Hinda Klein

Direct Dial: (954) 518-1248
Fax: (954) 518-8648
E-Mail: hklein@conroysimberg.com
Office Location: Hollywood

Hinda Klein is a partner with the firm and has been the head of Conroy Simberg's appellate department since she joined the firm in 1991. She was one of the first attorneys in Florida to become board certified in appellate practice.

Hinda supervises all of the appellate attorneys at the firm, and has been involved in more than 800 civil appeals and extraordinary writs. She practices in all state District Courts of Appeal, the Federal Eleventh Circuit Court of Appeal, and the Florida Supreme Court. Hinda also handles dispositive motions and trial support, including the preparation of summary judgment motions, motions in limine, jury instructions, and pretrial and post trial motions and appears at trial in order to ensure that the record has been properly preserved for appeal. She has been recognized in *The Best Lawyers in America*© for Appellate Practice every year since 2019 and was named the Best Lawyers® 2020 and 2024 Appellate Practice "Lawyer of the Year" in Fort Lauderdale.

Practice Areas:

- Appellate
- Litigation Support

Admitted to Practice:

- Florida Bar, 1985
- U.S. Supreme Court, 1990
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Middle District of Florida
- U.S. District Court, Southern District of Florida

Education:

- Syracuse University College of Law, Juris Doctorate, 1985
    - Notes and Comments Editor, Syracuse Law Review
- University of Florida, Bachelor of Science in Psychology, 1982

Professional Affiliations:

- Steven Booher Inns of Court, Board Member, Master Bencher
- Florida Bar Appellate Practice Section, Charter Member
- Broward County Bar Association Appellate Practice Section, Chairman and Vice-Chairman
- Florida Bar Appellate Rules Committee
- Florida Bar Civil Procedure Rules Committee
- Florida Bar Civil Appellate Practice Section

Honors & Awards:

- Board Certified in Appellate Practice since June 1995
- *Florida Super Lawyers*, 2006-2023
- *The Best Lawyers in America,* 2019-2024, Listed in Florida for Appellate Practice
- *The Best Lawyers in America, 2024,* Listed as "Lawyer of the Year" for Appellate Practice in FortLauderdale
- *The Best Lawyers in America, 2020,* Listed as "Lawyer of the Year" for Appellate Practice in Fort Lauderdale
- AV® Preeminent™-rated by *Martindale-Hubbell*
- Leading Florida Civil Appellate Attorney
- 10.0 "Superb" Rating by Avvo.com

Publications:

- "Personal Injury Protection Litigation from the Defense Perspective," Trial Advocate Quarterly, Summer, 1998 (co-authored)
- "Discovery Abuse: Making Piper Pay," Trial Magazine, February 1987 (co-authored)
- Florida Pretrial Practice, James Publishing (2004) – Editorial Advisory Board Member
- The Law of Condominium Operations by Gary Poliakoff, Esq., published by Callaghan Co. 1988, Contributing author of Chapter 15, "Unit Owner Rights and Responsibilities

Speaking Engagements:

- Case Law Update, Conroy Simberg Annual Seminar/Webinar, 1996-2024
- "Changes To The Way We Handle Cases," Co-Presenter, Conroy Simberg Webinar, April 2022
- "Practical Approach to Defending Against Letters of Protection," Florida Liability Claims Conference (FLCC), Co-Presenter, June 2021
- "Daubert: COVID-19 Litigation Vaccine?" Co-Presenter, Conroy Simberg Webinar, August 2020
- "Impact Of COVID-19 On Negligent Security Litigation," Co-Presenter, Conroy Simberg Webinar, July 2020
- "Departures from the American Rule on Attorney's Fees," The Federalist Society 2018 Annual Florida Chapters Conference
- Case Law Update, Florida Defense Lawyers Association Annual Seminar

Representative Experience:

- **Martin v. City of Tampa, et al., 351 So. 3d 75 (Fla. 2d DCA 2022)**

  Ms. Martin was walking on the City-owned sidewalk in front of the Columbia restaurant when she allegedly tripped and fell over a loose tile. Although she was not a patron of the restaurant, she sued Columbia, as well as the City of Tampa, alleging that the restaurant had a duty to maintain the public sidewalk outside of its premises because they were used for ingress and egress and because restaurant porters regularly swept and cleaned the area for the benefit of its patrons . The trial court granted summary judgment and the Second District Court of Appeal affirmed, on the grounds that Columbia was not in actual possession or control of the pavers even though they were used by Columbia's patrons.

