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September  
2019

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Clark, Fountain, La Vista, Prather, & 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 website for details or call us at 866.643.3318

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Find us online to learn about our 200 years of combined experience in the practice of personal injury law, read about what distinguishes Clark Fountain, and browse our case results, which amounts to over a billion dollars recovered for our clients.

## Case Resolutions

### **Firm Awarded \$3.6 Million in Attorneys' Fees and Costs After a \$15.5 Million Verdict in a 2018 Wrongful Death Product Defect Trial**

Upon losing the case, the defendant refused to pay a reasonable amount of taxable costs, resulting in a two-day evidentiary hearing in February of 2019, where Partners Donald R. Fountain and Julie H. Littky-Rubin convinced the trial judge to award \$406,000 in such costs.

The defendant then argued that the plaintiff's proposal for settlement for the defendant's million dollar policy limits was not made in good faith (even though the jury had awarded the plaintiff over 15 times that amount), refusing to agree that plaintiffs were entitled to their fees, and further refusing to agree to a reasonable amount of those fees if the judge found that they were. The defendant's continued intractability forced Fountain and Littky-Rubin to participate in an additional five-day evidentiary hearing on their fees in May.

The time spent ended up being well worth it for the firm's clients, whom the judge awarded an additional \$3.2 million in fees. Finding that the firm's lawyers possessed a wealth of knowledge and extensive experience in the area of product defect litigation, the judge quantified the value of their work by awarding hourly rates between \$625 and \$900 - some of the highest in the state.

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Thus, after five years of litigation, culminating in a three-week jury trial, seven additional days of bench trials and \$750,000 spent by the firm in litigating the case, the Clark Fountain team recovered more than \$18 million for its grateful clients.

## Confidential Settlement Reached in Wrongful Death of a 15-Year-Old Boy Due to Defective Seatback

A father, mother and their 15 and 19-year-old sons were all properly seat belted and stopped at a red light when their vehicle was struck from behind by an impaired driver. The impact of the crash caused the driver's seat to collapse rearward, striking the 15-year-old boy and causing fatal head injuries. The boy's father, mother, and older brother sustained minor injuries.

The case was referred to Clark Fountain after being turned down by three other law firms. Partners Donald R. Fountain, Mark W. Clark, and Attorney Ben J. Whitman hired a team of experts and brought suit against the vehicle manufacturer and the designer of the seats when they discovered a series of seatback design defects that lead to the young man's death. Namely, the driver's seatback was too flexible, which caused it to recline dynamically rearward upon impact. In addition, the trailing edge of the driver's seatback and the metal structural components in the upper seatback were not properly constructed or padded to prevent serious injury to rear seat occupants.

When the driver's seatback abruptly reclined into the rear occupant compartment, the pocketed design of the internal horizontal, steel braces in the upper part of the seatback captured and held the young man's face and head, causing his fatal injuries. The parties were able to reach a confidential settlement that included the return of the vehicle and seat to the manufacturer defendants. Although the settlement allows some degree of closure for our clients, our hope is that the manufacturer will modify the

existing design to prevent this type of tragedy from occurring again.

## Firm News

### **Attorneys Named “Top Lawyers” in *Palm Beach Illustrated* Magazine**

Mark W. Clark, Donald R. Fountain, Nancy La Vista, David C. Prather, and Julie H. Littky-Rubin have been selected for inclusion in the “Top Lawyers” list by Palm Beach Illustrated magazine. The selection process for this special edition involves a peer-review nomination survey, which is overseen by research staff at the magazine.



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### **Attorney Ben J. Whitman Appointed Chair of FJA Research and Education Foundation Law School Outreach Program**



[Guided by the Research and Education Foundation](#), the Law School Outreach (LSO) program informs and educates law students about the purpose of the FJA. As Chair, Attorney Ben J. Whitman will work with FJA staff to arrange luncheons and happy hours for students throughout the state.

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### **Partner Nancy La Vista Shares Tips for Screening Med Mal Cases on Facebook Live with Palm Beach County Justice Association**

A former critical care nurse and current board certified medical malpractice lawyer, Nancy La Vista spoke to audiences on Facebook about screening medical malpractice cases in Florida. The 10-minute Facebook Live session, organized by the Palm Beach County Justice Association, is available on the [firm's Facebook page](#).



## Recalls

### Ford Recalls 600,000+ Vehicles Due to Issues with Seatbacks, Power-Steering, Headlights, Brakes



The recall impacts ten models, including new versions of its popular Ford F-150, F-Series Super Duty, Expedition and bestselling Explorer. A statement released by Ford bundles the list of impacted vehicles into [four recall categories](#): (1) compromised seatback strength (2) loss of power-steering assist (3) headlight failure (4) front brake caliper-seal contamination.

### General Motors Recalls Chevrolet SUVs Over Suspension Problem

General Motors is [recalling more than 107,000](#) small SUVs in the U.S. and Canada because a suspension weld can break and cause steering problems. The recall covers 2015 through 2018 Chevrolet Trax models and specifically cites an improperly welded joint that can break, increasing the risk of a crash and catastrophic injury.



### FDA Recalls Multiple Blood Pressure Medications for Potential Cancer Risk



Torrent Pharmaceuticals Limited is [expanding its recall for Losartan Potassium Tablets USP](#) and Losartan Potassium/hydrochlorothiazide tablets after trace amounts of a known carcinogen were detected. The medication is used to treat hypertension, hypertensive patients with Left Ventricular Hypertrophy, and for the treatment of nephropathy in Type 2 diabetic patients.

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