



HEMMINGS & STEVENS

HEMMINGS & STEVENS, P.L.L.C.  
Attorneys at Law

# Injury Law Alert

Spring 2012

## Collisions with Pedestrians

### The Stats

When a pedestrian and a car collide, the pedestrian is always the loser. In 2009, about 5,900 pedestrians lost their lives in such collisions in the United States, or one every 90 minutes. These deaths account for 11% of all fatalities involving motor vehicles. Another 80,000 or so pedestrians are injured annually.

most common when a pedestrian tries to cross a street. Interestingly, pedestrian-vehicle collisions occur almost as frequently at crossings controlled by a signal as at those with no signal or crosswalk.

### The Causes

There are many different causes for this kind of collision. Inattentiveness to one's surroundings (by

either the driver or the pedestrian) is the most common cause, with cell phone use, map reading, and MP3 players all contributing. Another common cause is confusion: Drivers who are trying to figure out whether they can turn, what lane to drive in, or where they are on the map are more likely to hit a pedes-

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*As you would expect, a large majority of pedestrian-vehicle collisions occur in urban areas.*

As you would expect, a large majority of pedestrian-vehicle collisions occur in urban areas, where there is a higher volume of both traffic and pedestrians. Almost as high a percentage of pedestrian-vehicle collisions occur at night, when pedestrians are harder to see.

Because pedestrian-vehicle collisions happen when cars and people on foot interact, they are

## If You Are Hit by a Car

The rules to follow when you are involved in a pedestrian-vehicle collision are very similar to those in an all-vehicle collision:

- Remain calm. Call the police.
- Do not leave the scene before the police and, if necessary, the paramedics arrive.
- Get the names and phone numbers of those involved and of any witnesses.
- Do not make any statements to anyone about the collision except the police.
- Do not admit fault.
- After the collision, consult a doctor for your injuries and contact our firm to make sure that your legal rights are protected.

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*This newsletter is developed, written, and printed by the National Legal Research Group, Inc.*

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## Hip Implant Recall: What You Need to Know

DePuy Orthopaedics, a Johnson & Johnson subsidiary that makes medical devices, has announced a recall of two different hip-replacement systems, the ASR XL acetabular system and the ASR hip-resurfacing system. The recall was prompted by an abnormally high “revision” rate, with about 13% of those who have had the hip implanted later having to have it removed. It is estimated that almost 95,000 people have received these implants worldwide since 2003.

The symptoms and causes of hip-implant failure are varied and serious. Muscle fatigue, inflamma-

tion and swelling, and difficulty walking are the most common indicators. The causes may include a loosening of the implant because of improper positioning or dislocation of the implant components because of a design flaw, both of which make it harder and more painful to move.

Another serious complication can arise from the friction generated by the metal-on-metal design of the device, which can lead to the release of chromium and cobalt ions into the bloodstream that then

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## Preserving Evidence

Regardless of the kind of case you have, every lawsuit is the same in one way: The evidence must support your claim. This means that if you suspect you have a claim, you should take steps to preserve the evidence that could be critical in supporting your case.

It is said that a picture is worth a thousand words, and this is especially true in a lawsuit. If you have been hurt in a car accident, take photos of the car you were in, the scene, and, if possible, your injuries. Documents can also be evidence: Receipts, medical records, product instructions, accident reports, and the like can all be used to prove your claims.

Evidence is especially important in products liability cases, where someone is hurt by a defective product. Keep the product in the condition that it was in when the injury occurred and, if it is not in your possession (such as a car in a wrecker yard), take steps to secure it. There are reports of defendants trying to buy the defective product so that they can destroy it.

Sooner is better than later. A picture of the accident scene taken the day after a collision is worth more than one taken a year later. A picture of your bruises taken soon after you were injured will tell more than pictures of the same bruises once they have begun to heal.

If you hire our firm to represent you, make sure to give us all of the evidence you have collected and saved. This will help us prove your case and get you the compensation you deserve.

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## Tomato: Fruit or Veggie?

The very identity of the tomato is and has for a long time been a point of contention. On the one hand, botanical purists point out that the tomato should be considered a fruit, given that it is the fruit of a vine. On the other hand, as part of our diets, the tomato “acts” like a vegetable.

Over a century ago, no less than the U.S. Supreme Court took up the subject, ruling in a short opinion that the tomato should be treated as a vegetable. The issue arose over a protest mounted in court by importers of tomatoes from the West Indies against a tariff that had been imposed on the tomatoes. The tariff could be imposed on vegetables but not on fruits.

The Supreme Court case boiled down to competing experts for both sides, as well as competing dictionary definitions. In the end, since the terms “vegetable” and “fruit” were found not to have any specialized meanings in the context of trade and commerce, the Court decided to treat tomatoes as most people did at the time when they ate them, that is, as vegetables.

