

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND  
CIVIL DIVISION

PLAINTIFF ONE )  
Street Redacted )  
Hyattsville, MD 20782 )  
 )  
and )  
 )  
PLAINTIFF TWO )  
Street Redacted )  
Reston, VA 20191 )  
 )  
and )  
 )  
PLAINTIFF THREE )  
Street Redacted )  
Centerville, MD 21617 )  
 )  
and )  
 )  
PLAINTIFF FOUR )  
Street Redacted )  
Ashburn, VA 20147 )  
 )  
 )  
Plaintiffs, )  
v. )  
 )  
DEPUY ORTHOPAEDICS, INC. )  
700 Orthopaedic Drive )  
Warsaw, IN 46581 )  
 )  
Serve on: )  
DePuy Orthopaedics, Inc. )  
700 Orthopaedic Drive )  
Warsaw, IN 46581 )  
and )  
 )  
CHESAPEAKE SURGICAL, LTD )  
14235 Park Center Drive )  
Laurel, Maryland 20707 )  
 )  
Serve on: )  
David W. Donahower )  
1851 Oak Hall Lane, Suite 204 )

Case Number: CAL10-32147  
**Jury Trial Demanded**

**Redacted**

Columbia, MD 21045 )  
 )  
Defendants. )  
\_\_\_\_\_ )

**COMPLAINT FOR DAMAGES  
AND DEMAND FOR JURY TRIAL**

Come now, the Plaintiffs, PLAINTIFF ONE, PLAINTIFF TWO, PLAINTIFF THREE , and PLAINTIFF FOUR, by and through their attorneys Gregory K. Wells of the law firm of Shadoan, Michael & Wells, LLP; Altom M. Maglio of the law firm of Maglio Christopher & Toale, PA; and Brian Franciskato of the law firm of Nash & Franciskato<sup>1</sup>; and hereby sue Defendants DEPUY ORTHOPAEDICS, INC., a foreign corporation, and CHESAPEAKE SURGICAL, LTD, a Maryland corporation, and allege:

**Jurisdiction and Venue**

1. This is an action for damages that exceed \$75,000.00 for each Plaintiff.
2. At all times relevant hereto Plaintiff PLAINTIFF ONE was a resident of Prince George’s County, Maryland.
3. At all times relevant hereto Plaintiff PLAINTIFF TWO was a resident of Fairfax County, Virginia.
4. At all times relevant hereto Plaintiff PLAINTIFF THREE was a resident of Queen Anne’s County, Maryland.
5. At all times relevant hereto Plaintiff PLAINTIFF FOUR was a resident of Loudoun County, Virginia.
6. At all times relevant to this action, Defendant DEPUY ORTHOPAEDICS, INC. (“DEPUY”), was incorporated in the State of Indiana with its principal place of business in the State of Indiana.

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<sup>1</sup> A motion will be made to this Court to admit Altom M. Maglio and Brian Franciskato pro hac vice.

7. At all times relevant to this action, Defendant CHESAPEAKE SURGICAL, LTD (“CHESAPEAKE”), was incorporated in the State of Maryland with its principal place of business at 14235 Park Center Drive, Laurel, Maryland 20707.
8. At times relevant to this Complaint, Defendant DEPUY regularly engaged in business in the state of Maryland.
9. At all times relevant to this action, Defendant DEPUY, either directly or through its agents, designed, manufactured, labeled, distributed, and sold the product at issue in this matter and instructed physicians regarding the advantages of and the proper method of implanting this product.
10. At times relevant to this Complaint, Defendant CHESAPEAKE regularly engaged in business in the State of Maryland.
11. At all times relevant to this action, Defendant CHESAPEAKE served as a distributor for Defendant DEPUY of the product at issue in this matter, selling the product for Defendant DEPUY in the Chesapeake Bay region including Maryland, Delaware, the District of Columbia, and Northern Virginia.
12. In its role as distributor of product at issue in this matter, Defendant CHESAPEAKE utilized sales representatives that were responsible for educating Plaintiffs’ orthopedic surgeons regarding claimed advantages of the product, answering any questions Plaintiffs’ orthopedic surgeons had regarding the product, assisting Plaintiffs’ orthopedic surgeons at surgery regarding the product, and selling the product to Plaintiffs’ orthopedic surgeons.

13. Venue for this action is proper in Prince George's County, Maryland as Defendant CHESAPEAKE carries on a regular business in this county and maintains its principal offices in this county.
14. Venue is also proper in Prince George's County, Maryland as the cause of action of Plaintiff PLAINTIFF ONE arose in Prince George's County, Maryland, as her product at issue in this matter failed in this county.
15. Additionally, venue for this action is proper in Prince George's County, Maryland, as Defendant DEPUY does not maintain a principal place of business in the State of Maryland, and at all times relevant to this Complaint, Plaintiff PLAINTIFF ONE was a resident of Prince George's County, Maryland.

**Background on ASR Hip Replacement Sales by  
Defendants DEPUY and CHESAPEAKE**

16. In 2005, Defendant DEPUY began selling nationally, and Defendant CHESAPEAKE began selling in the Chesapeake Bay region, the DePuy ASR Hip Replacement System ("ASR Hip") for use in total hip replacement surgeries.
17. At that time Defendant DEPUY began an intensive national campaign to promote the use of ASR Hips by orthopedic surgeons, and CHESAPEAKE began a corresponding campaign in the Chesapeake Bay region.
18. Defendant DEPUY produced and disseminated literature stating:

The DePuy ASR™ Articular Replacement System and the DePuy ASR™ XL Head System large diameter, high performance metal-on-metal bearings are designed and manufactured within fine tolerances to facilitate a state of fluid film lubrication. The system is available for use in

conjunction with all DePuy stems, cemented and cementless, designed to reduce wear and provide high function for all patients.

