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**PEOPLE INJURED BY DEFECTIVE KNEE AND HIP IMPLANTS
EMPLOY SCHULER & HALVORSON TO OBTAIN COMPENSATION**

If you have a defective knee or hip implant or know a family member or friend who has one, that person may want to call this law firm to investigate a potential claim for this defective product. This law firm is presently involved in prosecuting Johnson & Johnson/DePuy for the manufacture and sale of defective knee and hip-joint replacement prostheses in the State of Florida. The defective nature of these hip and knee replacements relate to the premature deterioration and wear of the product, causing severe pain, serious injury, and damage to adjacent tissue and bone, necessitating additional surgeries and premature replacement. These hip and knee replacements fail as a result of their defective design and manufacture—namely, sterilization of the device through gamma irradiation in the last stage of manufacture. Using the technique of gamma irradiation in oxygen for sterilization causes the deterioration and weakening of the polyethylene components of both the hip and knee replacements, thus causing them to fail shortly after they are put into an individual.

In the cases that have been filed to date, it is asserted that DePuy Orthopedics, as a wholly owned subsidiary of Johnson & Johnson, Inc., and Johnson & Johnson, Inc., itself have been aware of the above defects for a significant period of time. In fact, claims have been asserted against Johnson & Johnson and DePuy Orthopedics, Inc., in other states, based on the fact that these companies intentionally concealed and/or suppressed from the public, as well as physicians, surgeons, and other medical agents, material facts concerning the knee and hip devices meant as replacements, including that such devices were, in fact, unsafe for use in the human body, since they were subject to premature deterioration, degradation, weakening, and/or failure. Furthermore, these companies failed to disclose that the risks attendant to the use of such hip and knee replacements were far greater than was generally known by the public and the medical community at large.

Why would the above information be concealed?

The orthopedic-device market is an \$8.5 billion market that has been growing at an overall rate of 7%

per year. The five sectors—total joint replacements, spine, trauma, sports medicine, and soft goods—vary significantly in their growth profiles. Total joint reconstruction, the largest market segment (41% of the total!), is growing at a rate of 3% to 4% per year. As the core of the orthopedic sector of the medical-devices market, total joints produce over 40% of the dollars in the total marketplace of medical devices. This market consists of knee implants (55%), hip implants (41%), and extremities (4%), which include shoulders, wrists, and ankles. Heavy consolidation of the five key players in this multibillion-dollar market includes Johnson & Johnson/DePuy (23%) and Stryker/Howmedica (20%). There are other manufacturers as well.

After the knee implant or hip implant has been surgically put in place and the patient begins rehabilitation in an attempt to achieve his or her former motion and ability to carry on the activities of daily living, problems begin to arise as a result of the fact that the polyethylene liner in the ball joint of the hip implant and between the upper and lower portions of the knee implant starts to crack, peel, and break into pieces. This happens as a result of the gamma irradiation making the plastic much more brittle and subject to these problems than it would have been had the gamma irradiation in oxygen not taken place. Ordinarily, knee or hip implants can last 10 to 15 years or longer. In cases where gamma irradiation has been used, these devices have failed anywhere from six months to a year and a half or two after implantation. Obviously, this necessitates another surgery to either remove the plastic pieces and replace the plastic liner, or remove the entire device, depending on how bad the damage is that has occurred.

The most significant damage occurs when the plastic pieces migrate out into the soft tissue or come in contact with bone. If there is bone wear and/or loss or significant damage to the collateral tissues, the entire device may have to be replaced rather than simply replacing the plastic liner. This can represent a significant problem for those individuals who are

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We believe no one deserves to have insult added to injury.



HORMONE THERAPY

Troubling research findings

Recent troubling findings question the effectiveness of hormone-replacement therapy. Early on, manufacturers' marketing campaigns convinced doctors and their female patients that menopause was a medical disorder that could be successfully treated with prescription medications that had virtually no side effects.

Now, evidence suggests medications—particularly combination hormone-replacement therapy—not only can cause cancer, heart attacks, and other serious side effects, but also may be much less effective at treating menopausal symptoms than previously believed.

Although dozens of firms manufacture medications for estrogen-replacement therapy (ERT), generally used by women who enter menopause following surgical removal of the uterus, Wyeth Laboratories' Premarin® is the most widely prescribed. For combination hormone-replacement therapy (HRT), prescribed for women who enter menopause naturally through aging, the most commonly prescribed medication is Wyeth Laboratories' Prempro®.

Here is a brief chronology of hormone therapy's history.

