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10 Attorneys for Plaintiffs,  
11 WILLIAM REILLY and JILL REILLY

12 UNITED STATES DISTRICT COURT  
13 SOUTHERN DISTRICT OF CALIFORNIA

14 WILLIAM REILLY and JILL REILLY, )

15 Plaintiffs, )

16 vs. )

17 SMITH & NEPHEW, INC. and DOES 1 )  
18 through 100, inclusive, )

19 Defendants. )

Case No. '12CV2220 IEG MDD

) Assigned for all purposes to:  
) Judge

) Dept.

) **COMPLAINT FOR:**

- ) (1) NEGLIGENCE,
- ) (2) BREACH OF EXPRESS
- ) WARRANTY,
- ) (3) BREACH OF IMPLIED
- ) WARRANTIES,
- ) (4) STRICT PRODUCTS LIABILITY,
- ) (5) FALSE REPRESENTATION, and
- ) (6) LOSS OF CONSORTIUM

) **JURY TRIAL DEMANDED**

) Complaint Filed:

) Trial date: N/A

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25  
26 Plaintiffs WILLIAM REILLY and JILL REILLY (“Plaintiffs”), allege on  
27 information and belief against SMITH & NEPHEW, INC. and DOES 1 through 100,  
28 inclusive, (“Defendants”), the following:

**FIRST CAUSE OF ACTION - NEGLIGENCE**

1  
2 1. Plaintiffs William Reilly and Jill Reilly, who were and are married at all  
3 relevant times herein, are citizens of the State of California and reside in Vista, California.

4 2. The true names and capacities, whether individual, corporate, associate or  
5 otherwise, of Defendants SMITH & NEPHEW, INC. ("Smith & Nephew), and DOES 1  
6 through 100, inclusive, are unknown to Plaintiffs, who therefore sue said Defendants by  
7 said fictitious names. Plaintiffs are informed and believe, and thereon allege, that each of  
8 said Defendants is negligently or otherwise responsible in some manner for the events and  
9 happenings herein referred to, and negligently or otherwise caused injuries and damages  
10 proximately thereby to the Plaintiffs as herein alleged. Plaintiffs will amend this  
11 Complaint and insert the correct names and capacities of those Defendants when they are  
12 discovered.

13 3. Plaintiffs are uncertain as to the true names and status of Smith & Nephew,  
14 or whether said Defendants are corporations, general partnerships, limited partnerships,  
15 unincorporated associations, or otherwise. Plaintiffs are informed and believe, and thereon  
16 allege, that said Defendants are duly licensed to do business, and were and are doing  
17 business, under and by virtue of the laws of the State of California, and in the Southern  
18 District of California. When the true status of said Defendants is ascertained, Plaintiffs  
19 pray leave of this court to amend this complaint accordingly.

20 4. At all times mentioned, each of the Defendants-including DOES 1 through  
21 100-was the representative, agent, employee, joint venturer, or alter ego of each of the  
22 other defendants and in doing the things alleged herein was acting within the scope of its  
23 authority as such.

24 5. Smith & Nephew and DOES 1 through 100, inclusive, are collectively  
25 referred to herein as "Defendants."

26 6. At all times herein mentioned, Defendants, Smith & Nephew, and DOES 1  
27 through 20, inclusive, and each of them, were engaged in the business of manufacturing,  
28

1 designing, assembling, compounding, testing, inspecting, packaging, labeling, fabricating,  
2 constructing, analyzing, distributing, servicing, merchandising, recommending,  
3 advertising, promoting, marketing and selling a certain Smith & Nephew Synergy porous  
4 high-offset size 15 femoral component, reference number 71306115, lot number  
5 06MM05117 (“femoral component”); a certain Smith & Nephew chrome-cobalt modular  
6 head sleeve +0 millimeters, reference number 74222200, lot number 9635 (“head  
7 sleeve”); and a certain Smith & Nephew chrome-cobalt Birmingham Hip Resurfacing  
8 System 56 millimeter acetabular cup, reference number 74120152, lot number 74429  
9 (“BHR”). The assembled combination of “femoral component,” “head sleeve,” and  
10 “BHR” described in this paragraph will be referred to collectively hereinafter as “the  
11 Device.”