- **Liberty Mutual Ins. Co. v. Pan Am Diagnostic Services, Inc., 347 So. 3d 7 (Fla. 4th DCA 2022)**

  In this PIP appeal, the issue was whether the provider was entitled to recover attorneys' fees under Florida Statute 627.428 in litigation to

recover $.14 in overdue interest. The trial court awarded fees of $24,028.27. The appellate court reversed the award on the grounds that pursuant to Florida Statutes 627.736 (8) and 627.428, did not authorize a fee award where the claimant's recovery was not "under a policy or contract" of insurance. The Court reasoned that statutory interest was not a "PIP benefit" for which attorneys' fees are payable.

- **Peoples Gas System v. Posen Construction Inc., 322 So. 3d 604 (Fla. 2021)**

  The owners of an underground natural gas pipeline brought an action against a road construction contractor under Florida's Underground Facility Damage Prevention and Safety Act, seeking indemnity for monies it paid to settle a claim brought by the road construction contractor's employee who was badly burned when he hit a gas pipeline which exploded. The indemnity case was filed in federal court and was appealed to the Eleventh Circuit Court of Appeal, which referred it to the Florida Supreme Court because there was an absence of Florida law on point. The Florida Supreme Court held that the Act implicitly created a standalone negligence cause of action and did not create a cause of action for "statutory indemnity". The Court also held that a party could only be held liable under the Act if it proximately caused injury, and, like other negligence-based actions, was governed by the comparative fault statute.

- **Depositors Insurance Co. v. Pasco-Pinellas Hillsborough Community Health System, 321 So. 3d 925 (Fla. 5th DCA 2021)**

  A hospital, as the assignee of Personal Injury Protection (PIP) benefits of a motorist treated for back pain after she was rear-ended, sued Depositors alleging that it wrongfully limited the insured's PIP benefits to $2500, rather than applying the maximum $10,000 of benefits available to an insured who suffered an "emergency medical condition" (EMC) in an auto accident. The hospital records did not specify that the insured had an EMC and when the carrier requested that the hospital produce evidence of such a diagnosis, the hospital did not respond. The trial court granted the hospital summary judgment, finding that since there was no evidence that the insured did not suffer and EMC, the insured's benefits were not limited to $2500. On appeal, the Court reversed the summary judgment for entry of judgment in favor of Depositors, finding that the only reasonable interpretation of the statute was that it was the insured or assignee's burden to establish, by affirmative evidence, that an insured or claimant suffered an EMC in an accident before the maximum benefit would become available.

- **Gulfstream Park Racing Assoc., Inc. v. Volin, 326 So. 3d 1124 (Fla. 4th DCA 2021)**

  A patron sued Gulfstream after she fell and broke her hip while attending a race. The trial court denied Gulfstream's motion to preclude the plaintiff from introducing into evidence the gross amount of her past medical bills, which had been paid by Medicare and ruled that the Court would reduce the jury's verdict on that claim to the amount paid by Medicare after the trial was over. On appeal, the Fourth District reversed, finding that the trial court should not have permitted the introduction of the gross bills and since it was likewise improper for the trial court to reduce the verdict after trial because Medicare is not a collateral source, the most appropriate remedy was to order an entirely new trial on all damages and not just the past medical expenses since other elements of damage could have been affected by the error.

- **Ramirez-Lucas v. Hutchinson, 2019 WL 3807994 (Fla. 4th DCA, Aug. 14, 2019)**

  Plaintiff Estate sued a father whose son was in an accident which killed the decedent while he was driving a car the father sold to the son. Before the accident, the father had transferred all beneficial ownership to the son by giving him the title and keys, but neither the father or the son had officially transferred ownership of the vehicle with the Department of Motor Vehicles. The Estate argued that the father was still the owner of the vehicle because he failed to complete the sale by transferring the title pursuant to the statute governing the bona fide transfer of title, but the trial court granted the father summary judgment, finding that he was no longer the owner of the vehicle at the time of the accident.

  On appeal, the Fourth District affirmed the summary judgment and clarified the law regarding the transfer of vehicle ownership for purposes of the dangerous instrumentality doctrine. The Court held that compliance with Florida Statute 319.22 (2), which provides that a transferor who complies with the statute by transferring title through the Department of Motor Vehicles is protected from liability under the dangerous instrumentality doctrine, is not necessary to vest the transferor with immunity from civil liability as owner of an automobile if beneficial ownership has otherwise been fully transferred. The Court found that compliance with the statute only affects the marketability of the title.

