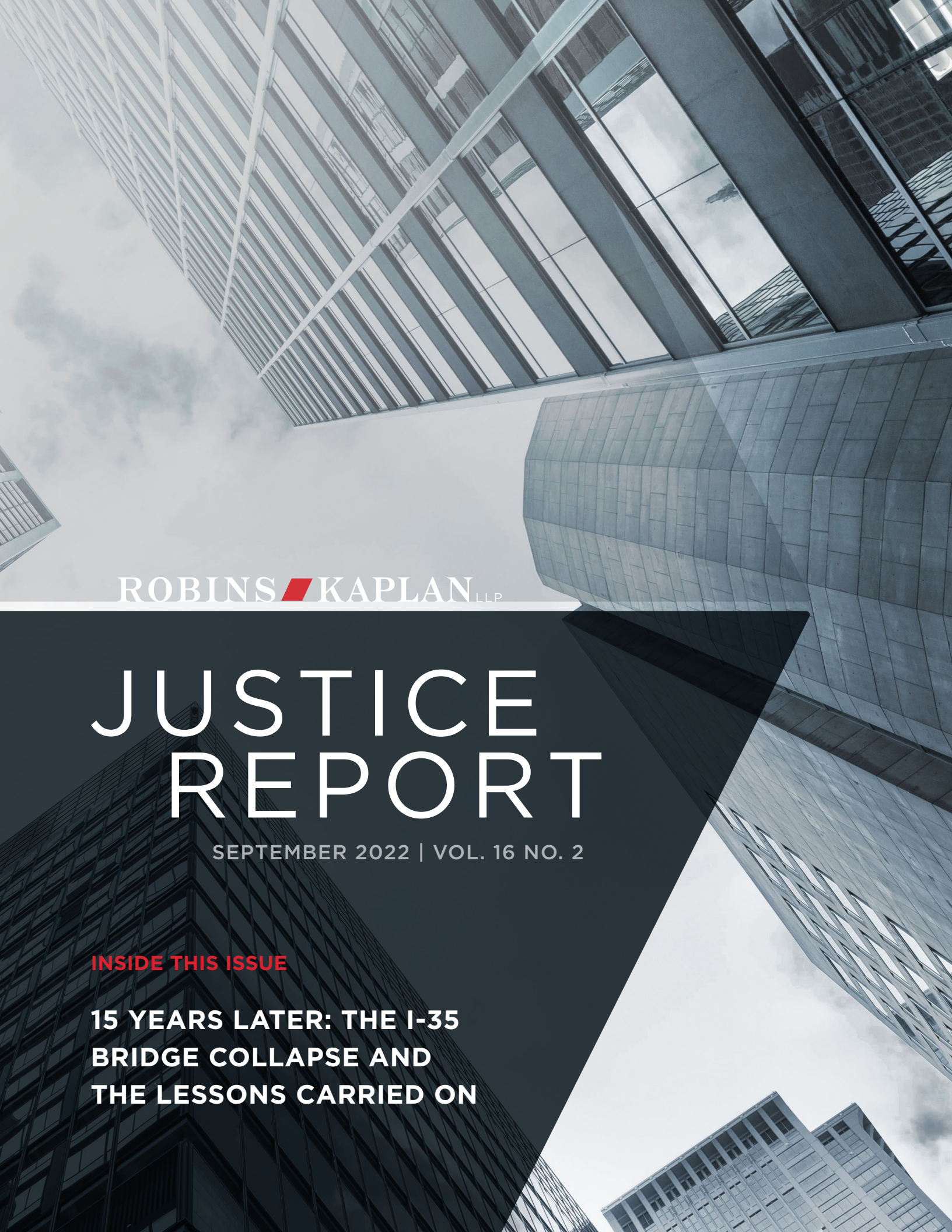

ROBINS KAPLAN LLP

JUSTICE REPORT

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15 YEARS LATER: THE I-35 BRIDGE COLLAPSE AND THE LESSONS CARRIED ON

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15 YEARS LATER: THE I-35 BRIDGE COLLAPSE AND THE LESSONS CARRIED ON

Fifteen years ago this August, hundreds of lives were forever changed when a 1,900-foot section of the Interstate Highway 35 West bridge between Minneapolis and Saint Paul collapsed into the Mississippi River. Tragic news of the 13 deaths and 145 injuries quickly made headlines, hitting home for attorneys at Robins Kaplan LLP's Minneapolis office.