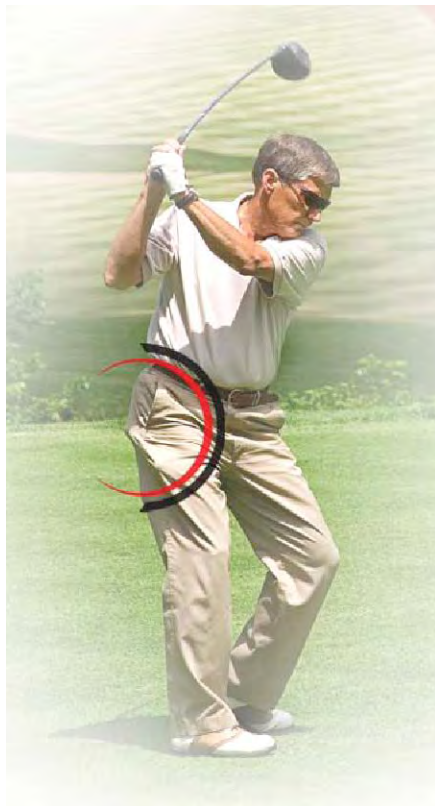
19. In a 2006 patient brochure, titled *DePuy ASR™ XL Head System: Metal on Metal Articulation: High Performance Hip Replacement*, DePuy touted the advantages of the ASR Hip, including reduced wear:



20. The 2006 patient brochure contains the below chart stating that the DePuy ASR hip is “based on a strong clinical history” and “reduces wear compared to traditional hip replacement:

Benefits <sup>1</sup>	Hip Resurfacing	The ASR™ XL System
Preserves Bone in the Hip Socket	YES	YES
Provides Excellent Range of Motion	YES	YES
Reduces Wear Compared to Traditional Hip Replacement	YES	YES
Provides Ball Diameters that Closely Match Natural Anatomy	YES	YES
Allows Surgeon to Adjust Leg Length and Offset	NO	YES
Involves a Relatively Small Surgical Incision	NO	YES
Based on Strong Clinical History	NO	YES

21. The 2006 patient brochure contains photographs of the below three individuals engaged in demanding athletic activities with the ASR Hip logo superimposed over one of each of their hips, implying that each has a DePuy ASR Hip implanted in that hip. They include a man with the DePuy ASR logo superimposed over his right hip taking a very aggressive golf swing:



a man with a DePuy ASR logo superimposed over his right hip playing Frisbee with a dog on a loose sand beach:



and a young woman with the DePuy ASR logo superimposed over her left hip jogging on a loose sand beach:



22. Beginning in 2005, CHESAPEAKE likewise began aggressively marketing the DePuy ASR Hip in the Chesapeake Bay region.

**Warnings from Independent Orthopedic Experts**

23. The same year that Defendant DEPUY began selling the ASR Hip in the United States, independent experts from around the world were warning that the design of the ASR Hip was flawed.

24. Orthopedic experts warned that the DePuy ASR cup was too thin and thus prone to deformation.

25. Orthopedic experts warned that the clearance between the ASR Hip cup and head was too small and in some patients could lead to jamming of components.

26. Orthopedic experts warned that the treatment of the metal used for the DePuy ASR cup and head was prone to increased wear.

27. By 2005, the DePuy ASR cup was shown to have a fourfold higher rate of revision than a similar cup in the Australian Joint Registry.

28. Defendant DEPUY countered these warnings with a host of arguments and continued to heavily promote its ASR Hip for the next four years.

29. Defendant DEPUY disseminated their arguments responding to the warnings about the DePuy ASR Hip through their distributors including Defendant CHESAPEAKE.

30. The employees and agents of Defendant CHESAPEAKE were aware of the warnings regarding the DePuy ASR Hip, and also aware of failures



necessitating revision of the DePuy ASR Hip, but failed to convey this information to the Plaintiffs' orthopedic surgeons.

### **Suspension and Recall**

31. From 2005 to 2009, hundreds of complaints of failure of DePuy ASR hips were made by orthopedic surgeons and hospitals to Defendant DEPUY and the United States Food and Drug Administration.
32. Independent studies began to show numerous problems with the DePuy ASR Hip including failure of the cup to achieve proper fixation due to the lack of bony ingrowth into the back of the cup, significant metal debris in patients with DePuy ASR Hips, the formation of pseudotumors in patients with DePuy ASR Hips, and hip fractures.
33. In late 2009, Defendant DEPUY, citing decreased sales, stated that it was phasing out sales of the DePuy ASR Hip.
34. In early 2010, Defendant DEPUY sent letters to orthopedic surgeons warning of high failure rates with the DePuy ASR Hip.
35. Finally, on August 24, 2010, Defendant DEPUY announced that it was recalling the DePuy ASR Hip, noting in the Recall Notice that reasons for high failure rates included "component loosening, component malalignment, infection, fracture of the bone, dislocation, metal sensitivity and pain."

### **Effect on Plaintiffs**

36. Each of the Plaintiffs to this action have a DePuy ASR Hip that was designed, manufactured, labeled, distributed, and sold by Defendant DEPUY.

37. Each of the Plaintiffs to this action has a DePuy ASR Hip that was distributed by Defendant DEPUY through Defendant CHESAPEAKE.
38. In the instance of each of the Plaintiffs to this action, Defendant CHESAPEAKE was responsible for educating the Plaintiff's orthopedic surgeon regarding the DePuy ASR Hip, answering any questions that the orthopedic surgeon had regarding the DePuy ASR Hip, and convincing each Plaintiff's orthopedic surgeon to purchase the DePuy ASR Hip on behalf of each of the Plaintiffs.
39. In the instance of each of the Plaintiffs to this action, the DePuy ASR Hip failed to achieve proper bone ingrowth into the cup and thus failed to achieve proper fixation.
40. In the instance of each of the Plaintiffs to this action, the DePuy ASR Hip generated excessive metal debris and/or caused bone fractures.
41. In the instance of each of the Plaintiffs to this action, the recognition that the DePuy ASR Hip had failed was delayed by the failure of Defendants DEPUY and CHESAPEAKE to convey to the Plaintiff's orthopedic surgeon the warnings regarding the product made by independent orthopedic experts and information regarding other failures of DePuy ASR Hips.

