



G-LAW

"PROMOTING SAFETY THROUGH ACCOUNTABILITY"

Spring 2018

Is Your Workers' Compensation Case Also a Liability Case?



Guns & Liability

Stuart Goldenberg discusses the topic of gun violence.

Deadly Reaction

Some medications may cause a severe skin reaction.

Our Commitment

See the impact our partners are making within the community.

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A Message from Stuart Goldenberg



A solution to limit gun violence is to hold manufacturers and sellers responsible.

Let me begin by saying I am not against guns or the constitutional right to own one. I am against the design of guns and the sale of ammunition that make it highly foreseeable and predictable that some guns will be used for bad purposes.

The first few months of 2018 have again been inundated with news of school shootings, with the Parkland tragedy particularly capturing the nation's attention. The innocent victims and their families rarely have legal remedies or any assurances that this won't happen again. But why is that the case?

Our Rights Under the Constitution

The Second Amendment of the Constitution is not absolute. We don't allow people to keep and bear atomic weapons or machine guns. Additionally, Congress has the right to regulate and tax firearms and ammunition. They also have the power to allow manufacturers of guns to be held liable. One problem, however, is that a 2005 law called the Protection of Lawful Commerce in Arms Act (PLCAA) granted gun manufacturers legal protection from most lawsuits. It is the only industry in America with this level of protection.

Why are powerful guns such as AR-15s and accessories like bump stocks not considered unreasonably dangerous under the law or considered ultrahazardous activities which impose strict liability? Under product liability laws, products such as drugs, medical devices, and even cars can be considered unreasonably dangerous when the risks outweigh the benefits. Shouldn't certain guns and accessories be subject to the same analysis? The PLCAA currently prevents such considerations and promotes a lack of accountability in the gun industry which has contributed to the lack of safety in certain gun and accessory designs and sales.

What Can Manufacturers Do?

It is highly foreseeable that some guns or ammunition will be used for bad purposes. But manufacturers and distributors are making it so much easier for it to occur. Manufacturers don't install technology in the guns that would only allow the buyer to use them (fingerprint technology) or install GPS technology that would allow manufacturers and law enforcement to trace where they have been and follow ownership transfers. Distributors and wholesalers allow ammunition to be easily and cheaply purchased in mass quantities.

The gun industry is making billions and doing nothing to prevent senseless violence. The risks of some gun designs and accessories far outweigh the benefits, especially when thousands of Americans are being killed each year by these features. At least one answer to this horrible problem is to repeal the PLCAA.

Dangerous Drugs and Devices

GoldenbergLaw is currently investigating claims involving these products and has over 30 years of experience handling dangerous drug and device cases. Contact us at (612) 436-5026 or (855) 333-4662.



Abilify

An antipsychotic medication approved for the treatment of schizophrenia, bipolar disorder, and depression - linked to compulsive gambling behaviors.



Bair Hugger

A warming blanket used during surgeries that can spread contaminated air over open wounds - linked to deep joint infections and the need for revision surgery.



DePuy Attune Knee

A knee replacement device - linked to loosening, instability, severe pain, and the need for revision surgery.



Farxiga

A drug used to treat type 2 diabetes, intended to block pathways that reach the bloodstream - linked to ketoacidosis.



Hernia Mesh

A mesh implanted to strengthen muscles near a hernia - linked to migration, hernia recurrence, required removal surgery, bowel obstructions, and punctured organs.



Inferior Vena Cava Filter

Blood clot filters placed in the large vein leading to the heart - shown to migrate or fracture after a period of time and can puncture parts of the vein or other internal organs.



Medtronic Paradigm Pump

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



Metal-on-Metal Hips

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



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 revision surgery.



Talcum Powder/ Baby Powder

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



Testosterone Therapy Drugs

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



Zimmer Persona Knee

A knee device system that has been recalled by the manufacturer - has been known to loosen and cause bone damage when uncemented.

Is Your Workers' Compensation



An injury on the job may be more than just a workers' compensation case.

Every year we receive inquiries about injured workers that include the ability to pursue more than just a workers' compensation (WC) case. In fact, when a worker is severely injured it is imperative to evaluate every possible type of recovery. Almost all states allow a separate lawsuit for situations where the injuries were caused by the fault of the third party. This may be a product manufacturer, a different construction company, an at fault driver, a maintenance company, a property owner, or even a medical malpractice case. ***Each of these possible causes of action should be investigated as soon as possible so evidence can be preserved.*** In death or amputation cases, OSHA should be called immediately.

The WC/Product Liability Case

This most often happens when a worker is injured on an industrial machine at work such as a conveyor, a press, an injection machine, etc. But defective tools such as saws, nail guns, etc. are also successful cases we have handled. ***It is critical that any product be preserved and photographed.*** If the employer possesses the machine, a letter of preservation and an inspection by an expert is necessary as soon as possible.

