UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

MICHAEL LOUGHRIDGE	§	
	§	
Plaintiff,	§	Civil Action No. 4:18-cv-00525
	§	
vs.	§	
	§	
C.R. BARD, INC. AND DAVOL, INC.	§	
	§	
Defendants.	§	

PLAINTIFF'S COMPLAINT

NATURE OF THE CASE

1. This is a products liability tort case. Plaintiff Michael Loughridge developed serious and potentially life-threatening medical conditions caused by the surgical implantation of the defective Composix Kugel Hernia Patch ("CK Patch") manufactured by Defendants C.R. Bard, Inc. (Bard) and its subsidiary Davol, Inc. (Davol). Both Defendants were responsible for the design, manufacture, production, testing, study, inspection, labeling, marketing, advertising, sales, promotion and/or distribution of the CK Patch that caused Plaintiff's medical conditions.

2. Plaintiff's lawsuit against Defendants asserts claims for negligence and gross negligence; strict product liability for failure to warn; strict product liability for design defect; strict product liability for manufacturing defect; and breach of implied warranty. Plaintiff also seeks punitive damages.

3. As a result of having Defendants' CK Patch implanted in him, Plaintiff Loughridge has experienced significant physical and mental pain and suffering, sustained permanent injury,

undergone medical treatment and corrective surgery and hospitalizations, and suffered additional economic damages.

JURISDICTION AND VENUE

4. Plaintiff is a resident of the State of Texas. Defendants C.R. Bard, Inc., and its wholly owned subsidiary Davol, Inc., are foreign corporations with their principal places of business in states other than the State of Texas.

5. The Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1332. The amount in controversy as to each Defendant exceeds the sum of $75,000, exclusive of costs and interest, and the action is between citizens of different states.

6. Venue in this District is proper under 28 U.S.C. §1391. The events and omissions giving rise to Plaintiff's causes of action occurred in substantial part in the Eastern District of Texas, where Defendants transact business.

THE PARTIES

Plaintiff

7. At all relevant times, Plaintiff Michael Loughridge was a resident and citizen of Tarrant County, Texas.

Defendants

8. Defendant C. R. Bard, Inc. is a New Jersey corporation with its principal place of business located at 730 Central Avenue, Murray Hill, New Jersey 07974. C.R. Bard's registered agent in Texas is CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201.

9. Defendant Davol, Inc. is a Delaware corporation with its principal place of business located at 100 Crossings Boulevard, Warwick, Rhode Island 02886. Davol's registered agent in

Rhode Island is CT Corporation System, 450 Veterans Memorial Parkway, Suite 7A, East Providence, Rhode Island 02914. Davol has no registered agent in Texas.

FACTUAL ALLEGATIONS

Plaintiff Michael Loughridge

13. On October 19, 2007, Dr. Robert Connaughton, M.D. implanted a Bard Composix Kugel Hernia Patch into Plaintiff Michael Loughridge to treat a ventral hernia. The surgery took place at Denton Regional Medical Center in Denton, TX.

14. On July 26, 2016, Baylor Regional Medical Center at Grapevine in Grapevine, Texas admitted Mr. Loughridge for emergency surgery to remove the Kugel Hernia Patch and repair a right inguinal hernia. This procedure occurred in Tarrant County, Texas.

15. The device was found to have failed by, *inter* alia, contracting and buckling and breaking at the PET ring.

The CK Patch and Defendants' Misconduct

16. Defendants designed, manufactured and distributed the CK Patch, that was inserted into Plaintiff's body.

17. Defendants, through their agents, servants and employees, participated in the manufacture and delivery of the CK Patch that was inserted into Plaintiff's body.

18. The Defendants submitted their 510k Application to the U.S. Food & Drug Administration ("FDA") on January 22, 2001. Following this 510k Application the CK Patch was authorized by the FDA as a Class II medical device.

19. Immediately after the CK Patches were placed on the market, Defendants began receiving actual notices of memory ring failures and CK Patch defects. Defendants actively and intentionally concealed this notice of the defective and dangerous condition associated with the

CK Patches from Plaintiff, Plaintiff's physicians, and the general public.

