

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
VOLUSIA COUNTY, FLORIDA

CASE NO.:

JOSEPH A. GODWIN

Plaintiffs,

v.

C. R. BARD, INC.

Defendant.

_____ /

PLAINTIFF'S ORIGINAL COMPLAINT

COMES NOW, the Plaintiff, JOSEPH A. GODWIN, by and through the undersigned attorney, Jonathan Rotstein, Esquire, and hereby sues Defendant, C.R. BARD, INC., a New Jersey Corporation and in support thereof states and alleges as follows:

FACTS

1. This is an action for money damages exceeding Fifteen Thousand Dollars (\$15,000.00).
2. That the Plaintiff, JOSEPH A. GODWIN, was at all times material hereto, a citizen and resident of the State of Florida.
3. Defendant, C.R. BARD, INC. is a Foreign corporation, authorized by the Secretary of State to conduct business in the State of Florida, in this instance in Volusia County, Florida, as the product manufactured by Defendant, on the date of the incident which is the subject matter of this complaint, was being sold and used in DeBary, Volusia County, Florida.

4. At all times material hereto, the Defendant, C.R. BARD, INC. manufactured, developed and placed in the stream of commerce a product known as Mesh for hernia repair, and on information and belief, said entity did business in the State of Florida, and developed, manufactured, distributed and sold said product in the County of Volusia, State of Florida.

5. Upon information and belief, the Plaintiff, JOSEPH A. GODWIN, herein alleges the Defendant, C.R. BARD, INC. has transacted business in the State of Florida during the relevant time periods, including, but not limited to sales, delivery, promotion and/or distribution of 20 x a5 hernia repair prosthesis.

6. This Honorable Court has jurisdiction over this lawsuit in that there is diversity between the Plaintiff and the Defendants, the injuries complained of occurred in DeBary, Volusia County, Florida, and that this action is for money damages for the Plaintiff, JOSEPH A. GODWIN, that exceed Fifteen Thousand Dollars (\$15,000.00) against Defendant, C.R. BARD, INC.

7. That on or about April 9, 2013, Plaintiff had surgery in an attempt to repair hernias using A 20 X 15 CM Bard prostheses, which was manufactured by Defendant, C.R. BARD, INC..

8. That subsequent to the surgery, Plaintiff began to feel pain, swelling, and other symptoms associated with inflection due to defective mesh.

9. That subsequent to the surgeries there has been numerous complaints and potential re-calls of the Bard hernia repair prosthesis products.

COUNT I

NEGLIGENT MANUFACTURE AGAINST C.R. BARD, INC.

10. Plaintiff adopts and re-alleges paragraphs 1 through 9.

11. Defendant, C.R. BARD, INC. had a duty to properly manufacture the 20 x 15 cm hernia repair prosthesis.

12. Defendant, C.R. BARD, INC. was negligent as follows:

a. Failure to use reasonable care which resulted in manufacture and distribution of an unsafe product.

b. Failure to use reasonable care in manufacture of its product to eliminate unreasonable risk of foreseeable injury, replacement risk of foreseeable injury, replacement and additional surgery.

c. Failure to properly manufacture the product according to its intended use.

13. As a direct and proximate result of the negligence on the part of Defendant, C.R. BARD, INC., Plaintiff, JOSEPH A. GODWIN suffered great bodily injury, resulting pain and suffering, disability, disfigurement, mental anguish and loss of capacity for enjoyment of life, aggravation of a pre-existing condition, expense of hospitalization and medical and nursing care and treatment.

14. Plaintiff's losses are either permanent or continuing and will continue in the future as when the 20 x 15 cm Bard prosthesis mesh was finally removed by surgery on August 6, 2015, the mesh had corroded into the Plaintiff's bowel which necessitated removal of the damaged bowel requiring Plaintiff to use a colostomy bag for the remainder of his life.

Wherefore, Plaintiff, JOSEPH A. GODWIN, demands judgment for damages, costs and interest as permitted by law.

COUNT TWO

STRICT LIABILITY IN THE MANUFACTURE AGAINST C.R. BARD, INC.

15. Plaintiff adopts and re-alleges paragraphs 1 through 9.

16. The 20 x 15 cm Bard hernia repair prosthesis described herein is a manufactured product.

17. Defendant, C.R. BARD, INC. was the manufacturer and distributor of the 20 x 15 cm Bard hernia repair prosthesis placed inside the Plaintiff's body.

19. The 20 x 15 cm Bard hernia repair prosthesis was defective in manufacture for its prescribed and intended use as it failed to repair the hernia and caused inflection and pain and additional surgeries to Plaintiff requiring the removal of a portion of his bowel and requiring Plaintiff to use a colostomy bag.

20. Such defect was not reasonably noticeable to the user so as to warrant avoidance of use.

21. The 20 x 15 cm Bard hernia repair prosthesis placed in Plaintiff's body was defective and unreasonably dangerous condition at the time the products caused Plaintiff to have pain, inflection and undergo additional surgeries.

