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Matthews Legal News

The Official Newsletter of Matthews & Associates Law Firm 2905 Sackett Street, Houston, Texas 77098

Reglan Litigation Update

USA – The Reglan/Metoclopramide litigation has been picking up speed since the FDA issued a black box warning for the drug in Feb. 2009. Matthews & Associates was responsible for creating a Tort Program in Philadelphia that has consolidated over 700 Reglan cases in front of one court. The firm is heavily involved in this litigation and has taken the lead in several areas. Tort programs in New Jersey and California have also been created in similar fashion to the Philadelphia litigation. *(p. 2)*

Acne Drug can Cause IBD

USA – The acne drug Accutane can cause Irritable Bowel Disease, which is often technically diagnosed as Crohn's disease or colitis. Symptoms may include diarrhea, rectal bleeding and also severe emotional disturbances. *(p. 2)*

Seroquel Settlement

USA – Matthews & Associates is engaged in settlement talks with the makers of Seroquel to settle cases across the country. The firm is currently proving up use and qualifying injury. *(p. 2)*

Trasylol Settlement Talks

USA – Matthews & Associates is engaged in settlement talks with Bayer, Inc., concerning its blood thinning agent Trasylol, which is believed to cause kidney failure in heart surgery patients. The firm is settling more than two dozen cases for victims of kidney failure following Trasylol use. *(p. 3)*

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Supreme Court will Hear Generic Preemption Case

WASHINGTON D.C. – The Supreme Court announced on Dec. 10 that it will hear three cases regarding generic drug preemption. The cases all involve metoclopramide, a generic version of Wyeth, Inc.'s gastric disorder drug Reglan. A high court ruling that FDA approval "preempts" state tort claims could dismiss all generic claims. *(p. 2)*

Yaz Bellwether Trials

USA – Selection process has begun for the first Yasmin and Yaz lawsuit trials in the federal MDL, with trial dates set for three bellwether cases to begin between Sept. 2011 and April 2012. *(p. 2)*

DePuy Hip Recall Lawsuits

USA – The DePuy ASR hip implant system is being recalled by Johnson & Johnson. Meant to last approximately 15 years, the system can fail within only a few years of surgery. Victims of faulty DePuy ASR hip implants experience excruciating pain, and often need to undergo complicated and expensive replacement surgery. Even then, they may never fully recover. The FDA had received hundreds of reports describing early failure of the DePuy ASR hip implant system. Matthews & Associates is handling such cases.

Meridia Pulled from Market

USA – The diet drug Meridia was pulled from the market in October after medical studies confirmed its users experience an increased risk of heart attacks and strokes. Medical studies further concluded that the risk of using Meridia outweighed the benefit – since users typically lost little weight. Matthews & Associates Law Firm is currently accepting Meridia cases to help people injured by the drug. *(p. 3)*

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A Time for Citizen Action

USA – *The U.S. Supreme Court has unfortunately decided to hear a case for generic drug preemption that could possibly dismiss most of the generic drug cases – including metoclopramide – in the entire country. The stakes are enormous. The goal of generic drug makers is to escape liability entirely. To try to stop that from happening, we have developed a video montage to show the awful effects of metoclopramide, the generic version of Reglan. We plan to show the video to lawmakers who can see that it would be tragically wrong to let generic drug makers escape liability after injuring people with a dubious drug. If you live in the U.S., this issue concerns you. Fully half the country filled at least one prescription drug order last year, and 70 percent of those were filled by generics, so chances are*

good that you or someone you love ingested a generic drug recently.

The U.S. Solicitor General and FDA both requested the court not hear the case, but the court has decided to hear it anyway. So I again request that you contact your representatives in Washington D.C. and let them know you expect them to do whatever possible to stop generic drug preemption. Let them know that you expect them to protect your rights as a U.S. citizen.

Please refer to the inserts in this issue to find your representatives.

