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More than just a Case – A Life Changer

“Body is something you need in order to stay on this planet and you only get one” Joyce Sutphen

“A battle lost, a battle won - The difference is small, my son” Dorothy Parker

Throughout my career, I have worked with many people with disabilities and illnesses. Working with disabled or ill people runs in the family as my mom has been a caretaker for over 20 years. Even though the people I have worked were unfortunate to be born with disabilities or to be facing a serious illness, it was always my pleasure and honor to be able to have the chance to work with them. Even though they all were facing a difficult situation or disadvantage, they often had a great attitude and outlook on life. These experiences made me appreciate how fortunate I am to not to have to face the same challenges myself. Most of the time, it has been a great experience working with people with disabilities, until I had a brand-new experience from working in a personal injury law firm here in New York.

I have never experienced working with people who were physically or mentally hurt by drugs or replacements. I have to say that my experience in a personal injury firm was opposite to my previous experiences working with disabled people. This experience has been pessimistic, tense, and dreary, as people’s lives were changed and negatively influenced by something that was supposed to help them. Clients/patients would take these drugs or having the replacement procedures done in a good faith, hoping that their lives would improve, but yet they would get worse.

The reason why I chose this topic is to be able to look beyond the face of product liability of hip replacements. I would like to assess this problem from several different perspectives to get a full understanding of the process and of the issues related to hip replacements. I want to see the issue not only from the perspective of patient, but also from the perspective of doctors and law companies, dealing with medical malpractice and liability cases. The goal of this essay is to show that there are three sides to every hip replacement case, and that many cases do not have the same reason why the problems are present. Many patients do not follow the protocol that is given to them, surgeons do not always do a good job, or the replacement might be defective. With hip replacement cases, it is always important to get all the facts of each story. The goal of this essay is also to look for the “Holy Grail” of the perfect case and a universal solution to follow for everyone going through a hip surgery to achieve a full recovery. With so many different variables coming into every case and with every patient and surgery being unique, finding the “Holy Grail” could be as difficult as finding the real “Holy Grail” in the real life, if such thing even exists.

Even though I am still only a Junior here at NYU, I plan to attend a law school once I graduate. This topic is interesting to me not only from the legal perspective, but also from the personal perspective. I want to have the knowledge and insight to be able to protect my family and friends to either provide them with guidance and advise prior to going for a major surgery or procedure, or to protect their rights and to provide them with guidance if any given situation or harm to their health ever happens.

Medical Liability vs. Medical Malpractice

*“What is pain beyond our eyes?
 What is behind the hurt and behind the cries?
 Medically it is supposed to be right and fixed.
 Physically I am in pain and I feel mixed.
 These side effects control my life.
 I am in a situation that gives me strife.
 I see the light through the tunnel
 In order to make it I need to get out of this funnel.”*
 By Jacob Gaiser

The poem I wrote is about pain, suffering, hope, and setbacks. My poem is about medical liability and medical malpractice and about the people who are experiencing these emotions and physical pain due to such cases. Even though I am unable to fully understand what they are going through and what pain these patients/clients may be experiencing, I have a lot of empathy for all of them. Clients I spoke with in the past had a sense of optimism about their situation, trying to find a way out of the dark tunnel of pain they were suffering from. I am unable to count all the clients telling me that the replacements made them feel even worse than prior to their surgery.

Many of those people suffered either from medical liability or medical malpractice cases. What exactly is medical liability and medical malpractice? Medical liability can be seen as “compensation of damage, endured for the fault-based liability of physicians, institutions or health professionals” (Ferrara 2013). According to Milroy (2014), medical malpractice and liability cases happen more often than one would imagine. According to Milroy’s article, “61 percent of physicians age 55 and older had been sued, 40 percent had been sued two or more times, 90 percent of surgeons age 55 and older had been sued, and even more worrisome, 51 percent of obstetricians/gynecologists under age 40 had been sued”. Even though the medical malpractice and liability cases happen very often, according to NCSL, medical malpractice and liability have been successfully regulated by the states (n.d.). States addressed several issues that regard court procedures, compensation for victims, malpractice insurance, and civil liability. This means that under the laws of the state, patients are allowed to bring a civil claim against physicians, or any other healthcare provider. If a healthcare provider failed to give the proper care to a patient or was negligent, causing an injury or death, the patient or his or her relatives can try and recover for damages.

Medical malpractice and liability cases are often filed through a class action or a mass tort. According to the Legal Information Institute, a class action is a lawsuit that permits either one or multiple plaintiffs to be able to file or prosecute a lawsuit on behalf of a larger group also known as a “class” (n.d.). What this means is that this type of lawsuit would allow courts to be able to manage multiple lawsuits at once under one “class”, compared to handling the same type of lawsuit for multiple individuals separately.

The law firm I worked for was a mass tort law firm, focusing on medical product liability cases. According to NCLS (n.d.), a mass tort is a collective tort or an injury case, filed for qualifying group of people. There are two main differences between a class action and a mass tort. With a class action case, a group of people with the same type of injury brings forth a case, where every member of such class action is equal to each other and so is entitled to the same

amount of monetary settlement. On the other side, mass tort can still be a group of people bringing forth a case, but people would be paid out based off of their own individual damages.

As discussed, the medical product liability law firm I worked for focused only on cases against the manufactures of faulty products or drugs that caused major side effects, such as permanent disabilities, or even death. Since the law firm focused on “large-scale” cases against the manufacturers, we were not taking individual medical malpractice cases against the doctors. With me making hundreds of calls a day with people about the mass torts, it used to amaze me to see how many people around the world suffer from the negative side effects of various medical devices or drugs.

Many of the cases and stories I heard made me realize how hard it is for many people to live with the side effects, and how important it is for them to be a part of a case against the manufacturer. It was probably my second week at the job when I spoke with a client named Ms. Smith. Ms. Smith, who lived in Tennessee, was trying to bring forth a case towards a malfunctioning hip device. She was told that with having a hip replacement surgery, she would be potentially able to gain her mobility back. Unfortunately, this was not the outcome of the case as she lost even more mobility and ending up being in constant pain. The hard part for me was that even though I wanted to help her, I had a certain set of questions I had to ask. If her responses did not match the criteria, I had to reject her.

Unfortunately, the outcome of the intake call was that she did not meet the criteria of what the firm was looking for. I had to explain to her on the phone that we were not able to take her case. The minute I said that, she broke down into tears on the phone, crying in hysterics, saying things that she will never be able to walk again and that she doesn't want to live anymore. Cases like these broke my heart as I was unable to help the poor lady to be a part of the case against the manufacturer of her hip replacement that ended up causing her even more pain. Even though I could not include her into our case, I didn't want to give up on her and I wanted to at least refer her to another law firm to see if they would be able to help her. I did some research and I found another firm that she could have a better chance to have a case with.

As soon as I gave her the information, she began to feel better and was very thankful. I am not going to forget her saying to me that she would make me some breakfast if I was there to show me her gratitude. From that moment, I felt a sense of accomplishment to be able to help someone and to make their day by making them feel better. This case motivated me to be more involved and to try to help the clients with their product liability cases. On the contrary, the sad part is that the law firm was not trying to help anyone, they were just trying to make money out of others' pain and suffering. I believe I was on the phone with Ms. Smith for over an hour and I remember being told by my supervisor that if someone is to be rejected, I need to keep the conversation short and to end the call to continue down the list of calling others for potential cases.

I did not agree with the way clients were being treated. The company treated people as if they were just a numbers and not someone who is a human being who is actually suffering and going through pain or loss. Referring back to the poem I wrote, I said that “these side effects control my life”. When I spoke with the clients, they would tell me stories about how they used to be able to go running outside or to be able to walk without a problem prior to their hip surgeries. They explained to me how much their lives were changed and controlled because of the faulty replacements. It was hard for me to look at people as a number or just someone in the

mix of all things. I wanted to look at them as individuals and to be able to help in any way I could.

The law firm I worked for had a campaign for hip medical devices, where we had to process client intake for thousands of clients every day. A lot of those clients were being rejected because they were not meeting the strict criteria of the law firm. I want to utilize this research to be able to understand more about how each of the individuals feel and what they are going through, not only from the perspective of me being a legal assistant, but more from the perspective of understanding their side and their story and their experiences.

Medical Liability is Like Death – It doesn't Discriminate

“Medical liability reform is not a Republican or Democrat issue or even a doctor versus lawyer issue. It is a patient issue.” – John Ensign

I think that this quote describes the medical liability issues in the best and most effective way. Medical liability cases are not about religion, gender, political affiliation. Medical liability cases include a very diverse group of people. Even though I sympathize and have empathy for the patients and clients, there are three sides to this story. The medical liability cases are not always “plain vanilla” or clear about a certain mistake or a bad product. It is important to ask the key questions related to their case to gain the understanding and full picture of the given case. Did the patients follow the exact directions that were given to them by the doctors? Do the patients understand what is asked of them when signing a retainer agreement or engagement letter while hiring a counsel? Were they aware of all the risks and consequences of their procedure before agreeing to it? I understand that these patients and clients might be in pain or they are suffering, but when is it right for them to be able to place the blame on the doctor? Or even a lawyer?

Working in a medical liability law company, I couldn't count how many times I heard clients asking about how much we charge for a fee or saying that it isn't ethical to charge people money who are in pain. Even though I do not think personally that I would ever again want to engage in this area of law, I understand that it is a business. The law firm I worked for would take on certain cases and the protocol was that the client or patient did not have to pay any fees or money out of pocket or up front. If the case was to make it to the trial and a settlement was reached, the law firm would attain a percentage from the settlement check. The great thing about their system was that even if the law firm decided in the long run to reject the case or not to file it, the client would not be required to pay anything and they would not lose any money.

I understand that getting a “reward” for an injury sounds to many people as a desirable thing, but when it comes down to the actual work that needs to be done to include the patients in the case, they often do not follow through with all that's needed from them. There is a reason that a counsel would require a client to sign a retainer agreement. According to Hillstrom (2002), a retainer is an agreement “under which the prospective client becomes a client of the Practice. In a preferred embodiment, the provisions of the retainer agreement include the Client's consent to associate a Primary Lawyer approved by the Client; an attorney lien in favor of the Practice and Primary Lawyer; and the Client's consent to sharing of legal fees among the Practice and Primary Lawyer.” In other words, a retainer agreement is a contract that is between the counsel and client that states what the counsel will do for the client as well as the fee structure. A law firm will not begin working on the potential case until the retainer is signed. There were plenty of times when I spoke with potential clients who would give me hundreds of reasons why they

have a case and why they deserve a settlement from their injury or someone else's injury, but at the end of the day, I would probably get a hold of only about 50% of the clients when following up about them returning us the signed retainer.