"I immediately started wondering what we could do," said Chris Messerly, a recently retired partner at Robins Kaplan. "My first thought was donating blood and searching for people, but I knew, as lawyers, there was more that we needed to do."

Messerly connected with Phil Sieff, another partner at the firm, and together they hatched the idea to do what they do best – represent the victims.

They had two options if they wanted to provide representation, Sieff said. They could take it as a normal case and charge a fee, knowing very well that the state could have immunity and the victims could recover little to nothing. Or they could represent the victims for free – leveraging the resources and trial expertise of the firm to at least provide an opportunity for justice.

"When we proposed taking on the case *pro bono* to the board, even though nobody knew the full complexity of the situation, there was zero hesitancy," Sieff said. "The board gave us their full, unqualified support."

Over the next three years, more than 130 attorneys and staff members at Robins Kaplan contributed over 20,000 hours of free legal services, making it the most significant *pro bono* contribution in the firm's history. Messerly and Sieff led a group of 17 law firms in providing free representation to more than 100 people who were injured or lost a loved one to the collapse.

"Phil and I each picked a role, and Phil's role was figuring out why in heaven's name this bridge fell. That was a monumental task," Messerly said. "My job was to be the spokesperson and assist our clients with the media, and my other key role was heading up the legislative process to get rid of a 200-year-old law that said these people could basically get nothing from the state."

The entire case was conducted in uncharted territory. None of the attorneys had experienced a case with such enormity and public interest, Sieff said. The work was truly all hands-on deck. Everyone from legal administrative assistants to new associates to the most senior partners contributed to the firm's efforts.

"On any given day, this case was about 90% of my workload," said Lisa Weyrauch, a paralegal who was hired at Robins Kaplan one month before the bridge collapsed. "I put in 4,122 hours from the beginning of the case to the end. But that was not unusual. People put in thousands of hours."

Firm members found themselves stepping up in ways they never expected.

"We had clients early on who were facing financial ruin – there was no source of money in the first one to six months," Sieff said. "We had clients that had PTSD so bad that they were too traumatized to go to the doctor, so a team member would take them. We had clients that were so traumatized that they were not able to meet in the office because the 26th floor is too high. We had clients whose entire families were extraordinarily hurt. Who takes care of whom? And these were daunting challenges to which our staff performed miracles. Literal miracles."

In the end, Robins Kaplan and the other firms that contributed thousands of hours of *pro bono* work accomplished what they set out to. The firm helped secure a legislatively created $37 million compensation fund for its clients. In total, the group helped recover more than $77 million for those who were injured or lost loved ones. And at the last moment, they recovered an additional $1.5 million to build a memorial honoring those who died.

The mayor of Minneapolis proposed putting Robins Kaplan's name on the memorial, which Messerly declined. "This isn't about lawyers," he said. "We just did the best we could."

Nobody expected the results that the firm achieved. Nobody knew what to expect. But for Sieff and Messerly, helping to secure this monumental victory was the greatest honor of their careers.

"I came to the firm in 1981 because it had a strong commitment to *pro bono*, and being part of this was the highlight of my career," Messerly said.

Now and then Messerly still hears from his clients from that eventful day. He gets the occasional phone call or dinner invitation. But most important, he gets to sit back and watch them move forward with their lives, knowing they have the answers they deserve.

UPDATE ON EXACTECH KNEE, HIP, AND ANKLE IMPLANT RECALL LAWSUIT

BY RAYNA KESSLER

Robins Kaplan LLP is examining the recent recall of orthopedic devices that were manufactured by Exactech for hip, knee, and ankle implants. Since 2021, Exactech has recalled approximately 185,000 devices with the latest recall just issued on August 11, 2022. A multidistrict litigation petition was filed on June 14, 2022, and Robins Kaplan has begun filing cases across the country and on behalf of patients who are affected by the Exactech recalled devices.

