CIRCUIT COURT OF ST LOUIS COUNTY
TWENTY FIRST JUDICIAL CIRCUIT
STATE OF MISSOURI

Plaintiffs,	
vs.	CAUSE NO._____
BIOMET ORTHOPEDICS INC Serve: CSC Lawyers Incorporating Service Company 221 Bolivar Street Jefferson City, MO 65101	DIVISION NO._____ JURY TRIAL DEMANDED
and	
BIOMET ORTHOPEDICS LLC Serve: CSC Lawyers Incorporating Service Company 221 Bolivar Street Jefferson City, MO 65101	
and	
BIOMET MANUFACTURING CORPORATION Serve: CSC Lawyers Incorporating Service Company 221 Bolivar Street Jefferson City, MO 65101	
and	
BIOMET US RECONSTRUCTION LLD Serve: CSC Lawyers Incorporating Service Company 221 Bolivar Street Jefferson City, MO 65101	
and	

JAKE WEIBLE)
Serve at: 229 Fairway Green Drive)
O'Fallon, MO 63368)
)
Defendants.)

PETITION

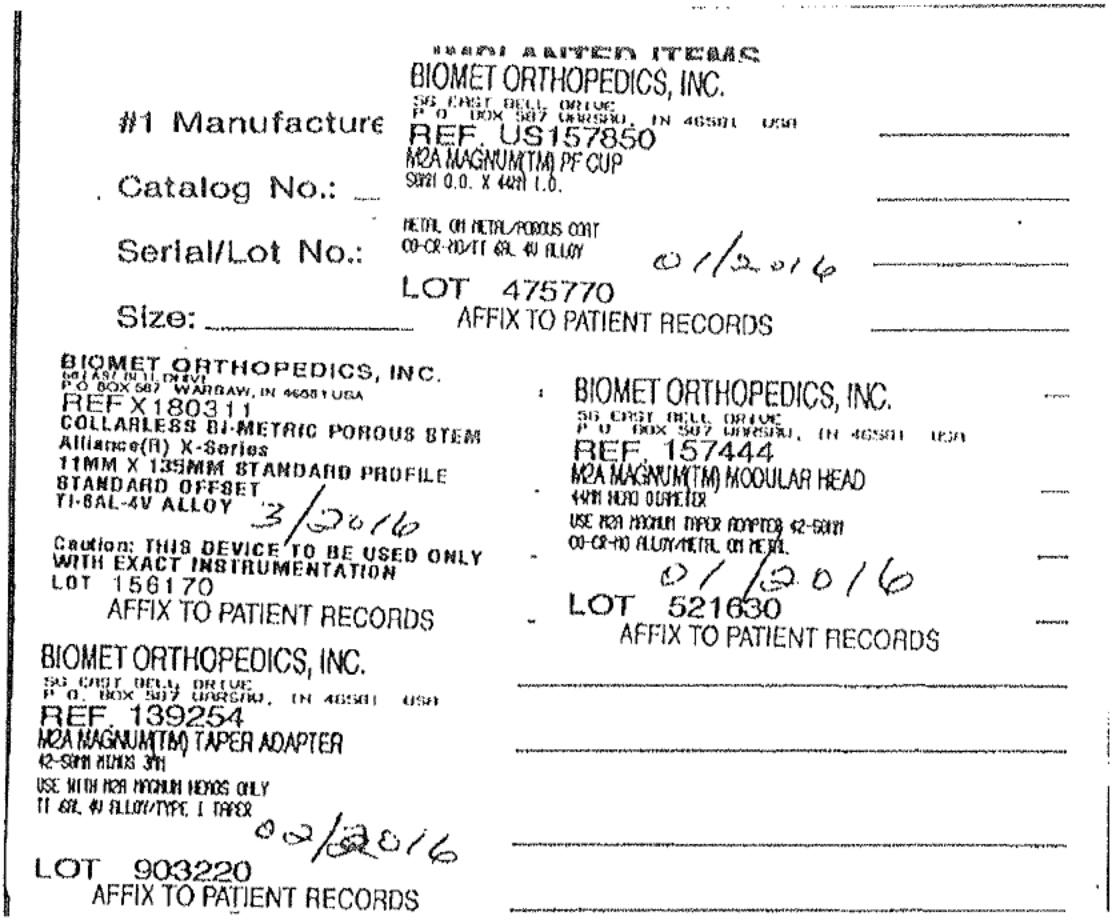
COUNT I - STRICT LIABILITY-PRODUCT DEFECT AGAINST BIOMET ORTHOPEDICS LLC

COMES NOW Plaintiff for Count I of her cause of action against the Defendant Biomet companies and states as follows:

1. Plaintiff was first injured by the events described below in St. Louis County. Venue is therefore appropriate under RSMo 508.010.4.

