



G-LAW

A
Publication for
the Clients and
Friends of
GoldenbergLaw,
PLLC

"Promoting Safety Through Accountability"

Fall 2014

PREMISES LIABILITY ISSUE

REMEMBERING THE 35W BRIDGE COLLAPSE

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**STRYKER AGREES TO PAY \$1.4
BILLION IN RECALLED HIP
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A message from

STUART GOLDENBERG

On August 1, 2007, during a hot afternoon in Minneapolis, the I-35W bridge that spanned the Mississippi River suddenly collapsed. When the twisted metal finally came to rest, 13 people were dead and 145 others were injured. The questions started immediately. How could this have happened? Bridges don't just fall down, do they?

Premises liability law is largely about answering these types of questions with science, evidence and testimony. Whether it is an injury on a construction site, a fall on property, a failure to maintain equipment, a structural collapse or even an explosion, the incidents are often like a "whodunit." Each mystery can only be solved and proven by careful investigation, thorough preservation and collection of evidence, retention of the proper experts, and experienced litigation skills.

In the 35W bridge case we were honored to be hired by several victims and their families. These people had really suffered horrible losses. We were privileged to be part of an amazing consortium of talented and dedicated Minnesota attorneys who worked together to solve this mystery and aid all the victims. Our firm and many others worked on some or all of the cases without taking a fee.

INVESTIGATION AND PRESERVATION OF EVIDENCE IS CRITICAL

First, the finest bridge engineers in the country were retained. Evidence had to be preserved and the pieces of the bridge were carefully numbered and collected. All photos or videos of the collapse were gathered. Each person who witnessed the collapse was interviewed. Hundreds of thousands of documents about the history of the bridge, its maintenance and inspection were produced in litigation and analyzed. Three potential defendants emerged: 1. The State of Minnesota, 2. A prominent bridge consulting company hired by the state to analyze the bridge and 3. A construction company that was working on the bridge at the time.

STRUCTURES DON'T SUDDENLY COLLAPSE

Depositions were taken of the state employees who had maintained the bridge and the construction crew members who were working on the bridge. Testimony and documents were obtained from the consulting company. One theme began to emerge: there were many telltale signs of structural failure long before the bridge collapsed. Our team of attorneys and experts put forth a strong case that all three of the defendants were responsible and backed it up with thorough engineering science.



GOOD LAWYERING LED TO RESOLUTION

The State of Minnesota was limited in the amount it could pay, but the legislature stepped up and created a Victims Fund. After extensive litigation the claims against the other defendants were also resolved. Our clients and the other victims were compensated and have tried to move on with their lives. Some of our clients are still involved in a 35W victims support group. A memorial was established in honor of the victims of this tragedy. Our firm and the other 17 firms involved in this litigation received the Professional Excellence Award from the Minnesota State Bar Association.

EVERY PREMISE CASE NEEDS EXPERT PREPARATION

Certainly not every premise case has the notoriety of the 35W bridge collapse. However, when we are retained on a premises case, you can expect the same degree of preparation and skill to solve that "whodunit."

Stay in the Loop with GoldenbergLaw!

Our social media sites are a great way to keep up on safety news and updates, as well as any updates we have on our mass tort cases.

You can also show your support for what we do by becoming involved. Next time you're logged on, make sure to visit us at:

Facebook: facebook.com/GoldenbergLaw

Twitter: @Goldenberg_Law

LinkedIn: linkedin.com/company/goldenberglaw-llc

Google Plus: [GoldenbergLaw, PLLC](https://GooglePlus.com/GoldenbergLaw)

Blog: defectivedruganddeviceresourcecenter.com



DANGEROUS DRUGS AND DEVICES

GoldenbergLaw is currently investigating claims involving these products and has 29 years of experience handling dangerous drug and device cases. Contact us at 612-333-4662 or 1-855-333-4662

Medtronic Infuse BMP:

Used in spinal fusion surgeries - linked to unwanted bone growth, inflammatory reaction, severe arm and leg pain and possibly cancer.



Medtronic Paradigm Pump:

Insulin pump - linked to defects resulting in over or under delivery of insulin, serious illness, and/or death.



Tylenol/Acetaminophen:

Over-the-counter or prescription pain reliever - linked to liver damage and liver failure.



Talcum Powder/Baby Powder:

Talc-based powder used for many purposes - linked to ovarian cancer when used for female hygiene in genital area



GranuFlo/Naturalyte:

Dialysate solutions - linked to metabolic alkalosis, cardiopulmonary arrest, sudden cardiac death, and other cardiac-related events.