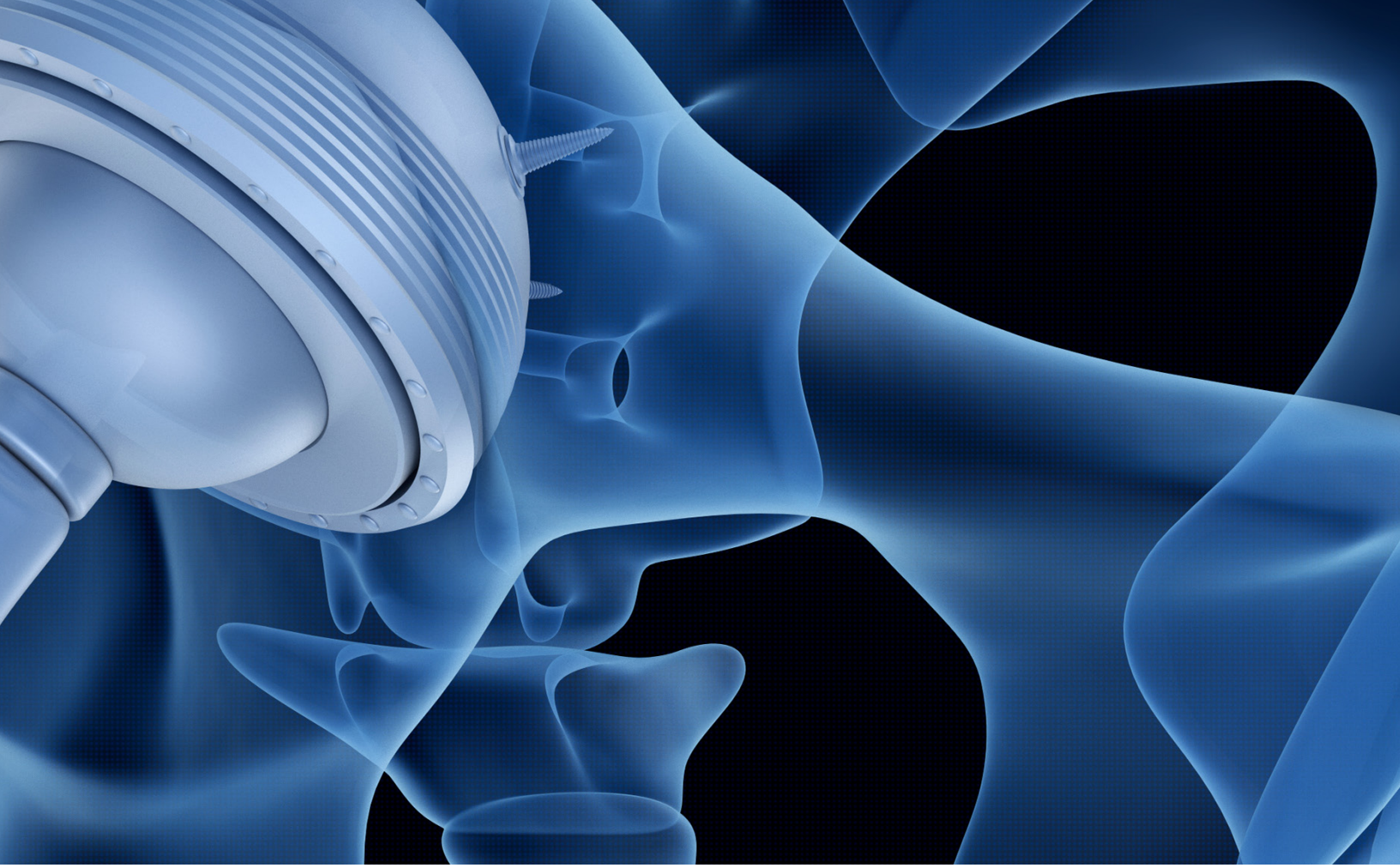
The recall first became public in February 2022 when Exactech issued an Urgent Medical Device Correction Notice informing surgeons that most of the Exactech knee inserts that were manufactured from 2004 until 2022, contained nonconforming packaging layers on the ultra-high-molecular-weight polyethylene (UHMWPE) components. Specifically, the packaging layers for the plastic insert allow a large amount of oxygen to diffuse into the insert while it is being stored and before it is implanted, which can lead to a process called oxidation.

