

CHARFOOS AND CHRISTENSEN P.C.



UPDATE



Cases C&C P.C. Handles

- Airplane Crash Death and Injury Cases
- Anesthesia Injury Cases
- Automobile Accident Injury Cases
- Birth Trauma Medical Malpractice Lawsuits
- Burn Injury Lawsuits
- Cerebral Palsy medical Malpractice Lawsuits
- Civil Litigation
- Class Action Litigation
- Consumer Protection Cases
- Contingent Fee Plaintiff Commercial
- Drug Product Liability Litigation
- Environmental Law
- Highway Design Litigation
- Legal Appeals
- Legal Malpractice Lawsuits
- Mass Tort Litigation
- Medical Malpractice Litigation
- Multiple/Complex Litigation
- Prescription Drug Product Injury Lawsuits
- Obstetric/Gynecological Medical Malpractice
- Paraplegic Injury Lawsuits
- Personal Injury Litigation
- Pharmaceutical Litigation
- Product Liability Litigation
- Professional Malpractice Litigation
- Slip & Fall Lawsuits
- Whistleblower Litigation
- Wrongful Death Lawsuits

ESTATE OF JANE DOE, DECEASED
V
CITY OF DETROIT AND DETROIT DEPARTMENT
OF TRANSPORTATION
\$ 1.75 MILLION DOLLAR SETTLEMENT

On June 4, 2005, Plaintiff was traveling westbound on Interstate 94 at approximately 2:00 a.m. as a passenger in a sports utility vehicle, at which time the SUV lost a tire. The driver negotiated the SUV to the side of the road, leaving a small portion of the SUV in the travel portion of the roadway. Several passengers of the vehicle exited the vehicle and were standing on the shoulder, at which time a bus, owned and operated by the City of Detroit, struck the vehicle as well as hitting pedestrians on the side of the road.

A wrongful death suit was filed against both the driver and the City of Detroit De-

partment of Transportation. The case settled for \$1.75 Million Dollars after extensive negotiations and a failed attempt at facilitation. The City attempted to blame others, including the driver of the incapacitated



vehicle, as well as the owner of that vehicle, for negligence, handling of the vehicle and negligent repairs.

Plaintiff's Decedent was survived by his wife and three children.

Most helpful witness was the investigating police officer.

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MICHIGAN HUMANE SOCIETY MEGA MARCH 2010



Jagger and Snickers, along with their parents Jim and Cheryl Trojanowski have marched the last 2 years and raised over \$1000 each year. Jagger (brown dog) was adopted from the MHS in 2008. Cheryl is a legal secretary with the firm.

**JANE DOE AS CONSERVATOR FOR SON V
MICHIGAN HOSPITAL & PHYSICIAN
1.9 MILLION DOLLAR SETTLEMENT**

In a confidential lawsuit, Plaintiff Mother sought compensatory damages from Defendant Hospital for medical malpractice during delivery that resulted in birth trauma.

At around 8 a.m. on Feb. 24, 2005, Plaintiff went to the hospital. Her physician did not come in to examine her. The fetal monitoring strips indicated the baby was not in any distress. At 1:15 p.m. Pitocin was administered continuously.

By 7:30 p.m., the fetal monitoring strips were beginning to show repetitive variable decelerations, as well as late decelerations. This pattern persisted and worsened over the next four hours, and at

8:30 p.m., Plaintiff was fully dilated and zero station. Despite persistent decelerations and decline in long-term variability and absent short-term variability between 10-11 p.m., a discussion took place about "assisted delivery." At 11:44 p.m., forceps were applied through 3 1/2-inch contractions, and the baby was born. His Apgars scores were 3, 4 and 5, and his blood gasses showed metabolic acidosis. He had seizures within 24 hours, and was diagnosed with a hypoxic ischemic injury.

Although the child is fully ambulatory, he does have hypotonia. He has significant speech deficits, difficulty in swallowing, and cognitive deficits, making it unlikely he

will be self-supporting in the future.

Plaintiff asserted child's injuries were caused by failure to recognize distress during labor and deliver the child in a timely manner.

Defendant contended child's injuries weren't related to labor events, but rather were the result of a genetic or metabolic abnormality.

Following extensive testing to establish the child's current deficits, the matter settled at facilitation for \$1.9 million.

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**ESTATE OF JOHN DOE DECEASED V DEFENDANT HOSPITAL
SETTLEMENT AMOUNT: \$650,000.00**

47-year old with history of obstructive sleep apnea presented to the emergency department at Defendant Hospital with complaints of abdominal pain. It was determined that an appendectomy was necessary. Surgery was performed without incident. The patient was taken to the recovery room while still intubated due to continuing effects of the anesthetic medication. The patient remained in the recovery room for approximately an hour and a half. The patient was prematurely extubated, immediately could not exchange air and it is opined that the patient remained without oxygenation for 17 minutes while the anesthesiologist attempted to secure an airway. While attempts were being made to re-intubate, the surgeon was called, presented to the recovery room and within a moment, was able to establish an airway. However, by that time, the patient had suffered irreversible brain damage and died 17 days

later.

The Plaintiff's Decedent was married and employed at the time.

The defense was that they did everything appropriately in the extubation and the attempted re-intubation.

