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Summer 2018

Is There Asbestos in Baby Powder?



Bellwether Trials

Stuart Goldenberg proposes a change in the bellwether system.

Joint Replacements

Replacement devices are failing at an alarming rate.

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A Message From **Stuart Goldenberg**

Should we stop trying to resolve mass tort claims one bellwether trial at a time?



The bellwether system is designed in mass tort consolidations to put forward representative cases for trial that will allow each side to evaluate the likelihood of success on all cases and hopefully lead to settlement. Unfortunately, certain defendants, like J&J, are using this process to delay justice instead of as an evaluation process. In some litigations, it is now taking 5-7 years to complete the individual bellwether trials before they are remanded back to their respective trial courts. There is no significant financial pressure on the defendants to settle since trials and appeals take many years. Our clients should not need to wait this long for justice.

The Problem?

In the Pinnacle Hip MDL, there are over 9,000 cases pending, some since 2011. There have been four bellwether trials from 2014-2017 with verdicts totaling \$1.7 billion for plaintiffs. Only one trial resulted in a defense verdict. Two of these trials had multi-plaintiff verdicts and still no settlement has been reached. After seven years, the cases are finally being remanded.

A New Model?

A 22 plaintiff jury trial regarding talc and ovarian cancer began on June 6 in St. Louis. So far, there have been seven individual talc “bellwether” ovarian cancer trials, and there has not been a resolution yet. Five cases returned plaintiff verdicts totaling \$724 million. J&J won one case, and another jury found them negligent but awarded no damages. Yet J&J has not offered a settlement. The trial court has recognized that unless many cases are tried at one time, this litigation will never end. This multi-plaintiff trial may become the new model.

The Solution?

It is clear that J&J and other companies no longer respect the bellwether process of trying one or even four cases at a time for evaluation purposes. Their only goal is to defend and delay these claims until the resources and patience of the claimants are eroded. It is my opinion that in the MDL bellwether process there should only be one bellwether trial but it should involve 10 representative plaintiffs. If after that bellwether trial is completed the entire litigation does not settle, then all the cases should be remanded back to the many federal trial courts around the U.S. This would prevent these types of delays and make an MDL trial a more effective and faster way to resolve these litigations.

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



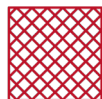
A knee replacement device - linked to loosening, instability, severe pain, and the need for revision surgery.

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 and mesothelioma.

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 There Asbestos in Johnson &

Johnson & Johnson's talcum powder has been a widely-used product throughout the country for decades. Talcum powder is the main ingredient in J&J's baby powder and shower to shower products used to prevent wetness, chafing, and rashes. However, J&J has recently come into the limelight due to allegations that its talc-based powders contain asbestos.

Mesothelioma Claims

All around the country, Plaintiffs are taking J&J to court. They claim that their decades-long exposure to asbestos in J&J's talcum powder led to their contracting of mesothelioma, a rare and often deadly form of lung cancer.

New Jersey

On April 5, a New Jersey state court jury sided with Plaintiff Stephen Lanzo III and his wife, who claimed that J&J's talcum powder led to Lanzo's wife developing mesothelioma. The jury awarded \$37 million in compensatory damages to Lanzo and his wife and \$80 million in punitive damages against J&J.



Plaintiffs' argument relied on internal J&J documents that showed the company was aware of potential asbestos contamination of its talc-based baby powder. Defendants countered that in the early 1970s the company discussed how it could remove potential asbestos from talc if it ever came in contact when mining but argued no asbestos was ever found, citing testing done by independent laboratories and scientists. Questions surrounding the credibility of that testing led the jury to find that J&J acted with reckless indifference in selling and distributing talcum powder that may have contained asbestos.

Los Angeles

On May 24, a Los Angeles Superior Court jury sided with Plaintiff Joanne Anderson who claimed that J&J's talcum powder led to her developing mesothelioma. The jury awarded \$21.7 million in compensatory damages and \$4 million in punitive damages.

Johnson's Baby Powder?

Anderson used J&J's talcum powder on her children and herself. She was an avid bowler and used the powder in her shoes and on her hands. The jury found J&J 67 percent responsible, and the rest of the liability was attributed to her exposure to asbestos while her husband did automotive work in her presence.

South Carolina

On May 29, a South Carolina judge declared a mistrial after the jury failed to reach a unanimous verdict. Bertila Boyd-Bostic, the plaintiff in this case, was diagnosed with mesothelioma at age 30 and died 15 months later. Her husband sued the company claiming the asbestos found in the talcum powder caused his wife's death. Bostic's lawyers hope to retry this case.

