

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

JUDITH WOODBURY)	CASE NO:
2215 73 rd St East)	
Palmetto, FL 34221)	JUDGE:
)	
Plaintiff)	
)	
v.)	
)	COMPLAINT AND DEMAND FOR
)	JURY TRIAL
C. R. BARD, INC.)	Type: Products Liability
730 Central Avenue)	
Murray Hill, NJ 07974)	
)	
Defendant)	

Now comes Plaintiff Judith Woodbury, by and through counsel, and for her Complaint against Defendant C.R. Bard, Inc., states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is a resident of Manatee County and a citizen of Florida.
2. Defendant C. R. Bard, Inc. (“Defendant”) is a New Jersey corporation with its principal place of business in New Jersey. All acts and omissions of Defendant as described herein were done by its agents, servants, employees and/or owners, acting in the course and scope of their respective agencies, services, employments and/or ownership.
3. Upon information and belief, Defendant has significant contacts with Florida and this county in particular by the sale of its surgical Products to medical providers and hospitals in Mantaee County, such that it is subject to personal jurisdiction within this jurisdiction.

4. The subject matter jurisdiction of this Court is based upon diversity of citizenship pursuant to 28 U.S.C.S. § 1332 (1998), and the matter has a value in excess of \$500,000.

5. A substantial part of the events and omissions giving rise to Plaintiff's causes of action occurred in Manatee County, Florida, and Defendant's principal place of business is in New Jersey.

6. Venue is proper in the Middle District of Florida as the Plaintiff is a resident of Palmetto, Florida, the matters herein occurred in Palmetto, Florida, and Defendant has its principle place of business in New Jersey.

FACTUAL BACKGROUND

7. On December 9, 1998, at Manatee Memorial Hospital in Bradenton, Florida, Plaintiff Judith Woodbury was surgically implanted with a Bard Composix Mesh for repair of a hernia, by Dr. A. Samir Hassan. Within a few weeks of the insertion of the Bard Composix Mesh, the first symptoms and manifestations of Plaintiff's injury, occurred.

8. As a direct result of the Bard Composix Mesh, Plaintiff underwent intractable and continuing pain.

9. On October 29, 2014, Plaintiff Judith Woodbury was admitted to the hospital with a large intraabdominal abscess caused by the Bard Composix Mesh, which had perforated her small intestine. Surgery was performed to remove the mesh and a large section of small intestine was resected.

10. The Products were implanted in Plaintiff Judith Woodbury to treat her hernia condition, the use for which the Products were designed, marketed and sold.

11. As a result of having the Products implanted in her, Plaintiff Judith Woodbury has experienced significant physical pain and suffering, has sustained permanent injury, and permanent and substantial physical deformity and scarring, has undergone multiple corrective surgeries and is expected to undergo additional corrective surgeries, has incurred significant medical expenses, has experienced lost income, has suffered a significant loss of enjoyment of life, as well as, annoyance and inconvenience and great embarrassment.

12. Defendant designed, manufactured, marketed, packaged, labeled, and sold the Products that were implanted in Plaintiff Judith Woodbury.

CAUSES OF ACTION

COUNT I: NEGLIGENCE

13. Plaintiff incorporates by reference paragraphs 1-8 of the Complaint as if fully set forth herein.

14. Defendant had a duty to individuals, including Plaintiff Judith Woodbury, to use reasonable care in designing, manufacturing, marketing, labeling, packaging and selling the Products.

15. Defendant was negligent in failing to use reasonable care in designing, manufacturing, marketing, labeling, packaging and selling the Products.

16. As a direct and proximate result of Defendant's negligence, the Plaintiff Judith Woodbury suffered permanent injuries, and was caused and/or in the future will be caused to suffer severe personal injuries, pain and suffering, severe loss of enjoyment of life, financial or economic loss, including but not limited to obligations for medical services and expenses, present and future lost wages, and other damages.

COUNT II: STRICT LIABILITY – DESIGN DEFECT

17. Plaintiff incorporates by reference paragraphs 1-8 of the Complaint as if fully set forth herein.

18. The Products implanted in Plaintiff Judith Woodbury were not reasonably safe for their intended use and were defective as a matter of law with respect to their design.

19. As a direct and proximate result of the Products' aforementioned defects, Plaintiff Judith Woodbury suffered permanent injuries, and was caused and/or in the future will be caused to suffer severe personal injuries, pain and suffering, severe loss of enjoyment of life, financial or economic loss, including but not limited to obligations for medical services and expenses, present and future lost wages, and other damages.

20. Defendant is strictly liable to Plaintiff Judith Woodbury for designing, manufacturing, marketing, labeling, packaging and selling these defective Products.

COUNT III: STRICT LIABILITY - MANUFACTURING DEFECT

21. Plaintiff incorporates by reference paragraphs 1-8 of the Complaint as if fully set forth herein.

22. The Products implanted in Plaintiff Judith Woodbury were not reasonably safe for their intended use and were defective as a matter of law with respect to their manufacture.

23. As a direct and proximate result of the Products' aforementioned defects, Plaintiff Judith Woodbury suffered permanent injuries, and was caused and/or in the future will be caused to suffer severe personal injuries, pain and suffering, severe loss of enjoyment of life, financial or economic loss, including but not limited to obligations for medical services and expenses, present and future lost wages, and other damages.

24. Defendant is strictly liable to Plaintiff Judith Woodbury for designing, manufacturing, marketing, labeling, packaging and selling these defective Products.

