

**MURRAY  
& GUARI**  
TRIAL ATTORNEYS PL

*Helping Clients in their time of need.*

# Premises Liability – Who is Responsible? What You Need to Prove.

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Hablamos Español

1525 N. Flagler Drive, Suite 100 | West Palm Beach, FL 33401

Auto Accidents | Premises Liability | Product Liability | Personal Injury & Wrongful Death

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# Premises Liability – Who is Responsible?

## What You Need to Prove:

According to the Centers for Disease Control and Prevention, over one million Americans suffer from injuries and more than 17,000 people die in the U.S. annually because of a slip, trip, or fall. Common injuries can range from bruising to fractures to closed head injuries. These injuries or deaths often result from unsafe conditions on the property due to negligent maintenance.



## Property owners have three (3) concurrent duties under Florida law:

1. To maintain the premises in reasonably safe condition;
2. To correct any dangerous condition of which the owner either knew or should have known by the use of reasonable care; **and**
3. To warn of any dangerous condition concerning which the owner had, or should have had, knowledge greater than that of the injured victim.

(See *Standard Jury Instructions 401.20a, Negligence Issues*)



In 2010, the Florida legislature changed the burden of proof that an injured party must show in a slip and fall claim based upon a transient foreign substance. Now, an injured party must show the owner of the premises had actual or constructive notice of the dangerous condition

prior to the fall. Previously, actual or constructive notice was not a required element of proof. Recently, the Third District Court of Appeal ruled that this new element was purely procedural, therefore applies retroactively to cases which occurred prior to the July 2010 enactment.

This may affect your rights and ability to hold the premises owner responsible for your injuries. Until such time as the other four District Courts of Appeal Rule on this issue, this matter is still unsettled. ■

## Causes of Slips, Trips & Falls

- Water/wet floors
- Debris/obstacles on the ground or floor
- Slippery substances
- Abrupt changes in flooring
- Loose rugs or mats
- Unsafe furnishings, stairwells, roofs
- Poor lighting
- Hidden hazards
- Falling products

## Causes of Negligent Security

- Inadequate lighting
- Missing or broken locks
- Broken doors or gates
- Broken windows
- Lack of security guards
- Lack of security cameras

## Who are Property Owners

- Residential Building Owners
- Commercial Building Owners
- Shopping Centers
- Grocery Stores
- Convenience Stores
- Parking Facilities
- Hotels & Resorts
- Amusement Parks
- Sporting Venues
- Restaurants & Bars
- Night Clubs
- Universities & Schools
- Hospitals
- Health Care Facilities

# Prevent Medication Errors

## Have You Ever Received a Wrong Prescription?

In 2010, more than **3.9 billion prescriptions were filled** at chain drugstores like Walgreens, CVS, Rite-Aid and Wal-Mart. According to the Agency for Healthcare Research and Quality, in 2008, 1.9 million people became ill or were injured from medication side effects or because they took or **were given the wrong type or dose of medication**, compared with 1.2 million injured in 2004.

Did you know that most pharmacies don't report prescription errors because they're not required to? The federal government and most states in the U.S. do not have laws that require drugstores to report prescription errors, even if the cases lead to serious complications or death.

### Protect Yourself from Prescription Errors:

The Agency for Healthcare Research and Quality offers a few tips that consumers can use to lower the chance of pharmacy errors:

- When your doctor writes a prescription for you, **make sure you can read it.**
- When you pick up your medicine from the pharmacy, **ask the pharmacist if this is the medicine** that your doctor prescribed.
- Open the bag containing your medication container, and **make sure the medicine matches** your prescription and your name is on the container.
- **Make sure you understand how to properly take the medication.** Read drug labels. Ask your pharmacist about how much medication to take, when and whether you should expect to experience any side effects. Visit Public Citizen's Worst Pills, Best Pills website.
- Keep a list of all medication you are taking whether prescribed or over the counter. Include the drug's name, doctor, reason for taking the medication, dosage, any drug side effects, how you take the drug, etc. ■



## Jogger Injured – Construction Zone Lacked Safety & Warning Signs

Jane Doe went jogging on a designated pedestrian path, as she had on many prior occasions. Based on her prior experience, she was aware of construction in the area. In the past, she had heeded signs and warnings relating to any path closures. On the morning of her fall, Jane Doe never encountered any signs, barricades or warnings blocking her path, warning that the path was closed or providing an alternate route. If she had encountered any such warnings, she would have turned around.

At some point shortly prior to her fall, she passed two orange cones that were protecting a pipe that encroached into the path, but there were no signs or barricades indicating the path was closed or otherwise inaccessible. As she continued forward, she tripped over a hose that lay across the path. Jane Doe felt immediate, excruciating pain in her hand. She knew that something was seriously wrong. Within minutes, paramedics arrived and noted her deformed fingers as well as hematoma/abrasions on her shoulder and knee and rushed her to the hospital where she underwent emergency hand surgery for multiple fractures and open wounds. The surgeon inserted hardware that had to be removed at a later date.

Jane Doe claimed that the construction company was responsible for maintaining pedestrian traffic during the course of construction and had failed to place proper signage and/or otherwise provide an alternate route.

