



## Russell M. Pfeifer

Partner

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Russell M. Pfeifer is part of a team of experienced trial lawyers who dedicates his broad national practice to complex litigation primarily in the areas of product liability and other complex torts including premises liability, construction defect, sexual abuse and molestation claims, and first-party property insurance litigation. Russell has served as lead counsel in notable high-profile wrongful death cases, and has worked extensively in matters involving the defense of national and international product manufacturers, commercial premises and business owners, and domestic and international insurers in first-party disputes. He has argued before four of the five District Courts of Appeal in Florida.

Russell authored an article on marine insurance published by the *University of San Francisco Maritime Law Journal*, which has been cited by federal courts throughout the United States. He is a regular guest lecturer in advocacy and public speaking at the University of Miami School of Communication. Earlier in his career, Russell was an attorney at Wilson Elser from March 2006 through August 2013.

### Education

- University of Miami School of Law (J.D., *cum laude*, 2003)
  - Dean's Certificate of Achievement Award in Legal Research and Writing
  - CALI Excellence for the Future Award in Legal Research and Writing
  - Dean's Merit Scholarship
  - Paul B. Anton Scholarship for Academic Excellence
- Nova Southeastern University (B.S., *magna cum laude*, 1999)

### Services

- Appellate
- Construction
- Complex Tort & General Casualty
- Admiralty & Marine
- Product Liability, Prevention & Government Compliance
- Professional Liability & Services
- Transportation
- National Trial Team

## **Bar Admissions**

- Florida

## **Court Admissions**

- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Southern District of Florida
- U.S. District Court, Middle District of Florida
- U.S. District Court, Northern District of Florida

## **Professional Affiliations**

- American Bar Association
- Dade County Defense Bar Association
- Florida Defense Lawyers Association

## **Awards & Honors**

- America's Top 100 Civil Defense Litigators®, 2019–2020
- South Florida Legal Guide Top Lawyers List, 2020
- Rated AV® Preeminent by Martindale-Hubbell, 2017
- Selected for inclusion in Super Lawyers® Rising Stars™, 2015–2017
- Acquisition International Recognized Leader in Business Litigation Award, 2016
- Top Attorneys, Outstanding Young Lawyers in the Miami Area, 2015

# **Representative Matters**

Obtained final summary judgment for a celebrity-owned mega-yacht sued in Fort Lauderdale by the decedent's estate seeking millions of dollars in damages. Successfully handled the appeal, including oral argument in Florida's Fourth District Court of Appeal, which affirmed summary judgment in a written opinion.

Obtained a defense verdict for the largest owner of shopping malls in the United States after a two-week wrongful death case stemming from a Christmas Eve shooting of a 24-year-old at the Florida mall. The shooting made national headlines and the suspect was captured after being featured on the TV show "America's Most Wanted." The family of the deceased asked the jury to award \$5 million during trial.

Brought in as trial counsel on behalf of a nightclub in another highly publicized wrongful death case involving the stabbing and tragic death of a newlywed nightclub bouncer and two patrons. Instrumental in securing a favorable global settlement under confidential terms and well within policy limits.

Obtained a defense verdict after a one-week jury trial for a Tampa area condominium association. In addition to the verdict, the court entered a final judgment against the plaintiff in excess of \$100,000 for the association's attorney's fees and costs.

Successful in settling a commercial dispute during the third day of trial in federal court for less than 10 percent of the demand, which included a complete settlement of a companion case filed in federal court in New York.

Obtained a defense verdict for a national boat manufacturing company in a three-week products liability jury trial involving five personal injury plaintiffs and an insurance company seeking millions of dollars in damages. The verdict was featured in the *South Florida Daily Business Review*.

Obtained a complete dismissal of a South Florida wrongful death case arising out of a Christmastime altercation in a Miami Beach store. Obtained dismissal without the client paying any money to the estate, and secured client's ability to recover his own attorney's fees and costs incurred in defending the action.

Obtained two complete dismissals in separate subrogation actions without the client paying any money. The subrogation actions were brought by an insurance company against the clients resulting from a house fire and a condominium flooding. The insurance companies were seeking more than \$300,000 combined and dismissed the actions in exchange for clients agreeing not to pursue recovery of their attorney's fees and costs after obtaining several favorable rulings from the courts.

