

ROBERTS & ROBERTS

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

SAFETY & THE LAW

Winter 2009

IN THIS ISSUE:

**BIG SUVs, LITTLE PEOPLE:
HOW TO PROTECT KIDS IN
DRIVEWAYS**



**WINTER SAFETY TIPS FOR THE
HOME**



ANSWERS TO LEGAL QUESTIONS



CONSUMER PRODUCT RECALLS

ROBERTS & ROBERTS

ATTORNEYS AT LAW

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

903-597-6000

1-800-248-6000



BRUCE L. ROBERTS

Board Certified

SEAN W. HESTER

Board Certified

RANDELL C. ROBERTS

Board Certified

MICHAEL ACE

Board Certified

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

BIG SUVs, LITTLE PEOPLE: HOW TO PROTECT KIDS IN DRIVEWAYS

Each year, thousands of children are hurt or killed by drivers accidentally backing over them. These incidents take place in residential driveways or parking lots for the most part. Because more people are driving larger, longer and higher vehicles, we are seeing many more backover incidents.



Although educating drivers and parents is one way of preventing these types of incidents, making vehicles safer will also help. The Cameron Gulbransen Kids Transportation Safety Act, signed into law by President George W. Bush in February 2008, is aimed at regulating power window safety, improving rearward visibility and preventing rollaway cars. The Act was named after two-year-old Cameron, killed when he was inadvertently backed over by an SUV driven by his father. The blind zone behind the vehicle made it impossible to see the boy.

The Act requires the National Highway Transportation Safety Administration (NHTSA) to begin crafting rules that would require power windows and panels to automatically reverse direction if there is something like a child's head or pet obstructing the path of the window or panel. In the European Union (EU) 80% of cars already have auto-reverse sensors, meaning there is little chance of a limb or pet being trapped by a window. This Act also mandates that automakers install cameras in the back of an SUV so reversing drivers will have clear visibility of what might be in the way. Many foreign and domestic cars already have this feature. All vehicles have a blind spot when reversing, but some are more than 50 feet long, according to *Consumer Reports*.

Another requirement of the Act is that a vehicle's service brake must be engaged in order to shift out of park, meaning a driver must have his or her foot on the brake pedal when shifting out of park so that the vehicle does not unintentionally shift into reverse or neutral, allowing it to roll downhill with someone inside. This legislation also establishes a database on injuries and deaths unrelated to traffic accidents or crashes, and initiates a child safety information program to inform parents on these hazards and the technologies designed to prevent them. The phase-in of these programs is expected to take 4 to 8 years.

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

WINTER SAFETY TIPS FOR THE HOME

Wood Stoves and Fireplaces

Wood stoves and fireplaces are becoming a very common heat source in homes. Careful attention to safety can minimize their fire hazard. To use them safely:

- Be sure the fireplace or stove is installed properly.
- Wood stoves should be of good quality, solid construction and design, and should be UL listed.
- Have the chimney inspected annually and cleaned.
- Do not use flammable liquids to start or accelerate any fire.
- Keep a glass or metal screen in front of the fireplace opening to prevent embers or sparks from jumping out and help prevent the possibility of burns to occupants.
- Do not use excessive amounts of paper to build roaring fires in fireplaces. It is possible to ignite creosote in the chimney by overbuilding the fire.
- Never burn charcoal indoors. Burning charcoal can give off lethal amounts of carbon monoxide.
- Before you go to sleep, be sure your fireplace fire is out and never close your damper with hot ashes in the fireplace.
- NEVER break a synthetic log apart to quicken the fire or use more than one log at a time.



Other Fire Safety Tips

- Avoid using electrical space heaters in bathrooms, or other areas where they may come in contact with water.
- Use hot water or a UL labeled device such as a hand held dryer for thawing frozen water pipes.
- Be sure that all the windows used as emergency exits open easily.
- Never use a range or an oven as a supplemental heating device.
- If you use an electric heater, be sure not to overload the circuit.
- Never discard hot ashes inside or near the home.

ROBERTS & ROBERTS

Our Attorneys Specialize in Representing Victims of:

- | | |
|---|---|
| • Bodily Injury and Wrongful Death | • Industrial and Construction Accidents |
| • Truck, Auto, and Motorcycle Accidents | • Falls, Fires, and Electrical Accidents |
| • Unsafe Equipment, Products, and Toys | • Sports, Guns, and Recreational Accidents |
| • Toxic Chemical Exposures | • Professional Malpractice, including Legal Malpractice |
| • Unsafe Medical Devices and Drugs | • Oil Field Accidents |
| • Watercraft and Swimming Accidents | • Nursing Home Neglect |
| • Unsafe Premises | • On-the-Job Injuries |
| • Insurance Claims | |

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 COMPENSATION FOR LOSS OF USE WHEN YOUR CAR IS BEING REPAIRED

Question:

My car is at the garage being repaired by the other driver's insurance company. Am I entitled to be compensated for the loss of the use of my car, even though I do not need to rent another car?