Benicar:

Blood pressure medication - linked to severe intestinal problems that cause chronic diarrhea and weight loss.



Yaz/Yasmin/Ocella; NuvaRing:

Female contraceptives - linked to dangerous blood clots (i.e. deep vein thrombosis/DVT, pulmonary embolism, stroke).



Metal-on-Metal Hips:

Linked to implant loosening, pain, high metal levels in blood and need for revision surgery. Models include DePuy ASR, Zimmer Durom Cup, DePuy Pinnacle, and others.



Stryker Rejuvenate/ABG II Hip Stem:

Modular hip stems - linked to corrosion at stem/neck juncture leading to elevated metal levels in bloodstream, necrosis and need for revision surgery.



Actos:

A blood sugar control medication for type II diabetics - linked to bladder cancer.



Propecia/Proscar:

(finasteride) a hair loss and BPH drug - linked to severe and persistent sexual dysfunction in men and is also linked to prostate cancer.



Testosterone Therapy Drugs:

Male hormone drugs - linked to increased risk of heart attack, blood clots, stroke or death.



PREMISES LIABILITY: NEGLIGENT PROPERTY MANAGEMENT

Our client Bryan (client's name changed for confidentiality purposes), was a small private contractor hired to fix the chimney of a Minneapolis apartment building in March 2012. The job required use of a hydraulic lift weighing over 35,000 pounds. Bryan was 30 feet in the air on the lift when suddenly and without warning, the parking lot supporting the lift collapsed into a hidden basement. Bryan was thrown from the lift into an adjacent building and suffered facial abrasions and a shoulder injury.

Our investigation revealed that less than a year before Bryan's accident, the building management company contracted with an engineering company to reinforce the century-old boiler room roof directly under the parking lot. Given the option to install a new roof capable of supporting heavy vehicle traffic, the management company and building owners chose a cheaper alternative. The result was a parking lot that could only withstand the weight of pedestrians, snow and cars.

When the project was completed, the building management company, ownership and engineering company knew the lot could not support vehicles over 20,000 pounds. They also knew the lot was frequented by dump trucks and fuel trucks. No signs, weight restrictions or concrete bollards blocking off the lot were ever used in spite of multiple recommendations from the engineers and construction company.

The testimony showed the management company hired Bryan knowing that his work would require the use of a heavy lift. He was hired because his bid was significantly lower than that of a construction company aware of the weight restrictions. The management company did not alert Bryan to the weight restrictions, to the existence of the boiler room under the lot, or to the recent construction done on the boiler room.

GoldenbergLaw brought suit against the management company and the property owners. After many depositions, we made a motion to amend our complaint for punitive damages, which was granted by the court.

Punitive damages are allowed in Minnesota only when the defendant's conduct shows a deliberate disregard for the rights and safety of others. The case was settled weeks before trial for a confidential amount.



There were no signs or warnings posted about weight restrictions on the parking lot

FAILED EQUIPMENT LIABILITY: WHO IS RESPONSIBLE?

Premises liability law extends to companies who provide and maintain equipment. Our client, Brett (client's name changed for confidentiality purposes), worked in ground service for a major airline. His duties involved helping guide incoming planes to the jetway passenger bridge at the gate. In May of 2010, Brett was near the jetway as a 757 aircraft was parking. The Ground Power Unit at this gate was suspended on the jetway and supported by a 150 pound cable fastened to the passenger bridge by U-Bolts. As the jetway was moved to meet the aircraft, one of the U-Bolts failed. The heavy cable fell from the passenger bridge and struck Brett in the head. Brett was knocked unconscious and suffered a permanent brain injury with cognitive deficits.

A prominent Minnesota workers' compensation attorney referred the liability case to GoldenbergLaw. Our investigation found that maintenance had been outsourced to a company that specialized in passenger bridge service and repair. The maintenance company's contract required regular safety

inspections of the equipment it serviced and written documentation of any defects discovered. Prior to Brett's accident, more than 400 faulty bolts had been replaced without

notifying the airline. An inquiry launched after Brett's accident found that more than one-third of the bolts at its jetways needed to be replaced.

We brought suit against the maintenance company on Brett's behalf, claiming it neglected to maintain consistent and thorough safety inspections of the



The cable that struck our client weighed over 150 lbs

equipment it serviced and failed to document the defects at the jetway.

