

Hastings (Appellant) v Finsbury Orthopaedics Ltd and another (Respondents) (Scotland)

Case ID: 2021/0088

Case summary

Issue

Did the lower courts in law by not holding that the hip replacement product used for the Appellant's hip replacement was defective within the terms of the Consumer Protection Act 1987?

Facts

The Appellant underwent a metal-on-metal total hip replacement ("MoM THR") in 2009. The prosthetic hip used was manufactured by the Respondents (each making separate parts). In 2012, the Appellant underwent revision of the left side of his hip implant.

The Appellant claims that the replacement hip used was defective and seeks damages based on section 2 of the Consumer Protection Act 1987. The issues in the present case were limited at first instance to the question of whether certain propensities and risks inherent in MoM THR prosthetic hips rendered the particular combination of components used in the Appellant's operations defective within the meaning of section 3 of the 1987 Act.

The Outer House refused the Appellant's motion, determining that the particular product was not defective within the terms of the 1987 Act. The Inner House refused the Appellant's reclaiming motion.

Judgment appealed

[\[2021\] CSIH 6](#)

Parties

Appellant(s)

John Hastings

Respondent(s)

1) Finsbury Orthopaedics Ltd, 2) Stryker UK Ltd

Appeal

Justices

Lord Reed, Lord Kitchin, Lord Stephens, Lady Rose, Lord Lloyd-Jones

Hearing start date

28 April 2022

Hearing finish date

28 April 2022

Watch hearing

28 Apr 2022 [Morning session](#) [Afternoon session](#)