As part of the same February 2022 notice, Exactech recalled its total ankle replacement devices that were manufactured between the years of 2017 and 2022. Like the knee recall, the polyethylene (plastic) insert that fit between the tibial component and the talar component as the new cushion or cartilage for the replaced ankle joint, contained the same defect that allowed the plastic to become oxidized, which can cause the plastic to wear out prematurely or to become damaged after it is implanted into the patient's body.

Recalled devices include the following Exactech knee and ankle systems:

- Optetrak: 60,926 implanted units since 2004
- Optetrak Logic: 60,518 implanted units since 2004
- Truliant Knee Replacement: 24,727 implanted units since 2004
- Vantage Ankle Implants: 1,561 implanted since 2004

Exactech also recalled around 90,000 hip replacements with Exactech Connexion GXL Liners in June 2021, because the plastic is manufactured using a "moderate" cross-linking process, which is inherently more susceptible to oxidation and premature wear that leads



to bone loss/osteolysis. On August 11, 2022, this recall was expanded after Exactech identified the same defect in the packaging of the plastic liners causing increased oxidation of the plastic layers, and ultimately for the patient, leading to accelerated wear and bone loss and component fatigue cracking/fracturing. This additional recall expanded the recalled hip devices from 2015 back to as early as 2004, bringing the total number of Exactech recalled hip devices to approximately 125,000.

Because of these defects, some patients have required revision surgery to remove the failed plastic insert as well as other components of these devices. Degradation of the polyethylene alone, and potentially in conjunction with any other design issues, results in component loosening, tissue damage, osteolysis, permanent bone loss, and other injuries, leading to complex revision surgeries and extensive recovery time.

Patients who underwent total hip, knee, and ankle replacement surgeries in the following locations, but not limited to these locations, may be affected:

- Minnesota
- Gainesville, Florida
- New York City, New York
- Northern New Jersey
- Wisconsin
- Connecticut
- Ohio
- Raleigh, North Carolina

Unfortunately, Exactech has not yet directly notified individuals that their products are recalled, but instead are relying on surgeons to tell their patients whether they are impacted by the defective devices.

Our nationally recognized mass tort attorneys assist clients who are injured by dangerous and defective products, and we are available to evaluate your potential claim against the manufacturers of Exactech. If you have a potential client who is impacted by the recall, please contact Rayna Kessler at **(212) 980-7431** or RKessler@RobinsKaplan.com.

CASE RESULTS

$4 MILLION RESOLUTION OF FAILURE TO DIAGNOSE CANCER CASE

Peter Schmit and Morgan Voight achieved a $4 million post-mediation resolution for our client in a matter involving a 10-month delay in diagnosing colon cancer.

$2.5 MILLION SETTLEMENT IN SPINAL CORD SURGERY MATTER

A multidisciplinary team of Robins Kaplan attorneys led by Peter Schmit, in-house medical professionals, and professional staff secured a life-changing settlement for our client who suffered a spinal cord injury during surgery.

$1,750,000 SETTLEMENT IN WRONGFUL DEATH CLAIM

Phil Sieff and Andy Noel represented Joseph St. James in connection with the death of his 67-year-old husband, Paul Pfeifer. Mr. Pfeifer was run over by a vehicle driven by a man who was in the midst of a severe mental health crisis. Our client helped drive legislative change in the form of a bipartisan mental health bill signed by Governor Walz on June 2, 2022 to invest in critical mental health infrastructure.

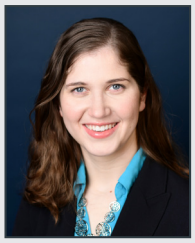
$1 MILLION SETTLEMENT IN INFANT HYPOXIC BRAIN INJURY CASE

On behalf of a two-week-old baby and their parents, Liz Fors and Morgan Voight settled against a Minnesota hospital for the tort cap limits. The baby presented with an upper respiratory infection and cough. After multiple attempts to intubate using nonstandard tools for such a small baby, a provider punctured the trachea. The baby suffered a hypoxic brain injury that rendered her totally dependent.