COUNT ONE  
NEGLIGENCE OF DEPUY ORTHOPAEDICS, INC. BY PLAINTIFF PLAINTIFF  
ONE

42. Plaintiff PLAINTIFF ONE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.

43. Defendant DEPUY as the manufacturer of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF ONE to exercise reasonable care in the design, manufacture, labeling, and distribution of the device to insure that it was fit for its intended use.
44. Defendant DEPUY, as the manufacturer of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF ONE to inform in a timely manner the orthopedic surgeon of Plaintiff PLAINTIFF ONE of the significant problems being experienced with the product.
45. Defendant DEPUY, in breach of the duties described above, negligently and carelessly designed, manufactured, labeled, and distributed the DePuy ASR Hip implanted in Plaintiff PLAINTIFF ONE.
46. As a direct and proximate result of the conduct of Defendant DEPUY, the DePuy ASR Hip was unfit for its intended use and Plaintiff PLAINTIFF ONE needlessly suffered pain and weakness.
47. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF ONE has suffered severe physical distress and injury, emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF ONE are permanent in nature and Plaintiff PLAINTIFF ONE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF ONE demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT TWO  
STRICT LIABILITY OF DEPUY ORTHOPAEDICS, INC. BY PLAINTIFF  
PLAINTIFF ONE

48. Plaintiff PLAINTIFF ONE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
49. At the time that Defendant DEPUY manufactured and sold the DePuy ASR Hip, it contained a defect that made it unreasonably dangerous and unfit for its intended use.
50. The product reached Plaintiff PLAINTIFF ONE without substantial change in the condition in which it was sold.
51. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF ONE has suffered severe physical distress and injury: emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF ONE are permanent in nature and Plaintiff PLAINTIFF ONE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF ONE demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT THREE  
BREACH OF IMPLIED WARRANTY OF DEPUY ORTHOPAEDICS, INC. BY  
PLAINTIFF PLAINTIFF ONE

52. Plaintiff PLAINTIFF ONE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.

53. Defendant DEPUY designed, manufactured, labeled, distributed and sold the DePuy ASR Hip at issue in this case.
54. Defendant DEPUY impliedly warranted that the product was reasonably fit for its intended use as a hip joint replacement system.
55. Plaintiff PLAINTIFF ONE was a foreseeable user of the product.
56. Plaintiff PLAINTIFF ONE purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
57. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF ONE.
58. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF ONE has suffered severe physical distress and injury: emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF ONE are permanent in nature and Plaintiff PLAINTIFF ONE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF ONE demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT FOUR  
BREACH OF EXPRESS WARRANTY OF DEPUY ORTHOPAEDICS, INC. BY  
PLAINTIFF PLAINTIFF ONE

59. Plaintiff PLAINTIFF ONE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.

60. Defendant DEPUY designed, manufactured, labeled, and distributed the DePuy ASR Hip at issue in this case.
61. Defendant DEPUY expressly warranted by affirmation, promise, description, and sample that the product was reasonably fit for extended, safe use as a hip joint replacement system.
62. The above representations made by Defendant DEPUY were meant to directly or indirectly induce persons such as Plaintiff PLAINTIFF ONE and the orthopedic surgeon of Plaintiff PLAINTIFF ONE to purchase the DePuy ASR Hip.
63. Plaintiff PLAINTIFF ONE was a foreseeable user of the product.
64. Plaintiff PLAINTIFF ONE purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
65. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF ONE.
66. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF ONE has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF ONE are permanent in nature and Plaintiff PLAINTIFF ONE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF ONE demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT FIVE  
VIOLATION OF MARYLAND CONSUMER PROTECTION ACT BY DEPUY  
ORTHOPAEDICS, INC. AS TO PLAINTIFF PLAINTIFF ONE

67. Plaintiff PLAINTIFF ONE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
68. Defendant DEPUY used deception, misrepresentation, and omission to induce Plaintiffs' orthopedic surgeon, acting in his capacity as Plaintiff's agent to purchase the DePuy ASR hip replacement in violation of Maryland Code, Commercial Law, Section 13-301.
69. As a result, Plaintiff PLAINTIFF ONE purchased the DePuy ASR hip replacement system for personal use.
70. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF ONE has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF ONE are permanent in nature and Plaintiff PLAINTIFF ONE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF ONE demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus reasonable attorneys' fees and costs.

COUNT SIX  
NEGLIGENCE OF CHESAPEAKE SURGICAL, LTD BY PLAINTIFF PLAINTIFF  
ONE

71. Plaintiff PLAINTIFF ONE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.

72. Defendant CHESAPEAKE, as the distributor and seller of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF ONE to provide accurate information to the orthopedic surgeon of Plaintiff.
73. Defendant CHESAPEAKE, as the distributor and seller of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF ONE to inform in a timely manner the orthopedic surgeon of Plaintiff PLAINTIFF ONE of the significant problems being experienced with the product.
74. Defendant CHESAPEAKE, in breach of the duties described above, negligently and carelessly distributed and sold the DePuy ASR Hip implanted in Plaintiff PLAINTIFF ONE.
75. As a direct and proximate result of the conduct of Defendant CHESAPEAKE, the DePuy ASR Hip was unfit for its intended use and Plaintiff PLAINTIFF ONE needlessly suffered pain and weakness.
76. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF ONE has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF ONE are permanent in nature and Plaintiff PLAINTIFF ONE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF ONE demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.