David Matthews has a top rating in Martindale-Hubbell and is board-certified in personal injury trial law. Voted a "Texas Super Lawyer" by his peers, he has more than 100 jury verdicts.

Yaz Bellwether Trials *(from p. 1)*

A Case Management Order was issued in mid October by Chief Judge David R. Herndon, who is presiding over all federal Yaz lawsuits, Yasmin lawsuits and Ocella lawsuit claims that have been filed against Bayer Healthcare over adverse effects from their popular birth control pills.

Thousands of lawsuits filed in federal courts throughout the U.S. have been consolidated before Herndon in the U.S. District Court for the Southern District of Illlinois for pretrial proceedings as part of an MDL or multidistrict litigation. All the lawsuits involve allegations that women taking the birth control pills suffered serious health problems from Yaz, Yasmin or Ocella.

About ten percent of the cases involve women who allege they suffered a heart attack or stroke from Yaz. About 40 percent involve venus thromboembolisms (VTE) which include deep vein thrombosis and pulmonary embolisms from Yaz. The remaining cases involve claims of gallbladder injuries, with many of the cases resulting in women having their gallbladder removed.

Seroquel Settlement *(from p. 1)*

Research is accumulating on Seroquel and possible adverse reactions, including a study published in the New England Journal of Medicine in Jan. 2009 that highlighted a risk of taking newer antipsychotics such as Seroquel and sudden cardiac death. An accompanying editorial urged doctors to limit atypical antipsychotics especially to children, who can be particularly susceptible to Seroquel's bad effects.

Supreme Court Case *(from p. 1)*

The 5th and 8th circuit courts both found a presumption *against* preemption, ruling that generic drug makers have a responsibility to take some remedial action when they discover problems with a drug. The FDA and the U.S. Solicitor General also recommended that the high court not hear these cases. Defense will argue generic companies have no latitude to alter a drug's label.

Dangerous Drugs

Reglan/Metoclopramide *(from p. 1)*

Chronic use has been linked to tardive dyskinesia, which may include involuntary and repetitive movements of the body, such as lip smacking, grimacing, tongue protrusion, rapid eye movements or blinking, puckering and pursing of the lips, or impaired movement of the fingers, even after the drugs are no longer taken. Symptoms are rarely reversible, and no cure exists.

Avandia

Hundreds of thousands of Americans are still taking Avandia, according to The NY Times, despite internal FDA reports that say switching every Avandia patient to an alternate drug could prevent about 500 heart attacks and 300 cases of heart failure each month.

Yaz/Yasmin/Ocella

These medications could be putting millions of women at risk of serious "side effects," including stroke, heart attack, blood clots, deep vein thrombosis, pulmonary embolism, and even death. The drugs' ingredient drospirenone may carry a risk of blood clots nearly double that of other birth control medications.

Accutane *(from p. 1)*

Besides IBD, Accutane has been linked to a number of serious psychological and physical health problems, most notably severe depression alleged to have resulted in suicide, and birth defects. Roche Pharmaceuticals, the drug's creator/distributor, pulled it from the market on June 29, 2009.

Trasylol

A blood-clotting agent used in heart surgeries, Trasylol can increase the risk of heart attack, kidney complications and stroke not only during surgery but up to five years after. It costs up to 50 times more than two alternative clotting drugs, neither of which carries the same risks. We have filed nearly 300 Trasylol cases in the U.S. thus far.

Call M&A for a free consultation.

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Reglan Litigation *(from p. 1)*

The manufacturers have produced hundreds of thousands of documents in response to plaintiffs' requests. These documents must be reviewed for use during the depositions of corporate employees and scientists. Matthews & Associates is currently in the process of reviewing such documents and preparing for depositions as they come.

The first trial in Philadelphia is scheduled for May 2011 with six trials to follow in the months of June, July, and September 2011. Matthews & Associates will be designated as lead counsel in one of those trials and heavily involved in the others.