- **Collins v. Auto Partners V LLC, 2019 WL 3436896 (Fla. 4th DCA, July 31, 2019)**

  This is the first case in Florida addressing the issue of whether the federal Graves Amendment applies to automobile dealerships that provide "loaner" vehicles to their customers who have their cars serviced at the dealership. In this case, the Plaintiff argued that there were factual disputes precluding summary judgment in favor of the dealership, who had provided one of its employees with a loaner vehicle while his car was being services. The appellate court found that the absence of a written rental agreement was not fatal to the dealership's Graves Amendment defense where there was otherwise no factual dispute that the employee had been provided the courtesy vehicle while his car was being serviced. The Court also noted that the dealership also qualified for a cap on liability under Florida Statute 324.021, because it rented vehicles for more and less than a year, but since the Graves Amendment preempts Florida law on the dangerous instrumentality doctrine, the Court affirmed the summary judgment finding that the dealership was not vicariously liable for damages arising from an accident in which the employee was driving the dealership's loaner.

- **Musselwhite v. Florida Farm General Ins. Co., 273 So. 3d 251 (Fla. 1st DCA, 2019)**

  In a case of first impression in Florida, the First District Court of Appeal addressed the issue of whether a company who was insured under a "d/b/a" for liability arising from its feed business could be construed to have liability coverage for claims arising from another business owned by the same company and operated under another fictitious name. In this case, the company began a well drilling operation after it obtained liability coverage for its feed business, but never obtained liability coverage for this second business. The defendant company and the

Plaintiff argued that since a "d/b/a" is a fictitious entity that can only contract through its corporate owner, the insurance policy should be deemed to cover the corporate entity for any and all business it conducts.The trial and appellate courts disagreed with the Plaintiff's broad interpretation of the policy, finding that the designation of the named insured as a "d/b/a", along with the description of its business as a "feed store" limited the policy's coverage to only that aspect of the corporate entity's business and that the "d/b/a" designation did not render the policy ambiguous as to the scope of coverage.

- **Landmark American Ins. Co. v. Pin-Pon Corp., 267 So. 3d 411 (Fla. 4th DCA, 2019)**

  After the Fourth District reversed and remanded the initial verdict in favor of the insured on its claim against an excess carrier for Code Upgrade coverage after two hurricanes damaged a hotel in the process of being renovated, the insured sought to withdraw a pretrial stipulation limiting that coverage to $ 2.5 million. The trial court permitted the insured to withdraw that stipulation and the jury rendered a verdict in excess of $6.2 million. On appeal, the Fourth District reversed the judgment on that verdict, finding that the trial court erred in permitting the withdrawal of the stipulation. Accordingly, the judgment was reduced from $ 6.2 million to $ 2.5 million, less the approximately $ 700,000 the carrier had already paid on the claim.

- **Salerno v. Del Mar Fin. Serv., LLC, 2018 WL 2716927 (Fla. 4th DCA, June 6, 2018)**

  Plaintiff Estate sued a law firm for allegedly serving alcohol to an employee during working hours, with knowledge that she was an alcoholic, and then ejecting her from the premises, after which she was hit by a train and killed while she was walking home. The trial court found that the Estate failed to state a viable cause of action under Florida Statute section 768.125, which prohibits a vendor from serving alcohol to a person known by the vendor to be a habitual alcoholic.The Fourth District Court of Appeal affirmed the dismissal with prejudice, finding that although a special relationship between an employer and employee establishes a duty to protect the employee from harm within the scope of employment, there is no such legal duty where, as here, the employee is going and coming from work.

- **Competitive Softball Promotions, Inc. v. Ayub, 2018 WL 1832309 (Fla. 3rd DCA, April 18, 2018)**

  Plaintiff was a softball player who was injured in a fight which occurred immediately after a softball tournament. He sued the softball tournament organizer, alleging that it breached its duty to maintain the premises, which was a County-owned park, in a safe condition. The trial court denied summary judgment and directed verdict motions. After a trial, the jury found the tournament organizer negligent and awarded the Plaintiff over $300,000 in damages.

  On appeal, the Third District Court of Appeal found that the tournament organizer lacked sufficient control over the common areas of the park where the fight occurred and that, as a matter of law, it had no duty to protect the plaintiff or to ensure his safety. The Court rejected the plaintiff's argument the tournament organizer could be held liable for injuries outside of its premises, finding that the exception only applies where a defendant has created a dangerous condition that injures one beyond the limits of its premises, which was not the case

here. Accordingly, the appellate court reversed the final judgment in the Plaintiff's favor and directed the trial court to enter judgment in favor of the defendant.

- **Arlington Pebble Creek, LLC v. Campus Edge Condo. Assoc., 232 So. 3d 502 (Fla. 1st DCA 2018)**

  A condominium association filed suit for negligent and fraudulent misrepresentation against the condominium developer and its former management company after experiencing extensive water intrusion damage to the common areas. The trial court denied the defendants' motions for summary judgment and directed verdict, and the jury ultimately entered a verdict against both defendants for compensatory and punitive damages.