COUNT SEVEN  
STRICT LIABILITY OF CHESAPEAKE SURGICAL, LTD BY PLAINTIFF  
PLAINTIFF ONE

77. Plaintiff PLAINTIFF ONE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
78. At the time that Defendant CHESAPEAKE sold the DePuy ASR Hip, it contained a defect that made it unreasonably dangerous and unfit for its intended use.
79. The product reached Plaintiff PLAINTIFF ONE without substantial change in the condition in which it was sold.
80. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF ONE has suffered severe physical distress and injury: emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF ONE are permanent in nature and Plaintiff PLAINTIFF ONE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF ONE demands judgment against Defendant DEPUY CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT EIGHT  
BREACH OF IMPLIED WARRANTY OF CHESAPEAKE SURGICAL, LTD BY  
PLAINTIFF PLAINTIFF ONE

81. Plaintiff PLAINTIFF ONE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.

82. Defendant CHESAPEAKE distributed and sold the DePuy ASR® Acetabular Hip at issue in this case.
83. Defendant CHESAPEAKE impliedly warranted that the product was reasonably fit for its intended use as a hip joint replacement system.
84. Plaintiff PLAINTIFF ONE was a foreseeable user of the product.
85. Plaintiff PLAINTIFF ONE purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
86. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF ONE.
87. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF ONE has suffered severe physical distress and injury: emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF ONE are permanent in nature and Plaintiff PLAINTIFF ONE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF ONE demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT NINE  
BREACH OF EXPRESS WARRANTY OF CHESAPEAKE SURGICAL, LTD BY  
PLAINTIFF PLAINTIFF ONE

88. Plaintiff PLAINTIFF ONE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.

89. Defendant CHESAPEAKE distributed and sold the DePuy ASR Hip at issue in this case.
90. Defendant CHESAPEAKE expressly warranted by affirmation, promise, description, and sample that the product was reasonably fit for extended, safe use as a hip joint replacement system.
91. The above representations made by Defendant CHESAPEAKE were meant to directly or indirectly induce persons such as Plaintiff PLAINTIFF ONE and the orthopedic surgeon of Plaintiff PLAINTIFF ONE to purchase the DePuy ASR Hip.
92. Plaintiff PLAINTIFF ONE was a foreseeable user of the product.
93. Plaintiff PLAINTIFF ONE purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
94. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF ONE
95. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF ONE has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF ONE are permanent in nature and Plaintiff PLAINTIFF ONE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF ONE demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT TEN  
VIOLATION OF MARYLAND CONSUMER PROTECTION ACT BY  
CHESAPEAKE SURGICAL, LTD AS TO PLAINTIFF PLAINTIFF ONE

96. Plaintiff PLAINTIFF ONE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
97. Defendant CHESAPEAKE used deception, misrepresentation, and omission to induce Plaintiffs' orthopedic surgeon, acting in his capacity as Plaintiff's agent to purchase the DePuy ASR hip replacement in violation of Maryland Code, Commercial Law, Section 13-301.
98. As a result, Plaintiff PLAINTIFF ONE purchased the DePuy ASR hip replacement system for personal use.
99. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF ONE has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF ONE are permanent in nature and Plaintiff PLAINTIFF ONE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF ONE demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus reasonable attorneys' fees and costs.

COUNT ELEVEN  
NEGLIGENCE OF DEPUY ORTHOPAEDICS, INC. BY PLAINTIFF PLAINTIFF  
TWO

100. Plaintiff PLAINTIFF TWO re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
101. Defendant DEPUY as the manufacturer of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF TWO to exercise reasonable care in the design, manufacture, labeling, and distribution of the device to insure that it was fit for its intended use.
102. Defendant DEPUY, as the manufacturer of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF TWO to inform in a timely manner the orthopedic surgeon of Plaintiff PLAINTIFF TWO of the significant problems being experienced with the product.
103. Defendant DEPUY, in breach of the duties described above, negligently and carelessly designed, manufactured, labeled, and distributed the DePuy ASR Hip implanted in Plaintiff PLAINTIFF TWO.
104. As a direct and proximate result of the conduct of Defendant DEPUY, the DePuy ASR Hip was unfit for its intended use and Plaintiff PLAINTIFF TWO needlessly suffered pain and weakness.
105. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF TWO has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF TWO are permanent in nature and Plaintiff PLAINTIFF TWO will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF TWO demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT TWELVE  
STRICT LIABILITY OF DEPUY ORTHOPAEDICS, INC. BY PLAINTIFF  
PLAINTIFF TWO

106. Plaintiff PLAINTIFF TWO re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
107. At the time that Defendant DEPUY manufactured and sold the DePuy ASR Hip, it contained a defect that made it unreasonably dangerous and unfit for its intended use.
108. The product reached Plaintiff PLAINTIFF TWO without substantial change in the condition in which it was sold.
109. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF TWO has suffered severe physical distress and injury: emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF TWO are permanent in nature and Plaintiff PLAINTIFF TWO will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF TWO demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT THIRTEEN  
BREACH OF IMPLIED WARRANTY OF DEPUY ORTHOPAEDICS, INC. BY  
PLAINTIFF PLAINTIFF TWO

110. Plaintiff PLAINTIFF TWO re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
111. Defendant DEPUY designed, manufactured, labeled, distributed and sold the DePuy ASR Hip at issue in this case.
112. Defendant DEPUY impliedly warranted that the product was reasonably fit for its intended use as a hip joint replacement system.
113. Plaintiff PLAINTIFF TWO was a foreseeable user of the product.
114. Plaintiff PLAINTIFF TWO purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
115. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF TWO.
116. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF TWO has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF TWO are permanent in nature and Plaintiff PLAINTIFF TWO will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF TWO demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT FOURTEEN  
BREACH OF EXPRESS WARRANTY OF DEPUY ORTHOPAEDICS, INC. BY  
PLAINTIFF PLAINTIFF TWO

117. Plaintiff PLAINTIFF TWO re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
118. Defendant DEPUY designed, manufactured, labeled, and distributed the DePuy ASR Hip at issue in this case.
119. Defendant DEPUY expressly warranted by affirmation, promise, description, and sample that the product was reasonably fit for extended, safe use as a hip joint replacement system.
120. The above representations made by Defendant DEPUY were meant to directly or indirectly induce persons such as Plaintiff PLAINTIFF TWO and the orthopedic surgeon of Plaintiff PLAINTIFF TWO to purchase the DePuy ASR Hip.
121. Plaintiff PLAINTIFF TWO was a foreseeable user of the product.
122. Plaintiff PLAINTIFF TWO purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
123. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF TWO.
124. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF TWO has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF TWO are permanent in nature and Plaintiff PLAINTIFF TWO will continue to suffer such losses in the future.