22. As a direct and proximate result of the defective and unreasonably dangerous condition of the 20 x 15 cm Bard Hernia repair prosthesis did not work properly, causing injuries, pain and permanent damages to the Plaintiff as the product corroded into Plaintiff's

bowel causing removal of the damaged portion of bowel and causing Plaintiff to have to use a colostomy bag.

23. As a direct and proximate result of the defective and unreasonably dangerous condition of the 20 x 15 cm Bard hernia repair prosthesis Mesh, the Plaintiff suffered great bodily injury, resulting pain and suffering, disability, disfigurement, mental anguish and loss of capacity for enjoyment of life, aggravation of a pre-existing condition, expense of hospitalization, medical and nursing care and treatment.

Wherefore, Plaintiff, JOSEPH A. GODWIN, demands judgment against the Defendant, C.R. BARD, INC. for damages, costs and interest as permitted by law.

Dated, this 31st day of July, 2017.

Respectfully submitted by,



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Florida Bar No. 0909580
Attorney For Plaintiff

Filing #:59771025

Filer:Jonathan I. Rotstein

Payment:\$410.00

1 Filing Fee: \$400.00

2 Summons Issuance: \$10.00

3 Complaints/Petitions Complaint: \$0.00

4 Complaints/Petitions Civil Cover Sheet: \$0.00

5 Complaints/Petitions Request that Summons be Issued: \$0.00

CIVIL COVER SHEET

I. CASE STYLE

IN THE CIRCUIT COURT FOR THE COUNTY OF VOLUSIA

**Joseph Godwin
Plaintiff,**

v.

**C.R. Bard, Inc.
Defendant.**

II. TYPE OF CASE (if the case fits more than one type of case, select the most definitive category.) If the most descriptive label is a subcategory (is indented under a broader category), place an x in both the main category and subcategory boxes.

- | | |
|---|--|
| <input type="checkbox"/> Condominium | <input type="checkbox"/> Professional malpractice |
| <input type="checkbox"/> Contracts and indebtedness | <input type="checkbox"/> Malpractice-business |
| <input type="checkbox"/> Eminent domain | <input type="checkbox"/> Malpractice-medical |
| <input type="checkbox"/> Auto Negligence | <input type="checkbox"/> Malpractice-other professional |
| <input type="checkbox"/> Negligence | <input type="checkbox"/> Other |
| <input type="checkbox"/> Business governance | <input type="checkbox"/> Antitrust/Trade regulation |
| <input type="checkbox"/> Business torts | <input type="checkbox"/> Business transactions |
| <input type="checkbox"/> Environmental/Toxic | <input type="checkbox"/> Constitutional challenge-statute or ordinance |
| <input type="checkbox"/> Third party indemnification | <input type="checkbox"/> Constitutional challenge-amendment |
| <input type="checkbox"/> Construction defect | <input type="checkbox"/> Corporate trusts |
| <input type="checkbox"/> Mass tort | <input type="checkbox"/> Discrimination-employment or |
| <input type="checkbox"/> Negligent security | <input type="checkbox"/> Insurance claims |
| <input type="checkbox"/> Nursing Home negligence | <input type="checkbox"/> Intellectual property |
| <input type="checkbox"/> Premises liability-commercial | <input type="checkbox"/> Libel/Slander |
| <input type="checkbox"/> Premises liability-residential | <input type="checkbox"/> Shareholder derivative action |
| <input checked="" type="checkbox"/> Products liability | <input type="checkbox"/> Securities litigation |
| | <input type="checkbox"/> Trade secrets |
| | <input type="checkbox"/> Trust litigation |
| <input type="checkbox"/> Real Property/Mortgage foreclosure | |
| <input type="checkbox"/> Commercial foreclosure \$0 - \$50,000 | |
| <input type="checkbox"/> Commercial foreclosure \$50,001 - 249,999 | |
| <input type="checkbox"/> Commercial foreclosure \$250,000 or more | |
| <input type="checkbox"/> Homestead residential foreclosure \$0 - \$50,000 | |
| <input type="checkbox"/> Homestead residential foreclosure \$50,001 - \$249,999 | |

- Homestead residential foreclosure \$250,000 or more
- Nonhomestead residential foreclosure \$0 - \$50,000
- Nonhomestead residential foreclosure \$50,001 - \$249,999
- Nonhomestead residential foreclosure \$250,000 or more
- Other real property actions \$0 - \$50,000
- Other real property actions \$50,001 - \$249,999
- Other real property actions \$250,000 or more

III. REMEDIES SOUGHT (check all that apply):

- Monetary;
- Nonmonetary declaratory or injunctive relief
- Punitive

**IV. NUMBER OF CAUSES OF ACTION (1)
(specify)**

V. IS THIS CASE A CLASS ACTION LAWSUIT

- YES
- NO

VI. HAS NOTICE OF ANY KNOW RELATED CASE BEEN FILED?

- No
- Yes If "yes" list all related cases by name, case number, and court.

VII. IS JURY TRIAL DEMANDED IN COMPLAINT?

- YES
- NO

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief.

Jonathan I. Rotstein

0909580
Fl. Bar Number

Dated: 7-31-17