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Past results are reported to provide the reader with an indication of the type of litigation in which we practice and does not and should not be construed to create an expectation of result in any other case as all cases are dependent upon their own unique fact situation and applicable law. This publication is not intended as, and should not be used by you as, legal advice, but rather as a touchstone for reflection and discussion with others about these important issues. Pursuant to requirements related to practice before the U. S. Internal Revenue Service, any tax advice contained in this communication is not intended to be used, and cannot be used, for purposes of (i) avoiding penalties imposed under the U. S. Internal Revenue Code or (ii) promoting, marketing or recommending to another person any tax-related matter.



Silent Dangers

THE LINK BETWEEN DEPO-PROVERA, BRAIN TUMORS, AND HEALTH INEQUITIES

BY RASHANDA BRUCE

For decades, Depo-Provera has been presented as a game-changing contraceptive—a quick injection every three months that promised simplicity and effectiveness. For millions of women worldwide, it seemed like the perfect solution to manage their reproductive health. But for some, the convenience has come at a devastating cost. Emerging evidence now connects Depo-Provera to a serious health risk—intracranial meningiomas—slow-growing brain tumors that can lead to severe, life-altering health complications.

UNDERSTANDING DEPO-PROVERA AND ITS RISKS

Depo-Provera is a long-acting contraceptive administered quarterly via intramuscular injection. It contains medroxyprogesterone acetate, a synthetic progesterone, to prevent pregnancy. Its ease of use makes it a popular alternative to other contraceptive methods. However, research highlights significant risks that many women remain unaware of.

A March 2024 study published in the *British Medical Journal* reported that Depo-Provera users face a **555% increased risk** of developing meningiomas compared with non-users.¹ These tumors form within the meninges, the brain and spinal cord's protective layers. While often benign, they can press against brain structures, causing symptoms like vision loss, seizures, and neurological deficits. Treatment often requires invasive surgeries, such as craniotomies, followed by ongoing monitoring and, in some cases, results in permanent health challenges.

Depo-Provera's risks align with its contentious FDA approval path. Rejected in the 1970s and 1980s due to safety concerns, it was approved in 1992. Pfizer manufactures Depo-Provera, while several other companies sell an authorized generic version of it. Despite the known risks of meningiomas, Pfizer has updated European and Canadian labels but not U.S. labels.

DISPROPORTIONATE IMPACT ON WOMEN OF COLOR AND LOW-INCOME WOMEN

Depo-Provera's ability to prevent pregnancy for months at a time has made it a popular choice for women seeking a low-maintenance birth control option. According to the *National Health Statistics* report, 24.5% of sexually experienced women in the U.S. used Depo-Provera between 2015 and 2019.² And although the health risks associated with Depo-Provera affect all users, it has disproportionately impacted women of color and low-income women.³

Depo-Provera has long been marketed to women of color, particularly Black and Hispanic women, framed as a convenient solution to unintended pregnancies.⁴ Between 2015 and 2019, 41.2% of Black women and 27.2% of Hispanic women reported using Depo-Provera, compared with 24.5% of the general population,⁵ with many feeling pressured to adopt it over preferred options.⁶ Low-income women with limited healthcare access have similarly been targeted, as the drug is often promoted as affordable and accessible. This trend was evident in the Grady Hospital study in Atlanta, where low-income Black women were enrolled in Depo-Provera clinical trials marked by ethical violations, including inadequate disclosure of risks, failure to follow protocols, and misleading participants into thinking they were receiving routine medical care.⁷ Public health campaigns in the 1990s further reinforced this pattern, targeting underserved communities and promoting Depo-Provera as a solution to unintended pregnancies.

The disproportionate use of Depo-Provera among marginalized communities highlights how race, class, and healthcare inequities intersect, leaving women of color and low-income women particularly vulnerable to its risks. The lack of adequate counseling about Depo-Provera's risks is particularly troubling given the emerging evidence linking the drug to a significantly increased risk of meningiomas.