WHEREFORE, Plaintiff PLAINTIFF TWO demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT FIFTEEN  
VIOLATION OF MARYLAND CONSUMER PROTECTION ACT BY DEPUY  
ORTHOPAEDICS, INC. AS TO PLAINTIFF PLAINTIFF TWO

125. Plaintiff PLAINTIFF TWO re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
126. Defendant DEPUY used deception, misrepresentation, and omission to induce Plaintiffs' orthopedic surgeon, acting in his capacity as Plaintiff's agent to purchase the DePuy ASR hip replacement in violation of Maryland Code, Commercial Law, Section 13-301.
127. As a result, Plaintiff PLAINTIFF TWO purchased the DePuy ASR hip replacement system for personal use.
128. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF TWO has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF TWO are permanent in nature and Plaintiff PLAINTIFF TWO will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF TWO demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus reasonable attorneys' fees and costs.

COUNT SIXTEEN

NEGLIGENCE OF CHESAPEAKE SURGICAL, LTD BY PLAINTIFF PLAINTIFF  
TWO

129. Plaintiff PLAINTIFF TWO re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
130. Defendant CHESAPEAKE, as the distributor and seller of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF TWO to provide accurate information to the orthopedic surgeon of Plaintiff.
131. Defendant CHESAPEAKE, as the distributor and seller of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF TWO to inform in a timely manner the orthopedic surgeon of Plaintiff PLAINTIFF TWO of the significant problems being experienced with the product.
132. Defendant CHESAPEAKE, in breach of the duties described above, negligently and carelessly distributed and sold the DePuy ASR Hip implanted in Plaintiff PLAINTIFF TWO.
133. As a direct and proximate result of the conduct of Defendant CHESAPEAKE, the DePuy ASR Hip was unfit for its intended use and Plaintiff PLAINTIFF TWO needlessly suffered pain and weakness.
134. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF TWO has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF TWO are permanent in nature and Plaintiff PLAINTIFF TWO will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF TWO demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT SEVENTEEN  
STRICT LIABILITY OF CHESAPEAKE SURGICAL, LTD BY PLAINTIFF  
PLAINTIFF TWO

135. Plaintiff PLAINTIFF TWO re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
136. At the time that Defendant CHESAPEAKE sold the DePuy ASR Hip, it contained a defect that made it unreasonably dangerous and unfit for its intended use.
137. The product reached Plaintiff PLAINTIFF TWO without substantial change in the condition in which it was sold.
138. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF TWO has suffered severe physical distress and injury: emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF TWO are permanent in nature and Plaintiff PLAINTIFF TWO will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF TWO demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT EIGHTEEN  
BREACH OF IMPLIED WARRANTY OF CHESAPEAKE SURGICAL, LTD BY  
PLAINTIFF PLAINTIFF TWO

139. Plaintiff PLAINTIFF TWO re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
140. Defendant CHESAPEAKE distributed and sold the DePuy ASR® Acetabular Hip at issue in this case.
141. Defendant CHESAPEAKE impliedly warranted that the product was reasonably fit for its intended use as a hip joint replacement system.
142. Plaintiff PLAINTIFF TWO was a foreseeable user of the product.
143. Plaintiff PLAINTIFF TWO purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
144. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF TWO.
145. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF TWO has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF TWO are permanent in nature and Plaintiff PLAINTIFF TWO will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF TWO demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT NINETEEN  
BREACH OF EXPRESS WARRANTY OF CHESAPEAKE SURGICAL, LTD BY  
PLAINTIFF PLAINTIFF TWO

146. Plaintiff PLAINTIFF TWO re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
147. Defendant CHESAPEAKE distributed and sold the DePuy ASR Hip at issue in this case.
148. Defendant CHESAPEAKE expressly warranted by affirmation, promise, description, and sample that the product was reasonably fit for extended, safe use as a hip joint replacement system.
149. The above representations made by Defendant CHESAPEAKE were meant to directly or indirectly induce persons such as Plaintiff PLAINTIFF TWO and the orthopedic surgeon of Plaintiff PLAINTIFF TWO to purchase the DePuy ASR Hip.
150. Plaintiff PLAINTIFF TWO was a foreseeable user of the product.
151. Plaintiff PLAINTIFF TWO purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
152. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF TWO.
153. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF TWO has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF TWO are permanent in nature and Plaintiff PLAINTIFF TWO will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF TWO demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT TWENTY  
VIOLATION OF MARYLAND CONSUMER PROTECTION ACT BY  
CHESAPEAKE SURGICAL, LTD AS TO PLAINTIFF PLAINTIFF TWO

154. Plaintiff PLAINTIFF TWO re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
155. Defendant CHESAPEAKE used deception, misrepresentation, and omission to induce Plaintiffs' orthopedic surgeon, acting in his capacity as Plaintiff's agent to purchase the DePuy ASR hip replacement in violation of Maryland Code, Commercial Law, Section 13-301.
156. As a result, Plaintiff PLAINTIFF TWO purchased the DePuy ASR hip replacement system for personal use.
157. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF TWO has suffered severe physical distress and injury: emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF TWO are permanent in nature and Plaintiff PLAINTIFF TWO will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF TWO demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus reasonable attorneys' fees and costs.

COUNT TWENTY ONE

NEGLIGENCE OF DEPUY ORTHOPAEDICS, INC. BY PLAINTIFF PLAINTIFF  
THREE

158. Plaintiff PLAINTIFF THREE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
159. Defendant DEPUY as the manufacturer of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF THREE to exercise reasonable care in the design, manufacture, labeling, and distribution of the device to insure that it was fit for its intended use.
160. Defendant DEPUY, as the manufacturer of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF THREE to inform in a timely manner the orthopedic surgeon of Plaintiff PLAINTIFF THREE of the significant problems being experienced with the product.
161. Defendant DEPUY, in breach of the duties described above, negligently and carelessly designed, manufactured, labeled, and distributed the DePuy ASR Hip implanted in Plaintiff PLAINTIFF THREE.
162. As a direct and proximate result of the conduct of Defendant DEPUY, the DePuy ASR Hip was unfit for its intended use and Plaintiff PLAINTIFF THREE needlessly suffered pain and weakness.
163. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF THREE has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF THREE are permanent in nature

and Plaintiff PLAINTIFF THREE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF THREE demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT TWENTY TWO  
STRICT LIABILITY OF DEPUY ORTHOPAEDICS, INC. BY PLAINTIFF  
PLAINTIFF THREE

164. Plaintiff PLAINTIFF THREE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
165. At the time that Defendant DEPUY manufactured and sold the DePuy ASR Hip, it contained a defect that made it unreasonably dangerous and unfit for its intended use.
166. The product reached Plaintiff PLAINTIFF THREE without substantial change in the condition in which it was sold.
167. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF THREE has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF THREE are permanent in nature and Plaintiff PLAINTIFF THREE will continue to suffer such losses in the future.