20. After the defective and dangerous CK Patch was already placed on the market, Defendants conducted physician screenings and reviews as early as 2002. An Establishment Inspection Report ("EIR") conducted by the FDA in 2006 found that the post market survey validation process of the device was incomplete and failed to include all the data from the physicians surveyed during this time. Whether intentionally or negligently, Defendants failed to properly conduct and monitor their own post market design validation physician surveys including those which demonstrated unfavorable or "dissatisfied" results. These complaints and concerns of the physician surveyors were actively concealed by Defendants from Plaintiff, Plaintiff's surgeons, and the public at large.

21. The CK Patch hernia repair product implanted in Plaintiff was designed, manufactured, sold and distributed by Defendants to be used by surgeons for hernia repair surgeries and was further represented by Defendants to be an appropriate, cost-effective and suitable product for such purpose.

22. No later than September 2004, Defendants uncovered serious problems with the weld process involving the memory recoil ring. Despite attempts to correct the problem at the plant, Defendants found the corrective measures to be ineffective and the process still not in control. Defendants were aware these weld issues had existed from the time the CK Patches were originally placed on the market and all current lots suffered from this dangerous defect. This information was intentionally withheld from Plaintiff, Plaintiff's physicians, the FDA, and all other individuals who had been implanted or would be implanted with CK Patches using the memory recoil ring.

23. In 2006, corporate executives informed the FDA that the spring and summer period

of 2005 showed a marketed increase in the number of complaints with the CK Patch and the memory recoil ring. In spite of their knowledge of increasing complaints and complications, Defendants waited until August 30, 2005 to initiate a partial CK Patch distribution hold. Defendants actively and intentionally chose not to immediately inform Plaintiff, Plaintiff's physicians, the FDA, and all other individuals who had been implanted or would be implanted with CK Patches using the memory recoil ring. Defendants waited until December 2005 to notify the public of the potential severity of the complications which were resulting from the dangerous and defective CK Patches and have since admitted that the product quality hold and release procedure was not applied on a timely basis.

24. An FDA Class I recall is issued for problems related to medical devices that are potentially life-threatening or could cause a serious risk to the health of the patients implanted with the devices.

25. On December 22, 2005, Defendants recalled many sizes of CK Patches under a Class I recall notice, including the size implanted into Plaintiff Armstrong.

26. The CK Patch was recalled due to a faulty "memory recoil ring" that can break under pressure. Incidents of ring migration, intestinal fistulae, bowel perforation and even death have been reported.

27. The FDA conducted the aforementioned EIR investigations in January and February of 2006. The results of these investigations determined, among other things, that Defendants:

- had excluded ring failure events which should have been included from their complication database, reports, and recall notices;
- misidentified numerous Kugel Patch complication events;
- failed to apply the product quality hold and release procedure on a

timely basis;

- failed to properly follow the procedures for conducting design validation review;

- failed to identify all the actions necessary to correct and prevent the recurrence of further ring break and CK Patch complications;

- failed to provide full information which they knew regarding numerous CK Patch complaints;

- failed to actually perform strength testing on memory recoil rings for all sizes of CK Patch before putting them into the stream of commerce;

- failed to maintain appropriate sources for quality data to identify, track, and trend existing and potential causes for the ring failures and CK Patch complaints resulting in numerous inconsistencies and errors in the raw data and from the actual complaints and what was placed in the electronic databases.

28. Plaintiff was never informed by Defendants of the defective, dangerous, and recalled nature of the CK Patch and memory recoil ring until well after discovering the FDA recall of the product.

29. Neither Plaintiff nor Plaintiff's physicians were aware of the defective and dangerous condition of the CK Patch or that this unreasonably defective condition was the cause of Plaintiff's injuries until after the product was removed.

30. Defendants withdrew a large number of CK Patches as a result of the high complication and failure rate of the product.

31. Defendants failed to comply with the FDA application and reporting requirements.

32. Defendants were aware of the high degree of complication and failure rate associated with their CK Patch before it was recalled.

33. Defendants were aware of the defect in manufacture and design prior to the recall of their CK Patch and prior to Plaintiff Loughridge's implantation surgery on October 19, 2007.

CLAIMS FOR RELIEF

1. NEGLIGENCE

34. Plaintiff realleges all previous paragraphs.

35. Defendants introduced the CK Patch in this complaint into the stream of commerce.

36. At all material times, Defendants owed a duty to Plaintiff and other consumers of the CK Patch to exercise reasonable care to properly design, manufacture, produce, test, study, inspect, label, market, advertise, sell, promote and distribute their mesh products. That includes a duty to warn of side effects as well as the risks, dangers and adverse events associated with the CK Patch. Defendants had a similar duty to warn Plaintiff's physicians.