555%

Depo-Provera users face a 555% increased risk of developing meningiomas compared with non-users.

A CALL FOR ACCOUNTABILITY AND CHANGE

The link between Depo-Provera and meningiomas demands urgent action. Pharmaceutical companies like Pfizer must prioritize transparency and ensure women have access to clear, comprehensive information about potential risks. At Robins Kaplan, we are committed to seeking justice for women harmed by Depo-Provera. If you or someone you know has experienced health complications from this contraceptive, contact our Mass Tort group to explore your legal options. Together, we can hold manufacturers accountable and advocate for reforms that prioritize safety and equity.

Please call us at **1.800.553.9910** or email us at **RK-DepoProveraLitigation@RobinsKaplan.com** for a free evaluation.

Learn More:



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¹ Roland N, Neumann A, Hoisnard L, Duranteau L, Froelich S, Zureik M, Weill A. Use of progestogens and the risk of intracranial meningioma: national case-control study.

² Daniels, K et al. Contraceptive Methods Women Have Ever Used: United States, 2015-2019, Nat'l Health Statistics Report, No. 195, Dec. 14, 2023.

³ Women's Health Policy, DMPA Contraceptive Injection: Use and Coverage, May 30, 2024.

⁴ Rusterholz C, Kelly L. Depo-Provera, Class, Race, and the Domiciliary Family Planning Services in Glasgow and Haringey, 1970-1983. *The Historical Journal*.

⁵ Women's Health Policy, DMPA Contraceptive Injection: Use and Coverage, May 30, 2024.

⁶ Scully JAM. Black Women and the Development of International Reproductive Health Norms. In: Levitt JI, ed. *Black Women and International Law: Deliberate Interactions, Movements and Actions*. Cambridge University Press; 2015:225-249.

⁷ Green W. Contraceptive Risk: The FDA, Depo-Provera, and the Politics of Experimental Medicine: New York. NYU Press, 2017.



Stripping Away Individual Rights Through Corporate Immunity

BY JULIE REYNOLDS

A new trend is emerging among corporations to seek immunity from prosecution and prevent consumers from suing after the corporation's product injures a consumer. As an example, Bayer/Monsanto¹ is currently seeking legislative protections for injuries from Roundup. If Bayer succeeds in obtaining this type of legal protection, consumers could no longer sue for injuries related to this pesticide.

WHAT IS CORPORATE IMMUNITY?

Black's Law defines corporate immunity as "a corporate officer's immunity from personal liability for a tortious act committed while acting in good faith and within the course of corporate duties."² However, this is not the type of immunity that corporations currently seek. Instead, corporations are asking for legislative protections to prevent individuals from suing the *corporation* (not the corporate officers) when injured by the corporation's product—a definition not provided in Black's Law Dictionary.

EXAMPLE OF CORPORATE IMMUNITY

Corporate immunity is rare but not unprecedented. For example, in February 2020, the Health and Human Services secretary invoked the Public Readiness and Emergency Preparedness Act of 2005 (PREP ACT),³ which allows the HHS secretary to provide legal protection to companies making or distributing critical medical supplies, such as vaccines and treatments, unless there is "willful misconduct" by the company.⁴ As a result, COVID-19 vaccine manufacturers could not be sued if someone was injured by a COVID-19 vaccine. However, this restriction was limited in scope and time to the COVID pandemic and COVID vaccines approved for emergency use.

THE SLIPPERY SLOPE

Some corporations now pursue legislative immunity from prosecution. An example is Bayer and Monsanto, the manufacturers of the pesticide Roundup. In October 2016, a multidistrict litigation (MDL) was formed for plaintiffs alleging that glyphosate, the active ingredient in Roundup, caused their non-Hodgkin's lymphoma and that the Roundup label failed to warn of this side effect.⁵ Bayer vigorously disagrees, and after at least eight years of litigation, including many trials, Bayer is now lobbying for corporate immunity at both the state and federal levels.

