

## 'All About Case Selection': Small But Mighty Miami Firm Reflects on Decades of Success

By Lisa Willis

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*Editor's note: This is part of an ongoing series on the rise in the scale and ambition of law firms in Florida.*

This year saw its fair share of law firm advertising on local TV airwaves, with firms like Morgan & Morgan, Steinger Greene & Feiner, and Rubenstein Law leading the pack, boasting multi-million dollar wins for clients in hopes of gathering continued business.

While huge caseloads and headcounts have driven most law firms, one Miami-based firm attributes its success over the past 40 years to the opposite approach.

The six-lawyer firm Stewart Tilghman Fox Bianchi & Cain says its winning formula has been working on a hand-selected number of cases and dedicating resources to maximize recovery in each one.

"From the day we opened our doors 40 years ago, we believed that if we were very careful about the cases we took, did high quality work and did everything possible for our clients, good cases would find their way to us without having to actively promote ourselves," attorney David Bianchi said. "Looking back on it all, that philosophy has proven true."



Courtesy photos

(Clockwise, from top left) David Bianchi, Gary Fox, Stephen Cain, Michael Levine, Dax Bello, and Andres Hidalgo, with Stewart Tilghman Fox Bianchi & Cain.

Watching other firms spend millions on advertising and hire armies to handle skyrocketing caseloads, Bianchi said Stewart Tilghman has chosen a more conservative path.

Bianchi co-founded the firm in 1984 along with partners Larry Stewart, James Tilghman, and Gary Fox.

### A Colorful Past Line-Up

Among some of Fox's former clients are boxing champion Floyd Mayweather, Hall of Fame

baseball player Eddie Mathews, and All-Pro NFL cornerback Samari Rolle.

Bianchi has been touted as “the country’s leading hazing lawyer” and one of the authors of the Chad Meredith Act, Florida’s current felony hazing law, that stiffened the penalties for hazing that injures or kills people. He also drafted and lobbied for the passage of Andrew’s Law, named for Andrew Coffey, who died as a result of a night of hazing at Florida State University that immunizes the first person who calls 911 when a hazing victim needs immediate help and has lectured and spoken nationally on hazing law.

After practicing law together at Frates Floyd Pearson Stewart Richman and Greer, a leading plaintiffs’ firm at the time, the team set up shop in a no-frills space with limited staff and rental furniture when they made national headlines for securing one of the nation’s first major Dalkon Shield verdicts, which resulted in a dozen more IUD cases after that.

Over the past four decades, the boutique firm has handled many high-profile precedent-setting cases involving product liability, medical malpractice, hazing, and other personal injury and wrongful death matters. To date, they’ve secured hundreds of verdicts and settlements exceeding \$1 million, including cases where the recoveries exceeded the insurance policy limits.

“Our commitment to our clients and to the practice of law generally has not been limited to just recovering money,” Bianchi added. “We have long believed in our obligation to do more.”

Following 9/11, Stewart founded and chaired Trial Lawyers Care to assist families of victims of the terrorist attacks in obtaining

compensation under the federal program set up to help them. The program has been described as the largest pro bono project ever in the United States.

“We were confident that if we worked hard, treated clients as we would want to be treated and gave back to the profession, that we would do well,” founding partner Gary Fox said. “And those core values are just as important to us today as they were when we started.”

Since 2013, the co-founders added attorneys Dax Bello and Michael Levine, naming them shareholders in 2019. Last year, they added recent University of Miami Law graduate Andres Hidalgo.

Bello, a former president of the Cuban American Bar Association and current board member of the Miami-Dade Trial Lawyers Association, joined the firm in 2013. Before joining the firm, Bello was an assistant state attorney in Miami-Dade County. “I loved being a prosecutor, and I love the work I do now,” Bello says. “I still prosecute bad guys on behalf of victims, in the pursuit of justice.”

Levine joined the firm after serving as a law clerk to U.S. District Court Judge Paul C. Huck.

“We never wanted to grow just for the sake of growth,” said Steve Cain, who joined the firm 25 years ago. “We didn’t want the management headaches. We have always been happy with the cases and results we were obtaining, so there was no big motivation to expand. We have been very careful and strategic in our growth.”

Over the years, the firm has built a roster of high-profile wins in challenging cases—many of which had been turned away by other law firms.