Drug litigation is extremely complex and it takes time, often a lot of time. The firm has been involved in litigations that have lasted one year and also in litigations that are now going into their seventh year. The length of the Reglan litigation depends on many factors, but clients should know that the firm is pushing its cases as fast as it is possible to push them within the framework of the legal system. One thing is certain: No delays will occur because of a lack of preparation on the part of Matthews & Associates lawyers and staff.

New Warning on MRI Drug

USA – In September, the U.S. Food and Drug Administration announced it was requiring gadolinium-based contrast agents (GBCAs) to carry a new warning on their labels about the risk of a rare and potentially fatal condition known as nephrogenic systemic fibrosis (NSF), if the drug is administered to certain patients with kidney disease.

Three of the GBCAs – Magnevist, Omniscan, and Optimark – will be described as inappropriate for use among patients with acute kidney injury or chronic severe kidney disease."

All GBCA labels will emphasize the need to screen patients to detect these types of kidney dysfunction before administration. GBCAs are intravenous drugs approved by the FDA for use with magnetic resonance imaging (MRI) or magnetic resonance angiography.

Meridia

(*from p. 1)*

Anyone who has suffered a heart attack, stroke, or knows a loved one who suffered a cardiovascular death while taking Meridian – or shortly after stopping its use – is invited to contact Matthews & Associates immediately.

Trasylol Settlement

(from p. 1)

Bayer admits no wrongdoing in the settlement talks, which is typical for most settlements. Matthews & Association Law Firm is currently reviewing its cases based on proof of use and proof of qualifiable injury.

Trasylol problems first came to light in 2006 when a New England Journal of Medicine study found that patients who were given Trasylol were more than twice as likely to have kidney failure requiring dialysis.

Mesothelioma/Asbestos

Matthews & Associates continue to pursue mesothelioma cases throughout the country. Mesothelioma is caused by exposure to asbestos, which is present in many work places such as construction, ship building, automotive and other manufacturing industries. People with a history of extended asbestos exposure are at the highest risk for developing malignant mesothelioma.

Even minor exposure to cancer-causing asbestos can result in malignant mesothelioma. However, mesothelioma has a latency of up to 40 years. Many people previously exposed to asbestos are only now showing symptoms; the typical age range of meso victims is 50 – 70.

Asbestos consists of tiny fibers that can find their way to the outside lining of the lung and damage the cells of which pleura is made. These fibers can also be carried on clothing, which also makes them dangerous to family members.

Symptoms may include, but are not limited to, respiratory distress and a lasting cough and pneumonia. Symptoms are often mistaken for less serious ailments, and many patients show no signs at all. Diagnosis is usually made by chest x-rays and CT scans. Anyone with concerns should seek medical help.

Call us for a free consultation

Avandia Maker Hid Test Data, Files Indicate

USA – In the fall of 1999, drug giant SmithKline Beecham secretly began a study to find out if its diabetes medicine, Avandia, was safer for the heart than a competing pill, Actos, made by Takeda. Avandia's success was crucial to SmithKline, whose labs were otherwise all but barren of new products. But the study's results, completed that same year, were disastrous. Not only was Avandia no better than Actos, the study also showed clear signs that it was riskier to the heart. But instead of publishing the results, the company spent the next 11 years trying to cover them up, according to documents recently obtained by The N.Y. Times. The company did not post the results on its Web site or submit them to federal drug regulators, as is required by law in most cases.

"This was done for the U.S. business, way under the radar," Dr. Martin I. Freed, a SmithKline executive, wrote in an e-mail dated March 29, 2001, about the study results obtained by The Times. "Per Sr. Mgmt request, these data should not see the light of day to anyone outside of GSK," the corporate successor to SmithKline.

The heart risks from Avandia first became public in May 2007, with a study from a Cleveland Clinic cardiologist who used data the company was forced by a lawsuit to post on its own Web site. In the ensuing months, GSK officials conceded they had known of Avandia's potential heart attack risks since at least 2005.