WHEREFORE, Plaintiff PLAINTIFF THREE demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT TWENTY THREE  
BREACH OF IMPLIED WARRANTY OF DEPUY ORTHOPAEDICS, INC. BY  
PLAINTIFF PLAINTIFF THREE

168. Plaintiff PLAINTIFF THREE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
169. Defendant DEPUY designed, manufactured, labeled, distributed and sold the DePuy ASR Hip at issue in this case.
170. Defendant DEPUY impliedly warranted that the product was reasonably fit for its intended use as a hip joint replacement system.
171. Plaintiff PLAINTIFF THREE was a foreseeable user of the product.
172. Plaintiff PLAINTIFF THREE purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
173. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF THREE.
174. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF THREE has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF THREE are permanent in nature and Plaintiff PLAINTIFF THREE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF THREE demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT TWENTY FOUR  
BREACH OF EXPRESS WARRANTY OF DEPUY ORTHOPAEDICS, INC. BY  
PLAINTIFF PLAINTIFF THREE

175. Plaintiff PLAINTIFF THREE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
176. Defendant DEPUY designed, manufactured, labeled, and distributed the DePuy ASR Hip at issue in this case.
177. Defendant DEPUY expressly warranted by affirmation, promise, description, and sample that the product was reasonably fit for extended, safe use as a hip joint replacement system.
178. The above representations made by Defendant DEPUY were meant to directly or indirectly induce persons such as Plaintiff PLAINTIFF THREE and the orthopedic surgeon of Plaintiff PLAINTIFF THREE to purchase the DePuy ASR Hip.
179. Plaintiff PLAINTIFF THREE was a foreseeable user of the product.
180. Plaintiff PLAINTIFF THREE purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
181. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF THREE.
182. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF THREE has suffered severe physical distress and injury: emotional distress and injury;

incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF THREE are permanent in nature and Plaintiff PLAINTIFF THREE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF THREE demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT TWENTY FIVE  
VIOLATION OF MARYLAND CONSUMER PROTECTION ACT BY DEPUY  
ORTHOPAEDICS, INC. AS TO PLAINTIFF PLAINTIFF THREE

183. Plaintiff PLAINTIFF THREE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
184. Defendant DEPUY used deception, misrepresentation, and omission to induce Plaintiffs' orthopedic surgeon, acting in his capacity as Plaintiff's agent to purchase the DePuy ASR hip replacement in violation of Maryland Code, Commercial Law, Section 13-301.
185. As a result, Plaintiff PLAINTIFF THREE purchased the DePuy ASR hip replacement system for personal use.
186. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF THREE has suffered severe physical distress and injury: emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF THREE are permanent in nature

and Plaintiff PLAINTIFF THREE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF THREE demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus reasonable attorneys' fees and costs.

COUNT TWENTY SIX  
NEGLIGENCE OF CHESAPEAKE SURGICAL, LTD BY PLAINTIFF PLAINTIFF  
THREE

187. Plaintiff PLAINTIFF THREE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
188. Defendant CHESAPEAKE, as the distributor and seller of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF THREE to provide accurate information to the orthopedic surgeon of Plaintiff.
189. Defendant CHESAPEAKE, as the distributor and seller of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF THREE to inform in a timely manner the orthopedic surgeon of Plaintiff PLAINTIFF THREE of the significant problems being experienced with the product.
190. Defendant CHESAPEAKE, in breach of the duties described above, negligently and carelessly distributed and sold the DePuy ASR Hip implanted in Plaintiff PLAINTIFF THREE.
191. As a direct and proximate result of the conduct of Defendant CHESAPEAKE, the DePuy ASR Hip was unfit for its intended use and Plaintiff PLAINTIFF THREE needlessly suffered pain and weakness.

192. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF THREE has suffered severe physical distress and injury: emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF THREE are permanent in nature and Plaintiff PLAINTIFF THREE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF THREE demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT TWENTY SEVEN  
STRICT LIABILITY OF CHESAPEAKE SURGICAL, LTD BY PLAINTIFF  
PLAINTIFF THREE

193. Plaintiff PLAINTIFF THREE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.

194. At the time that Defendant CHESAPEAKE sold the DePuy ASR Hip, it contained a defect that made it unreasonably dangerous and unfit for its intended use.

195. The product reached Plaintiff PLAINTIFF THREE without substantial change in the condition in which it was sold.

196. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF THREE has suffered severe physical distress and injury: emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The

injuries and losses of Plaintiff PLAINTIFF THREE are permanent in nature and Plaintiff PLAINTIFF THREE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF THREE demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT TWENTY EIGHT  
BREACH OF IMPLIED WARRANTY OF CHESAPEAKE SURGICAL, LTD BY  
PLAINTIFF PLAINTIFF THREE

197. Plaintiff PLAINTIFF THREE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
198. Defendant CHESAPEAKE distributed and sold the DePuy ASR® Acetabular Hip at issue in this case.
199. Defendant CHESAPEAKE impliedly warranted that the product was reasonably fit for its intended use as a hip joint replacement system.
200. Plaintiff PLAINTIFF THREE was a foreseeable user of the product.
201. Plaintiff PLAINTIFF THREE purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
202. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF THREE.
203. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF THREE has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The

injuries and losses of Plaintiff PLAINTIFF THREE are permanent in nature and Plaintiff PLAINTIFF THREE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF THREE demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT TWENTY NINE  
BREACH OF EXPRESS WARRANTY OF CHESAPEAKE SURGICAL, LTD BY  
PLAINTIFF PLAINTIFF THREE

