

ROBERTS & ROBERTS

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

SAFETY & THE LAW

Spring 2009

IN THIS ISSUE:

WORK ZONE ACCIDENTS KILL MORE DRIVERS THAN WORKERS



SCOOTER SALES SKYROCKET, INJURIES SOAR



ANSWERS TO LEGAL QUESTIONS



CONSUMER PRODUCT RECALLS

WORK ZONE ACCIDENTS KILL MORE DRIVERS THAN WORKERS

Drivers and car occupants suffer four out of five fatalities in U.S. highway work zones. This statistic alone should encourage drivers to be more cautious when driving through work zones.

"You can set up the best possible work zone from an engineering and enforcement perspective, but the one thing you can't control is the driver speeding through the zone or driving in an inattentive fashion," says Jennifer Gavin, deputy director of communications for the American Association of State Highway and Transportation Officials. She says that's why the push, under way now, is to remind the driving public of the consequences of not exercising proper vigilance and adhering to posted speed limits in work zones.



Work zone fatalities are increasing. In 2005, alone, there were 1,074 work zone fatalities—2.5% of all roadway fatalities for the year. Increasing construction activity is a contributing factor in this statistic.

"It will take a three-part effort," says Gavin. "Engineering has to be strong. Enforcement has to be applied as broadly as possible within budget constraints. And finally, we've got to get across to drivers that this isn't somebody else's problem, and they are in control of it."

Drivers should adhere to the following safety tips to help protect them from a work zone accident.

EXPECT THE UNEXPECTED—Normal speed limits may be reduced, traffic lanes may be changed, and people may be working on or near the road.

SLOW DOWN—Speeding is a major cause of work zone crashes.

DO NOT TAILGATE AND GIVE ROOM—Keep a safe distance between you and the vehicle ahead of you and the construction workers and their equipment.

PAY ATTENTION TO SIGNS AND OBEY FLAGGERS—The warning signs are there to help you and other drivers move safely through the work zone. The road crew flagger knows what is best for moving traffic safely in the work zone.

STAY ALERT—Pay full attention to the roadway and avoid changing radio stations or using cell phones while driving in a work zone.

ROBERTS & ROBERTS

ATTORNEYS AT LAW

118 W. Fourth St. • Tyler, Tx 75701-4000

903-597-6000

1-800-248-6000



**BRUCE L. ROBERTS • SEAN W. HESTER
RANDELL (RANDY) C. ROBERTS
STEVEN S. SCHULTE • MICHAEL ACE**

To read about us in the national media, visit our website at www.RobertsLawFirm.com

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

SCOOTER SALES SKYROCKET, INJURIES SOAR

The Consumer Product Safety Commission (CPSC) has reported that emergency room-treated injuries relating to popular lightweight scooters has increased sixteen-fold in recent years. In these recent years, there have been a significant number of scooter-related injuries treated in emergency rooms throughout the United States, and some of these injuries have resulted in death. A large percentage of these injuries were to children below 15 years of age.

CPSC recommends that riders, and especially children, wear proper safety gear, including a helmet and knee and elbow pads to help prevent injuries. CPSC has estimated that more than half of the injuries could have been prevented or reduced in severity if protective gear had been worn by scooter riders.

These scooters, which first went on the market in the United States, are new versions of the foot propelled scooters that were first popular in the 1950s. They are made of lightweight metal and have small low friction wheels similar to those on inline skates. They usually cost between \$50 and \$120, typically weigh less than 10 pounds, and can be folded for easy portability.

Most injuries occurred when riders fell from the scooter. Fractures and dislocations, primarily to the arms and hands, accounted for about one-quarter of the injuries. The best investment against injury is protective gear, which can typically cost less than \$30.



CPSC recommends that riders adhere to the following safety guidelines:

- Always wear a helmet that meets CPSC's bike helmet standard, along with knee and elbow pads.
- Make sure both handle bars and the steering columns are securely locked in place before riding.
- Routinely check all nuts and bolts to be sure they are secure.
- Always ride the scooters on smooth, paved surfaces without any motor vehicle traffic. You should avoid streets, or surfaces with water, sand, gravel, and dirt.
- Do not ride the scooter at night.

ROBERTS & ROBERTS

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
- On-The-Job Injuries

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.