## Client Wins

### **Pfeifer, Martinez Tristani, and Adams Win Dismissal of Maritime Personal Injury Action in Federal Court**

Miami partners Russell M. Pfeifer and Gustavo A. Martinez Tristani, and associate Jackson G. Adams, secured dismissal of a personal injury action on the eve of trial in the U.S. District Court for the Southern District of Florida through a successful Rule 12(b)(6) motion to dismiss on behalf of Wilson Elser's client, a shoreside services provider. The plaintiff alleged that she sustained injuries inside a cruise terminal during the disembarkation process and asserted maritime claims against the cruise ship owner, the terminal owner, and our client. She later settled her claims against the cruise ship and terminal owners. After extensive discovery and prolonged motion practice, Russell, Gus, and Jack persuaded the District Court that it lacked subject matter jurisdiction to adjudicate the remaining claims against our client. Specifically, the team argued that admiralty jurisdiction did not exist because the alleged incident, a slip and fall in a small puddle of water, occurred on land, involved a fixed terminal structure, and did not involve a vessel operator. In addition, the activity giving rise to the incident – the alleged failure to maintain the terminal and/or place warning signs – bore no substantial connection to traditional maritime activity. The decision marks a significant defense victory and establishes an important and new precedent curbing the expansion of admiralty

jurisdiction.

### **Pfeifer, Chacon & Ledlova Secure Final Summary Judgment for National Retail Client**

Miami, Florida, partners Russell M. Pfeifer and Raul J. Chacon and associate Monika Ledlova secured final summary judgment in Miami-Dade County Circuit Court on behalf of a national retail client in a premises liability action. The plaintiff alleged she suffered injuries including a traumatic brain injury when a 25-pound metal price sign fell from the top of a large metal safe inside the store. Monika Ledlova argued the motion, successfully demonstrating that surveillance video clearly showed the plaintiff shaking the metal safe immediately before causing the sign to fall off and strike her in her head, thereby causing her own injuries. The team argued that the metal sign was open and obvious, and that no dangerous or concealed condition existed on the premises. The court agreed, granting summary judgment in favor of our client and finding no breach of duty under Florida law. This decisive win underscores the team's strategic use of video evidence and persuasive advocacy in defeating unsupported premises liability claims. The victory also positions our client to recover attorneys' fees and taxable costs under applicable Florida statutes, further solidifying a complete defense outcome.

### **Pfeifer, Adams & Martinez Tristani Obtain Dismissal of Maritime Case Involving Complex Admiralty Jurisdiction**

Miami partners Russell M. Pfeifer and Gustavo A. Martinez Tristani and associate Jackson G. Adams secured dismissal of a maritime personal injury lawsuit filed in the U.S. District Court for the Southern District of Florida. The plaintiff, a Canadian citizen, filed a lawsuit seeking damages against a major cruise liner and its independent contractor, our client, for injuries sustained during an offshore excursion at the Krka National Park in Croatia. Despite the federal court having admiralty jurisdiction to adjudicate the claim against the cruise liner, Russell, Gus, and Jack persuaded the District Court that it lacked both diversity jurisdiction and admiralty jurisdiction to entertain the claims against their client, securing the complete dismissal of the action on those grounds on the eve of trial. The victory and corresponding 15-page order constitute an impactful precedent as it distinguishes the factual pattern in this case from a long line of cases decided by federal courts in Florida that routinely exercised admiralty jurisdiction in cases of similar nature against cruise lines and their shore excursion operators.