GoldenbergLaw hired an aviation maintenance expert who concluded that the defendant's failure to adequately inspect and identify faulty equipment at the accident site was a breach of contract with the airline and created an "unreasonably dangerous condition" that caused Brett's injuries. Our expert opined that if the defendant had notified the airline of the ongoing problem of these bolts failing, there would have been a daily visual inspection of the bolts and Brett's accident would have been avoided. It was an accident waiting to happen.

Due to his injuries, Brett has permanent work and recreation restrictions that caused him to lose his job at the airport. He has undergone disc replacement surgery to his cervical spine, ear surgery, and suffered bouts of vertigo and post-traumatic depression as a result of the accident. GoldenbergLaw and his workers' compensation attorney retained a vocational specialist who helped identify work within Brett's restrictions.

Sadly, Brett has not been able to obtain employment since the accident, but he is hopeful of finding employment within his restrictions. After surviving motions for summary judgment, the case was confidentially resolved. It is our hope this settlement allows Brett to put this accident behind him and live life to his fullest capacity with his wife and three young children.

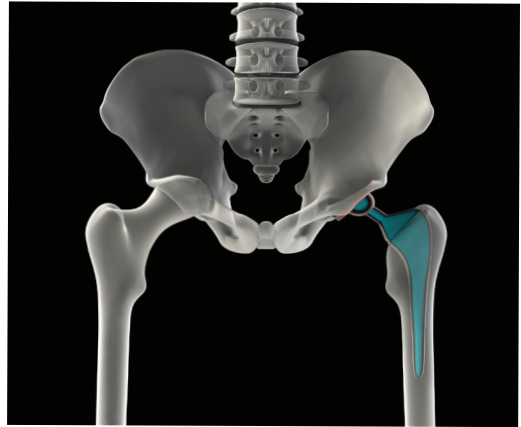
STRYKER TO PAY OVER \$1.4 BILLION TO SETTLE HIP IMPLANT CASES

We are excited to report that after two years of litigation, Stryker has agreed to pay over \$1.4 billion into a fund to compensate victims injured by Rejuvenate and ABG II hip implants.

GoldenbergLaw began investigating and litigating these cases very shortly after Stryker issued a recall in June 2012.

These cases were based upon a defect in the stem of the device that caused metallosis (metal poisoning) and revision surgery.

There is no cap on the settlement and future claims will still be available.



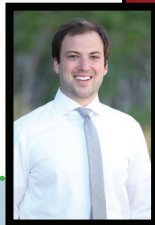
The details of the settlement are available on our website at www.goldenberglaw.com. We will be holding teleseminars for our clients and referral attorneys in the future to explain all their rights and choices.

Thank you to the many clients and referring attorneys who trusted us to pursue these cases.

GoldenbergLaw is still accepting Stryker Rejuvenate and ABG II hip cases. Please contact attorney Laura Pittner at **612-436-5027**.

NEWS AROUND GOLDENBERGLAW, PLLC

Ben is the Legal Assistant on our Medtronic Infuse & Medtronic Insulin Pump Cases. He is entering his third year with GoldenbergLaw. Ben's work ethic, calm demeanor and sense of humor make him a favorite among our clients.



Get to Know Ben Stelpflug:

WHAT IS YOUR FAVORITE THING ABOUT FALL?

I love the smell and feel of crisp fall air, bonfires and football season.

WHO IS SOMEONE YOU ADMIRE AND WHY?

Well, besides Stuart of course, I would go with Michael Jordan because he is the greatest of all time.

WHAT IS YOUR FAVORITE PLACE YOU'VE TRAVELED TO?

Peru and Spain are tied for first, both were sublime.

WHAT IS THE MOST DARING THING YOU'VE EVER DONE?

Allow myself to be featured in this publication.

WHAT IS YOUR LEAST FAVORITE FOOD?

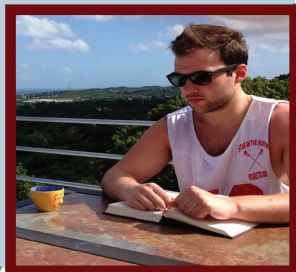
Onions.

DO YOU HAVE A FAVORITE CANDY?

I have many a favorite candy. Far too many to list. This answer also doubles for my most unhealthy habit.

WHO IS YOUR FAVORITE SPORTS TEAM?

The Minnesota Vikings, even though they consistently let me down.



IN OTHER NEWS:

Congratulations to Marlene Goldenberg on being named an Up & Coming Attorney by Minnesota Lawyer Magazine! Marlene was recognized for her outstanding work on the Medtronic Infuse litigation.

MINNESOTA LAWYER 2014
UP & COMING
ATTORNEYS

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