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Hamilton, Miller & Birthisel

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Hamilton, Miller & Birthisel, LLP ("HM&B") is a boutique full-service and trial law firm representing clients in Florida and throughout the Caribbean through its offices in Jamaica, the U.S. Virgin Islands, Puerto Rico and the Bahamas. Our attorneys have significant experience defending multinational corporations, retailers, restaurants, hotel owners and operators, cruise lines, product manufacturers, insurers and employees in complex tort and commercial litigation matters.

We are trial lawyers. Our reputation as a firm that tries cases, coupled with our experience and knowledge of the ever-changing premises liability law in Florida, allows us to quickly but efficiently evaluate cases and provide recommendations to our clients regarding settlement value, exposure, and expected litigation outcomes. HM&B offers an aggressive yet cost effective approach to the analysis and disposal of claims. We pride ourselves on being able to develop unique strategies for our clients so that they can make informed decisions on whether a case should be defended and tried or quickly resolved to eliminate risk, exposure, and costly litigation.

Our attorneys are adept in managing high exposure litigation for clients that are sensitive about their brand and image in the community. Our attorneys routinely work with our clients to manage their media relations to protect the business' image in the face of unfavorable litigation.

Our attorneys also provide counsel on policies and procedures to reduce the risk of liability for our clients. Our attorneys frequently lecture and provide training on defending premises liability cases, personalizing the corporate client, preparing witnesses to limit harmful testimony, and on combating nuclear verdicts.

Our lawyers are available to discuss any aspect of your case 24/7. HM&B's emergency action response team can investigate any situation immediately, regardless of the jurisdiction and we take pride in exceeding all our of clients' expectations. We also provide ancillary services, including emergency and crisis management and corporate training.

WHY CHOOSE US?

Our attorneys are:

AV® Rated
Florida Super Lawyers
and Rising Stars
Bar Board Certified in
Civil Trials
Florida Legal Elite
Best Lawyers in America
Best Lawyers: Ones To
Watch
Best Lawyers "Lawyer of
the Year"
America's Top 100 High
Stakes Litigators
Apogee Award

Our firm is:

Minority Certified
Members of NAMWOLF
Members of CLM
Members of DRI
One of the Most Diverse
Law Firms in Florida
Best Law Firm Tier 1 in
Litigation – Insurance and
Admiralty and Maritime
Law by Best Lawyers



practice AREAS

litigation

- Bad Faith Insurance Defense
- Commercial Litigation
- Construction Defense
- Class Action
- Complex Business Litigation
- Environmental Claims
- Insurance Coverage
- Hospitality Claims
- Homeowner Association Claims
- Liquor Liability Defense
- Mass Torts
- Negligent Security
- Personal Injury and Wrongful Death
- Premises Liability
- Professional Liability
 - Legal Malpractice
 - Medical Malpractice
- Product Liability
- Toxic Torts
- Vehicle Fraud and Special Investigations
- White Collar Criminal Defense
- Workers' Compensation

admiralty & maritime

- Contracts/Commercial Documents
- Maintenance and Cure
- Marine Insurance
- Maritime Financing, Bankruptcy, Liens
- Personal Injury Defense and Wrongful Death
- Product Liability
- Shore Excursions Claim

transportation

- Auto
 - Bodily Injury
 - PIP
 - Bad Faith
- Logistics
- Shipping
- Trucking

property & casualty

- First and Third Party Property Claims

appellate law



representative CLIENTS

DOMESTIC INSURERS

- American International Group, Inc.
- Allstate
- American Integrity
- Beazly
- Crum & Forster
- Chubb Group
- Hartford
- Intact Insurance Specialty Solutions
- Liberty Mutual
- Markel
- Nautilus
- Progressive
- Signal Mutual Indemnity Association Ltd
- Starr
- State Farm Automobile Insurance
- The Travelers Indemnity Company

INTERNATIONAL INSURERS

- American Club
- British Marine
- GARD Insurance Companies
- SKULD
- Sompco International Holdings Ltd.
- Steamship Mutual Underwriting
- Thomas Miller Co Ltd.
- U.K. P + I
- West of England P&I Club