12 7. At all times herein mentioned, Defendants, DOES 21 through 30, inclusive,  
13 and each of them, were engaged in the business of distributing, supplying and selling the  
14 Device and its component parts and constituents to hospitals, physicians and medical  
15 suppliers, collectively referred to as “retail outlets,” so that same could be resold to the  
16 public by said retail outlets.

17 8. At all times herein mentioned, Defendants Smith & Nephew and DOES 31  
18 through 40, inclusive, and each of them, were engaged in the business of selling the  
19 Device to members of the general public through hospitals, doctors and medical suppliers,  
20 which were to be used by the general public for the purpose of hip replacements.

21 9. Defendants Smith & Nephew and DOES 1 through 100, inclusive, and each  
22 of them, had a duty to exercise reasonable care in the design, manufacture, testing,  
23 marketing and distribution into the stream of commerce of the Device, including a duty to  
24 insure that the Device did not pose a significantly increased risk of adverse events.

25 10. Defendants and each of them failed to exercise reasonable care in the design,  
26 manufacture, testing, marketing and distribution into the stream of commerce of the  
27 Device. Defendants knew or should have known that the Device could fail early in  
28 patients, therefore giving rise to pain and suffering, debilitation, and the need for revision

1 surgery to replace the device with the attendant risks of complications and death from  
2 such further surgery, and therefore was not safe for use by Plaintiff.

3 11. At all times herein mentioned, Defendants, and each of them, knew, or in the  
4 exercise of ordinary and reasonable care should have known, that the said device was a  
5 product of such a nature that if it was not properly manufactured, designed, assembled,  
6 compounded, tested, inspected, packaged, labeled, fabricated, constructed, analyzed,  
7 distributed, serviced, merchandised, recommended, advertised, promoted, marketed and  
8 sold, for the use and purpose for which it was intended, it was likely to injure the person  
9 or persons by whom it was used.

10 12. The Defendants, and each of them, so negligently and carelessly  
11 manufactured, designed, assembled, compounded, tested or failed to test, inspected or  
12 failed to inspect, packaged, labeled, fabricated, constructed, analyzed, distributed,  
13 serviced, merchandised, recommended, advertised, promoted, marketed and sold the said  
14 device, and its component parts and constituents, so that it was in a dangerous and  
15 defective condition, and unsafe for the use and purpose for which it was intended when  
16 used as recommended by the Defendants, and each of them.

17 13. The defective and dangerous character and condition of said Device, and that  
18 it was unsafe for the use and purpose for which they were intended when used as  
19 recommended by the Defendants, and each of them, was known to the Defendants, and  
20 each of them, or in the exercise of ordinary and reasonable care should have been known  
21 and discovered by Defendants, and each of them. Furthermore, the dangerous and  
22 defective character and condition of the said device was not made known to the Plaintiffs  
23 by the Defendants, or each of them.

24 14. On or about May 24, 2007, Plaintiff William Reilly was operated on by Dr.  
25 James Fait at San Diego Medical Center / Kaiser Foundation Hospital, 4647 Zion Avenue,  
26 San Diego, CA 92120, and the Device was implanted into his left hip.

27 15. About October 2011, blood testing indicated there were high levels of cobalt  
28 and chromium in Plaintiff William Reilly's bloodstream, caused by the deterioration of

1 the Device. Such high levels of chromium and cobalt are indicative of metal-on-metal  
2 disease, and are potentially carcinogenic and life-threatening.

3 16. Plaintiff William Reilly's current surgeon, Dr. Adam Rosen of Scripps  
4 Clinic, 10666 North Torrey Pines Road, Suite 116, La Jolla, CA 92037, has suggested  
5 another surgery to remove the Device should be attempted as soon as possible.