Bayer does not seek immunity for a limited period. Instead, Bayer wants blanket immunity to essentially end the Roundup litigation against them. In April 2024, it was reported that nearly identical bills were introduced at the state level in Iowa, Missouri, and Idaho.⁶ Further, Bayer reports on its website that it is “engaging with policymakers to achieve legislative certainty around the force of labeling regulations in the U.S. Federal and state governments.”⁷

Success could certainly become a slippery slope. If Bayer can achieve “legislative certainty” through laws granting it corporate immunity and preventing those injured by its product from suing for their injury, then who's to say other corporations will not seek the same protections? Surely, every corporation would prefer “legislative certainty” and to make more money rather than be responsible for the contents of its product labels. On the other side of the coin, injured plaintiffs also expect to be compensated when harmed by a corporation's product.

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¹ Bayer closes Monsanto acquisition, June 7, 2018 (<https://www.bayer.com/media/en-us/bayer-closes-monsanto-acquisition/>) (last visited Dec. 2, 2024). Bayer acquired Monsanto in 2018. This article will refer to Bayer.

² *Black's Law Dictionary* (12th ed. 2024), available at Westlaw.

³ Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19, 85 Fed. Reg. 15198 (March 17, 2020).

⁴ *You can't sue Pfizer or Moderna if you have severe Covid vaccine side effects. The government likely won't compensate you for damages either.* CNBC, (Dec. 23, 2020), <https://www.cnbc.com/2020/12/16/covid-vaccine-side-effects-compensation-lawsuit.html> (last visited Dec. 2, 2024).

⁵ *In re: Roundup Product Liability Litigation*, 16-MD-2741. (Court website <https://cand.uscourts.gov/judges/chhabria-vince-vc/in-re-roundup-products-liability-litigation-mdl-no-2741/>).

⁶ *Bayer seeks legal shield from suits claiming Roundup causes cancer.* CBS NEWS, (April 16, 2024), <https://www.cbsnews.com/news/bayer-roundup-legislation-shield-cancer/> (last visited Dec. 2, 2024).

⁷ *Managing the Roundup Litigation.* BAYER GLOBAL, <https://www.bayer.com/en/managing-the-roundup-litigation> (last visited Dec. 2, 2024).

MASS TORT INVESTIGATIONS

EXACTECH

Exactech has recalled approximately 160,000 hip, knee, and ankle total replacement devices due to accelerated wear from defective packaging. The defective devices have caused the need for a revision surgery due to osteolysis (bone loss), pain, and swelling. Robins Kaplan LLP partner Rayna Kessler serves as the MDL Liaison Counsel in the multi-district litigation *In re: Exactech Polyethylene Orthopedic Products Liability Litigation*, MDL No. 3044, 1:22-md-03044-MMH.

REPORTED CHILD SEX ABUSE

Robins Kaplan LLP is investigating instances of reported child sexual abuse by individuals associated in some capacity with the American Kennel Club (AKC), an organization that hosts thousands of dog show events a year and throughout the country. News publication Business Insider published an article which alleges some adults, including a former AKC employee and a dog breeder, were convicted of sexually abusing minors. After they were convicted, the perpetrators were not suspended by the organization or local clubs, giving them the ability to return to the sport.

BAUSCH & LOMB AREDS 2 PRESERVISION EYE VITAMINS

Robins Kaplan LLP is investigating a potential link between the use of this nonprescription product and serious injury. Bausch & Lomb AREDS 2 Preservision Eye Vitamins are typically used for eye health – specifically macular degeneration. However, the high levels of zinc in the product can result in copper deficiency. We are investigating a potential connection between copper deficiency and serious injury, including myelopathy and neuropathy.

PHILIPS CPAP AND BILEVEL PAP RECALL

In June 2021, Philips Respironics recalled certain CPAP, BiPAP, and mechanical ventilator devices after disclosing that the sound abatement foam used in the devices was degrading, causing small particles from the foam to break loose and come through the air hose. The possible risks resulting from the particulate and chemical exposure from the recalled devices include toxic and carcinogenic effects to the liver, kidneys, and other organs.

