

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

ROBERT C. HOVEY,

Plaintiff,

CASE NO.: 3:22-cv-970

v.

**TRACPATCH HEALTH INC.
F/K/A CONSENSUS ORTHOPEDICS INC.
F/K/A HAYES MEDICAL,**
a California corporation.

Defendant.

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff, ROBERT C. HOVEY (hereinafter “Plaintiff”), by and through his undersigned attorneys and files this Complaint against Defendant, TRACPATCH HEALTH INC. F/K/A CONSENSUS ORTHOPEDICS INC. F/K/A HAYES MEDICAL (hereinafter “TRACPATCH HEALTH” or “Defendant”); and alleges as follows:

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I. Introduction

1. This lawsuit involves causes of action related to a defective hip replacement system that was designed, researched, developed, tested, assembled, manufactured, packaged, labeled, prepared, promoted, marketed, distributed, sold, serviced, and supported by Defendant.

2. The system at issue in this case is the “Consensus Hip System” (often referred to as “the Device” in this Complaint).

3. Defendant marketed the Consensus Hip System as having advantages over other hip devices and hip replacement systems.

4. Despite Defendant’s claims of advantages, the Consensus Hip System was defective and unreasonably dangerous because it is unreasonably prone to cause fretting and/or corrosion.

5. When this problem occurs, it can lead to the release of toxic heavy metal ions and/or wear debris.

6. The fretting/corrosion problem with the Consensus Hip System is so severe that components of the Device can wither away until they break apart inside a patient's body. This type of fracture is called a "dissociation" (and may also be referred to as "disassociation").

7. Defendant is and was aware that the Consensus Hip System resulted in unreasonably high rates of negative clinical outcomes, including:

- a. Dissociation;
- b. Fretting;
- c. Corrosion;
- d. Trunnionosis;
- e. Tissue death; and
- f. Bone death.

8. Defendant is and was aware that these negative clinical outcomes:

- a. manifest in severe pain and limitations on mobility;
- b. are progressive in nature such that the impact worsens with time and exposure;
- c. represent an unreasonable risk of harm to patients;
- d. results in a higher than expected rate of failure necessitating additional surgeries to replace failed implants; and
- e. lead to injuries which can persist even beyond the removal of the failed implant.

9. Plaintiff, ROBERT C. HOVEY, was implanted with the Consensus Hip System and has suffered substantial injuries and damages as a result.

10. As a direct and proximate result of the defects and unreasonable dangers of the Consensus Hip System, Plaintiff suffered extensive injuries, including but not limited to: bodily injury; severe physical pain and suffering; surgeries; rehabilitation; distress; physical impairment; disfigurement; mental anguish; inconvenience; loss of capacity for enjoyment of life; and loss of mobility.

II. Parties, Jurisdiction, and Venue

11. At all times relevant to this complaint, Plaintiff, ROBERT C. HOVEY, was and is a citizen and resident of Jacksonville, Florida.

12. At all times relevant to this complaint, Defendant, TRACPATCH HEALTH, is a California Corporation organized and existing under the laws of state of California with its principal place of business located at 2020 L. Street, Suite 220, Sacramento, California 95811, and conducts business throughout the United States, including the State of Florida.

13. Defendant is a California based corporation that was founded in 1992 by Mr. Daniel Hayes, and the company was originally known as Hayes Medical. In 2008, Defendant changed its name to Consensus Orthopedics Inc.; and in 2021, Defendant changed its name a third time to its current name, TRACPATCH HEALTH, INC.

14. At all times relevant to this complaint, Defendant designed, developed, tested, assembled, manufactured, packaged, labeled, prepared, distributed, marketed, supplied, and sold the Consensus Hip System, either directly or indirectly, to members of the public throughout the United States, including in the State of Florida.

15. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1332(a) in that there is complete diversity of citizenship between the parties and the amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000), exclusive of interests and costs.

16. Venue is proper in this district pursuant to 28 U.S.C. 1391, in that a substantial part of the events giving rise to the claim occurred in this district, Plaintiff's injury occurred in this district, and majority of witnesses reside in this district.

III. Hip Replacement Surgery

17. A patient's natural hip joint connects the thigh (femur) bone of his or her leg to the pelvis. The hip joint is characterized as a ball and socket joint. The socket is the cup shaped portion of the acetabulum into which the femoral head (ball) at the top of the femur bone inserts and articulates. Both

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