6 17. As a direct and proximate result of the negligence and carelessness of  
7 Defendants, and each of them, Plaintiff will have to undergo surgery to prevent further  
8 injury from the Device. Plaintiff has suffered pain and distressing mental anguish as a  
9 result, and Plaintiff has also suffered general shock and traumatic neurosis as a result of  
10 the said negligence and carelessness of the Defendants, and each of them. Plaintiff has  
11 suffered, and for a long period of time to come will continue to suffer, pain and mental  
12 anguish as a result of said injuries and as a result of his future surgery to remove the  
13 Device.

14 18. As a result of the aforesaid injuries, Plaintiff has been generally damaged in a  
15 sum in excess of the jurisdictional limits of the Superior Court, Limited Jurisdiction.

16 19. In the treatment of the aforesaid injuries, Plaintiff has incurred, is presently  
17 incurring, and will incur liability for the services of physicians, surgeons, nurses, hospital  
18 care, medicine, x-rays, and other medical treatment, the true and exact amount thereof  
19 being unknown to Plaintiff at this time, and Plaintiff prays leave to amend this Complaint  
20 accordingly when the true and exact cost thereof is ascertained by Plaintiff.

21 20. As a direct and proximate result of the said negligence and carelessness of  
22 Defendants, and each of them, Plaintiff has incurred, and will incur, loss of income,  
23 wages, profits and commissions, a diminishment of earning potential, and other pecuniary  
24 losses, the full nature and extent of which are not yet known to Plaintiff, and leave is  
25 requested to amend this Complaint to conform to proof at the time of trial.

26 21. Plaintiff has lost prejudgment interest pursuant to California Civil Code §  
27 3291, the exact amount of which Plaintiff prays leave to insert herein when finally  
28

1 ascertained.

2 22. WHEREFORE, Plaintiff prays judgment against Defendants, and each of  
3 them, as hereinafter set forth.

4 **SECOND CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY**

5 23. Plaintiff William Reilly incorporates by reference all prior paragraphs of this  
6 Complaint as if fully set forth here and further alleges as follows:

7 24. At all times herein mentioned, the Defendants expressly warranted to  
8 Plaintiff's physicians, by and through statements made by Defendants or their authorized  
9 agents or sales representatives, orally and in publications, package inserts and other  
10 written materials intended for physicians, medical patients and the general public, that the  
11 aforementioned Device were safe, effective, fit and proper for its intended use.

12 25. In utilizing the aforementioned Device, Plaintiff and his physicians relied on  
13 the skill, judgment, representations and foregoing express warranties of Defendants.

14 26. Said warranties and representations were false in that the aforementioned  
15 Device was not safe and was unfit for the uses for which it was intended.

16 27. As a result of the foregoing breach of express warranties by Defendants,  
17 Plaintiff suffered injuries and damages as alleged herein.

18 28. Plaintiff and his physicians were and are unskilled in the research, design and  
19 manufacture of the Device, and they reasonably relied entirely on the skill, judgment and  
20 implied warranty of Defendants in using the Device.

21 29. Within a reasonable time after discovery that said Device was defective and  
22 unsafe for its intended use, Plaintiff notified Defendants of the breach of said express  
23 warranty in the manner and form prescribed by law.

24 30. As a proximate result of the breach of the said express warranty, Plaintiff has  
25 sustained and will sustain the injuries and damages alleged herein.

26 31. WHEREFORE, Plaintiff prays judgment against Defendants, and each of  
27 them, as hereinafter set forth.

1                   **THIRD CAUSE OF ACTION – BREACH OF IMPLIED WARRANTIES**

2                   32. Plaintiff William Reilly incorporates by reference all prior paragraphs of this  
3 Complaint as if fully set forth here and further alleges as follows:

4                   33. Prior to the time the Device was being used by Plaintiff, the Defendants, and  
5 each of them, impliedly warranted to members of the general public, including Plaintiff,  
6 that said Device was of merchantable quality and safe for the use for which they were  
7 intended by the Defendants, namely, for the purpose of hip replacement, and other related  
8 medical interventions.

