

Death Caused by Carbon Monoxide in Apartment Results in \$5 Million Jury Verdict 1

Accolades: Lawdragon Recognizes Seven Cunningham Bounds Attorneys in 2022 2

Exactech Knee & Ankle Inserts Recalled 3

Death Caused by Carbon Monoxide in Apartment Results in \$5 Million Jury Verdict

Recently, Cunningham Bounds obtained a \$5 million jury verdict in Baldwin County, Alabama for a woman's death due to carbon monoxide poisoning. The incident occurred at The Palladian at Fairhope and the verdict holds Gateway Management Company, based in Birmingham, Alabama, responsible.

Our client's rented apartment at The Palladian included an attached and enclosed one-car garage. After running an errand on March 25, 2019, our client returned home to her apartment, parked her car in the garage, and went inside. A little while later, an alarm within the home activated. Based on the terms of her rental agreement, our client called management for someone to check the alarms. Maintenance came to her apartment and determined a smoke/carbon monoxide combination detector was the source of the alarm. All the detectors were then removed from the apartment and maintenance left the premises. Our client, having been told the detectors were malfunctioning and needed to be replaced, believed the problem had been corrected.

Several hours later, neighbors out for a walk noticed something was amiss with our client's garage door. They then went into the apartment to check on her and discovered her unresponsive.

Our investigation revealed that our client's car had keyless ignition and was running in her enclosed garage, producing the carbon monoxide that killed her. The removal of the carbon monoxide alarms, along with the negligent and wanton response of the maintenance/management company in removing the carbon monoxide detectors, led to her death. Gateway Management had no policies, procedures, training or education for property managers and maintenance professionals related to response, investigation or operation of carbon monoxide/smoke detectors in resident/tenant apartments. In fact, neither management nor maintenance knew our client's apartment contained carbon monoxide detectors and neither knew the detectors would alarm for invisible, odorless, carbon monoxide in the environment.



"This was a very tragic incident that should have never happened. If Gateway Management had simply trained its employees properly and met safety compliance codes within its facilities, our client would be alive today," said Toby Brown of Cunningham Bounds, who represented the family. Mr. Brown tried the case with law partners David Cain and David Wirtes. "We are thankful for the jury's verdict against Gateway and hope this will change the way Gateway manages properties in the future."

There was no evidence at trial to show Gateway has done anything since our client's death to ensure this does not happen again. In fact, it was confirmed during trial that our client's apartment building – today, three years later – still does not meet safety code compliance.

Accolades

Lawdragon Recognizes Seven Cunningham Bounds Attorneys in 2022

Seven partners of Cunningham Bounds have been named to the 2022 Lawdragon 500 Leading Plaintiff Consumer Lawyers list. Attorneys are selected through nominations, research and review by a board of their peers. The seven chosen are: **Buddy Brown, Greg Breedlove, Toby Brown, David Cain, Skip Finkbohner, Lucy Tufts** and **Dave Wirtes**.

According to Lawdragon, the 500 lawyers chosen "are the warriors who fight the good fight for consumers who have been injured or had family killed through accidents, medical malpractice, faulty products or toxic exposure." In addition, "these lawyers stand up against the worst, seeking justice and providing hope."



Cunningham Bounds Receives Chambers USA Highest Ranking

Our firm was honored to be one of only two law firms in Alabama ranked "Band 1" – the highest ranking possible – in the practice area of "Litigation: Mainly Plaintiffs" in the 2022 Chambers USA guide of leading law firms. These legal rankings are based on in-depth market analysis and independent research, assessing technical legal ability, client service, professional conduct, expertise and experience in practice area, and reputation in the market.

This year's guide stated that Cunningham Bounds is known as an "expert group of plaintiff attorneys with a long history of major trial victories in the areas of medical malpractice, wrongful death, personal injury and product liability." It also stated the firm was "known for its frequent handling of nationwide class actions and mass torts against significant national and international corporations."

In addition to the firm ranking, six attorneys were also recognized in the 2022 Chambers guide. These Individual lawyers were ranked based on their legal knowledge and experience, ability, effectiveness and client service: **Robert Cunningham, Buddy Brown, Greg Breedlove, David Cain, Skip Finkbohner** and **Lucy Tufts**.



LEGALUPDATE CUNNINGHAM BOUNDS LLC

PARTNERS

GREGORY B. BREEDLOVE*

DAVID G. WIRTES, JR. **

TOBY D. BROWN*

GEORGE W. FINKBOHNER, III*

STEVEN L. NICHOLAS

DAVID S. CAIN, JR.*

WILLIAM E. BONNER

ROBERT L. MITCHELL*

J. BRIAN DUNCAN, JR.

LUCY E. TUFTS*

AARON N. MAPLES

OF COUNSEL

JOHN T. CROWDER, JR.