1959—A *Journal of the American Medical Association* (JAMA) article reports a 25-year study showing that estrogen protects bones and relieves menopausal symptoms.

1962—Brooklyn gynecologist Robert Wilson's best-seller, *Feminine Forever*, recommends estrogen as the "cure" for "the tragedy of menopause."

1975—Thirty million prescriptions of Premarin are being filled annually.

1976—The *New England Journal of Medicine* (NEJM) reports a link between estrogen therapy and breast cancer.

1980—Pharmaceutical manufacturers market ERT and HRT from a new angle, claiming they prevent bone loss.

1985—Drug makers promote the first of several studies which say that hormone replacement therapies prevent heart disease and bone loss without risk of cancer, strokes, or blood clots.

2000—The Women's Health Initiative, part of the National Institutes of Health, reports that women taking Prempro experience a small increase in heart attacks, strokes, and blood clots.

2001—JAMA reports that a 20-year National Cancer Institute study found that long-term ERT use significantly increased the risk of ovarian cancer.

2002—Another JAMA article reports that Prempro may stem Alzheimer's disease.

2002—The National Institute of Environmental Health Sciences, of the United States Department of Health, places estrogen on the government's roster of known human carcinogens.

The most recent studies present additional worrying findings.

May 2003—NEJM reports a new study which shows that hormone-replacement therapies failed to improve sleep, vitality, and sexual satisfaction or reduce depression.

May 2003—A JAMA article says that hormone therapy nearly doubles the risk of Alzheimer's disease.

June 2003—JAMA reports that even short-term use of HRT increases the risk of breast cancer and makes the disease more difficult to detect.

Throughout 2003, class actions have sought damages for injury and death among women who took Prempro, alleging its manufacturer failed to use due care in designing and manufacturing it to

reduce health risks, failed to conduct sufficient clinical testing and monitoring to determine safety, and failed to provide proper warnings to users about potential side effects.

The HRT situation continues to vary from month to month. For more information, please consult your attorney.

If you slip and fall

Slips and falls can be funny in slapstick comedies when stunt specialists, protected with padding and knowing how to fall properly, take on-screen tumbles.

But in real life, slips and falls are a leading cause of serious injury. Even the smallest trip-up can result in a great deal of damage to ankles, legs, arms, hands, the back, or the head.

What causes falls? Among the many contributing factors are ice and snow, slippery materials on floors, stairs with faulty handrails, uneven concrete or slate sidewalks, improperly secured carpets or mats, and objects placed unsafely in people's paths.

Anyone who has a slip-and-fall accident and experiences injury should try to do several things. First, get immediate medical assistance. Second, ask for the names, addresses, and phone numbers of witnesses who saw the fall. Third, try to save any evidence related to the fall, such as a squashed piece of fruit and the shoes worn at the time. Fourth, contact legal counsel.

Carpet hides drain

A woman underwent arthroscopic knee surgery and missed several months of work after tripping and falling in a railway tunnel. Her attorney achieved a settlement for her with the owners of the railway station tunnel after demonstrating that they had negligently created a dangerous condition by installing carpeting that obscured the grate of a drain depression from her view.





AUTO ACCIDENTS

Seven slip-ups

Time and experience have shown that drivers can make seven mistakes that forfeit rights and limit opportunities for fair restitution in auto accidents.

- 1. Failing to call the police.** Without an official police accident record, it is, unfortunately, one driver's word against the other's about what happened. All claims bear equal weight.
- 2. Consenting to working out auto-damage repairs and medical-injury care with a trusting handshake.** People change their minds and tell different stories.
- 3. Declining an immediate checkup and ongoing medical assistance.** A neck that starts hurting a week after the collision is harder to justify. Also, insurance companies often counter that delayed pain may come from an existing condition or an earlier or subsequent occurrence.
- 4. Failing to collect or exchange information with other drivers, passengers, or eyewitnesses.** The document trail of evidence and statements can make or break a claim.
- 5. Forgetting to notify your insurance company.** You paid the insurance premiums, but by forgetting to call, you may incur out-of-pocket costs that the insurer should cover.
- 6. Saying "It was my fault."** Be fair to yourself. This accident may really not have been your responsibility.
- 7. Not consulting an attorney.** It's often said, "He who defends himself is foolish." Omitting legal representation cedes your rights to the other driver's insurance company.

Workplace injuries

Workers' compensation not always enough

For a worker severely injured on the job, workers' compensation is often a key source of financial support during recovery and rehabilitation. A workers' compensation program is a state-operated and -guaranteed insurance plan that covers medical bills and replaces lost wages for employees.

