



# THE LEGAL EDGE



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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

### **Multi-Million Dollar Recoveries in Wrongful Death Case and Catastrophic Personal Injury Cases, Arising out of Same Accident**

Mark Clark and Christa McCann recently obtained multimillion dollar recoveries in a wrongful death case and catastrophic personal injury case arising out of the same accident

Clark and McCann initially succeeded in recovering the underlying bodily injury liability policy limits of the at-fault driver and the vehicle owner, as well as the client's and her deceased husband's underinsured motorist coverages. However, the excess liability insurance carrier for the at fault driver maintained that its policy only provided a single limit excess liability coverage per accident, regardless of the number of parties injured. As a result, Clark and McCann filed suit against the driver and foreign excess liability insurance carrier, arguing that the excess policy should provide coverage for two separate accidents: one in which the driver hit the client, and another in which the driver hit the client's husband resulting in his death. After a prolonged, uphill battle to establish jurisdiction over the foreign insurance company in Florida, and to establish the client's entitlement to additional coverage, Clark and McCann were successful in obtaining a recovery well over the foreign carrier's excess liability policy limits.

### **Firm Reaches Confidential Settlement with Private and Government Entities Responsible For Placement of Concrete Pole**

A relatively minor rear end impact on a central Florida highway redirected the vehicle carrying our clients entire family off of the road surface and onto the grass shoulder. Unfortunately, at the exact location where the vehicle left the road a huge 8,000 lb. concrete pole holding a video camera used to monitor traffic flow had been installed. The front bumper of our clients vehicle struck the massive square shaped pole instantly killing the right front passenger. The other occupants in the vehicle were not seriously injured. Although the pole was installed outside of the mandated "clear zone" the firm and its experts were able to show that prudent design practices, especially for a nonessential traffic device, required different placement and that a guardrail should have been installed in front of the massive pole. The firm also advanced the

Referrals →

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theory that square poles rather than round poles have a tendency to trap and hold impacting vehicles rather than causing them to glance off.

After successfully fending off multiple motions attacking the ability to even bring any claim at all, the firm was able to secure confidential settlements from nearly a dozen contractors and entities.

## Legal Insights

### Protecting Yourself From Auto Recalls



Many of our blog posts and newsletters focus on recalls affecting the auto industry. Over the years, these recalls have included all types of defective products, potential problems, and various concerns related to automobiles, tires, airbags, seatbelts, and more. Some have even resulted in record-numbers of vehicles being affected.

While each and every recall is unique in scope, nearly all involve potential issues that can lead to consumers suffering serious injuries or death. As such, it becomes important for all vehicle owners, as well as consumers looking to purchase or rent a car, to do their due diligence in ensuring their safety and the safety of their loved ones. Our blog focuses on [a few ways you can take steps to protect yourself](#) against auto recalls and defective products.

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### Workplace Injuries & Third Party Claims in Florida

Workers who suffer job-related injuries or illnesses are commonly covered by their employer's workers' compensation insurance, which provides essential medical benefits and wage supplementation no matter who is at fault. However, when [a third party's](#)



[negligence plays a role in causing or contributing to a worker's injuries and damages](#), they may be held liable through personal injury lawsuits filed in our civil justice system. Read more about workplace injuries and third party claims in Florida on our blog.

### Can You Appeal a Personal Injury Case?



Personal injury cases do not always go as planned for some individuals, especially if there were [errors regarding critical legal issues that had an impact on the outcome](#).

When a personal injury trial results in a legal error, victims may have the ability to appeal, which is a formal process where parties that disagree with a case result can ask a higher court to review legal errors and overturn a decision. However, appeals are not always an option in every case, and they can be a difficult process. Our legal team explains more about appealing personal injury lawsuits.

## RECALLS

### **Ford Expands Recall Over Defective Takata Airbags in Older Pickup Trucks, Warns Owners to Not Drive & Seek Immediate Fix**



Ford has announced an expanded recall [warning 33,000 vehicle owners in the U.S. to immediately take their vehicles into licensed dealerships](#) in order to fix defective Takata airbags. The “Do Not Drive” warning follows a previous recall

from January in which Ford warned nearly 3,000 owners of 2006 Ford Rangers to stop driving their vehicles and immediately take them in for repairs. That recall was prompted by a recent death linked to defective Takata airbags, which have been tied to a number of injuries and at least 22 deaths across the U.S. and other countries.