Ovarian Cancer Claims

In a separate litigation, thousands of women across the country are suing J&J for their ovarian cancer. Several studies have shown an increase in a woman's likelihood of getting ovarian cancer when she uses J&J's baby powder regularly. A woman who genitally dusts with talcum powder may be almost **three times more likely** to develop ovarian cancer. J&J became aware of the risk in the 1980's, though it has never warned its consumers about it. In fact, J&J denies there is a link between talcum powder and ovarian cancer.

St. Louis

On June 6, another talcum powder trial began in St. Louis. Twenty-two plaintiffs claim J&J's talcum powder caused their contracting of ovarian cancer. Plaintiffs are arguing that the talc in the J&J powders contains asbestos. A deposition of J&J's Chief Medical Officer revealed that J&J secretly funded research in 2008 attempting to claim that talcum powder does not have a link to ovarian cancer.

The Verdict Is in

Despite J&J's best efforts to distort the damaging evidence found in its internal documents, juries have consistently sided with Plaintiffs' argument that J&J knew its talc-based baby powder could contain asbestos and causes cancer. J&J will continue trying to appeal these decisions. GoldenbergLaw is accepting cases in which an individual was diagnosed with ovarian cancer or mesothelioma after years of extensive talcum powder use. Contact GoldenbergLaw if you or a loved one used talcum powder and was diagnosed with ovarian cancer or mesothelioma.

Bad to the Bone

The premature failure of joint replacements.

Almost all movements and actions of the human body rely on strong, functioning joints. As our bodies age, so too do our joints, and some weaken to the point of replacement. Unfortunately, many models of shoulder, elbow, hip, and knee replacements are failing due to instability and loosening. For some recipients of these replacements, everyday tasks have become almost impossible.

Shoulders

In December 2016, Zimmer Biomet recalled over 3,000 reverse shoulder components due to a high fracture rate. Symptoms of a fracture include stiffness and instability in the shoulder. Individuals could experience loss of shoulder function and even death as a result of the defective joint replacement.

Elbows

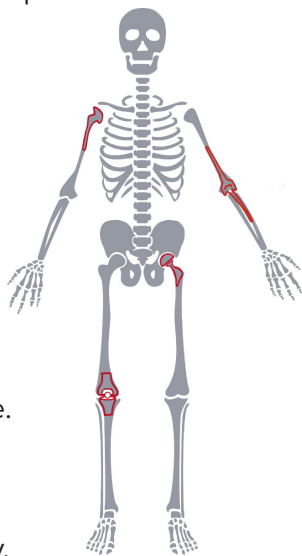
DePuy, a subsidiary of Johnson & Johnson, recalled its Synthes elbow component due to risk of loosening. The loosening of a radial stem can lead to osteolysis, or the destruction of bone tissue, pain, and soft tissue damage.

Hips

Many hip replacement devices are failing due to metal-on-metal friction, causing metal particles to release into the bloodstream. Metallosis, or metal poisoning, can lead to tissue damage, implant failure, and organ damage. Several hip replacements have been recalled.

Knees

Certain knee replacement devices are failing prematurely, causing severe pain and instability. The loosening is at the tibial plate and is due to the lack of bonding. This loosening can lead to bone loss, muscle damage, and joint replacement.



GoldenbergLaw Can Help

Manufacturers of these replacement devices have acted irresponsibly, often rushing these devices onto the market before devoting proper time for research and development. Because of the companies' actions, individuals are suffering physically, emotionally, and financially. If you or a loved one has suffered a subsequent replacement surgery after a joint replacement, contact us. Time is of the essence. GoldenbergLaw is a leader in defective joint replacement litigation.

Meet Julia Odima

Julia is our Hernia Mesh Legal Assistant. She joined our team in August of 2016.

What's something that people don't know about you?

I've performed the national anthem at the Minnesota Lynx and the Minnesota Timberwolves basketball games.

Share something unique about yourself.

I am half Filipino and half Nigerian. My parents both immigrated from their countries for college, and I love that I am made up of such a unique mix of cultures.

What's the best place you've travelled to?

South Africa has been my favorite thus far. I met exceptional people, witnessed the beauty and the nature of the country, and I got a chance to find myself on that journey. Words can't describe how influential it was being an African American woman in a post- Apartheid society. As I blended in with the average local at first glance, I was able to endure a unique experience of what it's like being a person of color in a country that experienced years of cultural oppression.



Our Leadership

GoldenbergLaw would like to congratulate our attorneys for being named to the 2018 Minnesota Super Lawyers and Rising Star lists.



Laura Pittner, Stuart Goldenberg,
Noah Lauricella, & Marlene Goldenberg

Senior Partner Stuart Goldenberg was selected to the 2018 Minnesota Super Lawyers list.

Partners Noah Lauricella, Laura Pittner, and Marlene Goldenberg were selected to the 2018 Minnesota Rising Stars list.

Congratulations to our Partners!

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