With the close and confidential relationship between the patients and their lawyers, the confidentiality and safety of information is crucial. Clients in the medical liability cases are required by the law companies to sign a Health and Insurance Portability Accountability Act (HIPPA). According to the U.S. Department of Health & Human Service (n.d.), "HIPPA is a privacy rule that establishes national standards to be able to protect individuals' medical records and other personal health information." It is important for the potential clients to sign a HIPPA, because it states that they are allowing the law firm to reach out to the hospitals where they received their replacement surgery and to access their medical records for review to determine if the client truly has a case or not.

It is important to understand the various facts and details, helping us to understand if the given case is valid or not. In my personal opinion, manufacturers allow their products to be purchased without fully disclaiming all the possible side effects that could potentially come with using them. According to Drugwatch (n.d.), some common complications with hip replacements are blood clots, infection, dislocation, different leg lengths and loosening of the implant. Some patients only suffer from a small amount of pain or instability after their surgery, while others suffer major problems that can lead to emergency medical attention or even another surgery called a "revision". A revision is when a patient may be required to have a complete replacement done again to replace the current hip replacement with a new one, or to replace certain parts of the existing hip replacement.

To navigate through these cases, full understanding of the background is crucial as the clients would describe their conditions like loosening or a severe pain after their replacement surgery. Clients would tell me that they were feeling pain months after their surgery and that they were barely able to walk. A lot of the times clients would tell me that they would go and see the doctor who performed the surgery and that the doctor would tell them that there is nothing wrong with their hip and that it just takes time to heal. The key question is if the doctor is being negligent and not fulfilling the duty of care or if their trouble is caused by manufacturer of the hip device that was potentially recalled. It is important to state that the issues that people go through could potentially be due to them being negligent patients, not following through with their rehab and other procedures as outlined by their doctor.

According to Find Law (n.d.) negligence is "one of the most common types of personal injury lawsuits." Negligence is when a person acts negligent or careless towards someone which can result in someone being hurt or even dead. In many cases, the clients I spoke with would automatically assume that it was the doctor being negligent towards them and their hip device that was implanted, but in reality, it was actually the device that was created by the manufacturer causing the problems. Even though not every hip replacement is a bad product, there were some hips that were on the market during certain times that were recalled due to problems with their composition or with certain parts of the product.

According to Drugwatch (n.d.), there was a hip replacement called a "Depuy ASR" that was manufactured by Johnson and Johnson. This hip was a metal on metal hip that caused painful injuries and even life threatening situations. There were thousands of people who filed a lawsuit to be able to pay for their related additional medical expenses and to be able to recoup

lost wages and economic losses. According to Drugwatch (n.d.) there is more than 8,000 of these cases that are active before a Judge in Texas. In 2016, a Dallas jury awarded \$502 million to a group of patients who said that the Johnson and Johnson didn't disclose the flaws of their product, causing the devices to fail.

When a manufacturer acts as negligently, it is important to provide the clients with protection and services that will help them to get recover their damages. One of my clients was Mr. Higgins, who was an older gentleman suffering after his replacement surgery. We spoke on the phone for quite some time. He explained to me that he had his hip replaced a year and a half ago. He noted that prior to the replacement, he was in pain a lot of the time due to his hip. He said that he was told that if he got his hip replaced, he should feel better and to potentially fully recover. He told me that after he had his surgery, he felt much worse than he felt before he got the surgery. He told me that he was a very active gentleman and that he used to do a lot of cardio exercises, but now, after the surgery, that he could barely even walk. His concern was that he would not be able to fully recover ever. The doctor told him on many occasions that they do not see anything wrong with his hip and that it just takes time to recover.

Our law firm decided to investigate further into his case to be able to see what his options would be upon the client signing the retainer agreement to allow the company to be his counsel. After further investigation, he had one of the DePuy hips that were recalled, qualifying him to join the case against the manufacturer.

Unfortunately, we could not always take on client's cases. My estimate is that only about 10-20% of the time, the clients would qualify for a case. Unfortunately, there were many limitations that would hold the potential client back from being able to file a case. All law firms are different and have different criteria. The law firm I worked for had strict criteria, since about with 90% of any cases we would take, the clients were required to have a revision done on their hip for our law firm to consider the case.

Even though the strict criteria were the reason not to accept a case, there was another limitation to this case, called "Statute of Limitations" (SOL). According to the Legal Dictionary (n.d.), Statute of Limitations (SOL) is a "type of federal law or a state law that restricts the time within legal proceedings can be brought before a judge." In this instance of medical liability cases, patients' time frame that qualifies under the statute of limitations begins as soon as they know about the injury or the injury date. Every state has their own time limit for statute of limitations some states have two years to bring a case as others have one year. If a case is not brought to attention before the statute of limitations is up, the case is no longer valid.

Every Story Has Three Sides to It

"There are always three sides to every story: your side, the other side, and the truth." – Anonymous

There truly are many different sides to "one" story. I like to think of it as that there are always at least three sides to the story - his word, against our word, against their word. In this case, there are three sides to the story - the patient/client, the doctor, and the lawyer. I find it to be quite ironic that when I worked in the medical liability law firm, speaking with clients on the telephone was like playing the game of telephone. One client would give me one story, but later he would tell another legal assistant a different story. Over the course of time, I realized law tends to be at times about choosing the right "story" rather than about looking for the truth.

When choosing a “certain” side, it is important to analyze the evidence that is given to us. As we are all humans, we all have our own beliefs and reasons for believing one thing over something else. Logically, it can be easy to sympathize with a “sad” story or to empathize with others as it is in our nature. I told myself that I wanted to pursue law, but I knew that there are certain types of law that I would rather avoid, such as criminal law or medical liability. It is not because I think that I am not capable of performing in those areas, I think that it is just my own personal preference.

It is important, when choosing a certain side to the story, not be emotionally tied. According to Law Nerds (n.d.), one of the biggest traps is to allow ourselves to be emotionally drawn in by a certain story or person. One of the main tricks is to be able to apply knowledge and law neutrally to the person’s legal rights while removing any personal feelings. I feel that this was a lesson that I needed to learn when I first began working in law. Before I was planning on attending law school, I was in school for hospitality, so my mentality was different, as I was being trained to “people please” and to satisfy their expectations to make their experience “hospitable”. When I worked in a hotel, I used to be the gentleman that would go above and beyond for my customers or guests. It was hard to say the word “no”. On the other side, When I worked in medical liability, each and every day I would speak with clients on the phone who would want to tell me an entire story about how they suffer and why they deserve to be compensated for “medical” damages. I think that for medical liability and malpractice cases, you need to be emotionless, because sympathizing with clients and being emotionally involved could cost you the case. Because I am a person who cares about others’ well-being, I wouldn’t be able to do that.

After consistently working in a law firm that had a high volume of clients going through the company’s evaluation system, it was quite an obstacle for me to be able to separate my emotions from others as I would deal with many emotional cases. Over time, I realized that I needed to be able to take a different approach to be able to separate emotions and feelings. I understood that is crucial to be able to argue both sides of the situation. According to Law Nerd (n.d.), to be able to avoid being emotionally attached to a certain case, it is important to try and argue both sides of the situation. Adopting this type of attitude allows me to be able to see it from several perspectives to avoid the bias. As time progressed, I felt more of a neutral person in regards to handling emotional cases. Yes, some of the cases or stories were sad, but I was able to look at both perspectives and to be firm with my decisions on certain cases.

Another important thing to remember was to question everything. Law Nerds (n.d.) explain how important it is to always question everything, because it is crucial to being able to finding out more about the problem for you to see what adds up and what might not always add up. I think that this is a good approach to find a solution to a problem. Even though I had certain questions I was supposed to ask potential clients, I would always try to go above and beyond and to find out more about the potential claim. I would ask more questions to understand more about the injury or situation, as the more knowledge I had about their claims, the more I was able to help with the given situation. Even though there were times when I was not able to accept certain cases based on certain criteria, I always tried to help to point the clients in the right direction.

I spoke with other legal assistants to be able to understand their processes and ways of handling the cases, as we all had different approaches to medical liability cases. Ms. Smith, a fellow legal assistant, explained that the process of processing the cases is fairly similar, as she agreed that there are always multiple sides to a story. She was straight and to the point with

potential clients by following the steps above to separate her emotions and to argue both sides. She explained to me that the best thing to do is to ask questions. She said that she wanted to take the next step and to find out the entire story to analyze the claim before she agreed to even send a retainer agreement or an engagement letter.

Even though I previously noted that I sympathize with the patients and clients, and that I had an obstacle I needed to overcome to be able to not allow my emotions to interfere with my judgment, I decided to follow the “IRAC” method (Issue, Rule, Analysis, and Conclusion) formula to separate myself from my emotions and to analyze the case. According to Law Nerds (n.d.), “issue” is related to what facts and circumstances brought these proceedings to court. Next, rule is what the law is for the issue. The analysis helps to see if the rules apply to this unique issue. Finally, the “conclusion” looks at the court’s ultimate finding and how the finding modified the rule of law. By following this formula, I was able to look at each individual story from a different perspective.

IRAC was a great method to use when qualifying potential cases as the basic rules to qualify a case have to be checked. It is important to see in what state they had their hip replacement performed, what date they first noticed problems with their implant and what their symptoms are. These are some of the important questions needed to be analyzed to find the issue, the rules related to the issue, and to analyze the situation to draw a conclusion. For example, I had a client named Mr. Miller. He had his left hip replaced in Florida back in 2010. He said that he was experiencing a lot of pain and that it was difficult for him to walk. He even had his blood tested for Metallosis.

According to Drugwatch (n.d.), Metallosis is when metal poisoning happens, meaning when toxic levels of metal are built up into the body. The metal poisoning also often occurs as a side effect from joint MOM (metal on metal) hip replacement surgeries. When metal parts from the implant begin to rub against each other, this causes microscopic metal pieces to get into the blood and in the tissue, causing the Metallosis. Some common side effects to Metallosis are nerve problems, loosening in the hip, clicking sounds from the hip, or even infection. Mr. Smith mentioned that the doctor found high metal particle levels in his blood. Mr. Smith then had a revision in 2013 on the same hip. A revision is when a patient has a total or partial replacement done again on the same body part that was replaced originally. In this case scenario, IRAC came in handy, as I was able to first identify the issue, as Mr. Smith he was diagnosed with Metallosis and he experienced loosening in his hip, and he had to get a revision. At this point, we knew that it is not an act of negligence, but more of a product liability, where we can make a claim towards the manufacturer of the hip implant. The next step was to find the rules related to the case. He had his hip replaced in 2010 and 2013, while addressing his case in 2016. According to Find Law (n.d.), the SOL (Statute of Limitations) is between 2-4 years to file for a case. With that being said, the Statute of limitations “begins when the plaintiff’s cause of action accrues“(Find Law, n.d.).

