

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MAURICE GOUDEAU AND JULIET
GOUDEAU

Plaintiffs,

v.

C. R. BARD, INC., DAVOL, INC., AND
COVIDIEN, LP

Defendants.

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Civil Case No. 4:19-cv-619

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants C.R. Bard, Inc. and Davol Inc., (collectively “Defendants”) hereby remove this action from the 234th Judicial District Court of Harris County in the State of Texas, to the United States District Court for the Southern District of Texas, Houston Division based on diversity jurisdiction under 28 U.S.C. §§ 1332. In support of removal, Defendants state as follows:

I. FACTUAL AND PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED

1. On or about January 16, 2019, Plaintiffs Maurice Goudeau and Juliet Goudeau filed an Original Petition against Defendants in the 234th Judicial District Court of Harris County in the State of Texas, entitled *Maurice Goudeau and Juliet Goudeau v. C.R. Bard, Inc., Davol Inc., and Covidien, LP*, Cause No. 2019-04003 (“Pet.,” attached as part of Exhibit A). Exhibit A is “a copy of all process, pleadings, and orders” served upon Defendants in this action, as required by 28 U.S.C. § 1446(a).

2. In the Original Petition, Plaintiffs allege that a “Bard Sepra Mesh,” manufactured, sold and/or distributed by Defendants, was implanted in Plaintiff, Maurice Goudeau, on October 20, 2008, in connection with his hernia repair. *See* Pet. at ¶¶17-18. Plaintiffs allege that Mr. Goudeau required additional medical treatment and has suffered serious and permanent injuries to his body, including physical pain, mental anguish, and permanent bodily impairment as a result of the implant. *Id.* at 10. Plaintiff Juliet Goudeau alleges she suffered loss of consortium and loss of household services due to her husband’s injuries. *Id.* at ¶¶34-36.

3. In all, Plaintiffs assert claims for negligence, strict liability, and loss of consortium against all Defendants.

4. Defendants were served with process on February 1, 2019. *See* Ex. A. Defendants are filing this Notice of Removal within thirty (30) days of service, per 28 U.S. Code § 1446(b)(1). As such, removal is timely.

5. Pursuant to 28 U.S.C. § 1446(b)(2)(A), co-defendant, Covidien LP (“Covidien”), has consented to removal of this action.

6. Promptly after the filing of this Notice, Defendants will serve written notice of this removal on Plaintiffs’ counsel and file a copy of this Notice of Removal with the 234th Judicial District Court of Harris County, as required by 28 U.S.C. § 1446(d).

7. The Southern District of Texas, Houston Division, is the federal judicial district encompassing the 234th Judicial District Court of Harris County. *See* 28 U.S.C. § 124(b)(4). Venue is therefore proper in this district and division under 28 U.S.C. § 1441(a).

II. THIS COURT HAS DIVERSITY JURISDICTION

8. This Court has diversity jurisdiction over this case because each party is, and was at the time Plaintiffs filed their Original Petition, citizens of different states, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. *See* 28 U.S.C. § 1332.

A. The Amount in Controversy Is Met.¹

9. Plaintiffs admit they seek damages “over \$200,000 but not more than [\$]1,000,000.” *See* Pet. at ¶10. Accordingly on the face of the Original Petition, the amount in controversy in this action exceeds \$75,000, exclusive of interest and costs. *See* 28 U.S.C § 1332(a); *see Horton v. Liberty Mut. Ins. Co.*, 367 U.S. 348, 354 (1961) (“The general federal rule has long been to decide what the amount in controversy is from the complaint itself, unless it appears or is in some way shown that the amount stated in the complaint is not claimed ‘in good faith.’”) (citing *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288-89 (1938) (“The rule governing dismissal for want of jurisdiction in cases brought in the federal court is that, unless the law gives a different rule, the sum claimed by the plaintiff controls if the claim is apparently made in good faith.”)); *Nat’l Union Fire Ins. Co. of Pittsburgh, Pa. v. Russell*, 972 F.2d 628, 630 (5th Cir. 1992); *Kennard v. Indianapolis Life Ins. Co.*, 420 F. Supp. 2d 601, 607 (N.D. Tex. 2006) (“In general, the court will look to the plaintiff’s complaint regarding the pleaded amount in controversy . . .”).