### **Miami Team Secures Appellate Victory Following Successful Summary Judgment**

Miami, Florida, partners Raúl J. Chacón Jr. and Russell M. Pfeifer and associate Monika Ledlova secured an appellate victory in the Third District Court of Appeal with a written opinion affirming summary judgment they obtained in Miami-Dade County Circuit Court in a case involving a national retail client. The plaintiff filed a negligence lawsuit after tripping over a wooden display pallet at our client's retail store. The trial court granted summary judgment based on the open and obvious doctrine, after the Miami team argued there were no hazardous conditions present on the premises and that the plaintiff's fall resulted from her own lack of attention. Surveillance video of the incident played a pivotal role in supporting the team's argument, showing the plaintiff's failure to follow the designated pathway, and subsequently tripping over a wooden pallet on her second visit to the store the same day. The trial court ruled in favor of our client, granting summary judgment, and following a request for rehearing by the plaintiff reaffirmed its decision. The plaintiff

appealed to the Third District Court of Appeal, which affirmed the summary judgment citing case law referenced in our answer brief. This win serves as a crucial precedent, strengthening the defense position for property owners and retailers statewide and opens the plaintiff to the recovery of taxable costs.

### **Pfeifer and Nunn Reject Retailer's Attempt to Arrange Global Settlement, Obtain Summary Judgment**

Russell M. Pfeifer (Partner-Miami, FL) and Emma Nunn (Associate-Miami, FL) obtained final summary judgment in favor of a product manufacturer in a slip-and-fall lawsuit filed by the largest personal injury firm in Florida. After nearly one year of litigation between the plaintiff and a large retail establishment, the retailer forced the plaintiff into amending her complaint, adding our client to the suit. The allegations, mainly advanced by the retailer, were that the water in which the plaintiff slipped and fell most likely came from our machine; and further, the subject machine had a long history of leaking water. Russell and Emma vigorously defended these claims and ultimately made the plaintiff's case against the retailer since by their own admission, if the subject machine had issues, it should have been their responsibility to take it out of service and have it repaired. Russell and Emma proved that our client had no knowledge of any defect in the subject machine and that the retailer had in place a system to call for maintenance through a portal. The service records did not support any claim that the machine had issues when the accident occurred and ultimately neither the plaintiff nor the retailer adduced any evidence to support a claim of product liability. Following an unsuccessful mediation, the retailer followed up several times pleading to contribute toward a global settlement and to accept its tender of defense and indemnity. Russell and Emma refused to do so and instead sought summary judgment, which was granted.

### **Miami Team Secures Dismissal Concluding Nine-Year Product Liability Suit**

Russell M. Pfeifer (Partner- Miami) and Emma Nunn (Associate- Miami) secured a dismissal with prejudice in Brevard County Circuit Court for Wilson Elser's client, an international manufacturer, concluding nine years of litigation in a product liability suit with seven-figure exposure. The plaintiffs, the owner of a recreational vehicle (RV) and three of his insurance companies sued our client in 2015 following an RV refrigerator fire. After one of the insurance companies moved to stay the case due to its dissolution, Russell and Emma moved to re-open the matter and substitute the Florida Insurance Guaranty Association (FIGA) instead of the bankrupt entity. Rather than litigate the remainder of the lawsuit, including Russell and Emma's two Daubert motions that would effectively determine the case's outcome, the plaintiffs dismissed the lawsuit, exposing themselves to taxable costs and the recovery of attorneys' fees under statutory proposals for settlement served years ago.

### **Pfeifer and Nunn Obtain Third Consecutive Summary Judgment on Late Reported Hurricane Claims**

Russell M. Pfeifer (Partner-Miami, FL) and Emma Nunn (Associate- Miami, FL) obtained final summary judgment in favor of our client insurer on a late reported Hurricane Irma claim. The plaintiffs reported the claim nearly three years after the date of loss and filed suit just shy of the expiration of the statute of limitations. The first inspection of the property occurred at that time. Russell and Emma argued that the plaintiffs' notice was untimely as a matter of law resulting in prejudice to the carrier, and that the plaintiffs'

proffered evidence was insufficient to overcome the legal burden that arises in Florida upon an insurer's demonstration that notice was untimely. The plaintiffs offered the affidavit of an engineer in opposition to summary judgment, which relied on historical weather data and historical satellite imaging, and argued the engineer's inspection was sufficient to overcome the presumption of prejudice. The Miami-Dade Circuit Court disagreed, finding the affidavit was conclusory as it was based on an inspection conducted three years after the date of loss, and granted our motion. This is Russell and Emma's third consecutive summary judgment win on late reported hurricane claims for the same insurer client.