

ROBERTS & ROBERTS

"An East Texas law firm with a history of helping injured people."

SAFETY & THE LAW

Winter 2007

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ROBERTS & ROBERTS

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From left to right:

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RANDELL (RANDY) C. ROBERTS

STEVEN S. SCHULTE • KAREN R. ROBERTS

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TEXANS HAVE LITTLE PROTECTION FROM UNSAFE FOREIGN PRODUCTS

Dear Readers:

A lot of public concern is being expressed about the safety of products made in China and third-world countries. I wonder if the public would also be concerned if it realized that the Texas legislature has effectively eliminated our right to go to court for injuries or deaths caused by these products?

A young mother recently brought her two year old son, Hayden, into my law office. A finger on Hayden's dominant hand had been amputated when his finger was caught in the metal pinch point of a children's toy set. Metal pinch points are a recognized hazard, and they violate the minimum safety standards for children's products. Nonetheless, a well-known national retailer had sold this unsafe toy set to Hayden's mother.

Hayden is facing expensive reconstructive surgery and protracted therapy. By the most optimistic medical prognosis, he will always be disfigured. His opportunities to excel in certain sports, musical activities, and professions will always be limited. Hayden's mother needed help, and she wanted to make sure that this never happened to another child.

Unfortunately, this toy set was manufactured in China. I had to explain to this mother that in the name of protecting the "innocent retailer," the Texas legislature in 2003 granted immunity to every business that had profited from the sale of this unsafe product, except for the shop somewhere in China that actually made this toy set. Sellers, even the largest national retailers, distributors, wholesalers, and importers, have no liability for the harm caused by the products they sell in Texas. They cannot be held accountable, so long as they can identify the "responsible" manufacturer in court.

It's too late to help Hayden. Every day, however, more children and their families are put at risk by unsafe products manufactured in foreign countries. I hope that our Texas legislature will one day see fit to limit the protection of the "innocent retailer" law to the "mom and pop" stores that this law was originally intended to protect. National retailers and large corporations are in a position to require that the products which they import and sell meet minimum safety standards and are adequately insured. Their nationwide advertising campaigns encourage us to trust their products, and the Texas legislature should allow us to hold them accountable for our trust. When no one is accountable, no one is safe.

Sincerely,

Randell (Randy) C. Roberts
Roberts & Roberts

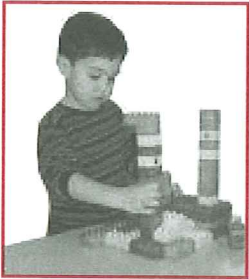
Roberts & Roberts is listed in the Martindale-Hubbell® Bar Register of Preeminent Lawyers™.

BUYING SAFE TOYS THIS HOLIDAY SEASON

Each year, more than 100,000 children are hurt by toys. Some are seriously injured. Some even die. These injuries do not have to happen. The Consumer Product Safety Commission has offered the following safety tips for buying safe toys:

Pay Attention To Age Labeling

Toys are often labeled according to the ages of children who can use them safely. For instance, "For Ages Three and Over" means that the toy has small parts on which young children can choke, or sharp points, strings, or elastics that can injure kids under three. It does not always mean that the toy is too advanced for your bright two-year old.



Look For Small Parts

The federal government established a safe size for toys for kids under three. A small part should be at least 1¼ inches in diameter and 2¼ inches long. Any part smaller than this, or which might break into pieces smaller than this, is a potential choking hazard.

Check For Sharp Points And Edges

New toys intended for children under eight years of age should, by regulation, be sold free of sharp points as well as sharp glass and metal edges. Kids, however, love to throw their toys, or they may leave them where they can fall on them. Watch out for toys with glass or easily breakable plastic that will form a sharp point or edge when broken.

Watch Out For Cords And Strings

Toys with long strings or cords may be very dangerous for infants and very young children. The cords may become wrapped around an infant's neck, causing strangulation. Never buy toys with long strings, cords, loops, or ribbons to hang in cribs or playpens where children can become entangled.

