



THE LEGAL EDGE



CLARK · FOUNTAIN · LA VISTA
PRATHER · KEEN & LITTKY-RUBIN

YOUR SOURCE FOR LEGAL NEWS AND UPDATES, CONSUMER ALERTS, FIRM NEWS AND MORE

May/June
2018

In This Issue:
Case Results
Legal Insights
Product Recalls

Get A FREE Case Evaluation
from Clark Fountain

[Free Evaluation →](#)

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

FIRM OBTAINS \$15.5 MILLION VERDICT FOR TEENAGER, WHOSE SINGLE FATHER WAS KILLED DUE TO A DEFECTIVELY DESIGNED COMMERCIAL PUMPER TRUCK

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.

The firm's trial team of Don Fountain, Jason Cornell, Hampton Keen and Julie Littky-Rubin convinced the jury that National Truck's transformation of a six year old tractor with 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 because the modifications had doubled the weight of the vehicle, that National Truck was subject to strict liability as the manufacturer.

These modifications made by National Truck, including 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, leaving the road and rolling over, and killing Tyler Letterman's 41-year-old father.

[Referrals →](#)

Visit our website today!

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.



[Website →](#)

The jury found that these changes were "substantial" enough to render the vehicle "new" for strict liability purposes. The jury agreed that National Truck was the "manufacturer," when in assessed liability.

The jury learned that Werner Letterman was an unmarried single father, who was left with his baby son when the baby was less than a year old. Because Werner Letterman 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."

As Jane Musgrave, the *Palm Beach Post* reporter put it so well in her article after synthesizing the testimony that she heard during the trial,

"For 14 years, Tyler Letterman was bathed in the love of his gregarious single father. They went fishing. Shared household chores. Had pizza nights with neighborhood kids. When Tyler embraced baseball, his father forgot all about his own preference for football. Werner Letterman signed up as a coach for his son's teams in suburban Lake Worth. When others marveled at Tyler's natural talents, Werner hired a pitching coach to help his son hone his skills. Tyler, they both believed, was headed to the majors. Those big league dreams exploded two days after Christmas in 2013."

While the jury originally assessed 100% of the responsibility against National Truck, the Judge perceived an inconsistency in the verdict (despite the trial judge having ruled over plaintiff's objection to keep a number of non-parties on the verdict form as *Fabre* defendants).

After being sent back to the jury room, the jury reduced its original 100% responsibility apportioned against National Truck, down to 95%, and apportioned 5% to the settling tire manufacturer defendant, Shandong Linglong Tyre Co., Ltd.

Legal Insights

U.S. Falls Behind Other Nations in Vehicle Design Regulation for Pedestrian Safety

Pedestrians are far and above the most vulnerable individuals on public roads, as they have [little protecting them from serious injuries or death when involved in motor vehicle accidents](#). Although statistics show pedestrian accidents and fatalities are rising steadily across the nation – with nearly 6,000 pedestrians killed in traffic accidents last year alone – the U.S. has been slow to pass tougher policies regulating vehicle designs that can reduce injuries and deaths. That’s despite other countries around the world passing laws with marked success.



Polaris Agrees to Pay \$27.25 Million Civil Penalty for Failure to Report Defective Recreational Off-Road Vehicles



In April, the U.S. Product Safety Commission (CPSC) announced [a record \\$27.25 million civil penalty settlement](#) with Polaris Industries Inc. over the company’s alleged failures to abide by federal laws requiring manufacturers to timely report potential defects and risks associated with their products. According to officials, the civil penalty stems from Polaris failing to properly report potential hazards and risks of fires, injuries, and death associated with two of its recreational off-road vehicles – the Polaris RZR and the Polaris Ranger.

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.