Following these steps helped me to analyze the entire situation by understanding the rules of the law. Since the Statute of limitations was 2-4 years in Florida, and since he was experiencing side effects that were from the recalled hip replacement product, I was able to come to a conclusion that this would be a potential case that our law firm would be interested in pursuing. At this point, it would be my decision to take the next step to send a retainer and HIPPA agreement to the client to request more information and to retain the client. Given that

this is only one scenario out of thousands, it is important to be able to see potential cases from every point of view and to look at all sides to one story.

Over the course of time, I found myself to be more confident when dealing with cases. On many occasions, people would try to explain to me why they have a case and how much they feel that it is the doctor's fault or the manufacturers. Remembering the IRAC would help not to get emotionally involved. I understood that I can't always sympathize for others based on their medical issues, rather than to focus on the facts. I spoke with people who told me that they had their hip replaced a month before and that they think they deserve to have a case just because they were in pain. Prior to including IRAC into my routine, I would feel emotionally bad and wanted to be able to accept their case, but now I realize that it is important for me to be able to argue both sides and to see every point of view, as the patients often want to be able to point their fingers at someone else, but never at themselves for the source of their pain.

The Good, The Bad, and the Ugly

"Luck is a result of careful preparation, failure is a result of negligence." Robert Heinlein

There are many cases that do not qualify as neither a product liability, or as the patient's fault due to not following certain protocol after having a hip replaced. These cases are often defined as the medical liability cases or negligence cases. There are many elements of a negligence case that take place. According to Findlaw (n.d.), juries are instructed to be able to compare the facts, testimony, and evidence with five different elements before reaching a verdict. These five elements are duty, breach of duty, cause in fact, proximate cause, and damages.

According to Findlaw (n.d.), the outcome to a negligence case depends on the fact if the defendant owed a certain duty to the plaintiff. Law often recognizes such relationships to exist between the patient and the physician, or in the negligence cases between the plaintiff and the defendant. Due to this relationship, the defendant is obligated to act in a certain manner towards the plaintiff. It is often depending on the judge's decision whether or not the defendant owed a certain type of duty of care to the plaintiff. Relating to the hip replacement topic, patients (plaintiffs) often believe that the doctors (defendants) are responsible for their hip replacements failing after the hip replacement surgery, since the patients believe that the doctors owe them duty of care that they did not fulfill.

If a certain duty of care is not being followed properly it is considered a breach of duty. According to Rottenstein Law Group (n.d.), a breach of duty occurs when a person or a company has a duty of care towards another person or a company. A person may be liable for negligence in a personal injury case if the breach of duty caused another person's injuries. According to Rottenstein Law Group (n.d.), if the duty is not followed properly, it is considered a breach of duty. According to Rottenstein Law Group (n.d.), when identifying whether or not the defendant has breached their duty towards the plaintiff, the court asks several questions to see if the defendant used the same amount of reasonable care that another person who is in the same position would use to prevent harm; if the defendant was able to foresee the risk of harm to the plaintiff; if there were other alternatives that were available that could have prevented harm (like different materials, designs, other items); etc.

The medical liability case could be explained on Ms. Jensen, a case that is discussed more in detail later in the paper. Ms. Jensen's leg was shorter than her other leg after the hip

replacement surgery. According to Findlaw (n.d.), under traditional rules in negligence cases, a plaintiff must be able to prove that the defendant's actions were actually the cause of the plaintiff's injuries. This is also referred to as “but-for” causation. In other words, the “but-for” causation would be “but for the defendant's actions, the plaintiff's injury would not have occurred” (Findlaw, n.d.). According to Rottenstein Law Group (n.d.) “without or which-not” cause, both points to the same question. Rottenstein Law Group (n.d.) noted that if we were able to go back to the time when the negligence happened and remove the defendant's behavior, the deciding factor would be if the plaintiff would still be injured. If the answer is no, then the defendant's behavior would be considered a “cause in fact” of the plaintiff's injuries. In this case, it is clear that the medical liability occurred as Ms. Jensen would not be “injured” with a shorter leg if it wasn't of the surgeon as other hip replacements were available that would not cause the failure.

According to Legal dictionary (n.d.), a proximate cause is the primary cause of an injury. It is not necessarily the closest cause that takes time or space, nor is it the first event that sets in motion a sequence of events that are leading to an injury. Proximate cause has particular foreseeable consequences that are without any intervention or any independent or unforeseeable cause. According to Findlaw (n.d.), proximate cause relates to the scope of a defendant's responsibility in a negligence case. A defendant in the negligence case is only responsible for the harms that the defendant could have foreseen. If a defendant caused damages that are outside of the scope for the defendant to foresee, the plaintiff cannot hold the defendant liable to defendant's actions, as they wouldn't be considered proximate cause of the plaintiff's injuries. In Ms. Jensen's case, the surgeon didn't do good enough job and didn't prepare enough for the surgery in the sense that the mistakes he made could have been avoided if he performed the surgery correctly.

Within a negligence case, a plaintiff must be able to prove a legally recognized harm, usually in the form of a physical injury, either to a person or a property. It is not enough for a case to be valid if the defendant failed to exercise reasonable care. The failure to exercise reasonable care must result in actual damages on which the defendant owed a duty of care to the plaintiff. In this case, the doctor would be held responsible if they did not follow a certain duty of care to the patient during his or her hip replacement surgery that resulted in the patient being physically injured. This would qualify Ms. Jensen as her hip surgery resulted in her leg being shorter, meaning she got a physical injury and harm as a result of the surgery.

From the legal perspective, medical liability and negligence cases are often very complicated. Every malpractice case is unique and there is no set timeline on when the case will be resolved and settled. According to Choctaw (2008, p. 67), even though “[m]ost cases proceed through the same basic steps, [...] [it] takes approximately 2 to 3 years to get through the complete legal process, [even though] most cases are dismissed or settled before going to trial”. Choctaw (2008, p. 67) provides a ten-step overview of a medical liability case. The first step when “when [a] complaint is filed by the plaintiff(s), the person(s) bringing the lawsuit” (Choctaw 2008, p. 67). This means that the physician would “receive a letter of intent to sue or another form of legal notification. This notification may be [the physician's] first indication that a claim is being filed against [him/her]” (Choctaw 2008, p. 67). The second step in the typical is for the physician to contact his/her “malpractice insurance company, [where the] company hires a defense attorney” (Choctaw 2008, p. 67). The defense attorney then “discusses the case [with the physician] [...] [and] then responds to the written complaint against [the physician]”

(Choctaw 2008, p. 67). The malpractice insurance companies also often “hire expert physician consultants to review [the] case and advise them about the strengths and weaknesses of the lawsuit”, as these lawsuits might become very expensive for the insurance companies and they do all they can to minimize the “damages” (Choctaw 2008, p. 67).

Once the defense attorney responds to the complaint, “the discovery phase begins, [which] is designed to prevent unexpected testimony and evidence in the courtroom” (Choctaw 2008, p. 67). During this phase, “the attorneys for all parties usually exchange relevant information such as hospital records, clinic charts, laboratory and X-ray tests, and your office medical records” (Choctaw 2008, p. 67). The fourth step in the process is having the physician to complete “a set of interrogatories (written questions) about his/her education, training, and medical experience” (Choctaw 2008, p. 67). The physician is often “asked about relevant facts regarding the care of the patient in the case, all stated under oath” (Choctaw 2008, p. 67). The fifth step in the process often involves “the deposition of the plaintiff and the physician’s deposition, taken at different times and locations” (Choctaw 2008, p. 67). The physician would be questioned by the plaintiff’s attorney during his/her deposition, [and the physician’s] attorney would question the plaintiff during his deposition, [since both are] extremely important [for the case]” (Choctaw 2008, p. 67). Also during this process, “[o]ther witnesses may or may not be deposed” (Choctaw 2008, p. 67).

The step number six in the process is when “[a]fter the depositions, settlement may be negotiated between the physician, your attorney, the plaintiff, the plaintiff’s attorney, and the insurer. To the physician, settlement may be viewed as losing or as admitting negligence or as the least risky and most cost-effective resolution (Choctaw 2008, p. 68). If this step fails and “[i]f neither settlement nor dismissal of the case has occurred, it will go to trial by jury” (Choctaw 2008, p. 68). When the case is in trial by jury, “[t]he plaintiff’s case is presented first, then the physician’s case” (Choctaw 2008, p. 68). The important point is that “the burden of proof is on the plaintiff, [as] he plaintiff’s counsel will have an expert witness testify about the quality of the treatment the physician rendered to the patient” (Choctaw 2008, p. 68).

The alternative to the trial by jury is “an arbitration panel reviewing and evaluating the case, if an arbitration agreement has been signed by both parties before the care of the patient. Usually, this hearing is private, in contrast to a public trial by jury” (Choctaw 2008, p. 68). As the last but one step, “[a] verdict is delivered, [either by] jury or arbitration panel, [which would] decide if the plaintiff met his burden and the evidence proves that the physician was negligent, and, if negligent, whether the negligence caused injury or death” (Choctaw 2008, p. 68). If the physician is found guilty, then “the jury will decide how much money is to be awarded to the plaintiff” (Choctaw 2008, p. 68). Upon the final verdict, as the last step, “[e]ither side may appeal an adverse verdict, but appeals must be based on questions of law, not on facts. Appeals are heard by a panel of judges, and no new evidence is taken” (Choctaw 2008, p. 68).

Obstacles We Have to Go Through

“We acquire the strength of that which we overcome.” – Ralph Waldo Emerson

We all have obstacles in our lives that we need to overcome. Looking out of a window over New York City, seeing thousands of people living their lives, makes me think about everyone having their own story. Many hip replacement patients have a different story to tell, since many of them display different side effects with different causes. With applying IRAC to my research, my goal is to look at the topic through a lens of empathy, not sympathy. From a

legal and personal perspective, I understand that I need to be able to analyze all of the information from each side of every story to get a full picture about the case.

Working with clients often requires to follow a list of questions to ask to determine the client's eligibility for our case. Throughout the many calls I went through, I felt that the conversations were often more about how many people can I talk with within an hour rather than how many people are we able to help. I remember speaking with a client named Ms. Jensen, who was a middle aged woman. She was a very kind person on the phone. Since this conversation happened probably within the first month of my employment with the company, many things related to this case were new to me as I have never had a chance to deal with such a case as Ms. Jensen's.