10. While Plaintiffs’ allegations that the amount in controversy exceeds \$75,000 is enough to establish the jurisdictional minimum, a review of the Original Petition proves, by a preponderance of the evidence, that the “matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.” 28 U.S.C. § 1332(a). *See also In re Silica Prods. Liab. Litig.*, 398 F. Supp. 2d 563, 646 (S.D. Tex. 2005) (holding that the amount-in-controversy to be satisfied where Plaintiff alleged economic loss, medical and health expenses, and claimed serious medical conditions); *Williams v. Best Buy Co., Inc.*, 269 F.3d 1316, 1319 (11th Cir.

¹ The defendant need make only a short and plain statement regarding the amount-in-controversy in a notice of removal. *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 US ____, ____, 135 S.Ct. 547, 553, 190 L.Ed.2d 495, 502 (2014) (citing 28 U.S.C. § 1446(a).).

2001) (it is “facially apparent from the complaint that the amount in controversy exceeds the jurisdictional requirement.”); *Great Tenn. Pizza Co. v. BellSouth Telecomm., Inc.*, No. 3:10-cv-151, 2011 WL 1636234, at *1 & n.3 (E.D. Tenn. Apr. 29, 2011); *see also Oshana v. Coca-Cola Co.*, 472 F.3d 506, 511 (7th Cir. 2006) (“a good-faith estimate of the stakes is acceptable if it is plausible and supported by a preponderance of the evidence”); *Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1995) (“a court can determine that removal was proper if it is facially apparent that the claims are likely above \$50,000”); *Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005); *Angus v. Shiley, Inc.*, 989 F.2d 142, 146 (3d Cir. 1993) (medical device product liability complaint alleging similar injuries and seeking similar compensation satisfies amount- in-controversy for federal diversity jurisdiction).

11. Plaintiff alleges he “suffered serious and permanent injuries to his body, including physical pain, mental anguish, and permanent body impairment.” Pet. at ¶37. Plaintiff further alleges he will “suffer long into the future if not for the balance of his natural life” because of injuries sustained as a result of Defendants’ product. *Id.* Plaintiff seeks past and future physical pain and mental anguish damages, as well as future and past medical expenses, damages for loss of earning capacity, and damages for physical impairment. *Id.* at ¶38.

12. The Fifth Circuit has held that the amount in controversy exceeded \$75,000 based on allegations of damages similar to the ones made by Plaintiffs in this case. *See, e.g., Gebbia v. Wal-Mart Stores, Inc.*, 233 F.3d 880, 883 (5th Cir. 2000) (injuries to right wrist, left knee and patella, upper and lower back coupled with “alleged damages for medical expenses, physical pain and suffering, mental anguish and suffering, loss of enjoyment of life, loss of wages and earning capacity, and permanent disability and disfigurement” supported finding that “claimed damages exceeded \$75,000”); *Lockett v. Delta Airlines, Inc.*, 171 F.3d 295, 298 (5th Cir. 1999) (“alleged

damages for property, travel expenses, an emergency ambulance trip, a six day stay in the hospital, pain and suffering, humiliation, and her temporary inability to do housework after the hospitalization” was sufficient to meet \$75,000 amount-in-controversy requirement). Here, Plaintiff alleges injuries much greater than those in *Luckett*, including permanent physical disability, future medical expenses, physical pain, mental anguish, and lost income.

13. In addition, a number of other plaintiffs have brought similar product liability actions against Defendants in federal court that specifically plead an amount-in-controversy in excess of \$75,000. *See, e.g., Fiebig v. Davol Inc.*, No. 3:14-cv-01954 (N.D. Tex. filed June 16, 2014) (product liability case regarding Ventrilo hernia patch and alleging damages in excess of amount-in-controversy for federal diversity jurisdiction); *Burge v. Davol Inc.*, No. 1:07-CV-06885 (N.D. Ill. filed Dec. 6, 2007) (Kugel mesh patch case seeking damages in excess of amount required by 28 U.S.C. § 1332); *Terrell v. Davol Inc.*, No. 2:13-cv-05074 (E.D. Pa. filed Aug. 28, 2013) (Marlex Mesh case alleging damages in excess of amount-in-controversy for federal diversity jurisdiction).