COUNT IV: STRICT LIABILITY – FAILURE TO WARN

25. Plaintiff incorporates by reference paragraphs 1-8 of the Complaint as if fully set forth herein.

26. The Products implanted in Plaintiff Judith Woodbury were not reasonably safe for their intended use and were defective as a matter of law due to their lack of appropriate and necessary warnings.

27. As a direct and proximate result of the Products' aforementioned defects, Plaintiff Judith Woodbury suffered permanent injuries, and was caused and/or in the future will be caused to suffer severe personal injuries, pain and suffering, severe loss of enjoyment of life, financial or economic loss, including but not limited to obligations for medical services and expenses, present and future lost wages, and other damages.

28. Defendant is strictly liable to Plaintiff Judith Woodbury for designing, manufacturing, marketing, labeling, packaging and selling these defective Products.

COUNT V: BREACH OF EXPRESS WARRANTY

29. Plaintiff incorporates by reference paragraphs 1-8 of this Complaint as if fully set forth herein.

30. Defendant made assurances to the general public, hospitals and health care professionals that the Products were safe and reasonably fit for their intended use and purpose.

31. Plaintiff Judith Woodbury and/or her health care provider chose the Products based upon Defendant's warranties and representations regarding the safety and fitness of the Products.

32. Plaintiff Judith Woodbury, individually and/or by and through her physician's representations, reasonably relied upon Defendant's express warranties and guarantees that the Products were safe, merchantable, and reasonably fit for its intended purpose.

33. Defendant breached these express warranties because the Bard Products implanted in Plaintiff Judith Woodbury were unreasonably dangerous and defective and not fit for their intended use and purpose as Defendant had represented.

34. Defendant's breach of its express warranties resulted in the implantation of unreasonably dangerous and defective Products in Plaintiff Judith Woodbury's body, placing said Plaintiff's health and safety in jeopardy.

35. As a direct and proximate result of Defendant's breach of the aforementioned express warranties, Plaintiff Judith Woodbury suffered permanent injuries, and was caused and/or in the future will be caused to suffer severe personal injuries, pain and suffering, severe loss of enjoyment of life, financial or economic

loss, including but not limited to obligations for medical services and expenses, present and future lost wages, and other damages.

COUNT VI: BREACH OF IMPLIED WARRANTY

36. Plaintiff incorporates by reference paragraphs 1-8 of this Complaint as if fully set forth herein.

37. Defendant impliedly warranted that the Products were merchantable and were fit for their ordinary purpose for which they were intended.

38. When the Products were implanted in Plaintiff Judith Woodbury to treat her hernia conditions, the Products were being used for the ordinary purposes for which they were intended.

39. Plaintiff Judith Woodbury, individually and/or by and through her physician, relied upon Defendant's implied warranty of merchantability in consenting to surgery that resulted in the implantation of Defendants' Products. At no time prior to the insertion of the products was Plaintiff warned of the risks associated with the insertion of mesh products containing polypropylene.

40. Defendant breached this implied warranty of merchantability because the Products implanted in Plaintiff Judith Woodbury were neither merchantable nor suited for their intended use as warranted.

41. Defendant's breach of its implied warranty resulted in the implantation of unreasonably dangerous and defective Products in Plaintiff Judith Woodbury's body, placing said Plaintiff's health and safety in jeopardy.

42. As a direct and proximate result of Defendant's breach of the aforementioned implied warranty, Plaintiff Judith Woodbury suffered permanent injuries, and was caused and/or in the future will be caused to suffer severe personal injuries, pain and suffering, severe loss of enjoyment of life, financial or economic loss, including but not limited to obligations for medical services and expenses, present and future lost wages, and other damages.

COUNT VII: PUNITIVE DAMAGES

43. Plaintiff incorporates by reference paragraphs 1-38 of this Complaint as if fully set forth herein.

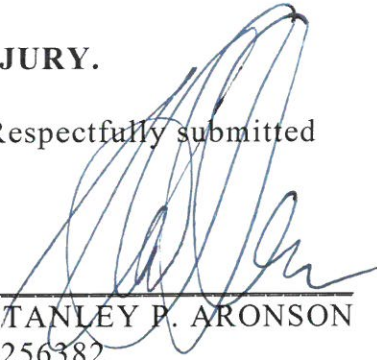
44. Defendant knew that these Products were defective and presented unreasonable risks of harm to the public, including Plaintiff Judith Woodbury, but continued to market said Products without providing adequate warnings of their risks.

45. Defendant's conduct as described in this Complaint, for which Plaintiff Judith Woodbury is entitled to recover all compensatory damages as allowed by law, manifested a conscious indifference to, and/or flagrant disregard of, the safety of those persons who might foreseeably have been harmed by the Products, including Plaintiff Judith Woodbury, and such behavior was intentional, willful, wanton and malicious, justifying the imposition of punitive damages.

WHEREFORE, Plaintiff Judith Woodbury demands a trial by jury, judgment against Defendant for compensatory damages in an amount greater than \$7,500,000, and punitive damages in an amount to be determined by a jury, as well as costs, attorney fees, applicable interest, and any other relief, monetary or equitable, to which she is entitled.

PLAINTIFF DEMANDS A TRIAL BY JURY.

Respectfully submitted



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JS 44 (Rev. 11/15)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Judith Woodbury

(b) County of Residence of First Listed Plaintiff Manatee
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Stanley P. Aronson, Aronson Law P.A., P.O. Box 3438, Winter Park, FL 32790, (407)473-3491

DEFENDANTS
C.R. Bard, Inc.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input checked="" type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S. Code 1332
Brief description of cause:
Diversity of Citizenship

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE 11/17/16 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____