The conversation began with the basic questions related to what the firm does and what the process is, starting with the screening conversation to establish the client's basic eligibility for a representation by my former employer. At this point, I wanted to find out more about her story and how things went. Ms. Jensen broke her right hip in 2008, leading to her getting a hip replacement surgery. She had her hip replacement done in Mississippi. She explained to me that she had to get a total hip replacement surgery, not a partial hip replacement. I asked her if she knew the type of hip replacement implanted into her body and she said that the doctor told her that the hip replacement product was called Depuy Pinnacle. From the perspective of our law firm, Depuy Pinnacle products were a type of a hip we were interested in for our case. This case qualified especially since it fell under the time period when the hip replacement was being recalled. I asked her about the symptoms she was having after she had the surgery, aside from feeling pain when she was walking. She described that the implant was loosening and that she noticed that one of her legs was shorter than the other.

This case prompted me to more research as I have never heard of someone having one leg shorter than the other. According to Cluett (2016), depending on how the hip implants are placed and the size of the implants, these factors can determine the length of the leg after the surgery. If the hip after surgery is loose or is prone to be dislocated, the surgeon may want to place larger or longer implants in the joint. The downside to placing these larger implants is the lengthening of the limb. The surgeon usually wants the leg lengths to be symmetric, but that is not always the case in the final result after the surgery. According to Cluett (2016), the surgeon will often template x-rays of the hip with the overlay schematic of the hip replacement prosthesis. By doing so, the surgeon is able to identify the size of the implant that is needed during the surgery and how much bone should be removed during the surgery.

According to Cluett (2016), when the leg lengths of the patient are not equal, patients are able to experience increased pain and muscle fatigue. Renaissance Orthopedics (n.d.) notes that there are different types of LLD (Limb Length Discrepancy), such as Apparent, True, and Combined. According to Renaissance Orthopedics (n.d.), Apparent LLD can occur on the affected leg, making the leg seem longer than the other leg. There are many different factors that can come into play, but the most common one of them is the symptom of contractures or shortening of the muscles surrounding the hip joint and the pelvis, which can make the involved leg feel longer even though both of the legs are actually the same length.

True LLD is when one of the legs is actually longer than the other. According to Renaissance Orthopedics (n.d.), patients can often have length differences of 1/4" to 1/2" and would never notice the difference. According to Renaissance Orthopedics (n.d.), Combined LLD

is when the patient experiences true and apparent LLDs. With that said, occasionally, the surgeon may need to lengthen the operated leg to be able to improve stability and prevent any type of dislocations. Throughout the hip replacement surgery, it is possible that the surgeon may lengthen the involved leg by stretching the muscles and the ligaments that were contracted. Surgeons can also try to restore the joint space that became narrowed from the arthritis. This is a necessary part of the surgery, since this practice can provide stability to the new hip joint. According to Renaissance Orthopedics (n.d.), the surgeon is always trying to make sure that the patient has equal leg lengths. The surgeon takes measurements of the legs on the x-ray prior to the patient having surgery.

Looking back at my conversation with Ms. Jensen, the only thing I was able to say to her at that point was that “I am sorry to hear that.” I was not able to fully comprehend what she was going through, especially the idea of her leg being shorter than the other. I feel that at this point with all the research done and knowledge obtained, if I was able to talk with her again, I would be able to show more empathy and understanding to what she was going through. Even though I think that I am still not able to fully relate to the situation unless it was to happen to me, at this point, I would be able to use the knowledge I have now to offer more empathy.

I realize that in these scenarios, there is never just one solution, since there are three sides to every story. It boils down to what steps were taken before the surgery? What was done during the surgery? What type of implant was used? Was the doctor in any sense negligent at all to the patient? Did the patient follow the correct protocol after their surgery? Are the manufacturers of the joint replacements allowing these products on the markets with knowledge of a potential harm to the patients? It is important to ask these questions to get a better understanding to the story to analyze where the issue is, who is responsible for the hardship, and what should be done to resolve the issue.

For example, when I spoke with Ms. Jensen, I was limited to the predetermined set of questions, as well as to limited knowledge related to the topic. I feel that if I had the chance, I would learn more about her story by asking more open-ended questions about what she did before the surgery and what she did after the surgery. I would also ask what type of exercises she did and what she did do for physical therapy, but unfortunately, I did not get that chance. Even though she said that she had a Depuy hip, I was only able to go off that information to either accept or decline this case. Situations like these made me want to take on this challenge for research, not only to know what the symptoms are, but to be able to understand. The majority of the times, people would tell me that they are in pain or that they can barely walk, but I often didn't have the chance to fully understand why the hardship happening to the patients.

There are many people that are like Ms. Jensen who are experiencing problems with their joint replacements, many of them are experiencing problems after the surgery. The question that still ring in my head to this day is people asking “Why can't you take my case?”. I had countless people asking me why the law firm will not accept their potential claim. All I was really able to say was “Unfortunately, the information you provided does not match our criteria.” That is not a great way to reject someone. In terms of not accepting a potential claim, instead of saying that they do not match the criteria, it would be better to say that “I am sorry to hear what you are going through. Although our firm is not looking into those types of hips or the symptoms you are experiencing please explain to me more of your story so I can see if I can be of further assistance.” With that said, there is no doubt that knowledge is the key as it plays a huge role when dealing with different sides of stories.

Hip Replacement Failures – The “Epidemic”

“Over 160,000 clients can’t be wrong” Sullo & Sullo Law

This quote I came across helped me to realize that the quantity of people who actually struggle with hip devices is enormous. We tend to live in our small world without realizing what the scale of problems is around the world. I also realized that with the number of patients around the world, the law firm I worked for is not the only one either and that the “small world” I used to live in is just a small sample of what is going on around the world in terms of medical and product liability. When I think about the number of people I spoke with, and how many people called the firm every day, we are talking about thousands of people being only a small sample of all who suffered from hip replacement problems and negative side effects of medical or product liability cases.

The law firm I worked for only handled cases that were situated or originated in the United States. I remember that there were times when I spoke with someone who went through the surgery in Europe and also lived there, but I had to explain to them that we cannot help them due to different laws and the location. Even though I knew that we would not be able to take the case, I still tried to go above and beyond to help clients/patients to at least direct them in the right direction so they can get a help since I wanted to refer them to someone who might be able to help them. It was hard for me to “reject” cases as I genuinely cared about the people I spoke with. I always wanted to find some way to help.

One of the patients I didn’t have to refer to another law firm was Mr. Cluff. Mr. Cluff explained to me that he currently lives in Australia, but he had his hip replacement done in the United States, which qualified him to be potentially part of our case. I began with the basic questions to get to know him better to be able to further assist him. As with the previous cases, one of the main screening criteria are the type and the name of the hip replacement and the timing of when the surgery was performed. He shared with me that he had a Stryker hip replacement on his left hip done in November 2011 and that he finished his rehab in the spring of 2012.

Knowing that Stryker had a recall in July of 2012, there was a possibility that he had one of the recalled hips. The recalled Stryker hip replacements that were recalled had many potential side effects, which, according to Drugwatch (n.d.), were subject to fretting and corrosion in and around the modular neck, potentially releasing excessive metal debris into the surrounding tissue. The metal debris often lead to an inflammation that could lead to an immunological response that includes Metallosis, (metal poisoning), necrosis (tissue and bone death) and pain that could potentially require the patient to have a revision surgery. According to Drugwatch (n.d.), some patients may have metal sensitivity and can have severe allergic reactions if there is excessive metal debris in the joint space, potentially leading to osteolysis that can also be known as a bone loss, often leading to a revision surgery.

I asked Mr. Cluff if he had a revision surgery since his initial surgery. He explained to me that he did not, but that he was looking into the possibility of having a revision done. Back in 2012, according to Drugwatch (n.d.), the U.S. Food and Drug Administration received hundreds of complication reports that involved implants that were done in 2012. During the time, many experts urged patients who received these implants to look into having their blood tested for cobalt and chromium levels, even if they were not suffering any types of symptoms. The tests were looking for levels over 0.3 micrograms per unit, which was considered to be abnormal and

requiring to be monitored for any types of future complications. On the other hand, according to Hip Replacement and Recovery (n.d.), “[t]here is no agreement as to what the safe levels of metal ions such as chromium and cobalt actually are. The usual level for cobalt is 2.5nmol/L and for chromium 5nmol/L.”

My next question was if Mr. Cluff had his blood checked after he had his hip replaced for any signs of metal in his blood. As soon as I asked him, he knew exactly what I was referring to, noting that he did have his blood tested and that he had signs of metal in his blood. People usually were either unsure of if they had their blood test done or what the results were, so Mr. Cluff was a good example of a patient who is aware of the process and checks and balances to monitor any abnormalities or dysfunctions of the hip replacement. Patients who do not end up having their blood tested and who suffer from Metallosis could be facing negative side effects, such as gray discoloration in the area that surrounds the hip, severe pain within the hip joint, loosening of the affected hip, and inflammation and swelling around the implant (Drug dangers, n.d.). Also, according to Hip Replacement and Recovery (n.d.), other symptoms could include pseudo-tumors, which look like tumors but aren't. The cause is fluid collecting at the site, as well as a rash, indicating necrosis (the death of tissues), and also loosening of the implant. Raised levels of cobalt and/or chromium in the blood. There are also psychological symptoms involved that can include confusion or decreased cognitive function, dizziness, headaches, and nervous system issues.

I explained to Mr. Cluff the dangers of Metallosis, knowing that the recalled Stryker hip replacements were known for causing Metallosis, I discussed with him that he needs to go to his physician and get his blood tested again and get more examination of his hip to make sure he is not having Metallosis, especially with his explanation of his symptoms, as he could feel the hip replacement move as he walked and that he felt the hip to be loosening. These symptoms indicated that he is most likely having the recalled hip implanted in his body and that he would need a revision surgery. Mr. Cluff didn't like the idea of having to go through another surgery, but I explained to him that the hip he is having could lead to severe health issues and that the first step is to monitor the metal in his blood as it could cause serious health issues, potentially leading to death due to the severe necrosis and infection caused by the faulty hip replacement. Upon our conversation, Mr. Cluff was thankful for our conversation and decided to see what his options were about a revision. He also noted that he will go see his physician as soon as possible to assess his health condition and to monitor the metal levels in his blood.