Small toys are BIG business. Our product safety laws require that toys be designed safely not only for their intended use by our children but also for their reasonably foreseeable misuse. The next time someone tells you that we need to weaken our product safety laws, remember what is at stake.

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Our Attorneys Specialize in Representing Victims of:

- Bodily Injury and Wrongful Death
- Truck, Auto, and Motorcycle Accidents
- Unsafe Equipment, Products and Toys
- Toxic Chemical Exposures
- Unsafe Medical Devices and Drugs
- Watercraft and Swimming Accidents
- Unsafe Premises
- Insurance Claims
- Industrial and Construction Accidents
- Falls, Fires, and Electrical Accidents
- Sports, Guns, and Recreational Accidents
- Professional Malpractice, Including Legal Malpractice
- Oil Field Accidents
- Nursing Home Neglect
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THE INITIAL CONSULTATION IS FREE.

The attorney's fee is a percentage of your recovery. You are not obligated to pay any attorney's fee, court costs, or other legal expenses unless you are compensated.

If you know of someone who is injured, call Roberts & Roberts...
The call costs you nothing. It can mean everything.

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All calls are answered 24 hours a day, 7 days a week.

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TEXAS GOOD FAITH DONOR ACT

Question:

If I donate apparently wholesome food to a charity, can I be liable if my food causes food poisoning?

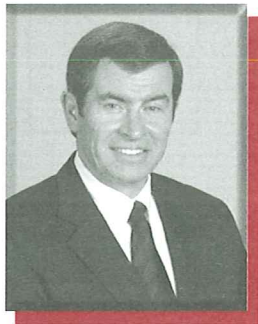
Answer:

No. The Texas Good Faith Donor Act generally protects you from liability in such circumstances. The Act also protects nonprofit organizations that distribute apparently wholesome food to the needy at no charge. The Act provides no protection, however, from food poisoning that results from gross negligence, recklessness, or intentional misconduct. You should never donate canned goods that are leaking, swollen, dented on a seam, or no longer airtight.



This newsletter is printed on recycled paper.

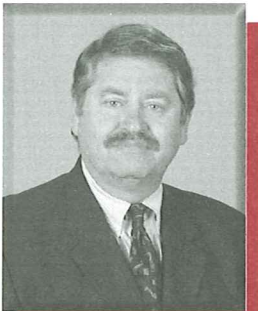
THE ATTORNEYS OF ROBERTS & ROBERTS



RANDELL (RANDY) C. ROBERTS

Randy has been recognized in Time, Newsweek, Ladies Home Journal, and the Texas Lawyer as well as on CNN and NBC's Dateline for his role in uncovering the documents that led to the recall of the Firestone Radial ATX and Wilderness lines of tires. His ground breaking case against Firestone is featured in

McGraw-Hill's college textbook on corporate crime entitled Criminology and the Criminal Justice System. Randy has been named a "Texas Super Lawyer" by Texas Monthly because of his success in representing people injured by unsafe products. He is Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization.



BRUCE L. ROBERTS

Bruce attended the University of Texas School of Law, graduating in 1981. After working for a year in the Twelfth Court of Appeals for the State of Texas, he joined his brother in forming the law firm now known as Roberts & Roberts. In addition to being

Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization, he has also been recognized as a Civil Trial Advocate by the National Board of Civil Trial Advocacy. He is a member of the State Bar College of the State of Texas.



KAREN R. ROBERTS

Karen received her J.D. in 1994. She devotes her practice to representing people injured by unsafe practices and products. She serves as a Trustee with ATLA's National College of Advocacy (NCA) and has attained the status of "Fellow" with the NCA. She is Chair of the Texas

Trial Lawyer's Board of Advocates. Karen is also a member of the College of the State Bar of Texas, an honorary society chartered by the Supreme Court of Texas.