Answer:

Yes. The law provides that you are entitled to compensation for the loss of the use of your vehicle while it is being repaired. This is the reasonable rental value of a substitute car.

You do not have to rent a replacement or actually spend money for alternative transportation to be entitled to compensation for the loss of the use of your car.

KNOW YOUR RIGHTS...



LET US PROTECT THEM

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.



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.

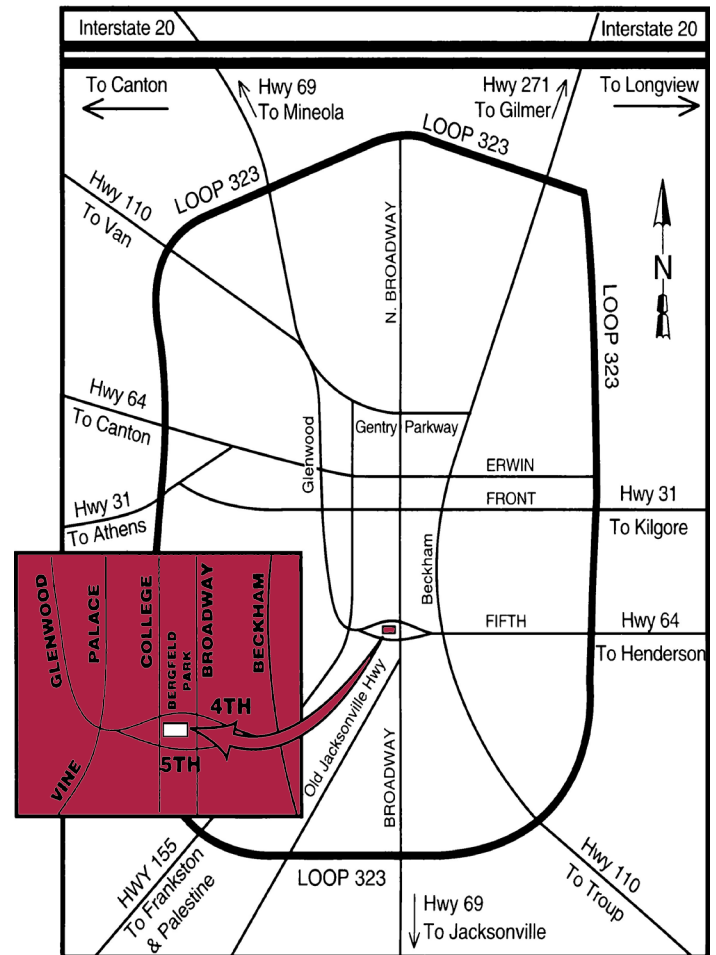
Sean was selected as a "Texas Super Lawyer-Rising Star" by *Texas Monthly*, which is an honor given to only 2.5% of Texas attorneys each year. Sean is Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization.



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.



Located beside Bergfeld Park on Broadway.

CONSUMER PRODUCT WARNINGS & RECALLS

■ **DVD Players**---Durabrand has added about 2.7 million DVD players to an earlier recall, bringing the total number of recalled DVD players to 4.2 million. The recall is because the circuit board can overheat, posing a fire and burn hazard. They are manufactured in China and sold by Wal-Mart Store Inc. Models affected by the recall are pink and purple Durabrand DVD players. Please contact Wal-Mart for a full refund.

■ **Office Chairs**---Office Max has recalled about 216,000 Office Max Task chairs because the back and the base post of the chair can break while in use, posing a fall hazard. Models affected by this recall are Task Chairs with model numbers OM182 and OM96614. Please contact Office Max for a full refund or a \$55.00 gift card.

■ **Electronic Ranges**---Frigidaire, a division of Electrolux Home Products Inc., has recalled about 200,000 Frigidaire and Kenmore Smoothtop electric ranges because the surface heating elements can turn on spontaneously without being switched on, fail to turn off after being switched off, or heat to temperatures other than those selected, all of which pose a fire and burn hazard. Models affected by the recall are Frigidaire and Kenmore Smoothtop Electric Ranges: Frigidaire Gallery, Frigidaire Professional, and Kenmore Elite smoothtop electric ranges with rotary knobs and digital displays. Please contact Frigidaire and Sears to schedule your free repair.

■ **Bunk Beds**---Big Lots has recalled approximately 20,000 wooden bunk beds because the mattress support slats and side support railings can break, posing a risk of the bunk bed collapsing. Models affected by this recall are wooden bunk beds with a three-step ladder, models WP-9108-1 and WP-9108-2. Consumers are advised that Big Lots is arranging for returns of the defective parts and will provide free repair kits.

