IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, LAW DIVISION

FRANCINE SNEAD, an Individual Plaintiff, v. SMITH & NEPHEW, INC., Defendant. and PROVENA SAINT JOSEPH MEDICAL CENTER; MUKUND KOMADURI, M.D.; and MK ORTHOPAEDICS, SURGERY & REHABILITATION, S.C. Respondents in Discovery	)	Case No. **JURY DEMANDED**

COMPLAINT

Plaintiff, Francine Snead ("Snead"), by and through her undersigned counsel and for her Complaint against Defendant, Smith & Nephew, Inc. ("Smith & Nephew"), states as follows:

THE PARTIES

1. Snead is a resident of Riverdale in Cook County, Illinois.

2. Defendant Smith & Nephew is a foreign corporation authorized to conduct business in the State of Illinois with a principal place of business in Memphis, Tennessee.

3. Smith & Nephew may be served with service of process on its registered agent, CT Corporation System, at 208 S. LaSalle St, Suite 814, in Cook County, Chicago, Illinois 60604.

4. Smith & Nephew is subject to this Court's jurisdiction because, at all times relevant hereto, Smith & Nephew regularly and continuously did business in the State of Illinois

by manufacturing, selling and distributing reconstructive orthopedic implants, including, but not limited to, knee replacements, and orthopedic surgical products used by orthopedic surgeons in the State of Illinois.

5. Respondent in Discovery, Dr. Mukund Komaduri is a physician practicing medicine in the State of Illinois that Snead believes is in the possession of information pertaining to the allegations of this Complaint.

6. Respondent in Discovery, MK Orthopaedics, Surgery & Rehabilitation is a business operating in the State of Illinois that Snead believes is in the possession of information pertaining to the allegations of this Complaint.

7. Respondent in Discovery, Provena Saint Joseph Medical Center is a business operating in the State of Illinois that Snead believes is in the possession of information pertaining to the allegations of this Complaint.

Facts Common to All Counts

8. Smith & Nephew designed, manufactured, distributed and placed into the stream of commerce the Smith & Nephew Genesis II total knee system and its components (sometimes referred to herein as the "Genesis II").

9. The Genesis II was brought to market using the 510(k) exemption and not through the Pre-Market Approval (PMA) process.

10. Since the Genesis II was brought to market using through the 510(k) process, it bypassed the Food and Drug Administration's ("FDA") rigorous premarket approval process.

11. On November 11, 2011, Snead underwent a total right knee replacement. The surgery was performed by Dr. Mukund Komaduri at Provena Saint Joseph Medical Center in Joliet, Illinois.

12. Snead received a Smith & Nephew Genesis normal II total knee system, size #6 femoral component, size #5 tibial component, and 13 mm posterior stabilized (referred to herein as the "Smith & Nephew Device" or the "device").

13. After the knee replacement procedure, Snead experienced, and has continued to experience, severe pain and discomfort.

14. Snead's medical professionals have reported that the Smith & Nephew Device that was implanted during her knee replacement procedure has failed.

15. Specifically, on or around July 21, 2014, Snead underwent a scan that revealed findings consistent with prosthesis failure and a revision procedure was recommended.

16. Medical professionals have further recommended that Snead undergo treatment procedures to address Snead's injuries that have resulted from the failure of the Smith & Nephew Device.

17. As a result of the defective Smith and Nephew device, in addition to other damages, Snead incurred medical expenses, experienced severe pain and suffering, and has been forced to undergo a lengthy and protracted rehabilitation process.

18. Additionally, as a result of defective Smith & Nephew Device, has been prevented from performing her activities of daily living.

COUNT I – STRICT LIABILITY

19. Snead incorporates by reference herein paragraphs 1 through 18 of this Complaint.

20. At the time of the distribution and sale of the aforementioned Smith & Nephew Device, Smith & Nephew had a duty of care and may be held strictly liable for violation thereof.

21. At the time of the distribution and sale of the aforementioned Smith & Nephew Device, the aforementioned implant design and materials were defective, not merchantable, not reasonably suited for its intended use, and unreasonably dangerous when put to a reasonably anticipated use.