Few months after our initial conversation, I spoke with Mr. Cluff again as he joined our class action lawsuit against the manufacturer of his Stryker hip. He had his revision surgery completed to replace the faulty hip that was causing Metallosis and other negative side effects. It made me happy that I was able to talk Mr. Cluff into visiting his physician and assessing his health condition, ultimately leading to progress and better health condition. I had many patients much like Mr. Cluff, when many of the potential clients/patients would ask me about Metallosis and the harm it can do or if they should get a revision. Even though I am not a certified physician, the most I could do was to inform them about the dangers of Metallosis and the faulty hip replacements and their options on how to address their situation. It was often a difficult conversation as some patients/clients would break down on the phone because they did not want to have to get a revision on their hip. I can only imagine how hard it is for them to hear that they have to go through all the pain and struggle again during their revision surgery. They tell me

stories about how they were told that they will be able to walk perfectly again and that their hip pain would go away. The patients note that having to go through all of this is stressful and that they at times even regret getting the initial surgery as they are in more pain and worse medical condition than prior to the replacement surgery.

You Make the Bed You Lie In

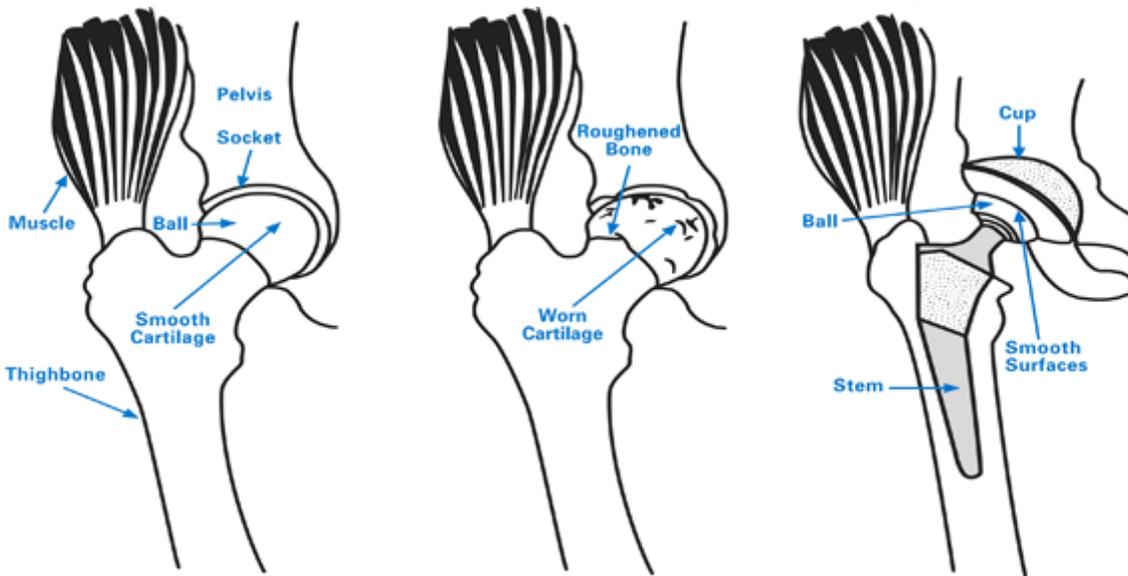
“It is not only for what we do that we are held responsible, but also for what we do not do.” - Molière

Do you remember when you were told not to do something, but you did it anyway? Was it the rush or the adrenaline? People love breaking or not following the rules. It is indeed not the responsible thing to do, and often it is not the smart thing to do either, but people do it anyway. This applies to both, the normal life and the patient-doctor relationship. People tell their children not to touch the hot iron, but they do it, they get burnt, and they realize they should have listened. This applies to patients as well. They often do not listen to instructions, do not follow the recommended rehabilitation process, and they do not take their medicine as they are supposed to. The problem here is that hip replacements are a serious surgery, and if the instructions are not followed, people might lose what’s left of their mobility, and they might be in a lot of pain.

At the end of the day, people are responsible for their own health and happiness, as they are adults who decide on who to listen to and what to follow. Ultimately, they decide for themselves. In this situation, there are two extremes possible. I think that we all know the phrase “don’t overdo it as you may hurt yourself”. The other extreme is when people are doing “too much”. People often try to push themselves beyond limits not thinking of the consequences, not following the recommended progress by their doctor. Thinking about medical liability and malpractice, many patients I spoke with thought they had a case, but they just didn’t want to accept the blame or responsibility for their wrong decisions after the surgery, but rather to place the responsibility on someone else. Doctors or the manufacturers can’t always be blamed or held accountable for joint replacements failing or not making someone to fully recover.

What’s actually the process of hip replacement from a doctor’s perspective? According to Foran (2015), a joint replacement is a “type of surgical procedure that is done on part of an arthritic or damaged joint”. A joint is, according to Foran (2015), the place where two or bones meet. According to Medicine Net (n.d.), an orthopedic surgeon is a physician that corrects functional abnormalities of bones with surgery, casting, or bracing. According to Foran (2015), if certain non-surgical treatments do not help the joint, an Orthopedist might recommend total joint replacement. At this point, the doctor would remove the damaged joint and replace it with something called the prosthesis, which might be made of metal, plastic, or ceramic. Joint replacements are often recommended to people with arthritis or after a severe fracture.

The differences between a healthy, damaged, and replaced hip are displayed on the below Hospital of Special Surgery graphic. Below, according to Hospital of Special Surgery (n.d.), the “image on the left shows the healthy anatomy of the hip, the image in the center details the various signs of arthritis. The image on the right displays a total hip implant and its placement within the hip and upper thigh.”



Many patients I have had the chance to speak with say that they suffer with pain and that they are unable to walk. What's important to understand is that joint surgeries do not always make people to fully recover. Joint surgeries and the rehab are a long process and they require the patients to follow a certain protocol after the surgery. The first phase of their rehabilitation process is the post-op (postoperative) stage. According to the Medical Dictionary (n.d.), a post-op is a "time pertaining to the period of time after surgery".

During the post-op treatment, doctors give clear instructions on what the patients must do after they have their surgery. According to the Emory University Orthopedics and Spine Hospital (n.d.), there are certain precautions for at least 6 weeks after the hip replacement surgery that need to be taken to prevent the ball of the hip to dislocate. It is important to not bend your hip beyond 90 degrees (a right angle) and it is also important to not bring your legs or knees together. It is also important to use a pillow in between your legs while in bed to be able to maintain the proper position and not to not pick things up from the floor without something to reach it with (Emory University Orthopedics and Spine Hospital, n.d.).

According to the Emory University Orthopedics and Spine Hospital (n.d.), pain is normal after surgery and it is very likely that the patients will experience pain for some time. The related pain is more likely to occur at home once the patient becomes more active doing day to day routines. The patients are prescribed medicine to assist with the pain. The incision that is made on the hip should be kept dry until the staples are fully removed, which happens approximately 14 days after the surgery (Emory University Orthopedics and Spine Hospital, n.d.). Swelling is also normal after the surgery. According to the Emory University Orthopedics and Spine Hospital (n.d.), normal swelling is reduced in the morning and it can gradually accumulate throughout the day. The swelling can be reduced by elevating your legs and lying down for 30 minutes to an hour throughout the day.

Physical therapy plays a huge role when it comes to recovering from a joint replacement surgery. According to MedicineNet (n.d.), Physical Therapy is a branch of rehabilitative health that uses certain types of exercises and different equipment to help patients be able to regain or

improve their physical abilities. According to the Emory University Orthopedics and Spine Hospital (n.d), the physical therapist will review different types of exercises such as abduction exercises, foot pumps, and tightening of the thighs that will help maintain good blood circulation in the legs. Along with the physical therapy and pain medicine, there are certain rules to follow after having the surgery. It is important to not drive for at least 6 weeks after the surgery has been completed. It is also important to not lean forward when you are sitting in a chair and to keep the legs and knees apart. As for clothing, patients are provided with devices that assist them with dressing (Emory University Orthopedics and Spine Hospital, n.d).

After conducting the research, I am not saying that all clients/patients were not right to look into hiring counsel for negligence or medical liability, but it has me question if many of these clients and patients followed the correct protocol. The majority of the time, clients I spoke with would tell me that the effects of the surgery they feel are pain, swelling, or not being able to walk. I do sympathize with them, but I question if these patients/clients truly followed everything they were told to do after their surgery. Being a legal assistant, it was not my responsibility to decide who was telling the truth or what was right or wrong.

Maybe it is in human nature to blame others and not ourselves. It is important to weigh out all of the options beforehand. I used to have clients calling less than a month after their surgery, saying that they feel that it is the doctor's fault because they are in a lot of pain or that their leg is swelling. The questions I ask myself are whether they did the physical therapy they were supposed to? Did they make sure to elevate their legs throughout the day? Are they taking their medicine? These are crucial factors to consider before making a conclusion to decide if the patient is doing what they are supposed to do, or if the pain could be caused by other factors like a malpractice or a malfunctioning hip replacement.

I had a chance to meet with Dr. Spence, who was very eager to be able to be a part of my research. Dr. Spence has been a medical doctor for over 30 years. She has worked with joint replacements for many years. I asked her why she chose the profession she is in. She told me that since she was a young girl, she always had a dream to be able to help people and to help people feel better. She told me that she used to play doctor with her toys as a kid. I asked her if she thinks it is hard to be a doctor. Dr. Spence told me that there are days that are harder than others, but that it is to be expected. She told me that she has patients that have dreams to be able to run again, or to play sports with their children, or to be able to feel whole again, and that she wants to help them to achieve it.

Dr. Spence, told me that as a doctor you have to be able to have a poker face. Even though these stories can be heartbreaking, you have to be able to keep your composure. Dr. Spence mentioned that not everything can be fixed and that there are days she has to give news that there is nothing that can be done or she will never fully recover. Dr. Spence believes in truth and honesty. She is not one to beat around the bush, but rather to be honest about the chances of something being completely fixed. I asked Dr. Spence how important it is to follow certain protocol after having a joint replacement surgery. She explained to me that it is imperative for patients to follow everything that they are told to do. She explained that there are certain plans that are drawn up specifically for patients who have a joint replaced and that they need to follow if they want to be able to recover correctly. A great point that Dr. Spence made was that you can have the best surgeon and the best hip on the market, but if you do not do your part, you will not recover fully. She also explained to me that diets are necessary for people who might be overweight. Weight loss is often crucial as the weight can press on the replacement. It could

cause problems for the patients during and after the physical therapy. There are certain exercises that are required for patients to do to help with the healing process. If the patients do not take responsibility for taking care of themselves while following the post-op treatment, it can lead to physical complications and pain.