HOTELS & CONDOMINIUMS

- Atlantis Hotel
- Hilton Hotel & Resorts
- Marriott International, Inc.
- Melia Hotels International, S.A.
- Ocean Properties Hotel Resorts
- Ritz Carlton Hotel Company
- Starwood Hotel & Resorts Worldwide
- Wyndham All-Inclusive Resorts

MARINE & CRUISE LINES

- American Yacht Harbor
- Atlantis Submarine
- BP
- Carnival Corporation & PLC
- Celebrity
- Disney Cruise Line
- Discovery Cruise Lines
- Holland America
- Norwegian Cruise Line Holdings Ltd
- Osprey
- Pirate Duck Adventures
- Princess Cruise Lines
- Royal Caribbean International
- Sea Dream
- Virgin Voyages
- Vikand

RETAILERS & RESTAURANTS

- Bank of Scotia
- The Coca-Cola Company
- The Galleria Mall
- The Ginn Company
- Hennes & Mauritz
- H & M
- Home Depot
- iHop
- Joe's Crab Shack
- Kmart
- P.F. Chang's
- Rainbow Apparel
- Rise Mall
- Sam's Club, Inc.
- Target Corporation
- Tutu Park Mall
- Wal-Mart Stores, Inc.

TELECOMMUNICATIONS

- AT&T, Inc.
- Comcast-NBC Universal
- Dish Network Corporation
- Trans-Tel Central LLC

representative CLIENTS CONTINUED

AUTO, TRANSPORT & LOGISTICS

- Advanced Auto Parts
- Antilles Freight Corporation
- Budget Rent a Car System, Inc.
- The Coca-Cola Company
- Duke Trucking LLC
- Penske
- Uber Technologies, Inc.
- TESLA

PRODUCT MANUFACTURERS

- Club Car Company
- General Electric Company
- Ingersoll-Rand PLC
- Trane Technologies

GOVERNMENT

- Caribbean Hotel & Tourism Association
- City of Coral Gables, FL
- Florida International University
- Jamaica Tourist Board
- Miami-Dade Public Schools
- State of Florida
- University of the Virgin Islands
- Virgin Islands Port Authority
- West Indian Company



Premises Liability RESULTS

TRIALS & ARBITRATIONS

- Obtained appellate court affirmance of order dismissing with prejudice a Federal Civil Rights claim alleging religious discrimination against a County School Board. *Chabad Chayil, Inc. v. Sch. Bd. of Miami-Dade County*, No. 21-10619, 2022 U.S. App. LEXIS 25191, 11th Circuit, **September 8, 2022**.
- Obtained defense verdict in 4-day trial on exhaustion of PIP benefits defense in Personal Injury Protection case against medical provider Silverland Medical Center claiming breach of contract. *Silverland Medical Center aao Rafael Betancourt v. State Farm Mutual Automobile Insurance Company*, Case No. 14-01580-SP-21, 11th Circuit, **August 3, 2022**.
- Obtained complete defense verdict in 3-week trial in lawsuit by owners of the historic Deauville Hotel seeking over \$200 million dollars in damages. *Deauville Hotel Property, LLC v. Trane U.S., Inc.*, Case No. 19-16336, 11th Circuit, **July 28, 2022**.
- Obtained defense verdict for a cruise line after a 5-day arbitration. Claimant, a crew member from Costa Rica, alleged he was injured when he was lifting a heavy night stand on a cruise ship. Claimant asserted the cruise line was negligent for failing to provide proper training, failing to provide the proper amount of crew members to perform his duties, failing to provide prompt, proper and adequate medical care, and failing to provide maintenance and cure. Claimant sought over \$1.7 million dollars in damages. *Bertram Livingston Burke Segura v. Royal Caribbean Cruises, Ltd.*, Case No. 01-19-0002-1738, **April 7, 2022**.
- Obtained a defense verdict after a jury determined that the retailer did not have actual or constructive notice of spill from ceiling on which the customer slipped, it owed no duty to warn her of the condition, and the incident was not foreseeable. The Plaintiff sought over \$4.2 million dollars in damages which included over \$300,000.00 in past medical expenses after undergoing lumbar spine surgery. This was the longest post-COVID trial in the Southern District of Florida and was part of the Court's Pilot Jury Trial Program. *Tomas Fortaneli Ponce v. Walmart Stores East, LP*, Case No. 20-CV-61608-RAR, S.D.Fla., **June 14, 2021**.
- Obtained a defense verdict after a jury determined that the retailer did not have actual or constructive notice of the oily spill on which the customer slipped, it owed no duty to warn her of the condition, and the incident was not foreseeable. *Fabiola Ortega Guzman v. Sam's East, Inc. d/b/a Sam's Club*, Case No. 16-CV-81977-Rosenberg/Reinhart, in the U.S. District Court for the Southern District of Florida, West Palm Beach Division, **February 2020**.

