



**THE BCT
OPINION**

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LETTERS TO THE EDITOR

Store's defense is a reasonable one

I feel constrained to comment on J.D. Mullane's column "Big-box blockheads" (Oct. 1), as it rests principally upon non sequiturs, inept analogies, and ignorance of the law.

Note: Although I am attorney, I have no connection with any party in this case.

First, a defense to a civil action involving a motor vehicle accident that a plaintiff was not wearing a safety restraint can hardly be compared to a criminal defendant asserting that a shooting victim should have worn a bulletproof vest. Seat belts and safety restraints have clearly been shown to prevent injuries and save lives, and most motor vehicles, including the limousine van in which Tracy Morgan was riding, are equipped with such; bulletproof vests are not your standard walking gear.

Second, the language in Wal-Mart's answer to the civil complaint that plaintiffs' injuries were caused "in whole or in part (by their) failure to wear an available seat belt restraint device" sets out an appropriate defense under New Jersey law, specifically under our Comparative Negligence Act, which requires that a court or jury determine "the extent, in the form of a percentage, of each party's negligence or fault." N.J.S.A. 2A:15-5.2a (2). Thus, any attorney zealously protecting his clients' interests would include such a defense in the answer he or she files; the phrase "in part" highlights that issue of apportioning "comparative negligence" and is not indicative of "chutzpah and/or brass."

To caption the column "Big-box blockheads" is also patently unfair, as it suggests some generalized grievance against big-box stores and also confuses sound legal representation with "blockheadedness."

Finally, Mullane's particular experience with Wal-Mart and, most notably, his poor treatment by staff members at one store does not show anything more than inconsiderate and discourteous service by certain individuals. As with all large stores, some employees are pleasant and provide efficient and courteous service, while others do not.

The issue of Wal-Mart's legal defense in a civil action, in a pleading drafted by its attorney, has no connection with the quality of service or merchandise at a particular store. If Mullane chooses not to patronize Wal-Mart, that is his prerogative. However, he should have looked into the law of comparative negligence, which is intended to provide a measure of fairness to all parties, before spouting off on a rant.

**Ken Sandler
Evesham**