2. This action is brought within 5 years of Plaintiff's awareness of the M2A Magnum implants as the cause of her hip pain and dysfunction, which occurred around the time of the revision on 8/5/14, and is therefore within 5 years of the accrual of her cause of action within the meaning of RSMO §516.100 and §516.120(4) and *Elmore v. Owens-Illinois, Inc*, 673 SW2d 434, 436 (Mo. banc 1984).

3. In the course of their businesses, Defendants Biomet, Inc., Biomet Orthopedics, LLC, Biomet Manufacturing Corporation, and Biomet U.S. Reconstruction, LLC ("the Defendant Biomet Companies") designed, manufactured, marketed, sold and/or placed into the stream of commerce M2A Magnum hip implants, as shown on the OR implant record reproduced below. Their implants were placed into Plaintiff on 4/12/06 by Dr. Dan Martin at Mercy Medical Center in St. Louis County, Missouri.



BIOMET ORTHOPEDICS, INC.
56 EAST BELL DRIVE
P.O. BOX 587 WARSAW, IN 46581 USA
#1 Manufacture
REF. US157850
M2A MAGNUM(TM) PF CUP
Catalog No.: __
Serial/Lot No.:
Size: _____
01/2016
LOT 475770
AFFIX TO PATIENT RECORDS

BIOMET ORTHOPEDICS, INC.
56 EAST BELL DRIVE
P.O. BOX 587 WARSAW, IN 46581 USA
REF X180311
COLLARLESS BI-METRIC POROUS STEM
Alliance(R) X-Series
11MM X 135MM STANDARD PROFILE
STANDARD OFFSET
TI-6AL-4V ALLOY
3/2016
Caution: THIS DEVICE TO BE USED ONLY WITH EXACT INSTRUMENTATION
LOT 156170
AFFIX TO PATIENT RECORDS

BIOMET ORTHOPEDICS, INC.
56 EAST BELL DRIVE
P.O. BOX 587 WARSAW, IN 46581 USA
REF. 157444
M2A MAGNUM(TM) MODULAR HEAD
01/2016
LOT 521630
AFFIX TO PATIENT RECORDS

BIOMET ORTHOPEDICS, INC.
56 EAST BELL DRIVE
P.O. BOX 587 WARSAW, IN 46581 USA
REF. 139254
M2A MAGNUM(TM) TAPER ADAPTER
02/2016
LOT 903220
AFFIX TO PATIENT RECORDS

4. At the time of the development, manufacture, marketing, sale, and placement into the stream of commerce by the Defendant Biomet Companies the M2A Magnum implants were then in a defective condition unreasonably dangerous when put to a reasonably anticipated use in that the M2A Magnum implants were subject to early failure and capable of shedding an unreasonable amount of metal ions and debris and causing damage to the blood, joint, bone and soft tissue and loosening of the components with normal use.

5. The M2A Magnum implants were being used in a manner reasonably anticipated by the Defendant Biomet Companies in the surgery of 4/12/06, and thereafter as it resided in Plaintiff's body.

6. Plaintiff was damaged as a direct result of such defective condition of the M2A Magnum implants as existed when the M2A Magnum implants were designed, manufactured, marketed, sold and/or placed into the stream of commerce by the Defendant Biomet Companies in that the M2A Magnum implants prematurely failed and over time shed an excessive amount of metal ions and debris in Plaintiff's body resulting in damage to the hip, failure of the hip replacement and a need for revision on 8/5/14, including, but not limited to high chromium and cobalt levels, movement of the acetabular component, massive metallosis of the implant and the trunnion, massive osteolytis of the acetabulum and femoral proximal femur, active osteolysis with a necrosis and debris in to the abductor muscles and the gluteus maximus muscles, a large resection of granulomas, massive osteolysis in the proximal femur, metal pseudotumor from the bone that eroded in to the proximal femur, and metallosis staining behind the acetabular implant. Plaintiff continues to experience impaired walking and hip pain.

