Teenagers Who Died in California Crash Involving Air Bag and Stability Control Vehicle Defects

ATTORNEY:
Don Fountain

Don Fountain recently resolved a challenging vehicle defect case in California against a major automobile manufacturer. Four teenagers were tragically killed and a fifth was ejected when the vehicle they were traveling in lost control and rolled over multiple times. Fountain asserted allegations of defective airbags, as well as a failure to implement and install side curtain airbags and proper stability control in the vehicle. The case was especially problematic as the now deceased driver was traveling nearly 90 mph when he lost control. Needless to say, all of the families of those who died were thankful to obtain a quick and favorable settlement in light of the difficult facts and emotional hardships they faced.



Partner Julie H. Littky-Rubin co-founded the "We Are Dwyer" Foundation in 2013, and has been re-elected as its President ever since. The "We Are Dwyer" Foundation is a 501(c)(3) non-profit, which was founded as a support organization of the students and faculty at William T. Dwyer High School in Palm Beach Gardens.



Tire Tread Belt Separation Results in Death of Mother of Three

ATTORNEYS:
Mark W. Clark & Ben J. Whitman



Mark W. Clark and Ben J. Whitman successfully resolved a wrongful death case arising out of a rear tire tread belt separation and subsequent rollover accident, which tragically killed a mother of three. Based on the firm's experience and expertise in product liability cases, an out-of-state attorney contacted Clark Fountain to handle the wrongful death case. Whitman and Clark settled the suit against multiple parties early on, and then extensively litigated the case against the remaining defendants. Over 30 depositions were conducted in over eight different states, and multiple days of highly contested pretrial hearings were completed. On the eve of trial, the defendants agreed to pay a series of settlements to resolve the survivors' claims arising out of the devastating and preventable death of their mother.



EMPLOYEE SPOTLIGHT

Cheryl DiStefano

Boy how time flies!

Thirty two years ago, yes 32, Cheryl DiStefano began a career as a legal assistant. At the time, she was assigned to a brand new lawyer, Don Fountain. Together, they grew into a formidable legal team. Cheryl

learned the ins and outs of trials and soon mastered product liability litigation. Unfazed by multiple defendants and cases across the United States, Cheryl just squared her shoulders and soldiered on. When Clark Fountain needed a product liability paralegal, they found a diamond right in their own midst. Cheryl left Don as his legal assistant, only to take on the herculean task of being his product liability paralegal! Together, they have fought Goliath again and again and protected clients' and consumers' rights. Congratulations Cheryl on an awesome 30 years and, from the bottom of our hearts, THANK YOU!

Super Lawyers

Clark, Fountain, La Vista, Prather & Littky-Rubin is pleased to announce that all of our Firm's partners were again named to the 2018 Florida Super Lawyers list.

Partner Julie H. Littky-Rubin has also been named to the 2018 Florida Super Lawyers list of Top 50 Women Lawyers for the third year in a row! This distinction is earned by female lawyers who ranked in the top of the list in the 2018 Florida Super Lawyers nomination, research, and blue ribbon review process.

In addition, Associates Christa McCann and Ben Whitman were selected for inclusion in the 2018 Florida Super Lawyers list of Rising Stars™, a distinction for attorneys with 10 years or less practicing law, or who are 40 years of age or younger. Just 2.5% of all Florida lawyers are named to the Rising Stars list.



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