SEAN W. HESTER

Sean attended Baylor University Law School where he earned his Doctorate of Jurisprudence (J.D.) in 1992.

Sean practiced law as a solo practitioner representing injured people for many years before joining the law firm of Roberts & Roberts. In addition to trying lawsuits, Sean has

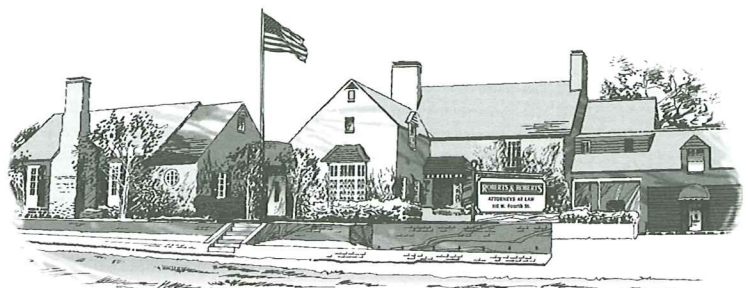
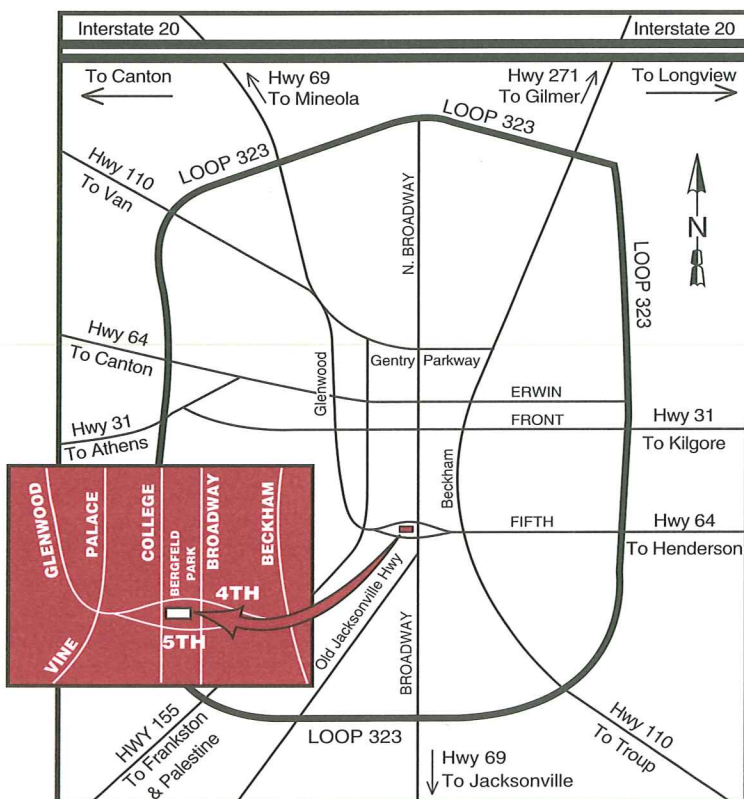
handled several appeals. Sean was selected as a "Texas Super Lawyer-Rising Star" by Texas Monthly which is an honor given to only 2.5% of Texas Attorneys each year. Sean is Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization.



STEVEN S. SCHULTE

Steven received a Doctorate of Jurisprudence (J.D.) and a Master of Laws (LL.M.) in Taxation from Southern Methodist University's Dedman School of Law in 2005 and in 2006 respectively. While in law school, Steven participated in the SMU civil legal clinic as a student

attorney and as chief counsel. In addition to the civil clinic, Steven served as a legal research assistant for a sole practitioner in Dallas, Texas. Steven also has experience working as an extern with the United States Department of Justice, Bureau of Alcohol, Tobacco and Firearms.