Ford’s latest announcement expands the recall to include vehicles from a broader time frame of production, and affects a total of 33,000 2006 Ford Ranger pickup trucks which were manufactured at the Twin Cities Assembly Plant in Minnesota between August 5, 2005 to December 15, 2005. The trucks were assembled using defective airbag inflators made by Takata, which pose the risk of exploding and sending metal fragments at vehicle occupants. Roughly 1,800 Mazda 2006 B-Series pickups, which use the same platform as the Ranger, were also added to the Do Not Drive warning.

Because the National Highway Traffic Safety Administration states that the defect poses immediate safety risks, owners are being urged to immediately schedule a free repair at a licensed dealership, which now have replacement parts in stock.

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### **Toyota Recalls 645,000 Vehicles Worldwide Due to Air Bags that May Not Inflate**

Toyota has announced a recall of

Toyota has announced a recall of [approximately 645,000 vehicles due to an electrical problem](#) that may prevent air bags from inflating during a collision. The recall covers certain Toyota Prius models and Lexus RX and NX SUVs. Also covered are some Toyota Alphard, Vellfire, Sienta, Noah, Voxy, Esquire, Probox, Succeed, Corolla, Highlander, Levin and Hilux models. All were produced from May of 2015 to March of 2016.



Toyota has stated that the issue stems from an open electrical circuit that can occur over time. The open circuit would set off an air bag warning light, and may prevent the front and side air bags from deploying and inflating during a crash.

Free replacements will be offered to vehicle owners by licensed dealers, and owners will be formally notified of the recall in March.

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### **Harley-Davidson Recalls 250,000 Motorcycles Over Potential Brake Failure**



Harley-Davidson has recalled roughly [250,000 motorcycles worldwide, and roughly 175,000 bikes in the U.S.](#) over a problem that can cause brakes to fail without warning, creating significant risks of accidents and injuries. The recall was issued due to the serious consequences of a total brake failure, as well as in response to over 40 complaints and several reported accidents and injuries.

Motorcycles affected by the recall include model year 2008 to 2011 Touring, CVO Touring and VRSC motorcycles, which have anti-lock braking systems. Harley-Davidson has reported that the problem can be fixed with a flushing of the brake fluid, which it will do without cost to owners. Owners are encouraged to contact a licensed dealer for more information about free repairs.

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### **3M Recalls 33,000 Bair Hugger Underbody Warming Blankets**

3M Co. has recalled 33,000 units of its Bair Hugger underbody warming blankets due to [design problems that may prevent the blankets from warming when used on patients during surgical procedures](#).



The forced-air surgical blanket is intended to maintain normal body temperature in patients during surgery so as to promote healing and prevent infection. 3M manufactures various types of surgical blankets, but the recent recall affects only "underbody" models, which lie entirely under a patient to facilitate

underbody products, which do ensure under a patient to facilitate better surgical access.

According to the recall notice, which has been classified as a Class 2 recall by the FDA, health care providers should discard affected Bair Hugger underbody blankets with lot numbers R10359, R10360, R10361, R10362, R10363, R10364, R10365 and R10366. 3M states that a design change makes these model blankets more susceptible to airflow blockage, partial airflow, and incomplete warming therapy.

Used in millions of surgical procedures since it was first introduced, various Bair Hugger warming blankets have been the center of numerous lawsuits filed by patients who allege their deep-joint infections were caused by the blanket system blowing bacteria-laden particles throughout the surgical area. 3M has denied the allegations and, while the FDA is still investigation claims, the blankets are still recommended during surgeries when clinically warranted.

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### ISO Beauty Recalls Hair Dryers Over Burn Hazard



ISO Beauty has [recalled 73,000 hair dryers over burn hazards posed by cords becoming brittle near the base of the dryer](#). The recall involves the Ionic Pro 2000 and 2000W hand-held hair dryers sold under the ISO Beauty and Proliss brand names. The bottom rear of the dryers has "ISO" or "Proliss" printed and model number HD-1820. The dryers were sold in the following colors: black, white, white pearl, peacock, white zebra, pink leopard, blue, and giraffe. They were sole nationwide on Groupon.com, Target.com, ISObeauty.com, Proliss.com, and Amazon.com from March 2013 through January 2018 for between \$30 and \$40.

The recall was issued after ISO Beauty received a number of reports of dryers sparking or smoking, as well as reports of flames coming from the dryers and burn injuries to hands or fingers. Consumers should immediately stop using the recalled hair dryers and contact ISO Beauty for instructions on removing the cord and receiving a refund in the form of a credit for a replacement product.

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