903-597-6000 • 1-800-248-6000

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

www.RobertsLawFirm.com



YOUR RIGHT TO RECOVER YOUR PROPERTY DAMAGE DEDUCTIBLE

Question:

My car was hit by an uninsured driver. My insurance company paid for the damage to my car, but I am still out my \$250.00 deductible. Do I have any rights?

Answer:

Yes. If the other driver was at fault, your insurance company must bring an action against the other driver to collect your deductible. Your insurance company is required to do this within 12 months after paying your claim. If it does not, then your insurance company must pay you the amount of the deductible.

There is an exception to this law — if your insurance company properly notifies you of its decision not to pursue collection, it does not have to pay your deductible. It must notify you in writing of its decision and it must authorize you to bring your own action against the other driver.



THE ATTORNEYS OF ROBERTS & ROBERTS



LANDELL (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.



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 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.



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.



MICHAEL ACE

Mike attended Baylor University (B.B.A. 1980) and Baylor University School of Law (J.D. 1982). He began his legal career in 1982 with the Tyler law firm now known as Ramey & Flock. Mike has always concentrated his practice in personal injury and civil trial law. In 1990, he was awarded Certificates of Special Competence in

Personal Injury Trial Law and Civil Trial Law by the Texas Board of Legal Specialization. He has also had the privilege of serving on the Texas Supreme Court Pattern Jury Charge Committee. In 2000, Mike was credentialed by the National Mediation Academy and has served as a mediator in a variety of personal injury and civil trial matters.



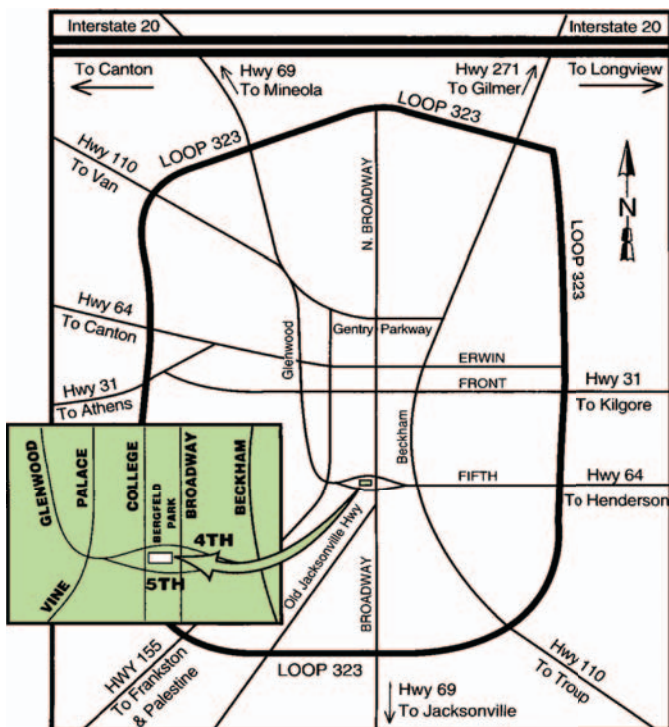
STEVEN S. SCHULTE

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.



Located beside Bergfeld Park on Broadway.



CONSUMER PRODUCT WARNINGS & RECALLS

■ **CADILLAC CTS VEHICLES**—General Motors Corp. has recalled approximately 12,600 Cadillac CTS vehicles to fix a software glitch that could cause faulty operation of the front passenger air bag. The models affected by the recall are 2009 Cadillac CTS vehicles. Please contact your local General Motors dealership for more information relating to this recall.

■ **CHILDREN'S NECKLACE SETS**—Claire's Boutiques Inc. has recalled approximately 67,000 children's necklace sets because they contain high levels of lead. The recalled set of two Best Friends Yin-Yang necklaces have a silver-colored metal bead type chain and a lobster-claw clasp. Please contact your local Claire's Boutique for a refund.

■ **GE OVENS**—GE Consumer & Industrial has recalled approximately 244,000 self-cleaning wall ovens manufactured in the United States because they pose a fire hazard if the oven door has been incorrectly reattached. The models affected are GE wall ovens in black, white, bisque, and stainless steel. Please contact GE for a free repair.