9                   34. Plaintiff relied on the skill and judgment of Defendants, and each of them, in  
10 the selection, purchase and use of the Device.

11                   35. Said Device was not safe for its intended use nor was it of merchantable  
12 quality as warranted by Defendants, and each of them, in that it was defectively designed,  
13 thereby dangerously exposing the user recipient of the Device to serious injury.

14                   36. After Plaintiff received the injuries complained of herein as a result of said  
15 defective condition of said Device, notice was given by Plaintiff to Defendants, in the  
16 time and in the manner and in the form prescribed by law, of the breach of said implied  
17 warranty.

18                   37. As a proximate result of the breach of the implied warranties of  
19 merchantability and fitness, Plaintiff has sustained and will sustain the injuries and  
20 damages alleged herein.

21                   38. WHEREFORE, Plaintiff prays judgment against Defendants, and each of  
22 them, as hereinafter set forth.

23                   **FOURTH CAUSE OF ACTION – STRICT PRODUCTS LIABILITY**

24                   39. Plaintiff William Reilly incorporates by reference all prior paragraphs of this  
25 Complaint as if fully set forth here and further alleges as follows:

26                   40. Defendants, and each of them, manufactured, designed, assembled,  
27 compounded, tested or failed to test, inspected or failed to inspect, packaged, labeled,  
28

1 fabricated, constructed, analyzed, distributed, serviced, merchandised, recommended,  
2 advertised, promoted, marketed and sold the Device and its component parts and  
3 constituents, which was intended by the Defendants, and each of them, to be used for the  
4 purpose of hip replacement and other related medical necessities.

5 41. Defendants, and each of them, knew that said Device was to be purchased  
6 and used without inspection for defects by Plaintiff and the general public.

7 42. The Device was unsafe for its intended use by reason of defects in its  
8 manufacture, design, testing, components and constituents, so that it would not safely  
9 serve its purposes, but would instead expose the users of said product to serious injury  
10 because of the failure of Defendants, and each of them, to properly guard and protect the  
11 users of the Device from the defective design of said product.

12 43. Plaintiff was not aware of said defects at any time prior to the injuries caused  
13 by said Device.

14 44. As a proximate result of said defects of said Device, Plaintiff sustained the  
15 injuries and damages hereinabove set forth.

16 45. WHEREFORE, Plaintiff prays judgment against Defendants, and each of  
17 them, as hereinafter set forth.

18 **FIFTH CAUSE OF ACTION – FALSE REPRESENTATION UNDER**  
19 **RESTATEMENT OF TORTS, 2ND, § 402-B**

20 46. Plaintiff William Reilly incorporates by reference all prior paragraphs of this  
21 Complaint as if fully set forth here and further alleges as follows:

22 47. At the aforementioned time when Defendants, and each of them,  
23 manufactured, designed, assembled, compounded, tested or failed to test, inspected or  
24 failed to inspect, packaged, labeled, fabricated, constructed, analyzed, distributed,  
25 serviced, merchandised, recommended, advertised, promoted, marketed and sold said  
26 Device, and its component parts and constituents, as hereinabove set forth, the  
27 Defendants, and each of them, expressly and impliedly represented to members of the  
28 general public, including Plaintiff William Reilly, that said Device and its component



1 parts and constituents, was of merchantable quality and safe for the use for which it was  
2 intended.

3 48. Plaintiff relied upon said representations of Defendants, and each of them, in  
4 the selection, purchase and use of said Device.

5 49. Said representations by Defendants, and each of them, were false and untrue,  
6 in that said Device was not safe for its intended use, nor was it of merchantable quality as  
7 represented by Defendants, and each of them, in that it had very dangerous properties and  
8 defects that caused injury and damage to the users of said product, including Plaintiff,  
9 thereby threatening the health and life of Plaintiff.