■ **Wagner Paint Sprayers**---Spray Tech Corp. has recalled about 35,000 Wagner sprayers because the on-off switch can be dislodged from the casing, resulting in exposure of electrical connections, which poses an electrical shock hazard. The model affected by the recall is the Wagner Control Spray Plus model number 0414248, sold by major chain home centers and hardware stores nationwide from August 2007 through April 2009 for about \$99. Please contact Wagner for a free repair.

■ **Fluke Digital Clamp Meters**---Fluke Corp. has recalled about 52,000 digital clamp meters because they can fail to give an appropriate voltage reading, resulting in the operator falsely believing the electrical power is off, which poses a shock electrocution, or thermal burn hazard. Models affected by this recall are Fluke Digital Clamp Meters, measuring 0 to 600 volts alternating current (VAC), 0 to 600 volts direct current (VDC), and 0 to 400, 600, or 1,000 amps alternating current sold by industrial distributors, electrical wholesalers, and some hardware stores nationwide from January 2008 through February 2009 for between \$150 and \$375. Please contact Fluke for a free replacement clamp meter.

■ **Square Trampolines**---Skywalker Holdings LLC has recalled about 60,000 Skywalker 13-foot square trampolines and enclosures because the straps supporting the top of the trampoline's enclosure to the poles can fail, causing the enclosure to drop if the straps break, and causing a user to fall from the trampoline. The model affected by this recall is the Skywalker Holdings 13-foot square trampoline sold through specialty stores and major retailers nationwide and online from

January 2007 through February 2009 for between \$400 and \$600. Please contact Skywalker Holdings for a free repair kit.

■ **Jardine Cribs**---Jardine Enterprises has recalled approximately 96,000 Jardine cribs because the wooden slats can break, which poses an entrapment and strangulation hazard to infants and toddlers. Models affected by this recall are Jardine Drop-side Natural Olympia Single, Dark Pine Olympia Single, Black Olympia Lifetime, White Olympia Lifetime, Americana Pecan 4-in-1, Antique Walnut Capri 4-in-1, and Drop-side White Capri Single, sold from September 2005 through April 2009 for between \$220 and \$330. Please contact Jardine for a full credit toward a new crib.

■ **Cadillac Vehicles**---General Motors Corp. has recalled nearly 27,200 Cadillac vehicles because the fuel system control modules could experience an adhesive separation of the room temperature vulcanizing seal between the seal and the housing, which could allow water to seep into the module and cause a short or open circuit, illumination of the service engine lamp, setting off diagnostic trouble codes, and trouble starting the engine or stalling (NHTSA Recall #09V-154). Models affected by this recall are the 2009 Cadillac Escalade, Escalade Hybrid, Escalade ESV, and Escalade Ext.; Chevrolet Avalanche, Suburban, Tahoe, Tahoe Hybrid, and Colorado; and GMC Yukon, Yukon Hybrid, Yukon XL, and Canyon vehicles. Please contact your local dealer for installation of a new fuel system control module free of charge.

■ **Chevrolet Vehicles**---General Motors Corp. has recalled approximately 15,400 Chevrolet Traverse vehicles because they may have a park brake cable link (connector) that is not to specification and could fracture when the park brake pedal is depressed. If the keys are left in the ignition, the transmission shift lever is in any position other than park, and the vehicle is parked on a sufficient slope, it could result in unintended vehicle movement (NHTSA Recall #09V-153). Models affected are 2009 Chevrolet Traverse vehicles. Please contact your local dealer to replace the park brake cable link.

■ **Pontiac G8 Vehicles**---General Motors Corp. has recalled approximately 35,000 Pontiac G8 vehicles because the brake pedal position switch may have been incorrectly programmed, allowing the brake lamps to be continually illuminated and fail to warn a following driver when the vehicle is braking. Some vehicles may also have incorrect values programmed into the tire pressure monitoring system that will not illuminate the low tire pressure telltale until tire pressure falls below values required by the standard (NHTSA Recall #09V-172). Models affected are 2008-2009 Pontiac G8 vehicles. Please contact your local dealer to reprogram the brake position sensor and the remote control door lock receiver with the correct values.

■ **Nissan Murano Vehicles**---Nissan North America has recalled approximately 362,900 Nissan Muranos because the intake air ducts, which are connected to the intermediate resonator in the air intake system of the engine, may separate from the resonator with engine movement. This separation is a result of premature aging of the material used in the intake air ducts, which causes excessive shrinkage, which increases the risk of engine stalling and a crash. (NHTSA Recall #09V-169). Models affected are 2003-2007 Nissan Murano vehicles. Please contact your local dealer to inspect and replace the appropriate components.

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!**

| | |
|------------------------------|--------------|
| Auto Accident | \$10,000,000 |
| 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 |
| Pedestrian Accident | \$2,950,000 |
| 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.