■ **POOL TOYS**—Modell's Sporting Goods has recalled approximately 130 Swim 'N Score Pool Stix toys because they pose a risk of impalement injuries to children, as well as eye and other facial injuries. The recalled Pool Stix toys are weighted plastic tubes, which stand upright when tossed into water. The sticks are about eight inches long and came in packs of six in various colors. The UPC (#4969382814) is printed on the product's packaging. They were sold at Modell's Sporting Goods stores nationwide from August 1999 to October 2008 for about \$3. Please return the recalled toys to any Modell's Sporting Goods stores.

■ **TIN CANDLES**—Candela Group has recalled approximately 225 Anthropologie Tin Candles because flames could flare up out of the tin container during the burning of the last half inch of wax, posing a fire and burn hazard. The models affected by the recall include: Amber Woods, model 14987044; Black Lilac, model 4987093; Figue Tree, model 14987085; and Red Currant, model 14987051. The recalled candles were sold at Anthropologie stores nationwide from September 2008 through October 2008 for about \$20. Please contact Candela for further information relating to this recall.

■ **AIR COMPRESSORS**—Brownie's Third Lung has recalled approximately 1,000 air compressors because the components can fail, which could cause a stoppage of air flow and pose a risk of drowning to users. The recalled compressors include gas-powered direct drive hookah compressor assemblies and dual-head electric direct drive compressor assemblies. They were sold at Brownie's Third Lung factory and various marine/diving products resellers nationwide from July 2007 through August 2008 for between \$2,000 and 3,500. Consumers are being directly notified of this recall.

■ **DIVE STICKS**—Target has recalled 365,000 dive sticks because they pose an impalement hazard to young children. The recalled dive sticks were sold in a bundle of three in multiple colors, light blue, and red. They were sold exclusively at Target stores nationwide from April 2008 through August 2008. Please contact Target for a refund.

■ **OFF-ROAD COMPETITION MOTORCYCLES**—Honda has recalled an estimated 13,000 off-road competition motorcycles because the weld on the right side of the swing arm can fail, causing the rider to lose control and crash, which could pose a risk of injury or death. The models affected are 2007-2008 Honda CRF150R/RB motocross competition motorcycles, which were sold by Honda motorcycle dealers nationwide from September 2006 through October 2008 for between \$4,300 and \$4,400. Honda is sending notices to registered owners of the recalled motorcycles.

■ **SERTA MATTRESSES**—Serta International has recalled approximately 6,100 mattresses because they violate the Federal Mattress Flammability Standard. Models affected by the recall are Serta zipper-covered foam core mattresses that were manufactured between November 30, 2007 and May 20, 2008. They were sold in twin, full, queen, king and California king sizes at mattress retailers nationwide from December 2007 through May 2008. Consumers are advised to contact Serta for additional information relating to this recall.

■ **HONDA VEHICLES**—American Honda Motor Co. has recalled approximately 3,900 Honda Accord and Civic vehicles because the air bag inflator could rupture if the air bag deploys. The models affected by the recall are 2001 Honda Accord and Civic vehicles. Please contact your local dealership for more information relating to this recall.

■ **BMW M3 VEHICLES**—BMW AG has recalled approximately 2,500 BMW passenger vehicles because of a problem with the double clutch gearbox in the optional double clutch transmission. The models affected by the recall are 2008-2009 M3 passenger vehicles with an optional double clutch transmission. Please contact your local BMW dealership for more information relating to this recall.

■ **DAIMLER TRUCKS**—Daimler Trucks North America has recalled approximately 16,000 Thomas Built school and transit buses because the contacts in the pressure switch for the low current brake lamp signal to the chassis engine control unit may have become contaminated by silicone during assembly, causing deposits that can over time prevent the brake lamps from operating. The models affected by the recall are 2005-2009 FCCC and Thomas Built school and transit buses manufactured between March 2005 and May 2008 that are equipped with a certain brake lamp air pressure switch. Please contact your dealership for more information relating to this recall.

ROBERTS & ROBERTS

*Nationally Recognized as
Fighting For Injured People...*

CNN TEXAS SUPER LAWYERS
TIME TEXAS MONTHLY
NEWSWEEK TEXAS LAWYER
DATELINE NBC TIME ANNUAL

*...and Getting Results!**

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.