But the latest documents demonstrate that the company withheld data hinting at Avandia's extensive heart problems almost as soon as the drug was introduced in 1999, and sought intensively to keep those risks from becoming public. In one document, the company sought to quantify the lost sales that would result if Avandia's cardiovascular safety risk "intensifies." The cost: $600 million from 2002 to 2004 alone, the document stated.

Co-Counsel Corner: Tim Goss

by Richard Matthews

Matthews & Associates works with lawyers across the country, but none is more ready to roll up his sleeves and fight the good fight than Tim Goss of Freese and Goss in Dallas, Texas; Jackson, Miss.; and Birmingham, Alabama.

A native Texan, Tim graduated first in his class from the Baylor Law School, and soon established a national reputation as a Class Action attorney and formidable defender of working people victimized by the policies of predatory lenders. He and his firm have resolved numerous class action suits requiring predatory lenders to return millions of dollars to their customers. His recent success in a class case forced a collection company to disgorge to the Attorneys General of five states moneys collected for "return check" fees as being an unreasonable charge. Tim and David Matthews are currently interviewing other individuals victimized by this practice, in hopes of bringing future class cases to deter this widespread misconduct and to obtain refunds for the hundreds of thousands of individuals wrongfully charged these fees.

Tim Goss

Some of Tim's recent work with the firm has been in helping workers in Fair Labor Standards Act (FLSA) cases who have been cheated out of mandatory overtime pay by being misclassified as "exempt" workers. He and his firm also work with Matthews & Associates on many pharmaceutical cases.

Outside the office, Tim donates time and resources to the Family Place – an intervention, emergency shelter, and crisis counseling sanctuary for victims of family violence. He also serves on the Board of the Goss-Michael Foundation which donates to numerous deserving charities.

Natural Gas Drilling Poisons U. S. Citizens

FORT WORTH – Matthews & Associates has filed suit in Texas on behalf of two families in the Fort Worth area poisoned by natural gas drilling. Hydraulic fracturing beneath the earth's surface is not only destroying well water but also poisoning the nearby air. The process involves hundreds of toxic chemicals – among them known and suspected human carcinogens that include benzene, dimethyl disulfide, barium, arsenic, cadmium, chromium, lead and strontium.

Natural gas drilling has now commenced in at least 34 states. The mass drilling began in earnest around 2008, three years after former U.S.Vice President and former Haliburton CEO Dick Cheney used his secret energy task force to grant natural gas drilling companies exemptions from The Clean Water Act, which had protected people since 1972. The result of the Haliburton Loophole – as it is known – is that drilling companies may now dump "known toxic materials" into ground where those materials eventually contaminate water wells.

Surgeons Warn of Zimmer Knee Replacements

USA – Two orthopedic surgeons have called for the recall of Zimmer's NexGen CR-Flex Knee replacement devices. The porous femoral component (covering the head of the femur, the bone from pelvis to knee) is associated with a high failure rate. Surgeons Richard Berger and Craig Della Valle from Chicago's Rush University Medical Center, have found 36% of the implants loose after two years, and 9.3% revised or set to be revised because of looseness and pain. The surgeons also questioned the product's release without clinical testing.

If you or a loved one has a Zimmer NexGen knee implant that causes pain resulting in revision, replacement or other complications, please contact us immediately for a free evaluation. Attorney Conrad Adams is handling these cases.

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Matthews Legal News gives clients and other friends across the country up-to-date information about our firm's litigation, as well as late-breaking national news. **Matthews & Associates** is a law firm of trial lawyers, consultants, investigators and medical personnel. We help people harmed by negligence, greed or incompetence. With more than 100 years of combined legal experience, our lawyers have practiced law in nearly all 50 states and Puerto Rico. We have the financial resources to handle any personal injury case.

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