37. Defendants knew, or in the exercise of reasonable care should have known, that the CK Patches were of such a nature that they were not properly designed, manufactured, produced, tested, studied, inspected, labeled, marketed, advertised, sold, promoted and distributed; and thus, that they were likely to cause injury to those in whom they were implanted.

38. Defendants were negligent in the design, manufacture, production, testing, study, inspection, labeling, marketing, advertising, sales, promotion and distribution of the CK Patch and breached duties they owed to Plaintiff.

39. In particular, Defendants:

a. failed to use due care in the design of the CK Patch to prevent the risks described above to those in whom it was implanted;

b. failed to conduct adequate pre-clinical testing and research to determine the safety of the CK Patch;

c. failed to conduct adequate post-marketing surveillance to determine the safety of the CK Patch;

d. failed to accompany their products with proper warnings regarding all possible adverse side effects and complications associated with

the use of the CK Patch and the comparative severity and duration of such adverse effects;

e. failed to use due care in the manufacture of the CK Patch to prevent the risks described above to individuals in whom it was implanted;

f. failed to adequately report adverse events associated with the implantation of the CK Patch;

g. failed to use due care in the inspection of the CK Patch to prevent the risks to individuals in whom it was implanted;

h. failed to use due care in the labeling of the CK Patch to prevent risks to individuals in whom it was implanted;

i. failed to use due care in the marketing of the CK Patch to prevent the risks to individuals in whom it was implanted;

j. failed to use due care in the promotion of the CK Patch to prevent the risks to individuals in whom it was implanted;

k. failed to use due care in the selling of the CK Patch to prevent the risks to individuals in whom the it was implanted;

l. failed to provide adequate information to healthcare providers regarding the risks associated with the implantation of the CK Patch;

n. failed to adequately warn about the health consequences, risks and adverse events caused by the CK Patch; and

o. were otherwise negligent.

40. Defendants knew or should have known that the CK Patch caused unreasonable harm and dangerous side effects that many users would be unable to remedy by any means. Nonetheless, Defendants continued to promote and market the CK Patch's use by consumers, including Plaintiffs.

41. It was foreseeable to Defendants that consumers, including Plaintiff Armstrong, would suffer injury as a result of Defendants' failure to exercise ordinary care.

42. As a direct and proximate result of Defendants' conduct, Plaintiff suffered the injuries and damages described in this Complaint.

2. STRICT LIABILITY: FAILURE TO WARN

43. Plaintiff realleges all previous paragraphs.

44. Defendants manufactured and/or supplied the CK Patch described above and at all material times were in the business of doing so. They placed those products into the stream of commerce. The CK Patch was expected to, and did, reach Plaintiff without substantial change in their condition.

45. When Defendants placed the CK Patch into the stream of commerce, they failed to accompany it with adequate warnings of its dangerous propensities that were either known or reasonably scientifically knowable at the time of manufacture and distribution.

46. Defendants failed to warn Plaintiffs' physicians, and by extension Plaintiff, of the true risks and dangers and of the symptoms, scope and severity of the potential complications of the CK Patch.

47. In particular, Defendants did not provide sufficient or adequate warnings regarding, among other subjects:

a. the propensity of the memory recoil rings to break under the foreseeable stresses they would be subject to within the intra-abdominal space;
b. the CK Patch's propensity to buckle inside the body;
c. the CK Patch's propensity to contract, retract, and/or shrink inside the body;
d. the CK Patch's propensity for degradation, fragmentation, disintegration and/or creep;
e. the rate and manner of mesh erosion or extrusion;

f. the risk of chronic inflammation resulting from the CK Patch;
g. the risk of chronic infections resulting from the CK Patch;
h. the risk of recurrent hernias, intractable pain, and other pain resulting from the CK Patch;
i. the need for corrective or revision surgery to adjust or remove the CK Patch;
j. the severity of complications that could arise as a result of implantation of the CK Patch;
k. the hazards associated with the CK Patch;
l. the CK Patch's defects described in this Complaint;
m. treatment of hernias with the CK Patch is no more effective than feasible available alternatives;
n. use of the CK Patch puts the patient at greater risk of requiring additional surgery than feasible available alternatives; and
o. complete removal of the CK Patch may not be possible and may not result in complete resolution of the complications, including pain.