Case evaluation: \$700,000.00. Settlement \$650,000.00 at facilitation.

Key to winning: the anesthesiologist had never performed an emergency re-intubation, the testimony of the general surgeon was also helpful.

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**BREAST IMPLANT
HEALTH ALERT**

In a recent health alert, The Food & Drug Administration announced it has begun investigating the possible connection between breast implants and an increased risk of a rare form of cancer – anaplastic large cell lymphoma (ALCL).

Among women who do have breast implants (both saline and gel) FDA investigators say they have identified as many as 60 women who have developed ALCL worldwide out of an estimated global population of 5-10 million women with implants. The agency says that the number of known cases is too small to draw a conclusion that implants were linked to the disease.

The FDA has not advised the removal of breast implants due to the possible risk of ALCL, but it said women should consult a physician if they notice swelling, pain or lumps around implants after post-surgical healing. Women who are not showing any symptoms or problems require only routine follow-up. "ALCL is a treatable cancer of the immune system, and its occurrence in the breast does not equate to breast cancer", said William Maisel, Chief Scientist and a Deputy Director of the FDA's medical device office. ALCL has appeared in women with breast implants between 1 and 23 years after implantation surgery, with a median time of 8 years between surgery and diagnosis.

We do not anticipate that there will be further legal action against Dow Corning or other breast implant manufacturers as a result of ALCL because the Legal Releases signed by the breast implant claimants in the underlying case contain language that bars future litigation regardless of what diseases or new facts become known.

BREAST IMPLANT LITIGATION UPDATES

As many of you know, Charfoos & Christensen, P.C. has been representing breast implant clients for 21 years. There seems to be no end of this case in sight. After the major distribution of funds to Dow implant victims with ruptures and those qualified for disease category designation were paid, monies remained. It was and still is the hope of the Plaintiff's Steering Committee that the remaining monies will be distributed pro rata to the Dow women who have already received their payments. Dow Corning objected to this and asked the Court to award the money to them. The Court has not ruled on this yet. In the meantime, claimants from foreign countries and women whose implants were made by other manufacturers who used Dow Corning gel, have stepped forward to

also make a claim against this fund. The Judge in the United States District Court that is hearing this case has not yet made a ruling. However, once that ruling is made, it is probable that one or more of the disappointed parties will appeal the ruling to the Sixth Circuit Court of Appeals. It is now anticipated that this matter will not be resolved until late 2012 if not early 2013.

Another motion before the same Judge, effecting far fewer women, is the "and/or" motion where the Plaintiff's Steering Committee has asked the Judge to undo an earlier interpretation of the settlement by Birmingham, Alabama Judge Sam Pointer who determined that the settlement required "and" and not "or" to qualify for

a specific monetary level. In plain English, Judge Pointer's determination that "and" was the intention of the parties, even though the written document signed by all parties said "or", has had the effect of creating a higher burden of proof to make a recovery. We do not expect a ruling on this, and the resulting appeal to the Sixth Circuit, to be determined before the end of 2012 or early 2013.

In sum, it is doubtful that any Dow Corning breast implant claimants will receive any additional monies for at least 2 to 3 years, if then. Although as attorneys we like to be optimistic, nothing we have seen suggests a basis for optimism about future recoveries in this case.

DRUG PRODUCT LIABILITY AND MEDICAL DEVICE CASES

Darvocet and Darvon



We are accepting cases where the patient sustained a heart arrhythmia requiring hospitalization, a myocardial infarct (MI), cardiac arrest or death in

patients with no significant prior history of heart problems.

Depakote



An anti-seizure drug sometimes given to pregnant women, manufactured by Abbott that has been associated

with causing birth defects in the children born to women who take the drug during the first month of pregnancy. The birth defects include cleft lips/palates, limb reductions, etc.

Charfoos & Christensen, P.C. is accepting referrals of drug product liability cases and medical device cases on a case by case basis.

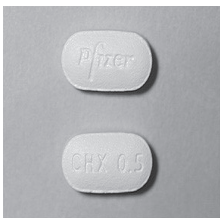


Hip Implant



Knee Implant

Chantix



A drug intended to aid in smoking cessation, manufactured and marketed by Pfizer. We are accepting cases of users of this drug who commit suicide, and who do not have a previous medical

history of psychiatric problems including depression, suicide attempts, etc.

Depuy Hip Implants involving the Pinnacle Implant



Where the patient has had to undergo a removal and replacement of the implant (revision surgery).

We are accepting cases of anyone who has the ASR model implant regardless of whether it has been removed yet or not.

Zimmer Knee Implants



The Nexgen line of knee replacements (whether or not they have been removed) involving tibial and femoral component models CR and LPS

Since 1929, Charfoos & Christensen, P.C. has been committed to protecting and preserving the rights of our clients. While we are best known for our successes in the areas of medical malpractice, drug and other product liability and aviation disaster litigation, we are a full-service personal injury and commercial litigation law firm. Automobile accident cases, slip and fall cases, legal malpractice and other personal injury cases have been a part of our practice since 1929. We are prepared to assist you with all of your legal questions and difficulties. Please do not hesitate to call if we can be of assistance.

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If you have any questions regarding information in this newsletter, or wish to see articles on other topics, you may reach us at the above number or write to Beth Dusevic at:

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