204. Plaintiff PLAINTIFF THREE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
205. Defendant CHESAPEAKE distributed and sold the DePuy ASR Hip at issue in this case.
206. Defendant CHESAPEAKE expressly warranted by affirmation, promise, description, and sample that the product was reasonably fit for extended, safe use as a hip joint replacement system.
207. The above representations made by Defendant CHESAPEAKE were meant to directly or indirectly induce persons such as Plaintiff PLAINTIFF THREE and the orthopedic surgeon of Plaintiff PLAINTIFF THREE to purchase the DePuy ASR Hip.
208. Plaintiff PLAINTIFF THREE was a foreseeable user of the product.
209. Plaintiff PLAINTIFF THREE purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.

210. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF THREE.

211. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF THREE has suffered severe physical distress and injury: emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF THREE are permanent in nature and Plaintiff PLAINTIFF THREE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF THREE demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT THIRTY  
VIOLATION OF MARYLAND CONSUMER PROTECTION ACT BY  
CHESAPEAKE SURGICAL, LTD AS TO PLAINTIFF PLAINTIFF THREE

212. Plaintiff PLAINTIFF THREE re-alleges and incorporates by reference all paragraphs above as if fully stated herein.

213. Defendant CHESAPEAKE used deception, misrepresentation, and omission to induce Plaintiffs' orthopedic surgeon, acting in his capacity as Plaintiff's agent to purchase the DePuy ASR hip replacement in violation of Maryland Code, Commercial Law, Section 13-301.

214. As a result, Plaintiff PLAINTIFF THREE purchased the DePuy ASR hip replacement system for personal use.



215. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF THREE has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF THREE are permanent in nature and Plaintiff PLAINTIFF THREE will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF THREE demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus reasonable attorneys' fees and costs.

COUNT THIRTY ONE  
NEGLIGENCE OF DEPUY ORTHOPAEDICS, INC. BY PLAINTIFF PLAINTIFF  
FOUR

216. Plaintiff PLAINTIFF FOUR re-alleges and incorporates by reference all paragraphs above as if fully stated herein.

217. Defendant DEPUY as the manufacturer of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF FOUR to exercise reasonable care in the design, manufacture, labeling, and distribution of the device to insure that it was fit for its intended use.

218. Defendant DEPUY, as the manufacturer of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF FOUR to inform in a timely manner the orthopedic surgeon of Plaintiff PLAINTIFF FOUR of the significant problems being experienced with the product.

219. Defendant DEPUY, in breach of the duties described above, negligently and carelessly designed, manufactured, labeled, and distributed the DePuy ASR Hip implanted in Plaintiff PLAINTIFF FOUR.
220. As a direct and proximate result of the conduct of Defendant DEPUY, the DePuy ASR Hip was unfit for its intended use and Plaintiff PLAINTIFF FOUR needlessly suffered pain and weakness.
221. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF FOUR has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF FOUR are permanent in nature and Plaintiff PLAINTIFF FOUR will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF FOUR demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT THIRTY TWO  
STRICT LIABILITY OF DEPUY ORTHOPAEDICS, INC. BY PLAINTIFF  
PLAINTIFF FOUR

222. Plaintiff PLAINTIFF FOUR re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
223. At the time that Defendant DEPUY manufactured and sold the DePuy ASR Hip, it contained a defect that made it unreasonably dangerous and unfit for its intended use.

224. The product reached Plaintiff PLAINTIFF FOUR without substantial change in the condition in which it was sold.
225. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF FOUR has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF FOUR are permanent in nature and Plaintiff PLAINTIFF FOUR will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF FOUR demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT THIRTY THREE  
BREACH OF IMPLIED WARRANTY OF DEPUY ORTHOPAEDICS, INC. BY  
PLAINTIFF PLAINTIFF FOUR

226. Plaintiff PLAINTIFF FOUR re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
227. Defendant DEPUY designed, manufactured, labeled, distributed and sold the DePuy ASR Hip at issue in this case.
228. Defendant DEPUY impliedly warranted that the product was reasonably fit for its intended use as a hip joint replacement system.
229. Plaintiff PLAINTIFF FOUR was a foreseeable user of the product.
230. Plaintiff PLAINTIFF FOUR purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.

231. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF FOUR.

232. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF FOUR has suffered severe physical distress and injury: emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF FOUR are permanent in nature and Plaintiff PLAINTIFF FOUR will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF FOUR demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT THIRTY FOUR  
BREACH OF EXPRESS WARRANTY OF DEPUY ORTHOPAEDICS, INC. BY  
PLAINTIFF PLAINTIFF FOUR

233. Plaintiff PLAINTIFF FOUR re-alleges and incorporates by reference all paragraphs above as if fully stated herein.

234. Defendant DEPUY designed, manufactured, labeled, and distributed the DePuy ASR Hip at issue in this case.

235. Defendant DEPUY expressly warranted by affirmation, promise, description, and sample that the product was reasonably fit for extended, safe use as a hip joint replacement system.

236. The above representations made by Defendant DEPUY were meant to directly or indirectly induce persons such as Plaintiff PLAINTIFF FOUR and the

orthopedic surgeon of Plaintiff PLAINTIFF FOUR to purchase the DePuy ASR Hip.

237. Plaintiff PLAINTIFF FOUR was a foreseeable user of the product.
238. Plaintiff PLAINTIFF FOUR purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
239. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF FOUR.
240. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF FOUR has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF FOUR are permanent in nature and Plaintiff PLAINTIFF FOUR will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF FOUR demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT THIRTY FIVE  
VIOLATION OF MARYLAND CONSUMER PROTECTION ACT BY DEPUY  
ORTHOPAEDICS, INC. AS TO PLAINTIFF PLAINTIFF FOUR

241. Plaintiff PLAINTIFF FOUR re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
242. Defendant DEPUY used deception, misrepresentation, and omission to induce Plaintiffs' orthopedic surgeon, acting in his capacity as Plaintiff's agent to

purchase the DePuy ASR hip replacement in violation of Maryland Code, Commercial Law, Section 13-301.