10 50. As a proximate result of said false representations by Defendants, and each of  
11 them, Plaintiff sustained the injuries and damages hereinabove set forth.

12 51. WHEREFORE, Plaintiff Jill Reilly prays judgment against Defendants, and  
13 each of them, as hereinafter set forth.

14 **SIXTH CAUSE OF ACTION – LOSS OF CONSORTIUM**

15 52. Plaintiff Jill Reilly incorporates by reference all prior paragraphs of this  
16 Complaint as if set forth here and further alleges as follows:

17 53. As a direct and proximate result of the failure of the defective Device and  
18 Defendants' wrongful conduct, Jill Reilly, Plaintiff William Reilly's husband, has been  
19 and will continue to be deprived of the consortium, society, comfort, protection, and  
20 service of William Reilly, thereby causing and continuing to cause Jill Reilly economic  
21 damages, grief, sorrow, mental anguish, emotional distress, and pain and suffering.

22 54. WHEREFORE, Plaintiff prays judgment against Defendants, and each of  
23 them, as hereinafter set forth.

24 **CLAIM FOR PUNITIVE DAMAGES**

25 55. Plaintiff William Reilly incorporates by reference all prior paragraphs of this  
26 Complaint as if fully set forth here and further alleges as follows:

27 56. Defendants, and each of them, manufactured, designed, assembled,  
28 compounded, tested or failed to test, inspect or failed to inspect, packaged, labeled,

1 fabricated, constructed, analyzed, distributed, serviced, merchandised, recommended,  
2 advertised, promoted, marketed and sold said Device, and its component parts, a product  
3 which said Defendants knew to be dangerous and unsafe for the purpose for which they  
4 intended it to be used, namely, for hip replacement. At all times herein mentioned, prior to  
5 and at the time the Defendants, and each of them, sold said Device to Plaintiff, and prior  
6 to the time that said product was used by Plaintiff, the Defendants, and each of them,  
7 knew, as a result of clinical studies, tests, research, complaints of other users and other  
8 information, that said Device, and its component parts, was defectively designed and  
9 manufactured, that it had extremely dangerous properties and defects, in that it would  
10 release chromium and cobalt ions into the user's bloodstream, and that it had other defects  
11 which would cause serious injury and damage to users of said product, thereby threatening  
12 the life and health of the users; and at all of said times, the Defendants, and each of them,  
13 knew that the defects of said Device had caused serious injury and damage to other users  
14 of same.

15       57. At all times herein mentioned, Defendants, and each of them, despite the  
16 actual knowledge described hereinabove, intentionally suppressed the aforementioned test  
17 results, complaints, and other information to keep such knowledge from the general  
18 public, including Plaintiff, and failed to take any steps to warn Plaintiff, or other members  
19 of the general public, of the dangers of using said Device.

20       58. At all times herein mentioned, Defendants, and each of them, had actual  
21 knowledge of the facts hereinabove alleged demonstrating that serious injury to users of  
22 said Device, including Plaintiff, would probably result. Defendants, and each of them,  
23 nevertheless deliberately failed and refused to recall said device, or to take any other steps  
24 whatsoever to prevent such injuries. Defendants, and each of them, misrepresented the  
25 safety of said Device, and failed and refused to take any steps to prevent injury from said  
26 Device in order to increase the profit of Defendants, and each of them, from the sale of  
27 said Device.

1 59. As a proximate result of the said defects and the acts and conduct of  
2 Defendants, and each of them, as hereinabove alleged, Plaintiff sustained the injuries and  
3 damages hereinabove set forth. The conduct and acts of Defendants, and each of them, as  
4 hereinabove set forth, in allowing such an extremely dangerous product to be used by  
5 members of the general public, including Plaintiff, constitute fraud, malice and oppression  
6 toward Plaintiff, and a conscious disregard of the safety of Plaintiff. Plaintiff is therefore  
7 entitled to exemplary or punitive damages, which would serve to punish and make  
8 examples of the Defendants, and each of them, as the court may deem just and proper.