Murray & Guari was successful in obtaining Jane Doe a substantial recovery from the construction company for its negligence in failing to provide proper warnings. ■

# Florida PIP Law Injunction

## Florida's No-Fault Insurance Constitutionality in Question

The current version of the PIP statute provides that a **person injured** in a motor vehicle crash must seek care for an **"Emergency Medical Condition" within 14 days of the crash** or her available benefits drop from \$10,000 to only \$2,500. This Emergency Medical Condition must be diagnosed by a specific list of medical providers, which specifically excludes chiropractors.

Recently, a Circuit Court Judge in Tallahassee granted a **temporary injunction** against the Personal Injury Protection (PIP) statute, **finding the statute unconstitutional in some regards**.

Specifically, the Judge cited the 14 day cut off, the exclusion of chiropractors, and the exclusion of payment for massage therapists as a basis for his ruling. This ruling is a step in the correct direction of returning Florida's PIP law to where it was prior to January 1, 2013.

If you have questions or want to learn more about PIP Coverage, visit our blog at [www.murrayguari.com/Blog](http://www.murrayguari.com/Blog). ■



## Defective Medical Devices Stryker Hip Implant Recalls



We are reviewing potential lawsuits on behalf of individuals who received the Stryker Rejuvenate and Stryker ABG II hip implant due to numerous complaints to the Food & Drug Administration regarding the

potential risk of corrosion and "fretting," at or about the modular neck junction. This may result in adverse pain and/or swelling in or around one's replaced hip.

**If you or a loved one has been implanted with a recalled Stryker Rejuvenate or a Stryker ABG II modular-neck stems and the product has failed, or you are experiencing pain or swelling, and would like to learn more about your legal rights, call us toll free at 1-877-645-2974. ■**

## Faulty Air Bags – Recalls on the Rise

We all know that while airbags can save lives when used in combination with seatbelts, they can also be killers.

A recent string of air bag recalls has many automobile owners rattled. According to a USA Today article, last year, there were **22 recalls involving air bags** spread across 18 brands affecting millions of vehicles.



### Common Recall Causes Can Include:

- Faulty Circuitry
- Defective Computer Systems
- Missing Cover Rivets
- Manufacturing Defects

To learn if your vehicle's air bag has been recalled, visit [www.safercar.gov/Vehicle+Owners](http://www.safercar.gov/Vehicle+Owners). ■

# Supporting Our Community

## Justice Teaching Program

Justice Training program instructors Scott Murray & Jason Guari recently presented to Bak Middle School of the Arts 7th grade class. The topic discussed was the State of Nature, which is a term in political philosophy used in social contract theories to describe the hypothetical condition that preceded governments. The Justice Teaching program created by the Justices of the Florida Supreme Court - is designed to bring the constitutional doctrines of our government into vivid focus for the next generations. To learn more visit: <http://www.justiceteaching.org>. ■



## Bluegrass on the Grass

Attorney Scott Murray and wife Jamie attended the Palm Beach Public Elementary School Orchestral Strings Foundation's 3rd Annual BlueGrass on the Grass. The law firm also sponsored the event. Money raised funds the strings program with the vision of building a solid financial base to ensure it continues for future generations of children. All students participate free of charge, and the instruments and materials are made possible by donations and events like "Bluegrass on the Grass." ■

## Meet Paralegal Patricia DeRamus, ACP, FRP

Pat joined the law firm in August 2009. She has over 20 years experience in personal injury, insurance subrogation, litigation, probate, real estate, intellectual property, and commercial litigation. She assists in opening new cases in the firm, placing new, existing cases into litigation. She is a Florida Registered Paralegal and is the First Vice President of the Paralegal Association of Florida. She is also a volunteer and participant in the annual Southeastern Guide Dog Walkathon, which provides visually impaired individuals with a guide dog. ■



## Murray & Guari – Hablamos Español.

Nosotros, tanto como usted, llamamos el Sur de Florida nuestro hogar. Practicamos la ley de herida personal en todas partes de la Florida y estamos orgullosos de ofrecer nuestros servicios en los condados de Palm Beach, Broward, Martin, y Treasure Coast. Tenemos más de 30 años de experiencia legal combinada. Le ofrecemos a los clientes el mejor servicio de 'bufete de firma grande de abogados' en manos de, 'el pequeño bufete de abogados'. Si usted tiene un caso de herida personal, llámenos al (561) 366-9099 o póngase en contacto con nosotros en el Internet en [www.murrayguari.com](http://www.murrayguari.com). Estamos encantados de responder a sus preguntas. ■

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If you can't get enough of us on our current social media – you can now follow Murray & Guari Trial Attorneys PL on Pinterest. We have great information pinned to our boards. Get your latest legal news and top legal stories. We'd love for you to follow our boards. So what are you waiting for? Start pinning today! ■

## Stay Connected

Our social media accounts allow us to connect with you in real-time and share the latest news and information regarding our practice, important safety information and legal updates. We look forward to being a part of your social network. ■



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SCAN with a smart device:  
Phone, Tablet.

For more information:  
<http://goo.gl/CG7sC>



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# Murray & Guari Trial Attorneys

## How Can We Help



At Murray & Guari Trial Attorneys, we represent victims throughout Florida who have suffered serious personal injuries due to the negligence of others. At

our firm, you will find a team that is truly concerned about your well-being and getting justice. We are proud that our clients come to us based on a personal recommendation from past clients and from other attorneys in the community who respect our reputation and the quality of our work. We would be honored to put our experience, skill and integrity to work for you. ■



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