NEW INVESTIGATIONS

Learn More:



DEPO-PROVERA

Our attorneys are investigating claims of women who received the birth control medication Depo-Provera and later developed tumors, known as meningiomas, around the brain or spine. In March 2024, a study published in the *British Medical Journal* found that women who consistently received Depo-Provera had a **555% increased risk** of developing brain tumors. While the tumors are usually benign and grow slowly, they often require surgical removal due to the pressure they can put on the brain.

OXBRYTA

Pharmaceutical giant Pfizer is voluntarily recalling Oxbryta (voxelotor) from the market and is ceasing distribution due to safety concerns. The drugmaker states in part that the “decision is based on the totality of clinical data that now indicates the overall benefit of Oxbryta no longer outweighs the risk in the approved sickle cell patient population.” The FDA notes side effects of Oxbryta in certain studies include more deaths in the treatment group compared to the placebo group, along with an increased rate of vaso-occlusive crisis (VOC) in patients, which is very painful and occurs when sickle-shaped red blood cells restrict blood flow and oxygen delivery to tissues.

CASE UPDATES

STANDING ROCK SIOUX TRIBE FILES COMPLAINT AGAINST SOCIAL MEDIA GIANTS

Tara Sutton and Tim Purdon are representing the Standing Rock Sioux Tribe in a new lawsuit against major social media giants, including Meta (the parent company of Facebook), Snapchat, and TikTok. The complaint alleges that rampant social media addiction for Native American teenagers is contributing to a worsening mental health crisis, as suicide rates for this demographic are staggeringly higher than their adolescent counterparts. The firm has filed similar complaints on behalf of the Fond du Lac Band of Lake Superior Chippewa in Minnesota, the Sisseton-Wahpeton Oyate, Spirit Lake Nation and Turtle Mountain Band of Chippewa Indians in North Dakota, and the Menominee Indian Tribe of Wisconsin.

MID-MINNESOTA LEGAL AID, ROBINS KAPLAN BRING CLASS ACTION SUIT AGAINST MOBILE HOME PARK

Exposure to raw sewage, overcharging for utilities, and invalid leases are at the heart of a class action lawsuit filed by Mid-Minnesota Legal Aid and Robins Kaplan against a mobile home park in Sartell, Minnesota. The suit, filed by four longtime residents, names the out-of-state owners of the Sartell Manufactured Home Park as the Defendants. According to the complaint, Defendants defrauded residents by falsely informing each resident, under duress and the threat of eviction, that state law required them to re-sign their leases, while failing to disclose that the leases presented to them contained new, illegal, and restrictive terms not found in their current leases. The suit also alleges that Defendants knowingly operate compromised water and sewage systems that cause human excrement and other sewage to back-up into residents' homes and leak onto residents' rented lots and community spaces, making the mobile home park uninhabitable.

KEY INSTITUTIONAL DEFENDANT REMAINS IN CHILD SEX ABUSE CASES AGAINST JEHOVAH'S WITNESSES

On November 6, 2024, Robins Kaplan received a favorable appellate decision in child sexual abuse cases against Jehovah's Witnesses. Robins Kaplan represents numerous victims of child sexual abuse, including several victims who were abused by Jehovah's Witnesses' ministerial servants. The institutional defendant at the highest level of leadership, Governing Body, had moved for dismissal from two cases claiming that it cannot be sued as an unincorporated association, the First Amendment shields it in a religious capacity, and plaintiffs fail to plead sufficient facts demonstrating that actual notice of the abuse was given to Governing Body. The New York Supreme Court in Kings County denied Governing Body's motion to dismiss in its entirety, and it immediately appealed. On November 6, the Second Department of New York's Appellate Division affirmed the lower court's denial and rejected all Governing Body's arguments, with costs. Discovery will now proceed against those who created the policies that prevented survivors from reporting their abuse and made the critical decisions to retain religious leaders who were accused of abuse.