SUMMARY JUDGEMENTS

- Obtained affirmed summary judgment from the First District Court of Appeal entered against Plaintiff on all of her claims against Courtyard by Marriott relating to her personal injury claims after she was run over by an ATV at Jacksonville Beach. *Dodaj v. Marriott Hotel Holdings, LP, et al.*, No. 1D 21-3721, Fla. 1st DCA, **November 23, 2022**.
- Obtained affirmed summary judgment from the Third District Court of Appeal for lawn service company sued for injuries suffered by Plaintiff on county land the lawn company was contracted by the county to maintain. *Mitchell v. Ginley Lawn Serv. & Landscaping, Inc., et al.*, No. 3D21-0779, Fla. 3d DCA, **November 23, 2022**.

Premises Liability

RESULTS CONTINUED

SUMMARY JUDGEMENTS CONTINUED

- Obtained affirmed summary judgment from the Eleventh Circuit Court of Appeals for Sam's Club after concluding Sam's Club did not have actual or constructive notice of any alleged dangerous condition on the store's floor. *Hernandez v. Sam's E., Inc.*, No. 21-13039, 2022 U.S. App. LEXIS 30015, 11th Circuit, **October 28, 2022**.
- Obtained order granting summary judgment on slip and fall matter. *Torina Shetler v. Wal-Mart Stores East, LP*, Case No. 6:20-cv-1985-ACC-EJK, U.S. District Court, Middle District of Florida, Orlando Division, **August 30, 2022**.
- Obtained dismissal of Florida personal injury claim on Application of Foreign Statute of Limitations. *Wooten v. Hilton Grand Vacations Management, LLC*, Case No. 2022-CA-000966-O, 9th Circuit in and for Orange County, Florida, **August 8, 2022**.
- Obtained order granting partial summary judgment in favor of a national retailer in a personal injury case dismissing Plaintiff's claims of non-medical and economic losses in excess of \$65 million dollars. *Jacques De Bruijn v. Wal-Mart Stores East, LP*, Case No.: CACE 18-008478, 17th Circuit, **July 20, 2022**.
- Obtained order granting summary judgment in a premises liability case. Judgment was in favor of a national retailer. The Court found Plaintiff failed to establish that the retailer had actual or constructive notice of the condition on which Plaintiff slipped. *Elimaniel Gonzalez v. Wal-Mart Stores East, LP*, Case No. 8:21-cv-02077-KKM-JSS, U.S. District Court, Middle District of Florida, Tampa Division, **July 12, 2022**.
- Obtained order granting partial summary judgment in premises liability case by a Plaintiff claiming personal injuries after slipping on rainwater at the entranceway of a big box retailer store based on lack of evidence that Walmart had actual or constructive notice of the rainwater on the floor. *Providencia De Figueras v. Wal-Mart Stores East, LP*, Case No.: 8:21-cv-00870-SCB-CPT, U.S. District Court, Middle District of Florida, Tampa Division, **June 30, 2022**.
- Obtained order granting summary judgment in a False Imprisonment and Malicious Prosecution case. The Court agreed with Defendant that it was immune from a false imprisonment claim by virtue of Florida's shopkeeper immunity statute and that it did not commence or cause the commencement of criminal proceedings against the Plaintiffs. *Michael Alhofen and Myshel Alhofen v. Wal-Mart Stores East, L.P.*, Case No. 6:20-cv-2138-PGB-GJK, U.S. District Court, Middle District of Florida, Orlando Division, **June 21, 2022**.
- Obtained order granting summary judgment in a premises liability case involving a freezer door that came off its hinges. The Court agreed with Defendant that it was an unforeseeable "freakish accident" for which Defendant should not be liable. *Nora Vohs v. Wal-Mart,*, Case No. 2019-CA-006053-0, 9th Circuit, **June 3, 2022**.
- Obtained order dismissing Prisoner Federal Civil Rights case with prejudice for failure to exhaust administrative remedies. *Ham v. Acosta*, Case No. 20-81071, U.S. District Court, Southern District of Florida, **May 17, 2022**.
- Obtained order granting summary judgment in a matter involving a vessel fire and subsequent insurance claim denial due to the Claimant's violation of the personal boat policy's residence exclusion. *Progressive Select Insurance Company v. Steven LaFace*, Case No. 4:21-cv-10001-JLK, U.S. District Court, Southern District of Florida, **May 3, 2022**.