*Terri Schiavo v. Dr. Stephen Igel*

Fox represented Terri Schiavo in a medical malpractice case that arose from her bulimia in which he obtained a jury verdict for her of \$6 million. Following the medical malpractice win, the case became international news as her husband and parents squared off over who had the right to determine whether she should be allowed to die due to her vegetative state or whether all efforts should be made to keep her alive on life support.

Terri's plight soon became the focus of former President George W. Bush, former Florida Gov. Jeb Bush, and the Pope, as well as massive debate in the court of public opinion.

"It was one of the most high-profile cases any lawyer could have," Fox said.

*Estate of Tayon Tomlin v. Lincoln Marti Daycare*

Cain, Levine and Bello represented the parents in a lawsuit against the daycare facility found responsible for the death of their 9-month-old son. While the daycare claimed he died due to an uncontrollable medical issue, the attorneys used surveillance footage, medical records, training records, and depositions of daycare employees to obtain discovery revealing the daycare's incompetence, poor training and inadequate staffing. Four months later, the case settled for \$5 million—which was \$2 million more than the daycare's insurance policies.

"Having a small number of cases enabled us to properly focus on this one and complete it in just a few months, work that would normally take over a year—and to secure a settlement that was substantially over the insurance policy limits," Levine said. "It also brought comfort to our clients to develop a personal relationship

with us and reach us anytime on our personal cell phones."

*Estate of Chad Meredith v. Travis Montgomery.*

The 2001 drowning of Chad Meredith, a freshman at the University of Miami recruited to play baseball and the first in his family to attend college, is considered one of America's high-profile hazing incidents. The firm considers this one of the most challenging cases, as Meredith's death was not part of a fraternity-sponsored event as he was not yet a pledge and had consented to swim.

Ignoring everyone who said they could never win by suing the two fraternity leaders, Bianchi and Cain moved forward and after a one-week trial secured what to this day represents the country's largest hazing verdict: \$14 million.

"What they did to Chad was wrong," Bianchi said. "We felt terrible for his family, and we were going to take the case all the way because the family deserved that."

Bianchi said the defendants came across arrogant and cocky. "All we wanted was to put them in front of a jury."

Following the verdict, the defendants appealed, and the case settled while the appeal was pending. After the case was settled, Bianchi promised the family that he would work to improve Florida's anti-hazing law and immediately began working on that. His proposed changes, which were passed by the Florida legislature unanimously, were signed into law by Gov. Jeb Bush on the UM campus where Chad died. The "Chad Meredith Act" eliminated certain defenses raised by the defense lawyers in Meredith's wrongful death case so they could not be used in future cases and stiffened the penalties for those

who haze and cause serious personal injury or death.

### *Kaplan v. Mercedes Benz*

Bianchi and Cain won the country's first jury verdict against Mercedes-Benz in a defective side airbag case. The case concerned an airbag in the driver's door of an S400 that failed to deploy in a side impact, resulting in the traumatic amputation of the driver's left arm.

"Mercedes fought us tooth and nail, objecting to almost every ounce of discovery, requiring multiple motions to compel responses and multiple hearings where they claimed to not have many of the most basic documents we asked for," Cain said.

At trial, Bianchi and Cain delivered the Kaplan vehicle to the courthouse on a flatbed and brought the jury outside to see it. When the trial was over the jury found that the airbag system in the vehicle was defective and returned a \$2.4 million verdict for the plaintiffs. Coupled with other recoveries Bianchi and Cain made in the case, the total recovery for the clients was \$8 million.

"Many lawyers will not touch automotive product liability cases because they are complex, expert intensive, very expensive, hard fought and take a long time, but we have sued most of the major automobile manufacturers over the years and done very well for our clients

in each of them," Cain said. "It is all about case selection and the willingness to spend whatever time and money it takes to prevail."

### *Estate of Claude Bryant v. Portable Pumping Systems Inc.*

Levine and Bello represented a construction worker who died of electrocution when an excavator he was operating made contact with a live powerline. Like other cases accepted by the firm, it had been rejected by another firm that had classified it as a simple workers' compensation matter only worth the \$150,000 available under Florida law. However, Levine and Bello said they uncovered facts showing safety violations that developed a case for gross negligence and the intentional tort exception to workers' compensation immunity. They also developed a case against an executive of the victim's employer, which triggered coverage for corporate officers, helping pave the way to this policy limits settlement.

Three months after suing Portable Pumping Systems, they settled the case for \$2 million, the full amount of the available insurance.

"We've continued to work on a number of workplace accident cases, which are often overlooked by other firms because of the challenges posed by Florida's workers' compensation law," Bello said.