9 **PRAYER FOR RELIEF**

10 THEREFORE, Plaintiffs demand judgment for the following:

- 11 1. Past and future medical and incidental expenses, according to proof;
  - 12 2. Past and future loss of earnings and/or earning capacity, according  
13 to proof;
  - 14 3. Past and future general damages, according to proof;
  - 15 4. Punitive and exemplary damages in an amount to be determined at  
16 trial;
  - 17 5. Prejudgment and post judgment interest;
  - 18 6. Attorneys' fees pursuant to Code of Civil Procedure Section 1021.5,
  - 19 7. Costs to bring this action; and
  - 20 8. Such other and further relief as the court may deem just and proper.
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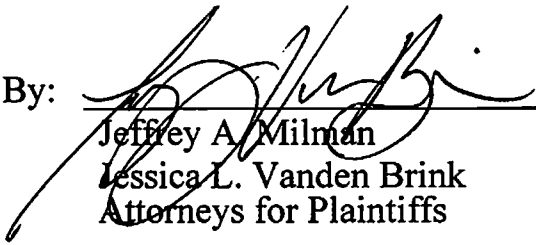
**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a jury trial on all claims so triable in this action.

Dated: September 4, 2012

HODES MILMAN LIEBECK, LLP

By:



Jeffrey A. Milman  
Jessica L. Vanden Brink  
Attorneys for Plaintiffs

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JS 44 (Rev. 09/11)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p><b>I. (a) PLAINTIFFS</b> WILLIAM REILLY and JILL REILLY</p> <p><b>(b) County of Residence of First Listed Plaintiff</b> San Diego <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p><b>(c) Attorneys (Firm Name, Address, and Telephone Number)</b> Jeffrey A. Milman, Esq.; Jessica L. Vanden Brink, Esq. 949-640-8222 Hodes Milman Liebeck, LLP 9210 Irvine Center Dr., Irvine, CA 92618</p>	<p><b>DEFENDANTS</b> SMITH &amp; NEPHEW, INC., and DOES 1 through 100, inclusive</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known) <b>'12CV2220 IEG MDD</b></p>
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<p><b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input checked="" type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td>PTF</td> <td>DEF</td> <td></td> <td>PTF</td> <td>DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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**IV. NATURE OF SUIT** *(Place an "X" in One Box Only)*

<b>CONTRACT</b>	<b>TORTS</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<p><b>PERSONAL INJURY</b></p> <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p><b>PERSONAL PROPERTY</b></p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
			<p><b>PROPERTY RIGHTS</b></p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
		<p><b>LABOR</b></p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<p><b>SOCIAL SECURITY</b></p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>		<b>FEDERAL TAX SUITS</b>
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 445 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<input type="checkbox"/> 510 Motions to Vacate Sentence <p><b>Habeas Corpus:</b></p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
		<p><b>IMMIGRATION</b></p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions		

**V. ORIGIN** *(Place an "X" in One Box Only)*

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from another district *(specify)*     6 Multidistrict Litigation

**VI. CAUSE OF ACTION**


Cite the U.S. Civil Statute under which you are filing. *(Do not cite jurisdictional statutes unless diversity).*  
 28 U.S.C. 1332

Brief description of cause:  
 Product liability involving a defective metal on metal hip

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23    **DEMANDS**    CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes     No

**VIII. RELATED CASE(S) IF ANY** *(See instructions).*    JUDGE: \_\_\_\_\_    DOCKET NUMBER: \_\_\_\_\_

DATE: 09/11/2012    SIGNATURE OF ATTORNEY OF RECORD: 

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_    AMOUNT \_\_\_\_\_    APPLYING IFP \_\_\_\_\_    JUDGE \_\_\_\_\_    MAG. JUDGE \_\_\_\_\_