Dr. Spence also explained to me that if the patients do not follow the physical therapy, the bones or implant can shift and not form together properly. I asked Dr. Spence how often she comes across people not following the protocol after the surgery. Dr. Spence said that majority of the time her patients follow the rehabilitation plan and that they recover well, but that there is a certain percentage of patients who do not follow the plan, causing them to struggle. People sometimes follow only certain parts of the post-op treatment, which leads to complications. I asked Dr. Spence if it is possible for patient who had surgery and followed all of the protocol not to fully recover. She said that unfortunately not all patients will always fully recover and that there are times when things do not work out for the patients the way it was intended, as a human body is a very specific object that does not always “cooperate” the way you want it to cooperate with the treatment. This interview left me with the curiosity to find out more about all the details of what happens after having a joint replacement surgery and about the protocol to be followed.

Are They All the Same?

According to Knahr (2012), “successful long-term results of total hip arthroplasty are mainly due to two facts: long-term stability of the implant and minimal wear of the articulating surfaces.” With the “cementless fixation and fixation using fourth generation cementing techniques, [the surgeons] can achieve excellent long-term stability” (Knahr, 2012). The second fact, which is the minimal wear of the articulating surfaces of a hip transplant “remains the most challenging unsolved problem” (Knahr, 2012). According to FDA, there are five types of hip replacements based on the material used for the articulating surfaces. The first type is the Metal-On-Polyethylene, where the “ball is made of metal and the socket is made of plastic (polyethylene) or has a plastic lining” (FDA, n.d.). The second type is the Ceramic-On-Polyethylene hip, where the “ball is made of ceramic and the socket is made of plastic (polyethylene) or has a plastic lining” (FDA, n.d.). The third version of hip replacements are the Metal-On-Metal hips, where the “ball and socket are both made of metal” (FDA, n.d.). The fourth type are the Ceramic-On-Ceramic hips, where the “ball is made of ceramic and the socket has a ceramic lining” (FDA, n.d.). The fifth and last type of hip replacements is the Ceramic-on-Metal type, where the “ball is made of ceramic and the socket has a metal lining” (FDA, n.d.).

It is important to note that since the early days and materials of hip replacements, “improvements in manufacturing techniques and materials have led to better long-term results, [yet] each of these bearings have not only strengths but also weaknesses” (Knahr, 2013). The three most commonly used versions are conventional polyethylene-metal, ceramic-on-ceramic, and metal-on-metal. The conventional polyethylene-metal version “is complicated long-term by wear debris and subsequent osteolysis and loosening, [yet] during recent years cross-linked polyethylene has shown improved wear characteristics compared with conventional polyethylene” (Knahr, 2013). Even with the improvements, “wear probably will not be as low as hard-on-hard bearings and we do not know if these new polyethylenes really can eliminate osteolysis especially in young and active patients” (Knahr, 2013).

For the ceramic-on-ceramic version, the major advantage “is its very low wear, [yet] there is still concern because of squeaking and fracture of the ceramic components” (Knahr,

2013). As with the polyethylene-metal version, “[d]uring the last two decades, ceramic technology has improved dramatically, improving to a probability of fracture for the ceramic head of only 0.002% and for the ceramic inlay of 0.02%” (Knahr, 2013). The major disadvantage of this version is “squeaking phenomena leading to patient complaints and, in some cases, to revision of the articulation” (Knahr, 2013). The third most commonly used version is Metal-on-metal prostheses, which “show low wear, no fracture risk and allow the largest femoral head-to-outside-cup-diameter-ratio” (Knahr, 2013). The major disadvantage/ of this version is the possibility of the “the systemic metal ion vi Preface level elevation and metal allergy resulting in local lymphocytic response, [as] recent reports of increasing failure rates using this material in resurfacing arthroplasty as well as in large diameter head metal-on-metal articulations have caused official warnings from some State authorities” (Knahr, 2013).

Unfortunately, even with the improvements and the extensive testing and FDA oversight, no hip replacement product is perfect and there are many drawbacks to every material commonly used to manufacture hip replacements. It is important to remember that “wear issues are still a challenge in achieving the ultimate goal of total hip arthroplasty, [which is] an implant which functions for the whole life of every single patient” (Knahr, 2013).

Faulty Hip Replacements and Related Issues

" At some point in every person's life, you will need an assisted medical device - whether it's your glasses, your contacts, or as you age and you have a hip replacement or a knee replacement or a pacemaker. The prosthetic generation is all around us." Aimee Mullins

There are many hip replacements that are on the market that have been recalled, all for different reasons. It is important to understand the different types of malfunctioning hip replacement on the market and what kind of damage they can cause. When I was a legal assistant for the product liability law firm, it was my responsibility to learn about every type of hip replacement that could be recalled that is on the market and the negative side effects related to the recalled products. Some of these hips that were recalled are Smith and Nephew, Zimmer, and Stryker. All of these hips were recalled for a different reason, so it was important to understand the various obstacles and side effects to understand if the case would qualify.

Zimmer’s most problematic hip replacement that was recalled is the Zimmer Durom Acetabular Component, also known as the Durom Cup. According to Drugwatch (n.d.), the company gives orthopedic surgeons the ability to choose from any options when choosing the right prosthesis for a patient. The Zimmer’s most problematic hip product called the “Durom Cup” is a synthetic replacement for a natural acetabulum and is made from a single piece of cobalt chromium alloy metal. According to Drugwatch (n.d.), the Acetabulum is the cavity that is at the bottom of the hip bone that is shaped like a cup. The Durom cup was designed to address two different problems, which are the durability and the range of motion.

According to Drugwatch (n.d.), in 2006, the FDA approved the Durom Cup to be used for total hip replacements. Only after one year, problems began to occur. In 2007, after a few months of implanting the Durom Cup, the device began to fail, as shown on the below picture (Nash & Franciskato, n.d.). During the first year after the surgery, revisions were required due to loose implants and also the circular cutting surface on the edge of the implant preventing it from seating. Later in 2008, the Durom Cup was recalled by the company, as well as the company sent letters to surgeons explaining the recall and to have them stop implanting them into patients.

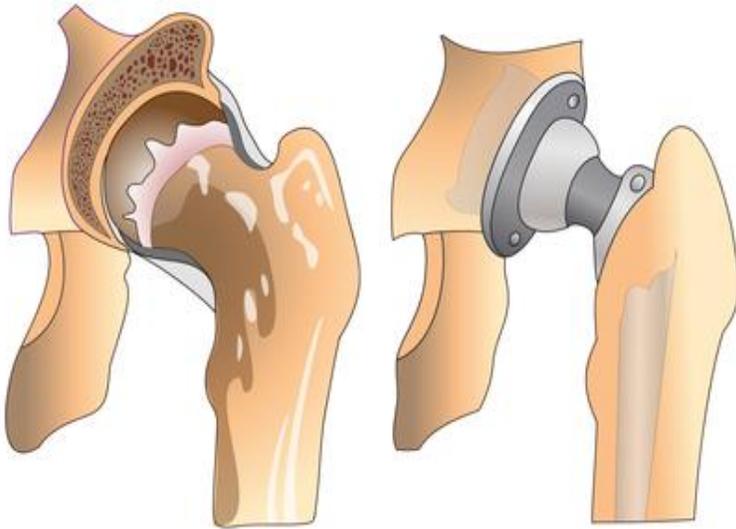


Stryker is another company that had to recall their hip replacement products. According to Drugwatch (n.d.), Stryker recalled “Rejuvenate, ABG II and Accolade modular-neck hip stems after the implants showed signs of corroding and fretting”. Due to these issues with the hip replacement parts, “recipients filed lawsuits against Stryker Orthopaedics after severe, crippling pain forced them to have revision surgeries” (Drugwatch, n.d.).

According to Rosenfeld Injury Lawyers (n.d.), “[t]hose who have Stryker hip implants may be at risk for developing metallosis, which is a type of metal poisoning caused by the release of metal ions into the bloodstream”. Rosenfeld Injury Lawyers also added that patients with Stryker hip replacements might also “suffer from corrosion of the Stryker Rejuvenate or ABG II systems, which refers to the wear and tear of the hip implant.” The corrosion itself could lead to symptoms like “extreme pain, swelling, bruising, redness, itching and other uncomfortable conditions” (Rosenfeld Injury Lawyers, n.d.).

The metal corrosion, in terms of the Stryker hip replacements, is “the tendency of metals in the Stryker hip implants to become worn, fretted, stressed or otherwise damaged, [as] the crevices in the neck and tapers of the hip prosthesis also contribute to increased corrosion of metals” (Rosenfeld Injury Lawyers, n.d.). It is also important to note that the “wear and corrosion of a Stryker hip implant are interrelated, as a Stryker hip implant becomes worn, it develops an oxide film on the surface of the metal parts. The oxide film also causes debris to accumulate in the crevices of Stryker hip components. The development of this debris can then lead to painful infections in the hip region” (Rosenfeld Injury Lawyers, n.d.).

The corrosion among hip replacements differs significantly, as there are many types of corrosion on hip replacements, including “tribocorrosion, fretting corrosion, stress enhanced corrosion and stress corrosion cracking.



As visible on the picture above, courtesy of Rosenfeld Injury Lawyers (n.d.), we can see the difference between a hip in a condition that would qualify the patient for a hip replacement, and the same hip after the hip replacement. Comparing to the pictures below by International Congress for Joint Reconstruction, there is a clear comparison between a hip replacement, where the “severe damage to the trunnion due to corrosion reaction” caused the “failure of the hip prosthesis at the neck-head interface” (International Congress for Joint Reconstruction, n.d.).





Another company that was facing issues with their metal-on-metal hip replacements is Smith and Nephew. According to Drugwatch (n.d.), in 2012, company's metal liner in the R3 Acetabular System was recalled because it was associated with dislocation, infection and bone fracture. The R3 system is a modular hip implant system. The surgeon is able to pick and choose the individual parts that are based on the different needs of the patient. The components of this hip come in plastic, metal, and ceramic. The majority of the problems that are associated with the R3 system come from the optional metal liner that interacts with the metal femoral head component in the MOM (metal on metal) hip replacements. These hip replacements are associated with a higher rate of revision surgery and also complications of Metallosis. This version of the Smith and Nephew was recalled on June 1, 2012, which was five years after the initial release of the hip. Since that time, at least 7,700 patients received the metal liner and had to get a revision.

