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August
2018

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Case Resolution

Firm Resolves Two Spine Injury Cases For Substantial Extra-Contractual Damages

Christa L. McCann and Mark W. Clark recently reached confidential settlements on behalf of two firm clients involved in separate motor vehicle crashes for damages well in excess of the respective tortfeasors' liability policy limits. Both clients suffered spinal injuries requiring numerous pain management procedures and, one underwent a three-level spine fusion. Time limit demands for settlement were made in both cases, to the at-fault drivers' insurance carriers however both carriers failed to timely tender their insureds policy limits.

As a result, McCann and Clark filed lawsuits against the at fault drivers' in order to obtain judgements against them in excess of their policy limits. After numerous discovery depositions, mediations and summary jury trial, McCann and Clark were able to convince both insurers to pay extra-contractual damages well in excess of their insureds' policy limits in order to avoid separate bad faith lawsuits.

Firm Reaches Confidential Settlement For Wrongful Death and Brain Injury Following Carbon Monoxide Poison Incident Caused By Keyless Car

Don Fountain and Ben Whitman were hired to represent a family devastated by the defective design of a vehicle's ignition and key system. After returning home one evening, a couple in the West Palm Beach, Florida area parked the vehicle in their garage, took the key fob into the home, and went to bed. Despite removing the key fob from the vehicle, the vehicle's engine was never turned off and Carbon Monoxide exhaust fumes from the vehicle permeated throughout the home for hours.

One of the home's occupants died from complications related to the Carbon Monoxide exposure and the other suffered severe brain injuries. The law firm advanced the theory that

the design of the keyless ignition system was defective

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the design of the keyless ignition system was defective because it can lull a driver into thinking that the engine is turned off while it is in fact running and producing Carbon Monoxide fumes. The law firm also argued that the vehicle's manufacturer should have incorporated a series of warnings that should alert the vehicle's engine is still running or that the engine should shut off automatically when the key fob is removed from the vehicle. The vehicle manufacturer agreed to a significant confidential settlement before a lawsuit was filed.

Legal Insights

Six Clark Fountain Attorneys Included in U.S. News' Best Lawyers List for 2019

Clark, Fountain, La Vista, Prather & Littky-Rubin is pleased announce that six of our firms' attorneys have been selected for inclusion in the latest edition of 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®. Partner 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.

Parental Liability for the Negligence of a Child



While issues of liability can be relatively straightforward in many personal injury cases (i.e. negligent individuals or entities can be held liable for causing preventable injuries), cases involving negligent children and parental liability can make for

some challenging questions. That's because although parents in Florida are generally not responsible for the negligence of children, there are some situations which may result in parents being liable for the injuries their children cause. [We discuss those situations on our blog.](#)

Personal Injury Lawsuits: Understanding "Duty of Care"

Victims injured due to the negligence of

others have the right to pursue personal injury lawsuits which can allow them to recover financial compensation for their damages, and hold the responsible party accountable for their negligent acts. While



every case is unique and will involve its own set of particular circumstances, prevailing in a negligence-based personal injury lawsuit does require victims to prove a few general elements. This includes, among other elements, establishing a ["duty of care" owed to a victim by the defendant](#). Read more on our blog.

RECALLS

FDA Issues Voluntary Recall for Thyroid Medication



The U.S. Food and Drug Administration (FDA) has announced a [voluntary recall for a thyroid medication due to potential problems involving a Chinese manufacturer](#). Westminster

Pharmaceuticals, LLC is recalling all lots of Levothyroxine and Liothyronine (Thyroid Tablets, USP) as a precaution because they were manufactured using active pharmaceutical ingredients that were sourced prior to the FDA's Import Alert of Sichuan Friendly Pharmaceutical Co., Ltd., which in 2017 was found to have deficiencies with Current Good Manufacturing Practices (cGMP). Substandard cGMP practices could impact the manufacturing process.

Because the medications treat serious medical conditions, patients with recalled medicines should continue taking them until they have a replacement product.

FDA Broadens Recall of Blood Pressure Drug Valsartan

The FDA has broadened its recall of the blood pressure drug valsartan due to risks that some [batches may have been contaminated with a potential cancer-causing chemical](#). As noted in our



previous newsletter, several generic valsartan product sold in the U.S. have been found to be contaminated with NDMA, a substance classified by the FDA as a probable human carcinogen. The process used to make some generic versions of valsartan has the potential to generate the compound, according to the FDA.

The FDA has told patients to keep taking their drugs until they can be sure that they're either using an unaffected brand or that they can be switched to a safer one. According to the FDA, the threat is

not immediate.

Xtava Recalls Allure Hair Dryers Due to Fire, Burn and Electrical Shock Hazards



Xtava has recalled over 235,000 hairdryers due to risks involving the hair dryer and power cord overheating and catching on fire. The recall involves the Allure and Allure Pro 2200W ionic ceramic hair dryers sold separately or as part of various hair care kits that included hair treatment products, a flat iron, or a diffuser on Amazon.com, Walmart.com, and other online retailers from October 2014 through August 2018.

[Xtava has received nearly 200 reports of hairdryers overheating, melting, exploding or catching fire](#), including a number of reports involving users who experienced electrical shock and burn injuries. Consumers should immediately stop using the hair dryers and contact Xtava to receive a free replacement hair dryer.

Vitamix Recalls Over 100,000 Blending Containers Over Laceration Risks

The U.S. Consumer Product Safety Commission (CPSC) has announced a recall of roughly 105,000 Vitamix blending containers which can separate from the blade's base, exposing the blades and posing laceration risks to consumers. The recall includes two kinds of Vitamix blending containers that have been linked to over a dozen laceration injuries – the Ascent and Venturist series 8-ounce and 20-ounce blending containers. Recalled containers were sold nationwide between April 2017 and March 2018 at Costco, Williams-Sonoma, and on the Vitamix website. Consumers should [immediately stop using the recalled blending containers and contact Vitamix for a free repair kit](#).



Bobcat Utility Vehicles Recalled Due to Burn & Fire Hazards



Bobcat Company has issued a recall of its 3400 and 3400XL utility vehicles due to [risks involving the exhaust header pipe, which can crack and pose burn and fire hazards](#). Recalled models include model year 2015 through 2018 3400 and 3400XL gas engine utility vehicles manufactured by Polaris Industries. Consumers should contact an authorized Bobcat dealer to schedule a free repair. Bobcat will also attempt to contact known purchaser directly.

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