Employee exposure to unguarded or inadequately guarded machines has led to approximately **800 deaths** per year.

OSHA reports that workers who maintain and operate machinery fall victim to approximately **18,000 amputations, lacerations, crushing injuries, and abrasions** per year.

The WC/Drug or Device Case/Medical Malpractice

After an injury, a worker may undergo significant medical treatment. This may involve such medical devices as a hip, knee or shoulder replacement, bone grafts, or hernia mesh that may involve revision surgery of the original device. This may represent a failure of the device. There also may be malpractice considerations if treatment has resulted in far worse injuries.

The WC/Auto Case

A common situation is a worker being injured by another at fault driver. Coordination of all the auto and business coverages are very important.

on Case Also a Liability Case?

The WC/Construction Case

If a worker is injured on a construction site, there may be a cause of action against other contractors who caused the problem. There are many complex defenses in these cases but proving another contractor violated OSHA or ANSI standards is what we evaluate.



The WC/Negligent Maintenance Case

Workers are sometimes injured by negligently maintained equipment or defective property such as rotting steps or unmarked dangers.

Summary

These “combination cases” involve complex issues of coordination of laws, subrogation, and insurance. GoldenbergLaw has successfully handled hundreds of these complex cases. ***We work with the workers’ compensation attorneys to make sure our clients maximize their recoveries.*** Contact Stuart Goldenberg at slgoldenberg@goldenberglaw.com.

Stevens-Johnson Syndrome/ Toxic Epidermal Necrolysis



Overview

Stevens-Johnson Syndrome (SJS)/toxic epidermal necrolysis (TEN) is a rare and potentially deadly skin reaction that results in severe chemical burns to the skin. ***Most patients end up in a hospital burn unit with debilitating nerve pain.*** SJS and TEN are variants of the same condition that is almost always caused by a reaction to a medication. Both variants are extremely painful and can be marked by severe injuries and even death.

The Problem

While SJS/TEN can be caused by infections, the primary cause of the condition is from reactions to medications - namely antibiotics. Though many drug manufacturers now warn of the potential side effect of SJS/TEN on the labels of many products, it is a random and unpredictable condition. When symptoms do appear, ***many medical professionals fail to immediately recognize or identify the condition on a patient and begin proper treatment.***

The Injuries

Symptoms of SJS/TEN typically manifest within a few days to one month of taking a medication. Early symptoms include fever, sore and red eyes, and a painful rash that spreads rapidly over the body. Along with the rash, the skin can also form lesions and patches of odd discolorations known as macules. The skin will blister, and, as the condition worsens, the blisters begin to dissolve and expose the dermis. Mucosal surfaces are also affected, including the eyes, lips/mouth, genital area and urinary tract, and the gastrointestinal tract.



There is no direct cure. Treatment is primarily focused on alleviating the most serious symptoms and replacing lost fluids and nutrition intravenously. The most important treatment is to recognize the reaction and ***immediately discontinue the medication.*** Unfortunately, SJS/TEN can be fatal if left untreated. It is extremely important to see a doctor if you are experiencing symptoms of SJS/TEN.

GoldenbergLaw Can Help

If the manufacturer fails to properly warn of the SJS/TEN reaction, there may be a product liability claim against them. If the treating doctors fail to properly dose, warn, recognize, or treat the condition, there may be a medical malpractice claim. If you or a loved one has experienced SJS/TEN as a reaction to a medication, contact us for a free consultation.

Meet Stacy Olson

Legal Assistant at GoldenbergLaw



Stacy started working for GoldenbergLaw in 2006. We value her passion for helping others.

Stacy grew up in St. James, MN.

She married her high school sweetheart, Brett.

Stacy's dream job is to be a judge on Iron Chef.

She actually enjoys cleaning, especially vacuuming.



Stacy with her daughter, Maddy (4), son, Mason (2), and husband, Brett

Our Commitment



Our partners are involved in and out of the court room.

Stuart Goldenberg recently represented clients pro bono in the NECC Contaminated Steroid Cases to obtain money for them through the Federal Victims Of Crimes Act. Stuart is serving in his second volunteer year as the co-chair of Minneapolis Federation for Jewish Service Campaign which raised almost \$20 million last year for charity and the endowment fund.

Laura Pittner serves on the Volunteer Lawyers' Network assisting clients in bankruptcy and housing needs.

Marlene Goldenberg is in Big Brothers Big Sisters and serves at the Children's Law Center. In addition, she is the co-chair for her temple's annual benefit.

Noah Lauricella serves as the co-chair of the Board of Directors for Haven Housing, a non-profit focused on providing women in crisis or transition with a stable environment and the opportunity to explore options for their future. He also recently wrote an article for Global Rights for Women entitled "The Darkness of Traumatic Brain Injuries: Not Just for Football Anymore."

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