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"The mouse roars": Bender, Faulk, Gray on R.I. lead paint decision

From **Washington Legal Foundation** by defense-side lawyers Thomas R. Bender, Richard O. Faulk, John S. Gray:

On July 1, 2008, the Supreme Court of the nation's smallest state, Rhode Island, gave a loud and mighty roar as it rejected the use of public nuisance law as a means to sue manufacturers of lawful products. In so ruling, the Court conforms to the traditional role of judges presiding over common law controversies, and joined a growing list of other state supreme courts that have refused to enlarge the boundaries of this ancient tort.

Among fatal objections to the plaintiffs' theory: "Defendants Must Control the Public Nuisance at the Time of the Injury" and "Harm Occurring in a Private Homes is not a 'Public Right' that Triggers Public Nuisance Liability". Full 18-page paper [here](#) (PDF).

POSTED BY WALTER OLSON AT 9:12 AM |