48. Due to the inadequate warnings described above, at the time the CK Patch left the Defendants' possession, it was unreasonably dangerous and defective.

49. Had Defendants provided adequate warnings and instructions, Plaintiff Armstrong would not have had it implanted and would not have suffered the personal injuries described in this Complaint.

50. Had Plaintiff's physicians been adequately informed about the extensive dangers associated with the use of the CK Patch, he would not have implanted the device into Plaintiff.

51. As a direct and proximate result of Defendants' failure to adequately warn, Plaintiff suffered the injuries and damages described in this Complaint.

52. Defendants are strictly liable to Plaintiff for failing to adequately warn Plaintiff and his physician of the defective nature of the CK Patch.

3. STRICT LIABILITY: DESIGN DEFECT

53. Plaintiff realleges all previous paragraphs.

54. Defendants manufactured and/or supplied the CK Patch described above, and at all material times were in the business of doing so. They placed the CK Patch into the stream of commerce. The CK Patch was expected to, and did, reach Plaintiff without substantial change in its condition.

55. At the time the CK Patch left Defendants' possession, it was in a condition Plaintiff did not contemplate. Specifically, the product was defectively designed and unreasonably dangerous as applicable law defines those terms.

56. As previously stated, the CK Patch's design defects include but are not limited to:

a. the CK Patch includes a defective memory recoil ring that has a tendency to break under stress or pressure;
b. the design of the CK Patch to be inserted into and through areas of the body with high levels of bacteria that can adhere to the mesh, causing immune reactions and subsequent tissue breakdown and adverse reactions and injuries;
c. adverse reactions to the CK Patch, such as adhesions, injuries to nearby organs, nerves, or blood vessels, and complications including infection, chronic pain, and hernia recurrence;
d. the propensity of the CK Patch to degrade or fragment over time, which causes a chronic inflammatory and fibrotic reaction, and results in continuing injury over time; and
e. the use of polypropylene in the CK Patch and the immune reactions that result from such material, causing adverse reactions and injuries.

57. The CK Patch was dangerous to an extent beyond that which would be contemplated by the ordinary consumer. It was more dangerous than Plaintiff contemplated.

58. The risks associated with the use of the CK Patch outweighed its utility.

59. At the time of manufacture, the likelihood the CK Patch would cause Plaintiff harm coupled with the seriousness of those harms, outweighed Defendants' burden in designing a product that would have prevented those harms.

60. There were practicable and feasible safer alternatives Defendants could have produced and sold.

61. As a direct and proximate result of the design defects in the CK Patch, Plaintiff suffered the injuries and damages described in this complaint.

4. STRICT LIABILITY: MANUFACTURING DEFECT

62. Plaintiff realleges all previous paragraphs.

63. The CK Patch contained a manufacturing defect when it left Defendants' possession. The CK Patch differs from Defendants' intended result and/or from other ostensibly identical units of the same product line.

64. The manufacturing defects in the CK Patch were a producing cause of the injuries and damages specified in this Complaint.

5. BREACH OF IMPLIED WARRANTY

65. Plaintiff realleges all previous paragraphs.

66. At the time Defendants Bard and Davol designed, manufactured, produced, tested, studied, inspected, labeled, marketed, advertised, sold, promoted and distributed the CK Patch for use by Plaintiff Armstrong, they knew of the use for which the CK Patch was intended and impliedly warranted it to be of merchantable quality, and safe and fit for its intended use.

67. When the CK Patch was implanted in Plaintiff to treat his hernia, it was being used for the ordinary purpose for which it was intended.

68. Plaintiff, individually and/or by and through his physicians, relied upon Defendants' implied warranties of merchantability in consenting to have the CK Patch implanted in him.

69. Contrary to such implied warranty, the CK Patch was not of merchantable quality, and was not safe and/or fit for its intended use. The CK Patch was unreasonably dangerous and unfit for the ordinary purposes for which it was used. Defendants failed to warn of known or reasonably scientifically knowable defects in the CK Patch.