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CONSUMER PRODUCT WARNINGS & RECALLS

■ **CIRCULAR SAWS** - Robert Bosch Tool Corp. has recalled approximately 811,000 Skil brand circular saws because the trigger switch can be locked on or the switch can be turned on without the use of the safety lock-out. This can cause unexpected operation of the saw, posing a risk of laceration. The recall affects Skil brand circular saws with model numbers 5650, 5700, 5750, and 5755. The model number and date code are printed on the nameplate located on the front of the saw. The recall includes the following date codes: 28101-29231; 38101-39231; 48101-49231; 58101-59231; and 68101-69231. Please contact Robert Bosch Tool Corp. for instructions on receiving a free repair.

■ **FISHER-PRICE TOYS** - Fisher Price Inc. has recalled approximately 967,000 children's toys because they are coated with paint that contains excessive levels of lead. Lead is toxic if ingested by young children and can cause adverse health effects. The recall affects 83 different figures and toys, including Sesame Street, Dora the Explorer, Elmo, and Ernie. These figures and toys were manufactured between April 19, 2007 and July 6, 2007, and were sold alone or as part of sets. The toys may have a date code between 109-7LF and 187-7LF marked on the product or packaging. Fisher-Price Inc. will give consumers who return the toys a voucher for a replacement toy up to the value of the returned product.

■ **DIE-CAST TOY CARS** - Mattel Inc. has recalled approximately 253,000 "Sarge" die-cast toy cars because surface paints on the toys could contain lead levels in excess of federal standards. Lead is toxic if ingested by young children and can cause adverse health effects. The recalled toy looks like a military jeep, and measures about 2 inches long by 1 inch high by 1 inch wide. It has the markings "7EA" and "China" on the bottom. The "Sarge" toy car is sold alone or in a package of two, and may have the product number M1253 (for single cars) and K5925 (for cars sold as a set) printed on the packaging. Consumers will need to return the product to receive a replacement toy.

■ **OUTDOOR LOUNGE CHAIRS** - LG Sourcing Inc. has recalled approximately 6,000 Garden Treasures Cloud 9 Beyond outdoor lounge chairs because the chair can break when in the reclined position, posing a fall hazard to consumers. The models affected by the recall are Garden Treasures Cloud 9 Beyond outdoor lounge chairs in tan with a light steel frame, cloth seat, a pillow at the headrest, and an adjustable sun visor. The recalled chairs were sold at Lowe's retail outlet stores nationwide from December 2006 through April 2007 for about \$60. Please contact a Lowe's retail outlet store for a full refund.

■ **SLEEPY CRIB FOAM MATTRESSES** - Stokke LLC has recalled approximately 1,000 crib mattresses because they are not properly sized, which creates a gap and poses an entrapment hazard to young children. The recall affects Oval-shaped Sleepy cribs with foam mattresses sold under the following model numbers: 660321, 660320, 660301, 660305, 660318, 652268, 652269, 652246, 652247, and 652248. Please contact Stokke LLC for a free replacement mattress.

■ **SPONGEBOB SQUAREPANTS ADDRESS BOOKS, JOURNALS** - Martin Designs Inc. has recalled approximately 250,000 SpongeBob SquarePants address books and journals because the paint on the metal spiral bindings of the address books and journals can contain excessive levels of lead, which, if ingested by young children, can cause adverse health effects. The recall affects address books and journals with SpongeBob SquarePants character on the front cover and a black metal spiral binding, bearing on the back covers UPC numbers 80773007505 for the address book and 80773002260 and 80773075501 for the journal. Consumers are advised to remove the UPC as proof of ownership and contact Martin Designs Inc. for a full refund.

■ **PORTABLE ELECTRIC HEATERS** - Aloha Housewares Inc. has recalled approximately 281,000 portable electric heaters because they can overheat, posing a fire hazard. The recall affects white-colored "Aloha Breeze" portable electric heaters bearing the model number 05226 and date codes of 07/05, 08/05, and 11/05. Please contact Aloha Housewares Inc. for instructions on receiving a free replacement.

