



Take Notice

An Injury and Insurance Newsletter for Friends and Clients of Tatlow, Gump, Faiella & Wheelan, LLC, Attorneys at Law

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Do you really have “full coverage?”

By: Rex Gump

During the initial interview of our personal injury clients, after asking all the obvious questions concerning the facts surrounding the injury, we ask the clients about their own automobile coverage. The typical response is “Why do you want to know that, it was the other person’s fault?” Most of the time, the clients state “We have full coverage.” Nevertheless, we ask them to bring in all of their insurance policies. They may have full coverage for their automobile, but not for their own injuries.

Many times potential defendants will give the investigating officer some evidence of insurance and later we learn the insurance coverage has lapsed or was fraudulently given at the time of the accident. Many times the potential defendant has the statutory minimum for insurance; in Missouri the statutory minimum for automobile insurance is \$25,000.00 of coverage per person and \$50,000.00 of coverage total per accident. This is similar to the majority of states, but many states require less.

If you are in an accident and are taken by ambulance, go through the emergency room and spend only one night in the hospital, the \$25,000.00 statutory required minimum is gone. If you have group health insurance or Medicare, eventually they will seek to be reimbursed for what they have paid on your medical bills.

All policies in Missouri require a minimum of coverage, which, as stated above is \$25,000.00 per person and \$50,000.00 total per accident. These amounts are designed to protect you if the motorist who causes your injuries has no insurance. As stated above, however, \$25,000.00 is a pitifully small amount if the injuries are serious.

Another form of available coverage, which is comparatively cheap, is underinsured motorist coverage. This coverage affords protection for you if the other driver has the minimum amount of coverage and your injuries exceed that amount.

Policies differ and the state of the law is currently in flux as to whether insurance companies may enforce what are known as “set off” provisions in underinsured motorist coverage. You should carry increased amounts of uninsured and underinsured motorist coverage to protect you against injuries caused by motorists who have no insurance or the minimum required by law.

DePuy ASR Hip Replacement Recall

By: Rex Gump

If you or someone you know suffered unusual pain or underwent revision surgery within just a few years of having a total hip replacement, the problem may be the result of implantation of a DePuy ASR metal on metal hip replacement.

Johnson & Johnson, the parent company of DePuy, introduced a line of metal on metal, so-called because both the ball and the socket of the artificial joint are made of metal, as opposed to the more typical metal or ceramic ball and polyethylene joint liner. Following extensive studies which have shown that as many as 13% of these implants are failing and requiring revision within just a few years, DePuy issued a recall.

What Hip Replacement Implants Were Recalled? DePuy has recalled the following hip replacement implants:

1. ASR XL Acetabular System—on the market since 2004 and sold worldwide
2. ASR Hip Resurfacing System—on the market since 2003 and sold outside the U.S.

How Do I Know if My Hip Was Recalled? DePuy has notified

your surgeon. By now, your surgeon's office should have contacted you. If you suspect that you have a DePuy ASR XL implanted since 2004, then you should contact your surgeon to find out for sure. Also, an inventory control sticker from the implant should be in your hospital chart for the surgery.

What are the Common Problems Patients are Reporting? Common complaints are component loosening, misalignment, dislocation, infection, loss of muscle mass, and unexplained hip, thigh or groin pain.

What Should I Do If I Have a Recalled Hip? You should contact an experienced medical malpractice and medical product liability attorney. Todd N. Hendrickson has years of experience in evaluating orthopedic injury cases. It is important that any attorney you retain be able to fully evaluate the original implant surgery technique, as DePuy may attempt to blame the surgeon for improper implantation.

If you suspect that you have a recalled DePuy ASR hip implant, contact our office for a free consultation.



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LEGISLATIVE NEWS:

Appellate Court Clarifies Worker's Compensation Laws

Recently, the Missouri Southern District Court of Appeals overturned a final award of the Labor and Industrial Relations Commission which had denied benefits to a registered nurse who suffered chronic tendonitis of the peroneal tendon. *Pile v. Lake Regional Health System*, 321 S.W.3d 463 (Mo. App. S.D. 2010). Her physician opined that her work at the hospital was the prevailing factor of her injury. The Commission had found that she was exposed to walking outside the job, and thus denied her Worker's Compensation benefits. The Appellate Court held that under "strict statutory construction" requirements, where the work nexus is clear, there is no need to consider the employee's exposure in non-employment life. You can read more on this on our [insurance blog](#).

Consumer Warning: Dangerous Caffeinated Alcoholic Drinks are Growing in Popularity

Making a mixed drink with a caffeinated beverage and alcohol is certainly not a new idea. A glass of soda mixed with rum or whiskey has long been a favorite of many. In more recent years however, with the introduction of highly caffeinated canned energy drinks a new trend has begun that is more dangerous than most people realize. It is now very popular to make a cocktail of a canned energy drink and alcohol. These mixed drinks have become especially popular with young adults, who are often prone to drinking excessively. What people don't realize is how dangerous these high energy cocktails are.

The human body has a natural response to alcohol consumption. Generally, the more you consume, the more tired you become. It's your body's way of keeping you from consuming too much alcohol. High energy drinks trick your body into ignoring this natural response. The caffeine keeps you energized, while you consume more and more alcohol and you never realize how intoxicated you have become.

Across the country, there have been complaints from various colleges and communities where people have suffered alcohol poisoning and several people have died as a result of consuming these highly caffeinated alcoholic drinks.

There is an even greater danger presented by some newer products on the market where malt liquor and high energy drinks are being sold in the same can. "Four Loko" is just one of the name brands of these dangerous beverages. Senator Charles Schumer of New York is calling for a ban on the sale of caffeinated alcoholic drinks after a 17 year old girl reportedly died after drinking Four Loko.

TGFW Firm Anniversaries



This quarter, TGFW celebrates the longterm service of attorney Chris Faiella. Chris joined TGFW as an associate attorney in 1995 after graduating from the University of Missouri School of Law. Chris became a partner in 1999. Since joining the firm, Chris has successfully handled many claims for personal injuries, insurance bad faith, wrongful death and a variety of other complex injury cases. He is a member of many organizations, including the Missouri Association for Trial Attorneys, American Bar Association and the American Association for Justice. Chris also volunteers his time and legal expertise to the St. Pius X School in Moberly.

TGFW also recognizes associate attorney Cassie Carpenter for her first year of service. Cassie joined TGFW in January 2010 as an associate attorney. Cassie graduated from Washburn University School of Law in 2008. She spent one year with a firm in Kansas City before moving back to mid-Missouri.