70. As a direct and proximate result of the conduct of Defendants Bard and Davol, Plaintiff Armstrong suffered the injuries and damages described in this Complaint.

6. GROSS NEGLIGENCE

71. Plaintiff realleges all previous paragraphs.

72. The wrongs done by Defendants were aggravated by the kind of malice, fraud, and grossly negligent disregard for the rights of others, the public, and Plaintiff for which the law would allow, and for which Plaintiff seeks the imposition of exemplary damages. Defendants' conduct, including the failure to comply with applicable federal standards, was specifically intended to cause substantial injury to Plaintiff or when viewed objectively from Defendants' standpoint at the time of the conduct, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others. Defendants were actually, subjectively aware of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others; or included a material representation that was false, with Defendants, knowing that it was false or with reckless disregard as to its truth and as a positive assertion, intended that the representation is acted on by Plaintiff and in which Plaintiff indeed relied upon and suffered injury as a proximate result.

73. Plaintiff therefore seeks to assert claims for exemplary damages.

74. Plaintiff also alleges that the acts and omissions of Defendants, whether taken singularly or in combination with others, constitute gross negligence that proximately caused the injuries to Plaintiff. In that regard, he seeks exemplary damages in an amount that would punish Defendants for their conduct and which would deter other manufacturers from engaging in such misconduct in the future.

7. PUNITIVE DAMAGES

75. Plaintiff realleges all previous paragraphs.

76. Defendants failed to adequately test and study the CK Patch to determine and ensure that the product was safe and effective before releasing it for sale for permanent human implantation; and they continued to manufacture and sell the CK Patch after obtaining knowledge and information that the product was defective and unreasonably unsafe.

77. Defendants were aware of the probable consequences of implantation of the dangerous and defective CK Patch, including the risk of failure and serious injury, such as suffered by Plaintiff Loughridge. But they willfully and recklessly failed to avoid those consequences, and in doing so, acted intentionally, maliciously and recklessly without regard to the safety of those persons who might foreseeably have been harmed by the CK Patch, including Plaintiff Michael Loughridge, justifying the imposition of punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Michael Loughridge seeks judgment against Defendants C. R. Bard, Inc. and Davol, Inc., jointly and severally, as follows:

1. economic and non-economic damages in an amount in excess of $75,000 as to each Defendant as provided by law and to be supported by the evidence at trial;

2. punitive damages;

3. an award of attorneys' fees and costs of suit, as allowed by law; and

4. such other legal and equitable relief as this Court deems just and proper.

JURY DEMAND

Plaintiff Michael Loughridge requests a trial by jury.

Date: July 24, 2018

Respectfully submitted,

/s/ *Kelsey L. Stokes*
Kelsey L. Stokes
kelsey_stokes@fleming-law.com
Texas Bar No. 24083912
George M. Fleming
george_fleming@fleming-law.com
Texas Bar No. 07123000
FLEMING, NOLEN & JEZ, L.L.P.
2800 Post Oak Blvd. Suite 4000
Houston, Texas 77056-6109
Telephone (713) 621-7944
Fax (713) 621-9638

Troy A. Brenes (California SBN: 249776)
(pro hac vice pending)
BRENES LAW GROUP, P.C.
27141 Aliso Creek Rd., Suite 270
Aliso Viejo, CA 92656
tbrenes@breneslawgroup.com
Telephone (949) 397-9360
Fax (949) 607-4192

Attorneys for Plaintiff

JS 44 (Rev. 06/17)

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

MICHAEL LOUGHRIDGE

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

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
KELSEY L. STOKES, FLEMING, NOLEN & JEZ, L.L.P., 2800 POST OAK BLVD., SUITE 4000, HOUSTON, TX 77056-6109; (713) 621-7944

DEFENDANTS

C.R. BARD, INC. and DAVOL, INC.

County of Residence of First Listed Defendant Union County, NJ
(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
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☒ 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)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

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

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☒ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

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 - Transfer ☐ 8 Multidistrict Litigation - Direct File

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.C. § 1332 - Product Liability

Brief description of cause:
Plaintiff suffered injuries as a result of implantation of Defendants' hernia mesh product.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $ 75,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 07/24/2018

SIGNATURE OF ATTORNEY OF RECORD /s/ Kelsey L. Stokes

FOR OFFICE USE ONLY

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

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.