

# FLORIDA

# SUMMARY JUDGMENT

## TRIP AND FALL



**LUKS, SANTANIELLO**  
**PETRILLO, COHEN & PETERFRIEND**  
— OUR VERDICTS TELL THE STORY —

**S**enior Partner Marc Greenberg, Esq., and Appellate Partner Daniel Weinger, Esq., obtained Summary Judgment in the Trip and Fall matter styled Jane Doe v. Retail Store (Palm Beach County). Plaintiff arrived on Defendant's premises for the purpose of shopping. She exited her vehicle with a garbage bag and intended to throw the garbage into a garbage can situated in the parking lot. Instead of staying in the parking lot to throw her garbage away, Plaintiff took a quicker route through landscaping. While doing so, Plaintiff tripped and fell into a large hole. The fall resulted in multiple surgeries and medical bills in excess of \$300,000. The Defendant moved for summary judgment on the grounds that a landowner owes no duty of care to maintain or to warn an invitee of the presence of landscaping features, including holes within landscaping. Plaintiff's reduced demand prior to the hearing was \$300,000.

Palm Beach County Court granted the Defendant's Motion for Final Summary Judgment and held that "Florida Courts have held that Landscaping features, such as the case at bar, are generally found not to constitute a dangerous condition as a Matter of Law." See also K.G. v. Winter Springs Cmty. Evangelical Church, 509 So.2d 384 (Fla. 5th DCA 1987); see also Dampier v. Morgan Tire & Auto, LLC, 82 So.3d 204 (Fla. 5th DCA 2012). In Dampier, the Court held that "... a raised landscape planting bed, and tree stump therein, did not constitute a dangerous condition that could give rise to liability or a duty to warn on the part of the premises owner when business invitee tripped and fell when cutting across planting bed on his way to parking lot from a public sidewalk." Id. at 204. Defendant's Motion to Tax Costs is pending.



**MARC GREENBERG**

561.893.9088

[MGreenberg@InsuranceDefense.net](mailto:MGreenberg@InsuranceDefense.net)



**DANIEL WEINGER**

954.761.9900

[DWeinger@InsuranceDefense.net](mailto:DWeinger@InsuranceDefense.net)