



Bottaro, Morefield & Kubin, L.C.

A t t o r n e y s A t L a w

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Kubin, L.C.**
Attorneys At Law

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AREAS OF PRACTICE

- Personal Injury
- Wrongful Death
- Defective or Dangerous Products
- Business Disputes
- Workplace Injuries
- Nursing-Home Neglect and Abuse



Season's Greetings!

May you and those you love experience the quiet beauty of the holiday season. We hope that you and yours enjoy peace, happiness, and good health throughout the coming year.

We would also like to thank you for seeking out our legal services over the years and for referring your relatives, neighbors, and colleagues to us.

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Retail customer safety



Retail businesses are responsible for maintaining safe surroundings for customers who enter and shop on their premises.

If a business is forgetful or negligent about its safety obligation, causing a customer to suffer an injury, the owner may be held liable for the harmed individual's medical expenses, pain and suffering, and lost wages.

An automatic-door incident

As a customer entered a chain drugstore, the automatic door malfunctioned and struck him very hard on the right arm, severely bruising it. The next morning, the shopper's physician diagnosed the source of his severe arm pain as necrotizing fasciitis and hospitalized him. Over the following seven days, physicians treated a resultant infection successfully, avoiding amputation. The patient now has an eight-inch scar on his arm. The patient's attorney sued the drugstore chain, alleging it negligently maintained the automatic entry door and failed to inspect it for malfunctions. The parties settled before trial.

Attorneys helping people.

TRIAL LAWYERS

America's trial attorneys, who protect everyone's rights and champion their legitimate causes, pledge access to our civil justice system for working families who may lack the resources to take product grievances to court.

Lawyers promote the public good through their efforts to secure safer products, better workplaces, cleaner environments, and quality health care by protecting the rights of the injured and preserving the right to trial by jury.

Trial attorneys typically handle cases like these:

- A child paralyzed after being struck by a drunk driver.
- A young woman unable to have children because of a medical mistake.
- A person denied a promotion due to racial discrimination.
- An elderly person mistreated in a nursing home.
- A community whose water was made toxic by a local manufacturer.



I've never filed a lawsuit!

Question:

Although I was injured in a fall, I'm really reluctant to talk to an attorney about filing a lawsuit. Basically, I'm not really a litigious person. I've never filed a lawsuit, and I feel really uncomfortable about initiating one. Is that right?

Answer:

You're not alone. Even though the media make it look like people file lawsuits at the drop of a hat, the exact opposite is true. Lawsuit numbers are declining.

However, many people like you often feel somewhat uneasy about seeking recourse for harm, even when their injuries came through no fault of their own.

Being Good Samaritans like you, they think, "I should have noticed that slippery spot in the supermarket aisle where I fell."

However, most of our cultural, religious, and civil history shows that those who have been harmed have the right to seek fair recompense. It's important not to confuse justice with reprisal. Asking a place of business to pay for medical care for harm that its employees were responsible for is not revenge; it's expecting fair treatment, especially when a party responsible for harm refuses to acknowledge or accept responsibility.



Vehicle rollover accidents

Auto, truck, and sport-utility-vehicle rollover accidents unnecessarily kill 10,000 Americans annually. Another 24,000 suffer severe injuries.

Long-suppressed internal documents show that automakers knew as early as 1966 that car and truck roof designs were so weak that occupants could be crushed to death in rollover accidents. Ford could have fixed this deadly problem for \$43.13 per vehicle. Instead, manufacturers hid the information for years and continued selling dangerous vehicles.

In 2005, the National Highway Traffic Safety Administration—despite specific direction from Congress to increase vehicle roof safety—established auto industry-sympathetic standards mandating only minimal improvements to existing standards. The regulations also prevent lawsuits against manufacturers who ignore their own internal safety researchers to bolster their bottom lines.



No \$43.13 safety improvement

Gary Skinner of Graysville, Alabama, was an avid fisherman with a love for music, says his wife Angela. But on July 28, 2005, Angela lost her 48-year-old husband in a rollover accident when his 1999 Ford Ranger blew a tire, causing Gary to lose control of the vehicle. As Gary's car rolled over, the roof caved in on him, causing a fatal head injury.

