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## Case Results

September  
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### **Firm Settles Wrongful Death Case Involving Issues of Gross Negligence and Workers' Compensation Immunity**

Florida's Workers' Compensation statute shields employers from common law negligence claims in return for providing employees injured on the job with no-fault benefits. The statute provides employers with "workers' compensation immunity," precluding injured workers from bringing liability actions against employers, contractors and subcontractors who would otherwise be liable for their wrongful acts. The workers' compensation statute also carves out limited exceptions to immunity, allowing employers and contractors to be held responsible for their wrongdoing. Jason Cornell, Mark Clark and Julie Littky-Rubin of the firm recently reached a confidential settlement arising from the wrongful death of a construction worker whose family sought to overcome the workers' compensation immunity defenses of contractors whose gross negligence led to the worker's death.

The underlying case involved the tragic death of a construction worker who fell several floors to the ground due to the grossly negligent design, construction and use of scaffolding equipment on the job site. The case presented multiple legal hurdles including whether the contractors were protected from suit under Florida's broad immunity conferred upon employers under F.S. §440.11 (providing that liability under the workers' compensation statute shall be "exclusive and in place of all other liability"). However, under certain limited circumstance, the statute does not shield employers and contractors when their actions amount to gross negligence.

Aside from having to overcome work comp immunity, the firm had to defeat the insurers' arguments that the wrongful death claims were not covered due to various insurance policy exclusions. The coverage defense required the case be litigated simultaneously in two counties – one handling the liability component of the case, while the second case addressed the coverage dispute. Ultimately, the firm was able to prevail by obtaining a substantial recovery for the deceased construction worker's family, despite the complex legal issues and defenses raised during the course of litigation.

## Legal Insights

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.



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## American Civil Liberties Union Call for 24,000 Conviction to Be Tossed



The American Civil Liberties Union is calling a top Massachusetts court to toss over 24,000 total convictions due to their association with a chemist who admitted to tampering with evidence in cases to help law enforcement. The brief filed by the public defenders stated that it would take 48 years to provide each defendant with a lawyer.

## Federal Lawsuit Questions Whether Detroit Students Rights to Literacy Are Being Deprived

Earlier this month, a federal lawsuit was filed stating that students in Detroit are being denied their constitutional right to literacy due to the low proficiency rates of the large urban school district. At one of the schools, the entire sixth grade class had scores below the proficiency for both math and reading.



## Target Nixes \$12,000 Settlement Offer, Hit with \$4.6M Jury Verdict

A South Carolina woman received a big victory over retailer Target in a jury verdict after being stuck with a hypodermic needle her daughter found in the parking lot in 2014. There was an original settlement offer of \$12,000, which Target rejected and counteroffered \$750. After the trial, the jury awarded the woman the \$4.6 million verdict.



## RECALLS

### Onbu Infant Carrier Recalls 900 Units



About 900 units of the Lenny Lamb Buckle Onbu have been recalled due to a potential fall hazard to children. These are carriers designed to strap the baby to the hip of the parent, but according to reports, there is an issue with internal stitching being missing, potentially posing a fall hazard to children.

### Top-Loading Washers Recalled by GE Appliances

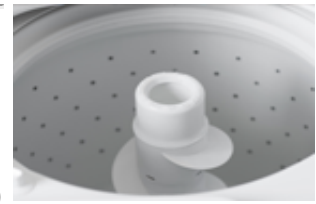
GE Appliances has recalled about 222,000 top-loading washers due to potential fire hazards. According to the reports, the clothing washer has an electrical component inside the unit that can overheat. If this happens, the unit can catch fire.

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### **Polaris Recalls Ranger ROVs**



Roughly  
42,500 Polaris  
Ranger 900



recreational off-highway vehicles (ROVs) have been recalled due to the heat shield on the vehicle falling off and posing a potential fire and burn risk to riders. The recall includes the 2014 Polaris Ranger XP 900, CREW 900, and XP 900 EPS models.

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### **John Deere Tractor Backhoe Attachments Recalled**

John Deere has recalled about 50 model 485A backhoe attachments due to a crushing hazard. The attachments mounting hardware has the potential of loosening. This could result in the frame of the backhoe to turn toward the operator, potentially crushing them.



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### **Potential Fire Hazard Causes Denon to Recall Rechargeable Battery Packs**



Due to potential fire and burn hazards, Denon has recalled about 3,400 HEOS 1 Go Pack lithium-ion rechargeable battery packs used for wireless speakers. This is due to the potential of the battery overheating. Only the batteries for wireless speakers are being recalled.

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