22. Smith & Nephew, as the manufacturers and the distributor of the device, knew or should have known that unless the device was carefully and properly designed, manufactured and fabricated, that it would constitute an unreasonable risk of substantial bodily harm to those who used it for the purposes for which it was made and intended.

23. At the time in question, the device was being properly used for the purpose for which it was intended and such device was in fact defective, unsafe, and unreasonably dangerous.

24. Smith & Nephew sold, supplied, and distributed the device when they were engaged in the business of selling, distributing, and supplying such devices.

25. At the time of the selling, distribution, and supplying of the device, it was unsafe and defective. As designed, manufactured and fabricated, the device was unreasonably dangerous to anyone who might use it for the purposes for which it was intended and was, in fact, defective, unfit, dangerous, unsafe, unsuitable, and dangerous to be placed in Snead's body.

26. As a direct and proximate result of the aforementioned, Snead suffered personal injuries, experienced great pain, suffering and loss of normal life, incurred medical expenses and requires an additional knee revision surgery and other medical treatment.

27. At the time Smith & Nephew sold the device and its component parts, Smith & Nephew knew of the defective condition. By allowing these actions, Smith & Nephew showed a complete indifference or conscious disregard for the safety of others.

WHEREFORE, Plaintiff demands judgment against the Defendant in an amount in excess of Fifty Thousand Dollars ($50,000.00).

COUNT II – NEGLIGENCE

28. Snead incorporates by reference herein paragraphs 1 through 27 of this Complaint.

29. Smith & Nephew in designing, manufacturing, fabricating and selling the device and components was negligent in the following respects:

a. Selling the device that was subject to loosening and/or wear;

b. Designing a device that relied on component parts that were manufactured and fabricated in such a way that made them prone to loosening and/or wear;

c. Failing to recall all said components once Smith & Nephew learned that the components would prematurely loosen and wear, requiring a revision surgery;

d. Failing to design, manufacture and package the knee replacement and components in a safe and reasonable manner; and

e. Was otherwise careless and negligence.

30. Snead suffered injuries as a result of the negligent design and manufacture of the Smith & Nephew Device.

31. As a proximate result of the negligence as set forth above, Snead suffered personal injuries, experienced great pain and suffering, incurred medical expenses and will require future medical expenses including those associated with an additional knee surgery.

32. Smith & Nephew conducted an improper act by concealing from Snead their knowledge of the negligent design and manufacture of the aforementioned Smith & Nephew Device.

33. Smith & Nephew exhibited a complete indifference to or conscious disregard for the safety of others, including Snead, by its negligent acts stated above.

WHEREFORE, Snead demands judgment against Smith & Nephew in an amount in excess of Fifty Thousand Dollars ($50,000.00).

COUNT III – BREACH OF WARRANTIES

34. Snead incorporates by reference herein paragraphs 1 through 34 of this Complaint.

35. In connection with the sale of its products, Smith & Nephew warranted that its device was without defect, was of good and merchantable quality and was safe and fit for its intended use.

36. Snead relied on said warranty in authorizing Dr. Komaduri to implant the Smith & Nephew Device.

37. Smith & Nephew's device was defective, was not of good and merchantable quality and was not safe and fit for its intended use in that the device was prone to loosening and wear, which requires a revision surgery.

38. The defects existed at the time of distribution and sale of the Smith and Nephew Device.

39. Smith and Nephew breached its warranties by distributing and selling the Smith and Nephew Device in a defective condition.

40. As a direct and proximate result of Smith & Nephew's breach of warranties, Snead is required to undergo the necessary revision surgery, will require a lengthy and protracted rehabilitation preventing her from performing her activities of daily living and has suffered other damages.

41. Snead has also experienced great pain, suffering, loss of normal life, incurred medical and other expenses and will incur additional medical and other expenses.

WHEREFORE, Snead demands judgment against Smith & Nephew in an amount in excess of Fifty Thousand Dollars ($50,000.00).

Dated: April 13, 2015

Respectfully submitted,

By: _____
Attorney for Plaintiff

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