

January 2011



Patients seek compensation for recalled artificial hip joints

Thousands of people are facing the agony of having to undergo further hip surgery due to a product recall by DePuy Orthopaedics Inc, a Johnson & Johnson company, and a leading global provider of orthopaedic devices for hip, knee, extremities and trauma, as well as bone cement and operating room products. Daryl Robinson, a personal injury expert at Barr Ellison Solicitors, explains the position.

In August 2010, DePuy Orthopaedics Inc confirmed the recall of its ASR™ XL Acetabular Hip System and DePuy ASR™ Hip Resurfacing System, two of its hip replacement products launched in 2004, due to "more people than expected" experiencing pain and other symptoms that led to a second hip replacement surgery, called a revision surgery (although the recall does not apply to patients who had hip surgery prior to July 2003). Although the majority of ASR hip replacement surgeries have been successful, the data showed that five years after implantation, approximately 12% of patients (1 in 8) who had received the ASR resurfacing device and 13% of patients (1 in 8) who had received the ASR total hip replacement needed to have a revision surgery. A revision surgery is typically a three hour procedure requiring a bone graft and pins as well as potentially adverse long-term effects.

This month's features



Beware those bearing gifts!

If a bottle of 30 year old single malt whisky landed on your desk this Christmas, did you see it as a good will gesture from a grateful supplier or an act of bribery? And if a bottle is ok, what about that trip on Eurostar to see the rugby or a day out at Wimbledon? While these might seem like harmless freebies, come April they might seem like something very different. [MORE](#)



Don't take a risk with your Will

Following the Panorama expose of hidden costs charged by the will writing industry, Barr Ellison Solicitors is offering to take over the safe keeping of any wills free of charge. Explains wills expert Peter Ayling from Barr Ellison Solicitors: "While most will writers are unlikely to be involved in some of the criminal activity exposed in the programme, what many do is offer a will at what seems a very good price but then charge around £50 a year for its safe keeping. [MORE](#)



Are pre-nuptial agreements now binding?

The much awaited decision in the case of Radmacher and Granatino was handed down by the Supreme Court on the 20th October 2010.

DePuy Orthopaedics Inc is advising patients with an ASR device to visit their surgeon for evaluation of their implant performance. Symptoms such as pain, swelling and problems walking may indicate a deficiency with the implant and possibly the need for revision surgery. Such symptoms have been attributed to the implant not staying attached to the bone in the correct position, the bone around the implant breaking and the two parts of the implant that move against each other no longer being aligned. Additionally, very small particles of metal can be released from the implant as the ball and socket mechanism wears, causing fluid to collect in the joint and in the muscles around the joint. If left untreated, this reaction may cause pain and swelling around the joint and could damage some of the muscles, bones, and nerves around the hip. This may lead to the increased risk of losing of the components and its damaging effect to the surrounding tissue.

The Medicines and Healthcare products Regulatory Agency advised that as of 7 September 2010 both NHS and private hospitals should not implant DePuy ASR hip replacements. These hospitals were also required to inform all patients with implanted ASR hip replacements of the recall (estimated to be in the region of 8,000 patients) and to return all unused ASR hip replacement implants to the manufacturer.

David Floyd, president of DePuy Orthopaedics, released a statement on the company website, stating, *"We regret that this recall will be concerning for patients, their family members and surgeons... We are committed to assisting patients and health care providers by providing information through multiple channels and paying for the cost of doctor visits, tests and procedures associated with the recall."* DePuy intends to cover the reasonable and customary costs of monitoring and treatment for services, including revision surgeries, associated with the recall of ASR.

A client of Barr Ellison Solicitors, Mr Gareth Wilson, said *"I have been told that I have high levels of chromium and cobalt in my blood as a result of the ASR implant and that the operation will have to be performed quickly. This is now set for January 2011 but, as I am only 38 years of age, I am worried that further surgery now will limit the option of surgery in the future and will seriously affect my career as a builder before I reach retirement"*.

Professor Neil Rushton, Director of the Orthopaedic Research Unit at Addenbrooke's Hospital, has developed his own hip replacement system and says that *"It is disappointing that some of the metal-on-metal prostheses have not lived up to their promising initial expectations. Some products have done well whilst others have not behaved as well. The severe complications associated with the abnormal wear of metal-on-metal prostheses are difficult to deal with surgically. Some patients will require revision operations. However, many patients have excellent results with ASR resurfacing prostheses and therefore not all will need to be revised."*

Discussions are now taking place between legal representatives to consider the possibility of a protocol to deal with valid claims. As Daryl explains, "Our experience is that similar past protocols for other medical products have been very successful in dealing with claims without the stress of litigation and the hope is that this can be repeated for these particular products." Those wishing to claim compensation for the pain and suffering endured as a result of the implantation of the ASR implant should contact Barr Ellison Solicitors so that any possible claims can be registered as soon as possible.

Daryl Robinson's contact details are 01223 417200 and d.robinson@barrellison.co.uk

Helen Saggars, a matrimonial and family law specialist at Barr Ellison Solicitors, analyses the outcome. The German heiress Katrin Radmacher was successful in her appeal to enforce the terms of a pre-nuptial agreement that she entered into with her Franch husband. [MORE](#)

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