14. For these reasons, the amount of recovery sought by Plaintiffs clearly exceeds \$75,000, exclusive of interest and costs.

B. Diversity Exists Because Defendants and Plaintiffs are Citizens of Different States.

15. The requirement that this be a civil action between citizens of different states for establishing diversity jurisdiction under 28 U.S.C. § 1332 is also met here. Plaintiffs’ Original Petition is a civil action, and each Plaintiff alleges he/she is a “natural person and a resident of Harris County, Texas.” Pet. at ¶¶2-3. Hence, Plaintiffs are citizens of Texas.

16. C.R. Bard, Inc. is, and was at the time of the filing of the Original Petition, a New Jersey Corporation, and C.R. Bard, Inc.'s principal place of business is located in New Jersey. *See* Pet. at ¶4. Accordingly, C.R. Bard, Inc. is a citizen of New Jersey. *See* 28 U.S.C. § 1332(c)(1).

17. Davol Inc. is, and was at the time of the filing of the Original Petition, a Delaware Corporation. Davol Inc.'s principal offices are located in Rhode Island. *See* Pet. at ¶5. Accordingly, Davol is a citizen of those two states. *See* 28 U.S.C. § 1332(c)(1).

18. Upon information and belief, co-defendant Covidien is, and was at the time of the filing of the Original Petition, a Delaware limited partnership whose principal place of business is Massachusetts. *See* Pet. at ¶6. Accordingly, Covidien is a citizen of those two states. *See* 28 U.S.C. § 1332(c)(1).

19. Defendants and Plaintiff are therefore citizens of different states for purposes of establishing diversity jurisdiction under 28 U.S.C. § 1332.

20. Because Plaintiff and Defendants are citizens of different states and the amount-in-controversy requirement is met, jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332, and removal is appropriate under 28 U.S.C. § 1441.

III. CONCLUSION

21. WHEREFORE, Defendants respectfully request that the above-described case be removed from the 234th Judicial District, Harris County, Texas, to the United States District Court for the Southern District of Texas, Houston Division.

DATED: February 21, 2019

Respectfully submitted,

REED SMITH LLP

By: /s/ Julie A. Hardin

Julie A. Hardin

(Attorney-in-charge)

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**ATTORNEYS FOR DEFENDANTS
C. R. BARD, INC. AND DAVOL INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Removal has been forwarded to counsel for Plaintiffs, by certified mail, return receipt requested, this 21st day of February, 2019.

Counsel for Plaintiff

Ronald L. Blair
State Bar No. 01554900
Bair Hilty, P.C.
14711 Pebble Bend
Houston, Texas 77068
Telephone: 713.862.5599
Facsimile: 713.868.9444
E-mail: rbair@bairhilty.com

/s/ Curtis R. Waldo

Curtis R. Waldo

EXHIBIT A



**Service of Process
Transmittal**

02/01/2019
CT Log Number 534843923

TO: Sabina Downing
BECTON DICKINSON AND COMPANY
1 BECTON DR
FRANKLIN LAKES, NJ 07417-1815

RE: Process Served in Texas

FOR: C. R. Bard, Inc. (Former Name) (Domestic State: NJ)
Becton Dickinson and Company (True Name)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Maurice Goudeau, Pltf. vs. C R BARD INC, DFT.

DOCUMENT(S) SERVED: Citation, Petition, Interrogatories, Attachment(s)

COURT/AGENCY: 234th Judicial District Court Harris County, TX
Case # 201904003

NATURE OF ACTION: Product Liability Litigation - Manufacturing Defect - Section 17.44 of the Texas Civil practices and Remedies Code

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Certified Mail on 02/01/2019 postmarked on 01/28/2019

JURISDICTION SERVED : Texas

APPEARANCE OR ANSWER DUE: By 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation

ATTORNEY(S) / SENDER(S): Ronald L. Bair
Bair Hilty, P.C.
14711 Pebble Bend Drive
Houston, TX 77068
713-862-5599

