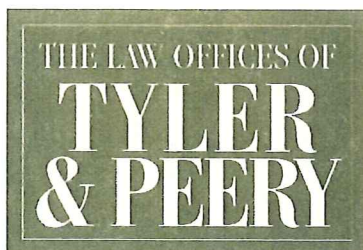


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Texas Law Alert

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Children's Toys: Play It Safe!

Childhood is supposed to be a time of joy and play, but the sad fact of the matter is that the toys children play with can often be dangerous. The Consumer Product Safety Commission (CPSC) handles toy recalls and in 2007 ordered 45 million toys to be recalled. More than

Many toys are now manufactured outside the United States, free from effective safety oversight.

200,000 children had toy-related visits to the emergency room in 2008, a 54% increase from 1999. Nineteen children died due to dangerous or defective toys in 2008.

So why are toys becoming more dangerous? The answer to this question lies in large part in the sophistication of the toys, many of which are composed of smaller parts and thus contain hidden dangers. Also, many toys are now manufactured outside

the United States, free from effective safety oversight.

Finally, while most parents know the common dangers that toys present (such as the danger that small children will choke on small parts), many dangers are hidden, such as the presence of asbestos and other carcinogens. Even small magnets commonly found in toys today are hazardous—when swallowed, they can attract each other through the intestinal walls, causing serious internal injuries and even death.

As toy fads change, so do the dangers. In recent years, accidents on scooters, which have recently become very popular, have accounted for the largest number of toy-related injuries. Recalls for lead have also spiked in recent years, because lead is a cheap filler used to produce jewelry and charms in a less expensive way. For example, while CPSC guidelines limit the lead content of toys to 0.06%, in 2006 a small charm

Continued on page four.

Check Out That Toy

Worried that a toy you have might be defective or dangerous? Check it out!

- Consumer Product Safety Commission Toy Information
www.cpsc.gov/cpscpub/pubs/toy_sfy.html
- Centers for Disease Control Lead Recalls
www.cdc.gov/nceh/lead/recalls/toys.htm
- American Academy of Pediatrics: Toy Safety Information
www.aap.org/new/toysafety-part1.pdf and
www.aap.org/new/toysafety-part2.pdf

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Don't Fall for Fake Check Scams

Most people are sophisticated enough not to fall for e-mail scams written in halting English and promising the recipient enormous riches if only he or she will help the sender get his money out of Nigeria (or the Balkans, or Iraq, or wherever). Knowing that people are wary of such an obvious scam, many scammers have moved on to a new scheme—the fake check scam.

At its most basic, a fake check scam involves sending a check to an individual and asking the individual to send some money back to the person sending the check. Sometimes, the scammer asks you to cash the check as a “favor,” keeping a percentage of the money for your trouble.

Other scammers pretend to be interested in buying something that you are selling. A check for more than the sales price will be sent to you, along with a request that you send the difference back to the scammer. All fake check scams are the same in that they ask you to send the scammer cash, and because the check you have received will eventually bounce, you will be out the money that you sent to the scammer.

Fake check scams are tied to all kinds of different situations: foreign business offers, offers to become a “mystery shopper,” overpayment schemes, work-at-home ploys, etc. All of the scams play on the victim's greed—the idea that you can get something for nothing, or a large payment for minimal work. All of them take advantage of the fact that banks give credit for deposited checks very quickly (usually within five days), but it can be weeks or months before a counterfeit check is discovered.



Average losses are \$3,000 to \$4,000 per victim, but losses in any given case may be much higher.

Protect yourself. Understand that there is rarely, if ever, a legitimate reason for a person to send you a check or money order and ask you

to send cash back. The fact that the check is credited to your account in the first instance does not mean that it will not eventually bounce, leaving you stuck with the bill.

Don't respond to such scammers, don't cash checks for people you don't know, and don't send cash to anyone you don't know well enough to trust. If you have been victimized, file a police report. Most importantly, remember: There is no such thing as a free lunch.

Why You Need a Personal Injury Lawyer

Although many of us enjoy being handy around the house, there is one time when it does not pay to “do it yourself”—when you or a loved one has been injured. Rather than trying to handle a personal injury claim yourself, you should seek the assistance of a personal injury lawyer. Here's why:

Experience: By hiring a personal injury lawyer, you can take advantage of the lawyer's experience. This experience helps your lawyer to evaluate your case and to determine what you are legally entitled to recover.

Level Playing Field: You can be sure that the wrongdoer's insurance company is going to have experienced adjustors and lawyers working *against* you. Often, an insurance company will delay settling a claim and even deny a valid claim. Even when it does offer to settle the case, the settlement offer

may be unfairly low. It pays to have a lawyer on your side to prevent the wrongdoer from paying you less than you deserve.

Pay Only if You Win: Most personal injury lawyers work for what is called a “contingent fee,” which does not require money up front. Contingent fees allow injured persons with valid claims but little money to get good legal representation. Also, most contingent fee agreements provide that you have to pay the lawyer's fee only if you win.

Other Issues: In addition to the injury claim itself, your lawyer can help you resolve matters that arise when someone has been injured, such as providing referrals to competent doctors and repair shops.

So, if you have been injured, don't do it yourself. Seek the help of an experienced professional to ensure that you get what you are due.