WHEREFORE, plaintiff prays for a judgment against the Defendant Biomet Companies in such amount as is fair and reasonable under the circumstances, for prejudgment interest, and for costs.

COUNT II - STRICT LIABILITY-FAILURE TO WARN AGAINST BIOMET ORTHOPEDICS LLC.

Plaintiff for Count II of his cause of action against the defendant Biomet Companies, states as follows:

1. The allegations of Count I are incorporated by reference.

2. At the time the Defendant Biomet Companies designed, manufactured, marketed, sold and/or placed into the stream of commerce the M2A Magnum implants,

the implants were unreasonably dangerous when put to a reasonably anticipated use without knowledge of their characteristic in that the M2A Magnum implants were subject to early failure and capable of shedding an unreasonable amount of metal ions and debris and causing damage to the blood, joint, bone and soft tissue and loosening of the components with normal use.

3. The Defendant Biomet Companies did not give an adequate warning of this tendency of the M2A Magnum implants.

4. The Defendant Biomet Companies failure to give an adequate warning of this tendency of the M2A Magnum implants caused or contributed to cause the damages set forth in Count I of the petition.

WHEREFORE, plaintiff prays for a judgment against Defendant Biomet Orthopedics LLC in such amount as is fair and reasonable under the circumstances, for prejudgment interest, and for costs.

COUNT III - PRODUCTS LIABILITY- NEGLIGENCE AGAINST THE BIOMENT COMPANIES

Plaintiff for Count III of her cause of action against the Defendant Biomet Companies, states as follows:

1. The allegations of Count I are incorporated by reference.

2. The Defendant Biomet Companies designed, manufactured and marketed the M2A Magnum implants that injured Plaintiffs.

3. As manufactured and designed, the M2A Magnum implants, were subject to early failure and capable of shedding an unreasonable amount of metal ions and debris and causing damage to the blood, joint, bone and soft tissue and loosening of the components with normal use.

4. The Defendant Biomet Companies failed to use ordinary care to research, test, manufacture and design the implants to be reasonably safe and they produced and marketed implants that failed early and shed an unreasonable amount of metal ions and debris.

5. The Defendant Biomet Companies failed to use ordinary care to adequately warn of the risk of harm from the M2A Magnum implants failing early and shedding an unreasonable amount of metal ions and debris.

6. Such failures directly caused or directly contributed to cause the damages alleged in Count I.

WHEREFORE, prays for a judgment against the Defendant Biomet Companies in such amount as is fair and reasonable under the circumstances, for prejudgment interest, and for costs.

COUNT IV
NEGLIGENCE AGAINST DEFENDANT JAKE WEIBLE

Plaintiff , for her cause of action against Defendant Weible, and for Count IV of this complaint, states as follows:

1. The allegations of Count I are incorporated by reference.

2. Defendant Jake Weible is a citizen of Missouri.

3. Defendant Jake Weible was the representative of the Defendant Biomet Companies who was in the surgery of 4/12/06 when the defective implants were put into Plaintiff's body, and who advised Plaintiff's surgeon Dr. Dan Martin as to the safety and efficacy of the implants.

3. Defendant Weible failed to use ordinary care to adequately warn Plaintiff's surgeon of the risk of harm from the M2A Magnum implants failing early and shedding an unreasonable amount of metal ions and debris.

4. Such failure directly caused or directly contributed to cause the damages alleged in Count I.

WHEREFORE, plaintiff prays for a judgment against Defendant Weible in such amount as is fair and reasonable under the circumstances, for prejudgment interest, and for costs.

COUNT V – SPOUSAL INJURY

Plaintiff for her cause of action against all Defendants states as follows:

1. The allegations of Counts I – IV are incorporated by reference.

2. At all relevant times, Plaintiff was and is the lawful spouse of Plaintiff

3. As a direct result of the injury to his wife as alleged in Counts I – IV, Plaintiff lost some of the spousal support he enjoyed from his wife.

WHEREFORE, plaintiff prays for a judgment all Defendants in such amount as is fair and reasonable under the circumstances, for prejudgment interest, and for costs.

COFFEY & NICHOLS
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