ROBERT T. CUNNINGHAM

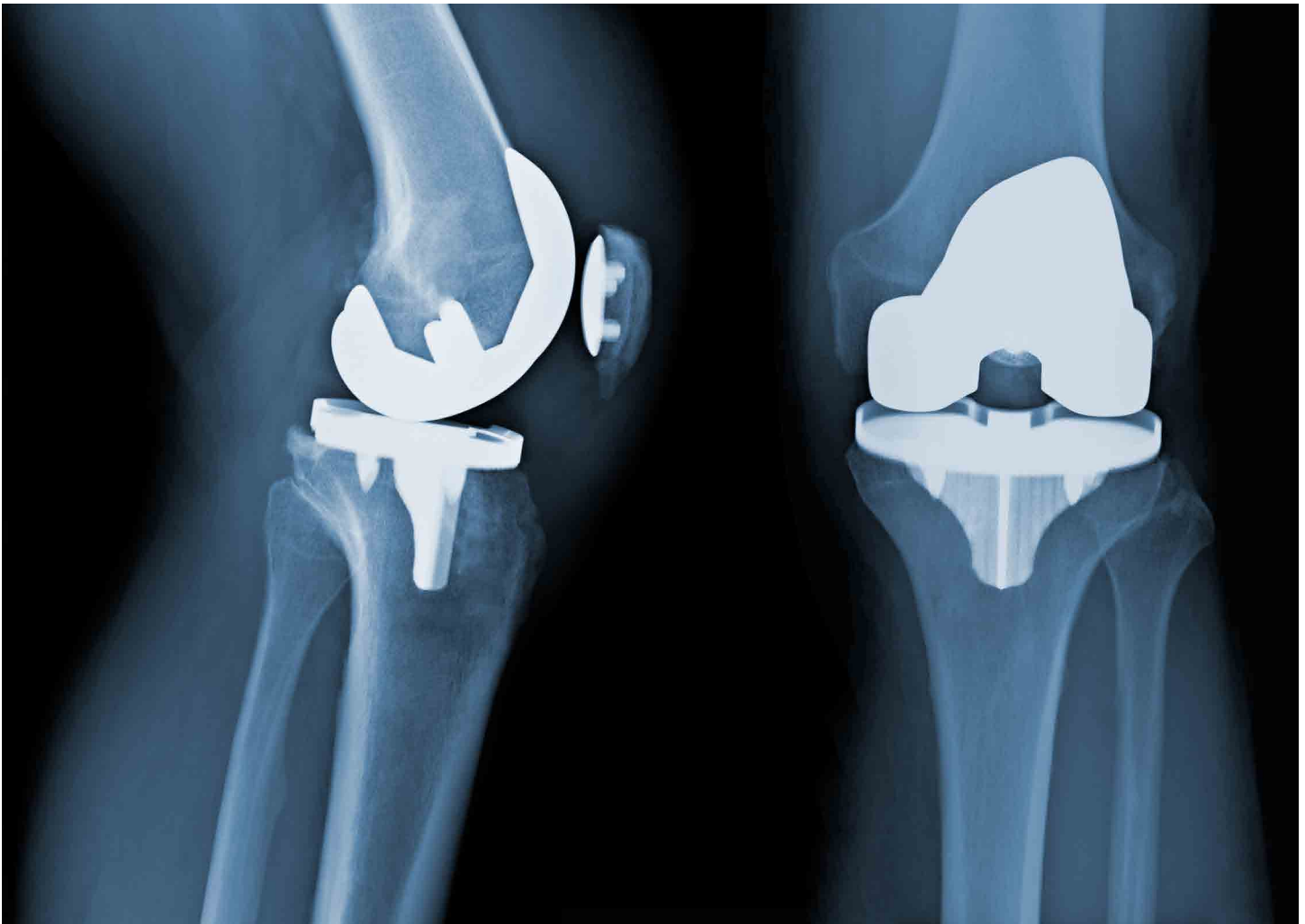
JOSEPH M. BROWN, JR.*

STEPHEN C. OLEN

*CERTIFIED AS A CIVIL TRIAL SPECIALIST
BY THE NATIONAL BOARD
OF TRIAL ADVOCACY

**CERTIFIED AS AN APPELLATE SPECIALIST
BY THE AMERICAN INSTITUTE
OF APPELLATE PRACTICE

Exactech Knee & Ankle Inserts Recalled



Exactech has announced that most of the knee and ankle arthroplasty polyethylene inserts it has manufactured since 2004 were packaged in “non-conforming” vacuum bags. During the time they are stored in the bag, the inserts are exposed to oxygen (called “oxidation”), which can cause them to wear out faster or become damaged after they are implanted. The damage to the inserts causes them to loosen, crack, or fracture and results in bone loss, pain, and swelling that can lead to a revision surgery.

Nearly 150,000 defective Exactech knee and ankle inserts have been implanted in

the United States since 2004. Optetrak, Truliant, and Vantage systems are all affected. The details on these can be found on our website: cunninghambounds.com.

Patients With Recalled Exactech Knee and Ankle Inserts May Experience:

- New or worsening pain
- Grinding or other noise
- Instability of knee or ankle
- Inability to bear weight
- Swelling
- Previous or planned revision surgery

What Should I Do?

If you or a loved one had an Exactech knee or ankle replacement and you experience any of the symptoms above, contact us at [251.471.6191](tel:251.471.6191) to determine if you have a case.



1601 DAUPHIN STREET | MOBILE, ALABAMA 36604
 T (251) 471 6191 | TF (800) 472 6191 | F (251) 479 1031
 MAILING ADDRESS POST OFFICE BOX 66705 | MOBILE, ALABAMA 36660
 CUNNINGHAMBOUNDS.COM

The following language is required by Alabama Rules of Professional Conduct:
 "No representation is made that the quality of the legal services to be performed is greater
 than the quality of legal services performed by other lawyers."

In Our **Community**

With Cunningham Bounds serving as the Presenting Sponsor, the 2022 Downtown Cajun Cook-Off raised almost \$70,000 for the Child Advocacy Center of Mobile. All proceeds from the event will be used by the Center to help fund services for abused children in our community.

Thank you to all who made this event a success by serving on the planning committee, by having a team compete, by purchasing tickets and by attending the event. The competition among the teams was fierce, but friendly. The Cunningham Bounds team was honored to receive the "Spirit Award" in honor and memory of Jay Barnes.

For more information about the Child Advocacy Center and the work it does to help children in our community, visit:
www.cacmobile.org