Are You Prepared for an Earthquake?

As the recent disaster in Japan has forcibly reminded us, an earthquake is a devastating (potentially catastrophic) event. Of course, an earthquake can't possibly happen in Texas . . . or can it?

Although some areas of the world are well known for earthquakes, including the so-called "Ring of Fire" that goes around the Pacific and includes the American West Coast, faults that can cause an earthquake are found all over the world.

For example, one of the largest fault lines in the United States is the New Madrid fault, which runs from northeast Arkansas up into Indiana. This fault line caused a large earthquake in 1811, one that has largely been forgotten because the area was sparsely settled at the time. Texas has its own fault lines, including the Balcones fault in Central Texas and the Long Point fault in the Houston area.

Although a major earthquake in Texas is unlikely, the results could be serious if one were to occur. Most buildings in Texas are not designed to withstand such shaking, and a typical homeowners policy does not cover earthquake damage.

If you live anywhere near an active fault line, you should take steps to protect yourself and your family against injuries caused by an earthquake. A few simple measures, such as securing bookshelves to the wall and not stacking belongings up to the ceiling, can greatly reduce the chance of injury that attends even a small earthquake.

Good preparedness tips (for earthquakes and other risks) can be found at www.disastersafety.org.

In addition to these safety meas-

ures, earthquake insurance coverage might be something to consider. Because such coverage is designed to guard against major damage, the deductible will be very high. However, because the deductible is so high, the annual cost of earthquake coverage will be quite low. A typical \$250,000 policy with a 10% deductible will cost about \$70 per year.

Although the danger of an earthquake in Texas might be low, taking the steps needed to be prepared for one is not difficult.

We Appreciate You!

Thank you for choosing our firm for your legal needs. We hope that you will continue to count on us when you need legal help. We are just a phone call away.

We also appreciate the trust that you have placed in us by referring your friends, family, and associates to us for legal services. Thanks!

Underfilled Pool Leads to Big Jury Verdict

Earlier this year, a Texas jury returned a large verdict in favor of a local musician who became paralyzed from diving into an underfilled swimming pool at an apartment complex.

The musician was attending a party with friends at the complex. The partygoers were drinking, and they began to roughhouse around the complex's pool. The musician dove into a part of the pool that was supposed to be 4 to 4-1/2 feet deep, but the pool was underfilled, and the water was only 2-1/2 to 3 feet deep. Because of the lack of sufficient water, the musician hit the bottom of the pool and was rendered quadriplegic.

At trial, the jury heard evidence that the apartment complex had been negligent. Management at the

complex knew that the water level in the pool had dropped but, despite this knowledge, it did not obey a law requiring that the pool be closed. The jury also heard evidence that the management allowed alcohol to be consumed at the pool but did nothing to plan for the risks of drinking and swimming. Other evidence was presented that the musician was drunk when he was injured and that the pool had "no diving" signs posted.

Taking into account the musician's responsibility for his own injuries, the jury found that the apartment complex was 51% responsible and the musician was 49% responsible. Based on evidence of the devastating effect that the injuries had on the musician, he was awarded \$6.2 million.

Play It Safe!

Continued from page one.

that was being given away with the purchase of children's shoes was found to contain 99.1% lead, and the ingestion of the charm killed a child.

Other kinds of injuries caused by toys are more foreseeable but still occur. Long cords on a toy can lead to strangulation or suffocation. Choking injuries are also common, often occurring when a younger sibling swallows a toy that might be safe in the hands of an older child.

Latex balloons present a well-known choking danger, as do toys with parts that can be pulled off through rough play. Many toys (especially those aimed at boys) shoot projectiles, which can cause injuries to the head or eyes. Even projectiles too soft or too small to cause impact injuries can be dangerous. In 2007, a nine-year-old in Chicago choked to death on a two-

inch-long soft dart.

Unfortunately, as toys become more dangerous, regulation is becoming less effective at preventing injuries. The CPSC has a small staff and budget and cannot inspect even a small percentage of the toys sold in the United States. Accordingly, the CPSC is often forced to play "catch up," warning of dangers or ordering a recall only after children have been hurt or killed.

Most toys are made overseas in countries such as China. As ineffective as domestic regulation is, regulation in these foreign countries is often nonexistent. Because of the lack of regulation, dangerous ingredients may be found, such as lead in toys or cadmium (a carcinogen) in jewelry and in batteries that may overheat and catch fire.

Some toy companies have even discovered that Chinese manufacturers substitute less expensive but more dangerous chemicals for more

expensive but less dangerous ones without telling the toy company. An example of this that received a lot of press was the substitution of one kind of glue for another in a child's toy. Children who then ate the toy became very sick, which would not have happened if the proper glue had been used.

Given the lack of effective oversight, parents are the first line of defense for their children. Make sure that the toys you purchase are age-appropriate, and keep toys with small parts away from younger siblings. Teach your children to not put toys in their mouths, and never shoot anything at another person's face.

If you believe that your child has been injured by a toy, report it to the CPSC. Finally, if your child has suffered a serious injury, hire a lawyer. If dangerous toys are unprofitable, companies will make safer ones.

Actual resolution of legal issues depends upon many factors, including variations of facts and Texas law. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking action on matters covered by this newsletter.