

Berry children may sue

■ Parents killed last summer in a head-on crash

By **RENEE C. LEE**
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A prominent Houston attorney will represent three children whose parents died in a head-on collision this summer in a possible product liability lawsuit.

A probate judge on Wednesday granted a request from the children's uncle and aunt, who serve as their legal guardians, to retain Richard Mithoff as lead attorney to investigate any potential liability defects with Joshua and Robin Perlo Berry's minivan at the time of the crash. Mithoff also has authority to pursue a possible civil suit against the driver of the other vehicle involved in the accident.

Mithoff, who has handled several high-profile cases, said he will charge a reduced fee for the liability case so the children can collect the majority of any settlement or verdict. He will work pro bono on the civil case against the other driver, he said. All fees, however, will have to be approved by the court, he said.

The Berrys died on July 2 when a sport utility vehicle veered into their lane and struck their vehicle near Fort Stockton. Their children, Peter, 9, and Aaron, 8, suffered spinal cord injuries and are paraplegics. Willa, 6, broke her arm and leg.

The Houston family was returning from a road trip that included stops in Colorado and Roswell, N.M. Robin Perlo Berry, 40 was an event planner, and Joshua Berry, 41, owned a medical staffing company.

Other driver distracted

The other driver, Michael Doyle, 31, of Phoenix, was traveling with his wife, Colleen, and their year-old daughter. Colleen Doyle died in the crash. Michael Doyle was distracted while looking for a DVD, according to a Texas Department of Public Safety spokesman.

Doyle's attorney, Philip Summers, of Houston, couldn't be reached for comment.

Joshua Berry's brother, Matt Berry, and his wife, Simone, asked Mithoff for his help in August. Mithoff said he began investigating the crash and possible product claims against the vehicle manufacturer. He declined to discuss what, if

any, defects have been discovered with the minivan.

"There were clearly some red flags raised and some significant issues in our mind," Mithoff said.

Mithoff is the lead attorney in the securities case against BP in the 2010 oil spill. He also was the lead attorney in the \$82 million settlement in the fiery bus accident that killed 23 Bellaire nursing home residents who were evacuating during Hurricane Rita in September 2005.

Mithoff said the investigation should be done in about 30 days. He will then make a recommendation to the family on whether they should file a lawsuit. If enough evidence exists for both civil suits, they will be filed as one case, he said. Or, only one case could go forward.

Matt Berry declined to comment. He told the judge Wednesday that the children are in good spirits, Mithoff said.

The children have received overwhelming support from the community. Celebrities, including Justin Bieber and Britney Spears, have also participated in raising money for them.

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