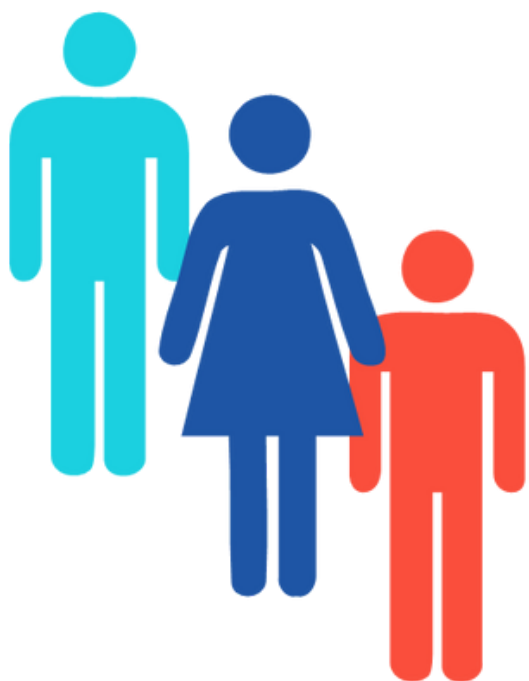
Premises Liability

RESULTS CONTINUED

SUMMARY JUDGEMENTS CONTINUED

- Obtained order granting summary judgment in toxic tort case by Deepwater Horizon oil spill response worker claiming personal injuries from exposure based on lack of competent expert testimony on causation. *Rodriguez v. BP America Production Company & BP Exploration & Production, Inc.*, Case No. 19-20042, U.S. District Court, Southern District of Florida, **November 21, 2019**.
- Obtained order granting summary judgment on the basis that the wooden pallet on the floor were an open and obvious condition for which retailer did not owe a duty to warn of and on the basis that the incident was not foreseeable. *Jacienth Jacques v. Wal-Mart Stores, East, LP.*, Case No. 0:18-CV-60072-JEM, U.S. District Court, Southern District of Florida, **October 17, 2019**.
- Obtained order granting summary judgment on the basis that premises owner did not have actual or constructive notice of the hangers on the floor prior to the alleged incident which retailer did not owe a duty to warn of and on the basis that the incident was not foreseeable. *Juan Fonseca v. Wal-Mart Stores, East, LP.*, Case No. 0:18-CV-62768-DPG, U.S. District Court, Southern District of Florida, **September 23, 2019**.
- Obtained order granting summary judgment (affirmed on appeal to the 11th Circuit) in negligence claim involving slip and fall on liquid from an allegedly leaking HVAC unit on basis that premises owner had no actual or constructive notice of the condition even though an employee inspected area 2 minutes prior to the incident and despite the use of CCTV footage of the incident used as circumstantial evidence of notice. *Palavicini v. Wal-Mart Stores E., LP*, No. 18-14329, 2019 U.S. App. LEXIS 27462, 2019 WL 4316693, 11th Circuit, **September 12, 2019**.
- Obtained order granting summary final judgment in favor of London cargo underwriters in a coverage dispute with a commercial fresh produce grower on the basis that damage to planted in-ground crops valued at approximately \$9 million were not covered goods or merchandise under its cargo policy. *Certain Underwriters at Lloyds of London*, Subscribing to Policy No. B0799MC029630k v. Pero Family Farm Food Co., Ltd., Case No. 18-CIV-81680-RAR/REINHART, U.S. District Court, Southern District of Florida, **2018**.
- Obtained order granting summary judgment (affirmed on appeal to the 11th Circuit) where plaintiff alleged leaking roof caused dirty liquid spill on basis that premises owner had no actual or constructive notice of the condition and finding that allegations of dirty liquid alone are insufficient for notice. *Berbridge v. Sam's East, Inc. d/b/a, Sam's Club*, Case No. 0:16-CV-62681-BB, 11th Circuit, **March 2018**.