$900,000 MEDICAL MALPRACTICE SETTLEMENT FOR OIL FIELD WORKER

Peter Schmit and Seth Zawila secured a $900,000 medical malpractice settlement for an oil field worker who suffered an injection of diesel fuel into his hand and then was not treated properly.

PETER SCHMIT



MORGAN VOIGHT

PHIL SIEFF

ANDY NOEL

LIZ FORS

AWARDS AND RECOGNITION

TARA SUTTON NAMED *LAW360* MVP OF THE YEAR IN PRODUCT LIABILITY

Tara Sutton has been named an MVP of the Year in Product Liability by *Law360*. This award recognizes only five attorneys across the country who had extraordinary wins and contributed most to their practice area over the past year.

THREE ROBINS KAPLAN ATTORNEYS NAMED 2022 NOTABLE PARTNERS IN LAW

Patrick Arenz, Tara Sutton, and Brandon Vaughn were recognized as Notable Partners in Law by *Twin Cities Business*. These veteran partners are well known within their firms and the broader field for their results-oriented legal work, *pro bono* efforts, and community involvement.

MASS TORT GROUP NAMED FINALIST FOR ELITE TRIAL LAWYERS AWARD

The firm was selected as a finalist for *The National Law Journal*'s 2022 Elite Trial Lawyers Award in the area of Mass Tort. This award recognizes law firms that have provided cutting-edge representation and achieved major wins on behalf of mass tort plaintiffs.

HOLLY DOLEJSI APPOINTED TO *LAW360* PRODUCT LIABILITY EDITORIAL ADVISORY BOARD

Holly Dolejsi has been appointed to *Law360*'s 2022 Product Liability Editorial Advisory Board. As a board member, she will provide feedback on *Law360*'s coverage and offer insight on content and thought leadership themes within the area of Product Liability.

PATRICK ARENZ NAMED A MIDWEST TRAILBLAZER BY *THE AMERICAN LAWYER*

The American Lawyer has named Patrick Arenz a 2022 Midwest Trailblazer. This award honors agents of change in the practice or business of law in the Midwest.

FIVE PARTNERS SELECTED TO LAWDRAGON 500 LEADING PLAINTIFF CONSUMER LAWYERS LIST

Tim Purdon, Peter Schmit, Philip Sieff, Roman Silberfeld, and Brandon Vaughn were selected to the 2022 "Lawdragon 500 Leading Plaintiff Consumer Lawyers in America" guide. The publication chooses its roster through submissions, journalistic research, and editorial vetting from a board of peers who review attorneys' achievements in verdicts and settlements and roles as leaders in class actions.

SAVE THE DATE

2022 TRIAL ADVOCACY SEMINAR

The 2022 Trial Advocacy Seminar will take place on **Thursday, December 15**. Watch your email for more details coming soon!

MASS TORT INVESTIGATIONS

Robins Kaplan LLP is currently investigating many new potential cases. Please contact our Mass Tort Group if you have any questions or know of any individuals whose case should be evaluated.

BAUSCH & LOMB AREDS 2 PRESERVISION EYE VITAMINS

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

ELMIRON

The painful bladder syndrome drug Elmiron updated its labeling to warn that pigmentary changes in the retina have been identified with long-term use of the drug,[1] nearly two years after the journal of the American Academy of Ophthalmology published an article linking Elmiron to pigmentary maculopathy[2] (which may cause permanent vision changes, such as difficulty reading, slow adjustment to changes in lighting, and blurred vision).

PHILIPS CPAP AND BILEVEL PAP RECALL

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

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1. U.S. Food and Drug Administration, June 16, 2020 Supplemental Elmiron Package Insert. DRUGS@FDA, available at https://www.accessdata.fda.gov/drugsatfda_docs/label/2020/020193s014lbl.pdf.
2. William A. Pearce et al., Pigmentary Maculopathy Associated with Chronic Exposure to Pentosan Polysulfate Sodium. OPHTHALMOLOGY. E. Pub. May 22, 2018, available at https://doi.org/10.1016/j.ophtha.2018.04.026.

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REWRITING THE ODDS