



CKRK & M Briefs

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A newsletter for friends and clients of Cusimano, Keener, Roberts, Kimberley & Miles, P.C.

BROUGHT TO YOU BY

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8:00 a.m.-5:00 p.m.

CORPORATE RESPONSIBILITY

by Michael L. Roberts

The country seems to be experiencing a crisis in corporate responsibility and accountability. The news is now filled with scandals such as Enron, Arthur Andersen, Firestone, and Worldcom, as well as similar stories of greed, overreaching, and dishonesty on a somewhat smaller scale. A common thread in these events seems to be an attitude at the very highest corporate executive levels that places self-interest above an obligation to fellow citizens, and a neglect or disdain for the "little guy," whether he or she be a shareholder, worker, employee, consumer, or small business owner.

Despite the ruin and financial devastation to so many caused by this attitude, there are still those who want to weaken the laws and the power of juries and courts to require corporate accountability and responsibility.

It is not a coincidence that many of these abuses (such as Firestone) were exposed only because of the efforts of lawyers and citizens trying to vindicate their claims through the courts.

Both at the state and national level, powerful forces, aligned with groups and organizations with this mind-set, seek to tilt the playing field even further in favor of the megacorporation. We see these efforts coming in many forms, but we frequently see them campaigning in favor of "special privilege" laws and rules that would water down a citizen's right to redress when harmed by a corporation. We see it every day in the proliferation of arbitration clauses, which strip the consumer or worker of his right to access the courts when wronged. We see it in attacks on the contingency fee system, which is the only way the average injured American can hope to compete with the enormous legal resources of big business. We see it in organized and concerted disparagements of the right to trial by jury in Alabama and elsewhere in the United States.

Perhaps those responsible at Enron and other corporations of its ilk might not escape justice. However, these problems are reminders to us all of the necessity of vigilance.

We take your family's safety and security personally.

Client service

At our firm, customer service isn't just a catchword. We incorporate a sense of respect and individual consideration into all the services we provide to each client. Because you're very special to us, we want to give you the highest level of personal attention we can.

Here's what you can expect from us:

- ◆ A warm greeting when you arrive.
- ◆ Introductions to the professional and support staff who will assist you.
- ◆ A personal and pleasant working experience and relationship.
- ◆ Personal meeting time at each visit.
- ◆ No telephone interruptions when you are in counsel with us.
- ◆ Attentive listening and lots of questions from us.
- ◆ A shared sense of urgency about your issue.
- ◆ Promptly returned phone calls and timely answers to questions you may have.
- ◆ Frequent contact to stay in touch and report developments.
- ◆ Our standing request that you tell us if we can improve our service in any way.

Employee rights

As a result of many years of leadership and hard work by reformers, government officials, labor leaders, and enlightened employers, American workers enjoy many rights envied by laborers all over the world.

At many businesses, the human resources office gives each employee a handbook that spells out in detail each employee's right to equal opportunity in hiring and a clear policy and process for termination. Policies direct fundamentals such as compensation, employee benefits, vacation, and retirement. There are also clear guidelines covering personal safety, illness and injury, and freedom from discrimination and harassment. More than ever before, employees have a better understanding of their rights to privacy regarding treatment by employers and handling of personnel records.

When employers disregard rights

While at his workplace, an African-American worker was repeatedly subjected to coworkers' jokes and comments that contained racial slurs. On occasion, his immediate supervisor laughed at many of the jokes. When he sued his employer under the Civil Rights Act, a trial court awarded him both compensatory and punitive damages because the employer failed to stop racial harassment in the workplace.



Oral cancer screenings

Early detection of oral cancer, the seventh most common form of cancer, is very important. That's why your dentist should check for signs of it at each regularly scheduled visit.

At greatest risk are those who smoke or use chewing tobacco—particularly if they also consume alcohol.

Commonly affected sites are lips, tongue, floor of the mouth, soft palate, and cheeks. Symptoms dentists look for include sores or white patches that are slow to heal...persistent sore throat...changes in hearing, smell, taste, or voice...and weakness, tenderness, or pain in the face or jaw.

An oral examination takes only a few minutes during a dental visit, but it's very important to dental and overall health.

Dental and medical negligence

After a woman died of oral cancer, her husband, on behalf of her estate, sued her HMO, alleging it was liable for an otolaryngologist's failure to diagnose her oral cancer in a timely manner. The HMO and an oral surgeon settled when the estate's attorney successfully asserted that the surgeon should have taken a biopsy and advised the patient that her symptoms might indicate oral cancer.



Why people trip and fall

Although some people fall because they are not watching where they are going or because they feel faint, many falls involve safety hazards over which they have no realistic control.

- **Premises defects.** Store employees may obstruct an aisle floor with stacked boxes or display merchandise. Tree roots may lift a sidewalk section. Workmen may have improperly installed shower safety bars.
- **Dangerous conditions.** Restaurants may not clean up slippery food on the floor in front of a salad bar. A machine shop's floor mats may pop up when they overlap.
- **Failure to maintain a safe property.** A stairway may have loose handrails. Someone's swimming pool may have inadequate fencing or other safeguards.