RECALLS

BMW Recalls Thousands of Cars Over Fire Risks

 BMW has announced a recall of nearly

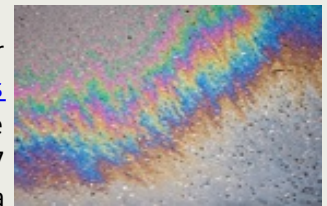


BMW has announced a recall of nearly 50,000 vehicles due to a defective [auxiliary water pump that can fail](#) and cause a circuit board to overheat, posing the risk of fire. Vehicles recalled include a number of 2011 and 2012 BMW, Mini, and

Rolls Royce vehicles. The German automaker, which also recently recalled more than 300,000 vehicles in the UK due to an unrelated stall risk, is advising owners to park vehicles outdoors until recall work is performed. Licensed dealers will replace the electric water pump at no charge, but replacement parts are not currently available.

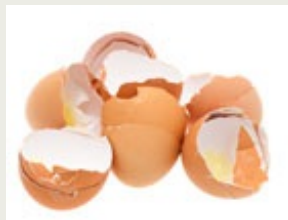
Hyundai & Kia Hybrids Recalled Due to Oil Leaks, Fire Risks

Hyundai and Kia have recalled over 37,000 hybrid vehicles due to [oil leaks that can lead to fires](#). According to the automakers, roughly 27,000 2017 Hyundai Ioniq hybrids and 10,000 2017 Kia



Niro hybrids may have a defective inner oil seal on the hydraulic clutch actuator that leaks oil and poses risks of an electrical short, which can spark a fire. Inspections and free replacements will be performed free of charge by licensed dealers.

FDA Issues Recall of Over 200 Million Eggs Due to Salmonella



The U.S. Food and Drug Administration (FDA) is advising consumers not to eat [recalled eggs produced by Rose Acre Farms' Hyde Country farm](#) after receiving a number of reported salmonella infections in 9 states, including several in Florida.

Eggs were sold under multiple brand names, including Coburn Farms, Country Daybreak, Food Lion, Glenview, Great Value, Nelms, Sunshine Farms, Publix, and Sunups. Recalled eggs were also sold to restaurants.

Consumers who have any of these shell eggs in their homes should not eat them and should throw them away or return them to the place of purchase for credit or refund. All consumers should check their eggs for a plant number of P-1065 and a Julian date between 011 and 102 or a plant number P-1359D and Julian date 048A or 049A with Best By dates of APR 02 and APR 03.

Kidde Dual-Sensor Smoke Alarms Recalls Due to Risk of Failure

Kidde has recalled its [dual-sensor](#)

Kidde has recalled its [dual sensor \(photoelectric and ionization\) smoke alarms \(models PI2010 and PI9010\)](#) due to a hazard involving a yellow cap left on during the manufacturing process that can cover one of the two smoke sensors and compromise the smoke alarm's ability to detect smoke, posing a risk of consumers not being alerted to a fire in their home. Recalled smoke alarms were sold at home and hardware stores nationwide, including Walmart, Menard, and The Home Depot, as well as online at Amazon.com and other websites.



Consumers should inspect their smoke alarms to determine if they own a recalled model, and remove the alarm to visually inspect it. If a yellow cap is present, the consumer should immediately contact Kidde to receive instructions and request a free replacement smoke alarm. They should remove and discard the recalled smoke alarm only after they receive and install the replacement alarm. If no yellow cap is present, consumers should reinstall the smoke alarm and no further action is needed.

GTC Halogen Light Bulbs Recalled Due to Laceration and Fire Hazards



HEB has recalled 2.5 million GTC halogen [light bulbs which can shatter](#) while in use in a lamp or light fixture, posing laceration and fire hazards to consumers. Recalled bulbs were sold in packages of 2 or 4 bulbs in blue and red cardboard boxes that read: "GTC NATURAL LIGHT" across the top, along with the wattage and color of the bulb, and included 25 watt, 40 watt, 60 watt, 75 watt, or 100 watt bulb varieties in either clear or soft white colors. HEB has received numerous reports of light bulbs shattering, as well as injuries involving cuts and burns. Consumers should immediately stop using the recalled halogen light bulbs and return them to H-E-B for a full refund.

Unsubscribe instantly from these emails by [clicking here](#).



CLARK · FOUNTAIN · LA VISTA
PRATHER · KEEN & LITTKY-RUBIN

866.643.3318 | CLARKFOUNTAIN.COM