Another type of the Smith and Nephew's hip that was recalled is the Emperion Modular Hip System. This was the version our law firm was looking into. The hip replacements are under scrutiny due to the premature failure and fractures that lead to people needing revision surgery. The Emperion Stem is a certain part that the surgeons implant into the thigh bone. The law firm I worked at would accept cases for Smith and Nephew if the Emperion Stem was fractured. Any other cases related to other issues with the Smith and Nephew hip replacement would be rejected by my company as these cases were not of their immediate interest. To qualify for the case, the potential clients/patients were required to have had a revision done to their Smith and Nephew hips for the law firm to be interested. The dislocations or fractures of the hip replacement associated with the Smith and Nephew hip replacements can be seen on the X-Rays by Della Valle (n.d.).



The Rehab Process – You Get What You Deserve

“The pain you feel today is the strength you feel tomorrow. For every challenge encountered there is opportunity for growth.” –Unknown

With hip replacement procedures, the process from the initial evaluation to the end result of a patient with a new hip, better mobility, and better quality of life, is very long and complicated. The entire journey starts with evaluation of the symptoms and patient’s condition. According to Klein and Sharkey (2009), evaluation of hip problems in adults “requires a careful and thorough history and physical examination”. Klein and Sharkey (2009) add that the “evaluation should include orthopedic and nonorthopedic components because many nonorthopedic conditions may manifest as hip pain”.

The evaluation of a patient with hip pain is extensive and “requires an understanding of musculoskeletal disorders related to the hip and a vast array of nonorthopedic diagnoses distant from the hip region” (Klein & Sharkey, 2009). The causes behind the initial pain, prior to their hip replacement may be “stress fractures, avascular necrosis, snapping hip disorders, labral tears, bursitis, synovitis, fractures, muscle strains, osteitis pubis, compression neuropathies, femoral acetabular impingement, dysplasia, osteoporosis, and arthritis (osteoarthritis and inflammatory arthritis)” (Klein & Sharkey, 2009).

The initial evaluation of the patient and their condition starts with “a thorough history and physical examination, [where] etiology of pain may be determined by using the history and physical examination, and then may be confirmed by imaging studies such as plain radiography, MRI, and CT” (Klein & Sharkey, 2009). As for the outcomes of the evaluation, Klein and Sharkey provide a simple “mnemonic that can be helpful for assessment of the painful hip is *CTV MIND*: C-Congenital (dysplasia), T-Traumatic (stress fracture, fracture), V-Vascular (avascular necrosis), M-Metabolic (osteoporosis), I-Inflammatory, Infection, Impingement, N-Neoplasia, and D-Degenerative, Drugs” (2009).

According to Klein and Sharkey, understanding the patient's history is crucial as "[t]he location, frequency, chronicity, and modifying pain factors all are important to consider when evaluating a patient with hip discomfort" (2009). It is crucial to understand the source of the pain. Radiation could be very effective with determining the sources of pain, since "the pain can help determine its etiology" (Klein & Sharkey, 2009). To get a better understanding of the pain, it is important to understand not only the etiology, but also the "the timing of onset and duration of the pain are important in differentiating the various pathologies" (Klein & Sharkey, 2009).

The doctor should try to evaluate the patient by asking questions that could help to better understand the nature of the issue. According to Klein and Sharkey (2009), the doctors should ask "about the pain characteristics to see if the condition improving, worsening, or staying the same. The doctor should also ask if the pain awakes the patient at night, and to see what (e.g., position, medication) makes the symptoms better" (Klein & Sharkey, 2009). The doctor should also ask question related to what makes the "symptoms worse and to see if there are any activities or positions unique to the patient that exacerbate the symptoms" (Klein & Sharkey, 2009).

According to Ochsner (2003), if the evaluation shows that the hip replacement is needed, detailed operation planning is crucial for the success of the operation, as the "preparation of a planning drawing has been mandatory for all total hip replacement procedures performed in our hospital." According to Ochsner, "[m]eticulous operation planning is the method of choice for ensuring that the operator can begin the operation in a calm and collected manner with a detailed knowledge of the case" (2003). Building on the previous evaluation, the basis for planning include

"clinical examination in respect of leg length discrepancy and hip mobility, up-to-date radiographs: Pelvis (anteroposterior view), centered low on the symphysis, supplemented since approx. 1990 by a "faux profile" view This projection primarily reveals any shifting of the head center anteriorly or posteriorly. The radiographs should have been taken within the previous 3 months. Any available earlier images plotting the patient's progression are retrieved, or requested, and included in the assessment. The planning templates should be leveraged according to M.E. Muller for the prostheses used"

The major objective of planning is to "enable the operator to form as accurate a picture as possible of the sequence of the operation and any potential problems" (Ochsner, 2003). According to Ochsner (2013), this part is crucial to the success of the operation since "the drawing is used to establish the plan and allows certain errors to be identified and corrected before surgery, [so] the surgical team can prepare itself for the procedure, procure the necessary implants and offer their own thoughts during the procedure."

To understand the whole process of the hip replacement surgeries, I had a great opportunity to speak with a gentleman named Lee, who shared with me his story and experiences of having his hip replaced. Lee explained to me that he was never the athletic type. Since he was a teenager, he struggled with his weight. He was honest with me as he told me that he was not one to exercise often or to eat the healthiest of foods. He felt that as long as he was happy with himself, it didn't matter what society thought of him. Lee stated that he was content with his life and that he did not feel that his weight was an issue. He did mention that, from time to time, his friends asked if he wanted to go to the gym with them, so he would occasionally walk on the treadmill.

Lee explained to me that there was a point in his life when he felt that he needed to make a change, not only in his eating habits, but also with his fitness. Even though he made the positive changes to his lifestyle, he could feel pain in his left hip as he walked. He decided to see a doctor and the doctor diagnosed him with arthritis. According to Petersen (n.d.), Arthritis is a general term that covers numerous conditions where the joint surface also known as “cartilage” wears out. The joint surface (cartilage) is covered with a smooth articular surface that keeps the joint from feeling pain. This surface can wear out because of multiple reasons, such as dislocated hips, fractures, being overweight, inactive lifestyle, and inflammation.

Over time, when the cartilage begins to wear out, the bone ends up rubbing on one another which causes pain (Petersen, n.d.). Lee explained that after finding out that he had arthritis, he felt depressed and he was upset with himself for allowing himself to get to this point. He explained that the doctor told him that his condition could be related to him not being active and his higher weight. The doctor recommended him getting a THR, known as a Total Hip Replacement, on his left hip. During the time, Lee was nervous about having a total hip replacement surgery, as he had never had a surgery before. He was very skeptical towards the surgery as he saw so many commercials on the television about replacements being recalled.

Lee explained that when he was getting diagnosed, finding out about the surgery was shocking and terrifying, so he wanted time to think about it, as there was for him a fear of the unknown, of what could happen during and after the surgery. He mentioned that as time progressed, the pain got worse in his left hip, so it was hard for him to sleep at night due to the pain. After taking the time to think his decision through, and with the increasing pain in his hip, he wanted to take the chance to be able to get better. He scheduled an appointment with the doctor and agreed to have the total hip replacement surgery done on his left hip. When he was discussing the surgery with his doctor, the doctor explained to him the benefits of having the hip replacement surgery. According to Petersen (n.d.), certain benefits that can happen after having the total hip replacement surgery are the reduced pain in the hip, increased mobility and movement, increased leg strength, and the ability to sleep without pain.

Lee explained that there was quite a process that needed to be done prior to him having the surgery. Lee understood that the process is crucial for his recovery. According to Petersen (n.d.), prior to having total hip replacement surgery, doctors will usually have their patients try to do simple treatments such as weight loss, anti-inflammatory medication, and modification of activities. Prior to having his surgery, he explained that he started with the little things to prepare for the surgery.

Some of the changes that Lee accomplished were changing his eating and nutrition habits, while incorporating more activities in his daily routine. According to Allina Health (n.d.), when muscles around the hip are not exercised, they become weak and they are not able to perform well in supporting and moving the body. Allina Health (n.d.) also states that having hip surgery can solve the joint problem, but it is important to have a regular exercise program to be able to strengthen the muscles and to be able to support the new joint. Allina Health (n.d.) also suggested that doing exercises prior to having hip replacement surgery can help the healing process and can enhance the recovery.

According to The American Academy of Orthopaedic Surgeons (n.d.), getting in the best shape possible before having the surgery can also lessen the chances of complications. The American Academy of Orthopaedic Surgeons (n.d.) explains that if a patient is a smoker, the

patient needs to cut down or quit prior to the surgery as smoking can affect blood circulation and can also delay the recovery process. According to The American Academy of Orthopaedic Surgeons (n.d.), doctors usually recommend a weight loss program if the patient is overweight. Lee noted that many of these steps were recommended to him by his doctor as well, since his doctor made him to follow a plan to help balance his nutrition and also to him do certain exercises to help him prepare for the surgery to strengthen the muscles around the hip.

Lee explained to me that before the surgery, he felt vulnerable and worried that he could have problems with his hip for the rest of his life. He said that after the surgery, he felt relieved to know that everything went well. Of course he needed to follow the post op procedures, but he explained that after going through the surgery, he would do whatever it took to fully recover. He said that it was hard for him at first to get used to all of the rules to follow after the surgery, but he explained that he had a lot of support from his family and friends.

Lee explained that he feels that he made the right choice, since he wasn't trying to change himself for others, but his primary motivation was to get better for himself and his health. Lee explained that after his recovery, he did not want to fall back into his old habits. He decided to change his habits permanently by watching his nutrition and by remaining active. He explained that he tries to work out or to do the hip exercises at least twice a day. He said that one of his favorite things to do is to be able to go outside in the mornings and to go for a jog. He said that he surprised himself, because he never thought he would be able to be where he is today. For my final question, I asked Lee what he thought of the quote I picked out for this week. Lee said that he could not agree more with the quote, as sometimes we have to go through struggles and pain to be able to see the possibilities of tomorrow. He thought that he would suffer from the hip pain for the rest of his life, until he realized that this was the pain that made him stronger. I feel that Lee is a great example of a person who has to go through some hardship in his life, yet showing that these struggles are what made him stronger and his life better.

The Holy Grail – Does It Exist?

“Hope begins in the dark, the stubborn hope that if you just show up and try to do the right thing, the dawn will come. You wait and watch and work: you don't give up.” ~ Anne Lamott

Full recovery is the ultimate goal for every patient who goes through the hip replacement surgery. Unfortunately, full recovery is not always guaranteed and the path to recovery is often “dark” and painful. Beginning my research, I had basic understanding of the journey and the topic of the hip replacements overall, but there has been one lingering question that I tried to answer the whole time of doing my research: Is there such a thing as an ultimate solution for patients to achieve full recovery from their hip surgery? If so, what does it take to achieve it and is the solution for everyone?