243. As a result, Plaintiff PLAINTIFF FOUR purchased the DePuy ASR hip replacement system for personal use.
244. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF FOUR has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF FOUR are permanent in nature and Plaintiff PLAINTIFF FOUR will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF FOUR demands judgment against Defendant DEPUY ORTHOPAEDICS, INC. for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus reasonable attorneys' fees and costs.

COUNT THIRTY SIX  
NEGLIGENCE OF CHESAPEAKE SURGICAL, LTD BY PLAINTIFF PLAINTIFF  
FOUR

245. Plaintiff PLAINTIFF FOUR re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
246. Defendant CHESAPEAKE, as the distributor and seller of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF FOUR to provide accurate information to the orthopedic surgeon of Plaintiff.
247. Defendant CHESAPEAKE, as the distributor and seller of the DePuy ASR Hip, owed a duty to Plaintiff PLAINTIFF FOUR to inform in a timely manner

the orthopedic surgeon of Plaintiff PLAINTIFF FOUR of the significant problems being experienced with the product.

248. Defendant CHESAPEAKE, in breach of the duties described above, negligently and carelessly distributed and sold the DePuy ASR Hip implanted in Plaintiff PLAINTIFF FOUR.
249. As a direct and proximate result of the conduct of Defendant CHESAPEAKE, the DePuy ASR Hip was unfit for its intended use and Plaintiff PLAINTIFF FOUR needlessly suffered pain and weakness.
250. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF FOUR has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF FOUR are permanent in nature and Plaintiff PLAINTIFF FOUR will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF FOUR demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT THIRTY SEVEN  
STRICT LIABILITY OF CHESAPEAKE SURGICAL, LTD BY PLAINTIFF  
PLAINTIFF FOUR

251. Plaintiff PLAINTIFF FOUR re-alleges and incorporates by reference all paragraphs above as if fully stated herein.

252. At the time that Defendant CHESAPEAKE sold the DePuy ASR Hip, it contained a defect that made it unreasonably dangerous and unfit for its intended use.
253. The product reached Plaintiff PLAINTIFF FOUR without substantial change in the condition in which it was sold.
254. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF FOUR has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF FOUR are permanent in nature and Plaintiff PLAINTIFF FOUR will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF FOUR demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT THIRTY EIGHT  
BREACH OF IMPLIED WARRANTY OF CHESAPEAKE SURGICAL, LTD BY  
PLAINTIFF PLAINTIFF FOUR

255. Plaintiff PLAINTIFF FOUR re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
256. Defendant CHESAPEAKE distributed and sold the DePuy ASR® Acetabular Hip at issue in this case.
257. Defendant CHESAPEAKE impliedly warranted that the product was reasonably fit for its intended use as a hip joint replacement system.



258. Plaintiff PLAINTIFF FOUR was a foreseeable user of the product.
259. Plaintiff PLAINTIFF FOUR purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
260. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF FOUR.
261. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF FOUR has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF FOUR are permanent in nature and Plaintiff PLAINTIFF FOUR will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF FOUR demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT THIRTY NINE  
BREACH OF EXPRESS WARRANTY OF CHESAPEAKE SURGICAL, LTD BY  
PLAINTIFF PLAINTIFF FOUR

262. Plaintiff PLAINTIFF FOUR re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
263. Defendant CHESAPEAKE distributed and sold the DePuy ASR Hip at issue in this case.

264. Defendant CHESAPEAKE expressly warranted by affirmation, promise, description, and sample that the product was reasonably fit for extended, safe use as a hip joint replacement system.
265. The above representations made by Defendant CHESAPEAKE were meant to directly or indirectly induce persons such as Plaintiff PLAINTIFF FOUR and the orthopedic surgeon of Plaintiff PLAINTIFF FOUR to purchase the DePuy ASR Hip.
266. Plaintiff PLAINTIFF FOUR was a foreseeable user of the product.
267. Plaintiff PLAINTIFF FOUR purchased the product from Defendant CHESAPEAKE as distributor for Defendant DEPUY.
268. The product failed while being used for its intended purpose, causing injury to Plaintiff PLAINTIFF FOUR.
269. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF FOUR has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF FOUR are permanent in nature and Plaintiff PLAINTIFF FOUR will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF FOUR demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus costs.

COUNT FORTY  
VIOLATION OF MARYLAND CONSUMER PROTECTION ACT BY  
CHESAPEAKE SURGICAL, LTD AS TO PLAINTIFF PLAINTIFF FOUR

270. Plaintiff PLAINTIFF FOUR re-alleges and incorporates by reference all paragraphs above as if fully stated herein.
271. Defendant CHESAPEAKE used deception, misrepresentation, and omission to induce Plaintiffs' orthopedic surgeon, acting in his capacity as Plaintiff's agent to purchase the DePuy ASR hip replacement in violation of Maryland Code, Commercial Law, Section 13-301.
272. As a result, Plaintiff PLAINTIFF FOUR purchased the DePuy ASR hip replacement system for personal use.
273. As a direct and proximate cause of this breach, Plaintiff PLAINTIFF FOUR has suffered severe physical distress and injury; emotional distress and injury; incurred medical and other expenses; suffered shame, humiliation and the inability to lead a normal life; and has suffered loss of enjoyment of life. The injuries and losses of Plaintiff PLAINTIFF FOUR are permanent in nature and Plaintiff PLAINTIFF FOUR will continue to suffer such losses in the future.

WHEREFORE, Plaintiff PLAINTIFF FOUR demands judgment against Defendant CHESAPEAKE SURGICAL, LTD for compensatory damages in the amount of Five Million Dollars (\$5,000,000), plus reasonable attorneys' fees and costs.

DEMAND FOR JURY TRIAL

274. Plaintiffs demand a jury trial on all triable issues.

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