Anatomy of a trip and fall

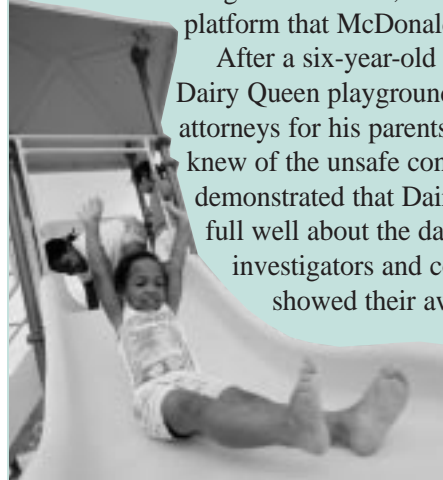
When a 54-year-old woman tripped at a restaurant, she struck her head and suffered a detached retina, eventually losing vision in one eye. When she brought suit, her attorney, with the help of an expert engineering witness, reported that water leakage two years earlier had loosened floor tiles and that many customers and staff had stumbled there. In addition, the expert said the missing tiles violated local building codes and that \$10 was all that was needed to make full repairs. The defendant claimed that posting a "Watch Your Step" sign and placing a mat over the uneven floor were adequate safety measures. The jury thought otherwise and concluded that the restaurant was 90 percent at fault for the injury.

CONSIDER SEEKING LEGAL COUNSEL IF YOU SUFFER A TRIP AND FALL INJURY.

RESTAURANT PLAYGROUNDS

To children, fast-food restaurants are what dreams are made of. There they can find fabulous food, cool toy giveaways, and great playgrounds. However, parents need to closely monitor their kids as they climb, slide, swing, and have fun.

Here's why. In a settlement with the Consumer Product Safety Commission, fast-food marketer McDonald's agreed to pay the government \$4 million for failing to report more than 400 injuries to children at its playgrounds nationwide. Most accidents occurred on "The Big Mac Climber," a metal, hamburger-shaped platform that McDonald's has now removed.



After a six-year-old fell from a slide at a Texas Dairy Queen playground and fractured his skull, attorneys for his parents sued, claiming the company knew of the unsafe conditions. Their research demonstrated that Dairy Queen executives knew full well about the danger but had lied to investigators and concealed documents that showed their awareness. The trial judge found Dairy Queen in contempt of court and ordered the company to pay more than \$100,000 in sanctions.

So how can parents protect their children at restaurant playgrounds?

- An adult should supervise all play and assist in emergencies.
- Encourage children to play on equipment designed for their ages.
- Safety-inspect ground surfaces for hardness or hazards such as broken glass or other sharp objects.
- Check ladders, steps, platforms, handrails, ropes, barriers, and swings, slides, seesaws, and merry-go-rounds, looking for sharp edges, loose connections, missing parts, and other dangers.
- Report and repair all hazards.

Protecting children from burns

More than 150,000 children are burn victims annually. According to the National Burn Victim Foundation, hospital emergency rooms admit more children between newborn and two years of age with scald and burn injuries than all other age groups. Most burn injuries occur in kitchens.

Parents can take precautions to keep hot vessels and liquids away from children.

- Monitor children's whereabouts at all times.
- Reduce water-heater temperature to 120° or less, and fit faucets with antiscald devices.
- Eliminate tablecloths and keep hot liquids at the table's center.
- Use potholders or oven mitts to move hot pots.
- Turn pot handles inward to prevent them from being touched.
- Keep children away from hot stove surfaces, especially when cooking with oil.
- Avoid storing food in cabinets above stovetops.

A too-tight lid

No matter how many precautions parents take, children may still receive injuries caused by poorly designed kitchen equipment. The parent of a child burned by steam from a pot won a jury verdict after suing the manufacturer and retailer that marketed the product. The parent's attorney demonstrated to the jury that the pot, which had a lid that fit far too tightly, permitted steam to build up, causing the explosion that burned the child.



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No representation is made that the quality of legal services to be performed is greater than the quality of legal services performed by other lawyers.

FEN-PHEN UPDATE

BY PEM

The first round of echocardiogram testing arranged by **Cusimano, Keener, Roberts, Kimberley & Miles** for its clients who have used Redux and/or Pondimin has been conducted. These drugs, when used with the drug Phentermine, were commonly referred to as Fen-Phen. Forty-three percent of those tested preliminarily appear to qualify for participation in this class-action settlement, one of the largest in history.

Please remember that if you or a loved one took these medications, you must have an echocardiogram test before January 3, 2003, and your claim must be registered with the American Home Products Settlement Trust. The echocardiogram testing must be performed using a specific methodology in reading and interpreting the results. We are utilizing cardiologists who have been specifically trained in that methodology to minimize any question with regard to their reading of the echocardiograms. If you obtain your own echocardiogram, it may or may not be read with the specific methodology required by the settlement documents.

We expect to have another round of echocardiogram testing in August or September.

Why trial lawyers help others

Like most enterprises, our law practice is a business that makes money, hires employees, pays taxes, and provides a service.

From time to time, when we reflect on our reasons for being in business, we always return to several basics.

- To help those who have been wrongly injured by others. Often, those harmed do not have the fiscal and legal resources to battle the wrongdoers on their own.
- To provide all the authority that our wonderful civil justice system can offer so that those injured or cheated can become equals—in a public court of law—with even the most powerful of corporations, financial institutions, or manufacturers.

We're particularly fond of an Association of Trial Lawyers of America mission statement: *To promote the public good through concerted efforts to secure safe products, a safe workplace, a clean environment, and quality health care.*

Questions?

If you're unsure or unclear about a legal issue and would like to talk to us about it, phone us at **256-543-0400**, or e-mail us at **ckrk_law@aol.com**. Either way, we'll answer your question promptly.