In short, the Court determined that whichever way the tomato may have been characterized by botanists, it usually was used and treated as part of the meal itself (or “repast,” in the Court’s words) and not, like most fruits, as a dessert. Thus, the plaintiff importers could not avoid the challenged tariff.

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# Financially Speaking, Keep It Simple

In theory, we are all in favor of saving time, labor, and space, not to mention avoiding the stress and anxiety that can come from leading complicated and disorganized lives. In the realm of personal finance, these are all good reasons to resolve to become more simplified and organized. Minutes spent doing this ahead of time could save hours and many dollars later.

## Direct Deposit

Who knows, you may be one of those people who like to have the check in their hands for their pay, pension, or Social Security benefits so that they can personally take it to that bank teller they have known and trusted for years. Still, arranging for a direct deposit into a bank account is safer, easier, and more convenient, and, at least by a small margin of time, it allows you to get access to your money more quickly.

## Recurring Bills

If the merchant, such as a utility or insurance company, allows the practice, you can pay recurring bills with an automatic withdrawal from your checking account or with a charge to a credit card. In the case of the former, don't forget to record the transactions in your check register. In the same vein are online banking services that allow you to pay bills online instead of by snail mail.

## Online Banking

Aside from bill paying, consider doing virtually all of your banking online, making it effectively paperless. You can go online to handle such tasks as reviewing

deposits and withdrawals, tracking balances in your accounts, transferring funds between accounts, and receiving statements.

## Automatic Savings

It is simply common sense that if you set up a system in which something happens automatically rather than only when you think about it and take action, the "something" is going to occur with greater consistency. So it is with saving for the future. Arrange with your employer or bank to put a predetermined amount of money into an account or an investment vehicle on a regular schedule. Another bonus for this approach as an investment strategy is that over the long run, it might provide a better return than jumping in and out of the markets.

## Consolidation

You might want to streamline your finances by consolidating what could be an unwieldy number of accounts and credit cards. By doing so, you can better monitor everything, lighten the load of paperwork you receive, avoid some fees, and perhaps even obtain better deals. If you are combining deposits at one banking institution, though, be careful not to exceed FDIC deposit insurance limits (\$250,000 for each ownership category in a single institution).

All of the above may not matter much if nobody can find the documents, so keep them in a secure place, ideally in a central filing system. Make sure to let your family members know where they can find your important documents.

## Hip Implant Recall

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gather in the surrounding tissue. These ions can cause inflammation, which, in turn, can cause a loss of bone matter (called "bone resorption") that severely weakens, and possibly even debilitates, the hip. Elevated levels of metallic ions may also cause the patient to suffer nerve damage.

If you suspect that you have received one of the recalled implants or if you exhibit any of these symptoms, consult your doctor about it immediately. Also consult a lawyer, who can help you bring a claim for your injuries within the time allowed.

## Let Us Help You

*The period of time following an accident is one of confusion and uncertainty. There are many things to take care of. Hiring a good lawyer is one of them.*

*Many times, people don't know where to go when they need legal help. If you or a loved one has been injured in an accident, call us. We will vigorously represent you and make sure that you are justly compensated for your injuries. That's our job.*

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## Pedestrians

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trian than are those who know where they are going.

Overly aggressive driving and/or driving too fast for the situation are often factors. Poorly designed intersections, where traffic backs up or where drivers cannot see pedestrians crossing, can also contribute, increasing the chance of a collision.

### The Advice

For pedestrians, the best option is to avoid a collision altogether. Like drivers, walkers must obey traffic laws and the laws of the road. Cross only at marked crosswalks, and then only with the light—don't jaywalk.

If you are crossing a street (especially near a cross-street), stay alert for cars that are not paying attention. Use caution when you

are walking on a sidewalk that crosses an alleyway or parking lot, where drivers may be turning. Look all around before getting into and out of cars parked by the side of the road.

If you have to walk at night, wear a light color (preferably white), and if there are no sidewalks, always walk against the traffic to give cars the best chance to see you. Finally, don't insist on your rights. You may have the legal right-of-way, but it is far better to let the car do something it is not supposed to do than to take the right-of-way and get hit.

For drivers as well, avoidance is the best option. Be aware of pedestrians, especially if you are in a city or when the sun has gone down. Remember, pedestrians have as much right to be there as you do. Don't drive too fast, and watch for people emerging from behind obstacles such as parked cars, trash

cans, city buses, and the like.

Keep in mind that not all people who are walking will obey the law. Watch for people jaywalking or crossing after the signal has changed to "Don't Walk." Be especially wary around schools and in residential neighborhoods: Children often don't know the rules, and they may dart out from behind a car or cross unsafely to get to the school bus.

There is a role for government, too. Installing sidewalks where there are none, overpasses and underpasses for walkers to use to cross the road, and "islands" in the middle of busy streets to give shelter to pedestrians if they don't make it all the way across can all reduce the chances of such a collision. Better lighting can also help.

Don't become a statistic. Keep your eyes open, your ears alert, and yourself alive.

*Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking action on matters covered by this newsletter.*