PHILIP SIEFF HONORED WITH MINNESOTA ICON AWARD

Philip Sieff was recognized with the 2024 Minnesota ICON award by *Finance & Commerce* and *Minnesota Lawyer*. This award honors attorneys or business leaders who have exhibited distinctive excellence that puts them at the top of Minnesota’s legal and business communities.



TERESA FARISS MCCLAIN AND KATIE BENNETT NAMED TOP WOMEN IN LAW BY MINNESOTA LAWYER

Teresa Fariss McClain and Katie Bennett have been named to *Minnesota Lawyer*’s second annual Top Women in Law class, celebrating the outstanding achievements of women in Minnesota’s legal community. Honorees were selected based on the core principles of leadership, professionalism, accomplishment, and passion for making a difference.

KATIE BENNETT AND RAYNA KESSLER APPOINTED TO NEW LEADERSHIP ROLES AT ROBINS KAPLAN

Katie Bennett and Rayna Kessler have been appointed to prominent national leadership roles within the firm. Katie Bennett will serve as Deputy Chair of the National Personal Injury, Medical Malpractice, and Civil Rights Group, while Rayna Kessler will serve as Deputy Chair of the National Mass Tort Group.

RAOUL SHAH RECOGNIZED AS NEW VOLUNTEER ATTORNEY OF THE YEAR BY TUBMAN

Raoul Shah has been named New Volunteer Attorney of the Year by Tubman, a nonprofit organization that provides a wide range of services to those facing relationship violence, exploitation, and other forms of trauma. He was recognized for his work with Tubman’s Safety Project, a program offering free legal representation to low-income victims of domestic violence, sexual assault, and stalking.

ROBINS KAPLAN PARTNERS NAMED TO 2025 LAWDRAAGON 500 LEADING LITIGATORS IN AMERICA GUIDE

Twenty-one partners, including National Mass Tort Group Chair Tara Sutton, along with Robert Bennett, Philip Sieff, and Michael Reif from the firm’s Personal Injury, Medical Malpractice, and Civil Rights Group, were named to the 2025 Lawdragon 500 Leading Litigators in America guide. This guide recognizes “the best litigators the U.S. has to offer” in a variety of practice areas.

RAYNA KESSLER RECOGNIZED AS A 2024 NEW YORK RISING STAR BY SUPER LAWYERS

Rayna Kessler has been named a 2024 New York Rising Star by *Super Lawyers*, a distinction awarded to no more than 2.5% of attorneys each year. This is the fourth consecutive year Rayna has earned this recognition.

TONY SCHRANK ELECTED TO THE NORTH DAKOTA ASSOCIATION FOR JUSTICE BOARD OF DIRECTORS

Tony Schrank was unanimously elected to the board of the North Dakota Association for Justice (NDAJ), which advocates for individuals harmed in person, property, or human rights. The organization also defends the right to a jury trial and other legal rights protected by our laws and constitutions.



FIREFIGHTERS FOR HEALING 2024 RED TIE GALA

Our team was deeply honored to attend this year's Firefighters for Healing Red Tie Gala. It was a privilege to sponsor this meaningful event, which plays a crucial role in raising funds for burn survivors and first responders in need. We extend our heartfelt gratitude to all who joined us in supporting this important cause.



SMRLS FALL APPRECIATION LUNCHEON

Peter Schmit delivered remarks at the Southern Minnesota Regional Legal Services (SMRLS) Fall Appreciation Luncheon on November 26.

EVENTS



2024 TRIAL ADVOCACY SEMINAR

This fall, over 170 attendees gathered for our annual Trial Advocacy Seminar, focused on the Rule of Law and its central role in justice, equality, and democracy. The day featured insightful sessions on AI's impact in legal practice, trauma-informed lawyering, preserving judicial independence in challenging times, and more. Thank you to all our speakers and attendees for making this a truly inspiring day.

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