In my journey to find the “Holy Grail”, experiences of the patients and physicians I was able to speak with were an excellent source to better understand the “ultimate” solution, if there is such a thing. These conversations helped me to understand the different, and often very unique, factors and journeys people go through in regards to their hip replacement surgeries. I truly enjoyed being able to learn about people and their personal experiences and to see the differences of each individual journey and what worked and what didn't for the individual or the physician.

How can we find the “Holy Grail”? And is the “Grail” the same for everyone? Is it the ultimate solution that can be repeated with every case of hip replacement surgery? Imagine if everything we plan goes smoothly without any problems. That would be perfect, wouldn't it? I feel that these are the thoughts that many patients go through in regards to their hip replacement surgery. Everyone's goal is to achieve the 100% recovery from their hip surgery, which is unfortunately not always the case. In a perfect world, guaranteed full recovery would be amazing. Knowing that after having the surgery, everything is going to be 100% and back to normal. Unfortunately, in reality, most people are lucky if the surgery goes well and allows them to feel well again.

There are many variables, as discussed throughout the paper, that play a role in the outcome of the entire surgery. There are many types of patients, surgeons, and hip replacements. Every individual is coming into the surgery with different background, medical history, condition, age, morale, and expectations. Even though each and every individual is different, everyone has one common goal, which is to be “happy”. They all come into the process of hip replacement surgeries with one common goal and that is to heal (the patients) and to feel better. Even though the common goal at the beginning is the same, the outcome of the process differs due to various aspects like negligence from the doctors, product liability from manufacturers, and even liability from the patients themselves. In the perfect world, all products would work, all patients would follow their treatment plan and doctors would never be negligent. Unfortunately, such an expectation is utopia.

My time in a product liability firm taught me that there is happiness that can come from having a hip replaced, as much as there is sadness. Very rarely did I come by patients/potential clients who said that they healed 100%. It's one thing if it is all in the patient's hands after the surgery for them to have a 100% recovery, but it is another thing when you are relying on the product that was implanted and the doctor who did the implant. Ideally, what are some ultimate steps that can be taken by everyone get as close as possible to the ultimate goal of a 100% recovery, no matter of the case?

I had the chance to speak with someone who went through the process of having their hip replaced and who experienced in close to 100% recovery. Ms. Lens had her hip replaced back in 2015. With her hip replacement surgery being successful and the recovery being close to 100%, she explained to me that the hip replacement allowed her to do things she was not able to do before the hip replacement and that she is happy. I wanted to understand her path to recovery to see what kind of advice she can give to prospects who may be heading towards having their hips replaced.

I asked Ms. Lens if she could name three things that she felt were the key to success on her journey to a full recovery. Ms. Lens stated the three main factors that contributed to her full recovery were research, protocol, and patience. Ms. Lens mentioned that before having her hip replaced, she knew about the many types of hips that were recalled in the past. She said that before she even went to the doctor's office, she did her research about the many different types of hips there are in regards to their manufacturers and the side effects related to such product. She stated that it is important to ask your doctor as many questions as you can to be able to fully understand what a hip replacement can do and what it can't do. She also noted that as much as it is important to research the hip itself, it is also important to research the doctor who would be

performing the surgery as doctors with a strong reputation are less likely to engage in malpractice.

Ms. Lens also explained that hip replacements are for some people, but they are not the solution for everyone. She noted that patients need to understand that having a hip replacement is not a guaranteed fix to all problems. She explained that she thinks a lot of people misinterpret the role of a hip replacement as an ultimate solution as they do not understand what a hip replacement can do for them and for what patients they are suitable before they make their demands to have a replacement done to understand the in's and out's before making a viable decision.

Ms. Lens then began to elaborate on protocol. She emphasized the importance of having a strong protocol to follow to have a successful recovery. In regards to the protocol, people need to follow strict prehab and rehab instructions to have a full recovery. She said that many people think that there is no need for any work to be done prior to the surgery and that as soon as they are done with their surgery, they should be able to get up and move about as if everything was 100%. She said that doctors give very detailed and strict instructions when it comes to the prehab and rehab plans post the surgery and that following the strict protocol is what helped her the most in recovering from her hip surgery.

Ms. Lens mentioned that she feels that if she did not follow the exact plan her doctor gave her, her recovery would not be as successful. She stated that even though it can be tedious and mundane to stick to the protocol and to stay away from many activities or movements that people are accustomed to, according to Ms. Lens, it is all worth it in the end. Ms. Lens said that if people do not follow the plan given, it could lead to even more problems.

With the long and painful journey to recovery, the third important aspect of the pursue of the "Holy Grail" is patience. Ms. Lens explained that recovery takes time and that it can even take months, but with the right patience and attitude, it can lead to a better recovery. The process is often tedious and even frustrating, but following the protocol and being patient would help people to be on the right track to recovery.

Ms. Lens explained that this was just what she did to be able to have a successful recovery. Speaking with Ms. Lens led me to believe that even though everyone who gets their hip replaced has the same goal, it is crucial to understand how they can get to that goal. Ms. Lens says that when it comes to hip replacement surgery, it is important to follow all discussed aspects to be able to have a better chance for recovery, rather than choosing to do some things and not do others. The last thing she said is that we may not have control over the product or the manufacturer, but that we have control over ourselves and it is up to us on how we decide to approach our own recover.

Ms. Lens made some excellent points that I agree are the main aspects to recovery. One aspect that stood out to me was "patience". In this day and age, we live in a fast-paced world where people want things instantly. Like she said, recovery can take months, but patience with the process would be worth it. Thinking of patience and many of the former patients I spoke with made me think if the side effects they were experiencing were due to the doctor's malpractice, due to the faulty product, or was it often mainly due to the lack of their patience, not following the protocol, causing their own pain and problems?

I feel that if the majority of patients followed the steps outlined by Ms. Lens, it could possibly increase their chances for a better recovery. Of course, there are certain products on the market that can lead to failure of the implant, or even some doctors who may be considered negligent, but before fingers are to be pointed at others, the patients should they are the ones who are in charge of their recovery. In my opinion, I don't think I would allow a doctor to implant something into my body unless I knew what it was. Countless times I spoke with clients on the phone who would tell me that they do not know what kind of implant it was. It is a frightening thought to not know exactly what was implanted into your body. That's where Ms. Lens brings up the importance of research.

As discussed, research, protocol, and patience are three key roles that can play a crucial role to achieve a successful recovery. Unfortunately, there is one thing that we are not in control of and that is aging. We all age. Something to remember and look at is that many of the clients and patients I worked with in the past were elderly. Over time, our bodies change. Speaking with some of the oldest patients, it made me question if getting a hip replacement at certain ages is something that actually helps or can actually make things worse.

I decided to compare and contrast two different patients I spoke with in the past. Mr. Jay was an older gentleman I had a brief conversation with in regards to his hip replacement surgery. He explained to me that he felt that since he had his hip replaced, he had more problems with his hip, ending up needing to get a revision. This outcome could be due to any of the factors discussed throughout the paper, so before jumping to conclusions, it was crucial for me to understand his story, background, and his physical condition he came into the case with. Mr. Jay explained to me that he followed the exact directions that his doctor gave him.

Contrasting this case with Mr. Grant, who was a younger gentleman, helps us to understand the differences between many individual cases. Mr. Grant had his hip replaced and said that his recovery went well. I asked him to share his path to a good recovery and he noted he explained that he followed the exact instructions the doctor gave him (As Mr. Jay did). He explained that there were times of pain, but over time each and every day got better since he had the hip replaced. At this point, I compared Mr. Jays and Mr. Grant's stories. There are many factors that play in this position.

1. They both could have had two totally different types of hips that were implanted.
2. There was a significant difference in age between the two.
3. The doctor could be negligent.
4. The hip could be a recalled hip.
5. The intensity of exercise.

Looking at all of the different things that come into play one thing stood out to me is that age truly can make a difference. In a hypothetical situation, someone who is 20 years old might be able to run 5 miles non-stop comparing to someone who could be in there 80's might not have the endurance to run that long. Age does play a huge role when it comes to recovery, especially with the structure of bones and muscle supporting the hip area, as younger people have stronger bones and muscles supporting their hips, comparing to older people who often suffer from osteoporosis and do not have the muscles strong enough to support their hips post the surgery.

Conclusion

Hip replacement surgery is a very complicated procedure with many variables influencing the outcome of the surgery. With the many different kinds of hip replacement products, degrees of the surgical procedures, and various medical histories and conditions of patients coming into the process of hip replacement procedures, it is extremely crucial for the patients to follow doctor's instructions as prehab and rehab are key for patients' recovery. Prehab and rehab offer the greatest chance for people to recover from the hip replacement surgery.

My first proposition is that patients should take their time and thoroughly do their research about the different hip replacements that are on the market, including the different related types of side effects prior to having a consultation with a doctor so that way they can be prepared to ask any question they can think of to make a final decision for themselves on how to proceed with having their hips replaced. At that point, if the patient decides that they want to go through with the hip replacement, they should find out prior to the surgery on what type of hip the doctor plans to implant. Knowledge is a key to success. As much as knowledge is a key to success, my second proposition is that doctors should also do their research on the hip replacements they may be using to give the patients full disclosure on any type of side effects they might know of. My third proposition is that I think manufacturers should be required to list all side effects of their replacements before they can be put on the market.

With many variables influencing the outcome of the surgery, it is important to first understand the case, the history of the patient, and the process, before making a generalization about who is responsible for patient's complications, or if the complications are even a normal part of the process. There are no "plain vanilla" hip replacement cases as there are always the three sides to every hip replacement story (the patient, the physician, and the hip replacement manufacturer), so it is important to truly understand their cases to assess who, if anyone, is at fault. Working with clients on their medical liability or malpractice cases can be also stressful and saddening. It is important to be familiar with the applicable law, medical terminology, and the process of hip surgeries, to empathize rather than sympathize with the clients.

It is important to follow all the aspects that could lead to successful recovery and not to selectively only choose what's most convenient for us because following the protocol that is given by the doctor and being patient play as big of a role as the research that is performed. This brings me back to one of the opening statements that if everything in the world could go as planned, we all would be happy. Unfortunately, the world does not work like that, but we as people or patients who have their hips replaced have a lot of control on how our recovery is going to play out. We can't control at times if the manufacturer's product is bad or if a doctor is negligent, but if we can at least keep control of the rehabilitation, our own patience, and our own research to avoid products or procedures that are most likely to fail, we would set us on the right path for success of a full recovery. Many things must take place in the correct way for both a successful surgery and a successful recovery. Each person has a certain role they must follow. It is difficult to find one solution (the Holy Grail") to have a 100% success rate, but the path to success not only starts with the physician and manufacturer, it also starts with ourselves.

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