  The First District Court of Appeal reversed the jury's verdicts, finding that the Plaintiff association, which brought suit on its own behalf and not as the unit owners' representative, failed to prove either cause of action against either defendant. The Court reversed the multi-million-dollar judgments with directions to the trial court to enter a judgment in favor of the defendants.

- **Davie Plaza, LLC v. Iordanoglu, 232 So. 3d 441 (Fla. 4th DCA 2017)**

  Plaintiff Maroudis was a handyman employed by a diner located in a strip shopping center. One rainy night, his employer requested that he go up on the roof to clear out water which was leaking into the restaurant. Maroudis never opened his A-frame ladder, instead leaning it against the building while he was climbing up and down. Nor did Maroudis bring a flashlight or use a spotter.

  The roof had two levels, requiring Maroudis to climb up one level, pull the ladder up and then climb to the second level to get to the roof, where he cleared out the water and began to descend to the ground. Maroudis reached the first level of the roof and placed the ladder on the ground, which he could not see since it was dark and still raining. Maroudis fell off the ladder while he was climbing down and suffered an injury to his back. He testified at his depositions that he did not know how or why he fell.

  By the time of trial, Maroudis had died for unrelated reasons and although he had no surviving family, his Estate pursued the claim against the shopping center. The Estate contended that the property was not properly maintained, and that Maroudis probably placed his ladder on unstable ground, thereby causing his accident. No one could attest to precisely where he had fallen, and the defense submitted several reasons why something other than a defect in the premises caused him to fall. The defense moved for summary judgment and directed verdict, on the grounds that the only way the Estate could meet its burden of proof was to stack one inference on another in violation of Florida law. The trial court denied the motions and sent the case to the jury, which awarded the Estate over $15 million in compensatory damages.

  On appeal, the Fourth District reversed the judgment, finding that the trial court erred in denying the Defendant's motions for directed verdict. Accordingly, the Court instructed the court to vacate the judgment and enter a new one in favor of the Defendant.

- **Las Olas Holding Co. v. Demella, 228 So. 3d 97 (Fla. 4th DCA 2017)**

An intoxicated driver traveling on a public road behind the Riverside Hotel purposefully drove her vehicle into the hotel's cabana, killing a young pregnant woman who was inside. Her husband, who was also in the cabana, survived and brought suit against the hotel, alleging that its properly was unsafe because it failed to warn or guard against the possibility that a vehicle traveling on the road might leave it and drive onto the hotel premises. The cabana was located about 15 feet from the roadway, and in the many years that it had been located near the roadway, no vehicle had ever traveled off the roadway, and certainly never traveled onto the hotel's property. The Plaintiff argued that the hotel should have foreseen the accident because some drivers had a tendency to speed on the roadway.

The trial court denied motions for summary judgment and directed verdict and the jury rendered a verdict of $24,057,283.00 in damages, finding the drunk driver 85% at fault and the hotel 15% at fault and the Court entered judgment against the hotel for $3,608,592.45 in damages. The Fourth District Court of Appeal reversed the judgment against the hotel, finding that the trial court should have granted its motions for directed verdict on the ground that the hotel premises were not defective or dangerous and the accident was not legally foreseeable and ordered the trial court to enter a judgment in favor of the hotel.

- **Zurich American Insurance Company v. Cernogorsky, 211 So. 3d 1119 (Fla. 3d DCA 2017)**

A pedestrian employee who was on his way to work at the Green Companies was injured when he was hit by a car. Although his employer had no vehicles, and no Uninsured Motorist (UM) coverage, the pedestrian sued Zurich, claiming that he was entitled to such coverage because his employer was never offered, and never waived, UM coverage when it obtained its Commercial General Liability insurance coverage.

Zurich moved for summary judgment, arguing that there was no coverage under its policy because the Green Companies had no vehicles of its own, and the only auto coverage available was automobile liability coverage for those instances in which its employees were using non-owned vehicles during the course and scope of their employment. Otherwise, there was no primary automobile coverage. The trial court denied the motions and ordered the parties to try the case even though there were no facts in dispute.

The case was tried before a jury, which found there was UM coverage under Zurich's policy. The parties entered into an agreed judgment of $1 million, reserving Zurich's right to appeal on the coverage issue. On appeal, the Third District Court of Appeal reversed the trial court's judgment and remanded for entry of a judgment in Zurich's favor. The Court found that there Zurich's policy provided no UM coverage because the Plaintiff was not a named insured, the Green Companies had no company vehicles to insure, and the Plaintiff was a pedestrian at the time of the accident. Because the Green Companies had no primary automobile insurance coverage, Zurich was not required to offer it UM coverage and its failure to do so, and to obtain a written waiver of that coverage, did not create UM coverage by operation of law.