FOR YOUR SAFETY **Recalled product roundup**

Here are some recently recalled products you may have in your home or at work:

- ✓ **Arctic Cat, Inc.**, has recalled 41,000 Arctic Cat Snowmobiles with fuel tanks that can crack, leak, and burn riders.
- ✓ **Arctic Cat, Inc.**, has also called back 2,120 Arctic Cat Prowler XT Off-Highway Utility Vehicles. Rear brake calipers may leak brake fluid, reducing braking ability and potentially injuring riders.
- ✓ **Tyco Fire & Security** asks buyers to return 21,000 Fire Detection Systems. Sensors may have reduced sensitivity to smoke in conditions of high humidity and high temperature and delay smoke detection in a fire. Tyco Fire & Security also has requested that buyers return 128,000 smoke detectors that also may have reduced sensitivity to smoke.
- ✓ **BRK Brands, Inc.**, a subsidiary of First Alert, Inc., has recalled 145,890 First Alert® ONELINK™ Battery-Powered Smoke and Combination Smoke/Carbon Monoxide (CO) Alarms. The alarms drain battery power rapidly and will chirp to alert consumers to replace the batteries. Failure to replace batteries before the battery power terminates may cause the alarm to fail to detect smoke and carbon monoxide in a fire.
- ✓ **PTI Sports, Inc.**, has asked buyers to return 14,000 Schwinn Deluxe Bicycle Child Carriers. Plastic guide tabs on the carrier seat rack can break and injure child riders.



Nursing homes... **...and accident prevention**

Families with elderly relatives who reside in nursing homes should be particularly vigilant about nursing home and rehabilitation center accident-prevention protocols.

Since many older people may have mobility or physical-dexterity problems, residences and facilities should get rid of accident hazards, such as low objects, floor obstructions, unstable chairs and beds, and unsafe restraint devices.

Dangerous restraints

A 77-year-old patient admitted to a nursing home was asphyxiated after she slid down in her wheelchair and became trapped in restraints. Her daughter sued, alleging care providers had used restraints without physician's orders or family consent. A jury awarded damages for the death and the daughter's loss of society with her mother.



CLIENT SERVICE

Our goal: Keep you informed

We will always strive to help our clients make truly informed decisions about their legal matters. In our counsel, we will constantly keep all clients "in the loop."

First, we will do our best to solicit client input and feelings about each case's background and developments. Clients always have insights and historic knowledge of issues that can help us fine-tune our approach. Listening to clients is very important to us.

Second, we will explain the tactics and strategies we plan to employ so clients understand why we may recommend a particular course of legal action and where we intend the strategy to lead us. We always appreciate client feedback.

Finally, our approach always includes giving each client the opportunity to ask questions—lots of them—which we will answer right away.

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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

Auto accidents

Dead Man's Curve

Studies show that one in five auto accident cases involves a single vehicle running off the road. In some cases, simple driver error does not cause off-road accidents at curves. Design or maintenance may be responsible, and public agencies in charge of roads may be held liable for unsafe conditions.

Attorneys experienced in auto accidents may look at many factors—not only to obtain compensation for injured drivers, but also to help improve road safety for other drivers.

Accident frequency...how many other accidents have occurred at the location over time?

Skid marks...photographs show if a vehicle's lateral movement was excessive in curves.

Defective guardrails...poorly designed, installed, and maintained guardrails may fail or aim a skidding vehicle into solid objects.

Warning signage...were signs placed and maintained properly?

Roadway maintenance...did rumble strips or grooves warn drivers of hazardous conditions or guide wheels safely?

Curve banking...was the curve's outside elevation properly designed?

PRODUCT LIABILITY

Microwave heat packs

Many who suffer accidents, sports injuries, or everyday aches and pains use microwave-warmed heat packs to obtain immediate and ongoing relief.

Inexpensive and easy to use, heat packs come in many sizes and configurations to relieve discomfort in backs, knees, and necks. They are also lightweight, portable, clean, and odor-free. Many have washable coverings. Most are filled with heat-retaining gels or beads.

Gel-pack burns

As a woman removed a hot gel pack from her microwave oven, its wrapper ruptured, severely burning her hand. She sued the manufacturer, alleging the product was defective and unreasonably dangerous since it came apart under normal heating conditions. The manufacturer initially countered with a claim of user negligence, but settled to preclude punitive-damages exposure.

Jury duty

When called, serve. It's your opportunity to ensure that trials are fair and defendants, plaintiffs, and witnesses get a fair hearing.



Our Martindale-Hubbell rating

Bottaro, Morefield & Kubin, L.C., has earned an AV rating in the *Martindale-Hubbell® Law Directory* for our legal capabilities and devotion to professional ethics. Since Martindale-Hubbell bases assessments on surveys of members of the bar and of judges, we take pride in our colleagues' recognizing and respecting the quality of our legal work.

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