■ **WEATHER RADIOS** - Oregon Scientific Inc. has recalled approximately 66,000 weather radios because the radios could fail to receive National Weather Service alert signals in certain areas of the country. In the event of severe weather, this failure could put a consumer's life and property at risk. The models affected by the recall are Oregon Scientific Weather Radios. Please contact Oregon Scientific Inc. for instructions on returning the radio to receive a free replacement.

■ **FORD VEHICLES** - Ford Motor Co. has recalled approximately 3.6 million vehicles to fix faulty speed control deactivation switches that could leak, overheat, and cause underhood fires. The models affected by the recall are 1998-2002 Ford Ranger; 1992-1998 Crown Victoria, Mercury Grand Marquis, and Lincoln Town Car; 1993-1998 Lincoln Mark VIII; 1993-1995 Ford Taurus SHO with automatic transmission; 1994 Mercury Capri; 1999-2001 Ford Explorer and Mercury Mountaineer; 2001-2002 Ford Explorer Sport and Explorer Sport Trac; 1992-1993 and 1997-2003 Ford E-150-350 gasoline or natural-gas vehicles; 2003 E-450 gasoline or natural-gas vehicles; 1993 Ford Bronco; 1993 Ford F-Series gasoline or natural-gas vehicles; 1995-2002 Ford F53 motorhome chassis; and 2003-2004 Ford F-150 Lightning vehicles equipped with speed control. Please contact Ford Motor Co. to install a fused wiring harness into the speed control electrical circuit or to replace the deactivation switch with a new generation switch if it is found to be leaking.

■ **MAZDA B-SERIES TRUCKS** - Mazda Motor Corp. has recalled approximately 76,000 Mazda B-Series trucks because the speed control deactivation switch could leak, overheat, and cause an underhood fire. The models affected by the recall are 1998-2002 Mazda B-Series trucks equipped with a speed control system. Please contact your Mazda dealership to install a fused wiring harness.

■ **SUZUKI MOTORCYCLES** - American Suzuki Motor Corp. has recalled approximately 13,400 Suzuki motorcycles because the idle speed control (ISC) valve could remain in the open position instead of moving to the correct start-up position, causing the engine to idle too high when the rider restarts the engine. The recall affects models 2007 Suzuki GSX-R1000. Please contact your Suzuki dealership to replace the ISC valve with an improved part, and to replace the electronic control module.

■ **WHEELCHAIR LIFTS** - The Braun Corp. has recalled approximately 13,000 Braun wheelchair lifts because their threshold systems do not comply with federal platform lift standards, and if they fail to operate, they could cause the lift user to fall from the vehicle. The recall affects Braun wheelchair lifts models NCL, NL, and NVL, manufactured between July 6, 2005 and July 19, 2006. Please contact The Braun Corp. to repair the wheelchair lifts.

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Defective Product	\$5,750,000
Auto Accident	\$5,000,000
Gas Explosion	\$4,100,000
Electrical Accident	\$4,000,000
Trucking Accident	\$3,250,000
Oil Field Accident	\$2,300,000
Auto Defect	\$2,000,000
Motorcycle Accident	\$1,800,000
Inadequate Premises Security	\$1,725,000
Loading Dock Accident	\$1,665,000
Auto Accident	\$1,520,000
Lumber Company Accident	\$1,500,000
Auto Accident	\$1,500,000
Defective Product	\$1,400,000
Railroad Crossing Accident	\$1,200,000
Auto Accident	\$1,125,000
Construction Accident	\$1,100,000

**Results obtained depend on facts of each case.*

You may obtain more information about product recalls by visiting www.RobertsLawFirm.com or by calling the Consumer Product Safety Commission at 1-800-638-2772, the U.S. Department of Transportation Auto Safety Hotline at 1-800-424-9393, or the Food and Drug Administration at 1-800-332-1088.

The information in this newsletter is extracted from contemporary safety literature. The original sources are available upon request.