- Obtained order granting summary judgment on the basis that pallet on floor in store aisle was an open and obvious condition which retailer did not owe a duty to warn of and which the plaintiff should have observed. *Alberto Roiz v. Wal-Mart Stores East, LP.*, Case No. 1:17-CV-21491-KMM, U.S. District Court, Southern District of Florida, **February 6, 2018**.
- Obtained order granting summary judgment where liquid on floor despite employees being near the spill minutes prior to incident on basis that premises owner had no actual or constructive notice of the condition. *Ayers v. Wal-Mart Stores, East, L.P.*, Case No. 15-24663-CIV-GAYLES, U.S. District Court, Southern District of Florida, **February 2017**.
- Obtained order granting summary judgment in favor of cruise operator on seaman's brain injury claim brought under the Jones Act. *Kendall Walker Danderson v. Royal Caribbean Cruises, Ltd.*, Case No. 10-5933-CA-13, in the Circuit Court of the Eleventh Judicial Circuit in and for Miami Dade County, Florida, **2017**.

52% *of our*  *PARTNERS are* MINORITIES



60% *of our*
ATTORNEYS
are MINORITIES

55% *of our* 
PARTNERS
are
WOMEN



47% *of our*
ATTORNEYS
are WOMEN

Diversity AWARDS & INITIATIVES



For several years, HM&B has been partnering and supporting Brownsville Middle School. In addition to our annual Martin Luther King Day of service, school beautification and Annual Law Day program efforts, the firm also partnered with the Miami-Dade Public School to build a mock court room at Brownsville and establish a law academy for middle school students. Due to these efforts, MDCPS School Board recognized HM&B for our exemplary partnership and The American Bar Association recognized the Legal Academy as the Most Outstanding 2018 ABA Law Day Student Program Activity.

In 2019, Liberty Mutual Legal Academy recognized HM&B for the law firm's service to the community and legal profession through its sustained efforts to promote diversity and inclusion and recognized HM&B with its top Diversity and Inclusion Award.

In 2018 Jerry Hamilton was the recipient of the Miami-Dade Chapter of the Florida Association for Women Lawyers-MDFAWL's Honorable Theodore Klein Award. This award recognizes a male member of MDFAWL who has demonstrated initiative and dedication to women's issues.

Jerry Hamilton serves on the Board of Directors for NAMWOLF (National Association of Minority & Women-Owned Law Firms). He is a past president and founding member of the Caribbean Bar Association.



LOCATIONS



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The hiring of an attorney is an important decision that should not be based solely on advertisements. We urge you to review our professional qualifications. Before you decide, ask us to send you free, written information about our qualifications and experience.