But many workers' compensation programs limit benefits for seriously injured employees. Most replace, at maximum, only two-thirds of salary, exclude fringe benefits, and may be capped for cost-of-living adjustments. Workers' compensation also usually offers no or little compensation for pain and suffering.

Seriously injured workers face other restrictions as well. Workers' compensation benefits may be cut or ended if the worker is judged to still be able to earn money. Employers may also require a worker to take additional medical and vocational examinations to assess the extent of disability and lost earning power.

Other protections

Injured workers, confronted by restrictions imposed by workers' compensation plans, can seek legal counsel, which can sometimes identify other sources of financial compensation and recovery equal to the cost of the employee's injuries. In some cases, investigating the accident scene and talking to witnesses can lead to third-party claims for compensation.



INJURY SOURCES

Product liability—Manufacturers of machinery, equipment, or safety gear may be held liable for failing to exercise all possible care in the products they market.

Inadequate warning or instructions—Some products have built-in hazards that cannot be eliminated from design since they would inhibit cost-effective operation. Warnings must be included for such products.

Contractor negligence—Outside vendors engaged to install equipment, design workstations, provide lighting, or support work processes may contribute to injuries.

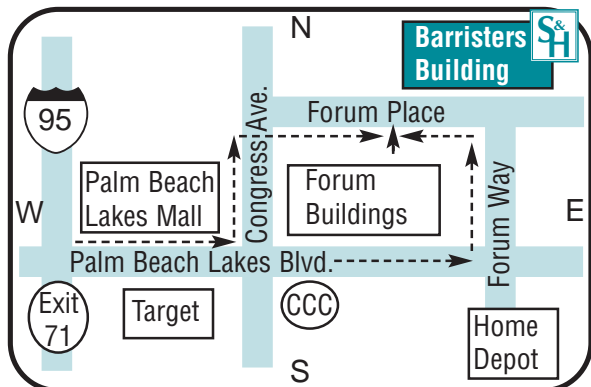
Premises liability—Dangerous conditions at the worksite or elsewhere, such as a poorly designed loading dock or inadequate safety considerations, may also cause or contribute to an injury.

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CHILD DAY CARE

When selecting a day-care center, parents can learn much by asking specific questions and inspecting documentation covering licensure, staff qualifications, and policies. They can also review procedures for emergencies, first aid, and fire drills.



Parents can also learn more by the “feel” they get by walking around and watching caregivers and children interact. They can see if staff members enjoy being with youngsters, if they treat them fairly, and if children feel happy and safe.

Here are several general safety and security considerations for parents...

- ✓ Are fire regulations met?
- ✓ Do steps have safety treads and handrails?
- ✓ Is lighting adequate?
- ✓ Are outdoor play areas fenced and clean?
- ✓ Is someone always watching the children?
- ✓ Are playrooms warm or cool enough?
- ✓ Are child drop-off and pick-up secure?

BE CAUTIOUS

No matter how carefully parents inspect a day-care facility, problems can always arise. After a toddler drowned in a pool located at a day-care facility, his father sued the owner, alleging negligent supervision. His lawyer demonstrated that the child died because he had been placed in an unauthorized and unlocked play area adjacent to the pool.

Welcome back, Hank!

After a four-year hiatus, **Hank Van Wieringen, Jr.**, will be returning to Schuler and Halvorson, P.A., on March 1, 2004, as an investigator for the firm. We will all be happy to have him return, as he has certainly been missed. Welcome back, Hank!



PEOPLE INJURED...

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advanced in years and/or not in the best physical shape. The danger and cost of going through a second surgery, as well as the painful effort at rehabilitation after going through similar attempts to regain movement as a result of the original surgery, can pose significant problems.

Should you or a family member or friend experience difficulties with the Johnson & Johnson/DePuy orthopedic knee or hip implant, or even an implant from another manufacturer, and you wish to pursue a claim against these manufacturers, we will be happy to research your particular case and give you an opinion as to whether you may qualify for compensation. Significant numbers of similar claims have already been brought in other states, and there have been a number of settlements. Our national (toll-free) wats number is **1-800-689-8180**, and our local number is listed in this newsletter. If you make this call, please ask for either **Richard Schuler**, **Joseph Graves**, or our nurse consultant, **Rhea Doran**. Hopefully, we will be able to help you or your family member or friend in his or her time of need to redress the damage caused by these defective devices.