ACTION ITEMS: SOP Papers with Transmittal, via UPS Next Day Air , 1ZX212780138518310
Image SOP
Email Notification, Sabina Downing Sabina.Downing@crbard.com
Email Notification, Greg Dadika Greg.dadika@crbard.com
Email Notification, Elizabeth Yodice Elizabeth.yodice@crbard.com
Email Notification, Candace Camarata candace.camarata@crbard.com
Email Notification, MARIANNE SHOREY Marianne_S_Stober@BD.COM
Email Notification, Robert Manspeizer Robert_Manspeizer@bd.com
Email Notification, Kathryn Guier kathryn.guier@CareFusion.com



**Service of Process
Transmittal**

02/01/2019

CT Log Number 534843923

TO: Sabina Downing
BECTON DICKINSON AND COMPANY
1 BECTON DR
FRANKLIN LAKES, NJ 07417-1815

RE: Process Served in Texas


FOR: C. R. Bard, Inc. (Former Name) (Domestic State: NJ)
Becton Dickinson and Company (True Name)

SIGNED: C T Corporation System
ADDRESS: 1999 Bryan Street
Suite 900
Dallas, TX 75201
TELEPHONE: 214-932-3601



MARILYN BURGESS
HARRIS COUNTY DISTRICT CLERK
P.O. BOX 4651
HOUSTON, TEXAS 77210-4651



neopost[®] FIRST-CLASS MAIL
01/28/2019
USIPOSTAGE \$008.05⁰
 ZIP 77002
0416112252396

C R BARD INC C/O CT CORPORATION
SYSTEM 1999 BRYAN STREET SUITE 900
DALLAS TX 75201



CAUSE NO. 201904003

RECEIPT NO.

75.00 CTM

TR # 73583283

PLAINTIFF: GOUDEAU, MAURICE
vs.
DEFENDANT: C R BARD INC

In The 234th
Judicial District Court
of Harris County, Texas
234TH DISTRICT COURT
Houston, TX

CITATION (CERTIFIED)

THE STATE OF TEXAS
County of Harris

TO: C R BARD INC (FOR PROFIT CORPORATION) BY SERVING ITS REGISTERED AGENT
CT CORPORATION SYSTEM

1999 BRYAN STREET SUITE 900 DALLAS TX 75201

Attached is a copy of PLAINTIFFS ORIGINAL PETITION REQUEST FOR DISCLOSURE FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION

This instrument was filed on the 16th day of January, 2019, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 24th day of January, 2019, under my hand and seal of said Court.



Marilyn Burgess

MARILYN BURGESS, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

Issued at request of:
BAIR, RONALD L.
14711 PEBBLE BEND DRIVE
HOUSTON, TX 77068
Tel: (713) 862-5599
Bar No.: 1554900

Generated By: RAMEY, MERCEDES MATASHA 2Y1//11139811

CLERK'S RETURN BY MAILING

Came to hand the _____ day of _____, _____, and executed by mailing to Defendant certified mail, return receipt requested, restricted delivery, a true copy of this citation together with an attached copy of PLAINTIFFS ORIGINAL PETITION REQUEST FOR DISCLOSURE FIRST SET to the following addressee at address:

ADDRESS

Service was executed in accordance with Rule 106
(2) TRCP, upon the Defendant as evidenced by the return receipt incorporated herein and attached hereto at

on _____ day of _____, _____
by U.S. Postal delivery to _____

This citation was not executed for the following reason: _____

MARILYN BURGESS, District Clerk
Harris County, TEXAS

By _____, Deputy

1/16/2019 4:47 PM
Marilyn Burgess - District Clerk Harris County
Envelope No. 30450616
By: Nelson Cuero
Filed: 1/16/2019 4:47 PM

2019-04003 / Court: 234

CAUSE NO. _____

MAURICE GOUDEAU AND
JULIET GOUDEAU

Plaintiffs,

V.

C.R. BARD, INC., DAVOL, INC., AND
COVIDIEN, LP

Defendants

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

____ JUDICIAL DISTRICT COURT

PLAINTIFF'S ORIGINAL PETITION, REQUEST FOR DISCLOSURE

TO THE HONORABLE COURT:

COME NOW Plaintiffs MAURICE GOUDEAU ("Mr. Goudeau") and JULIET GOUDEAU ("Mrs. Goudeau") (collectively "Plaintiffs") pursuant to the Texas Rules of Civil Procedure complaining of Defendants C.R. BARD, INC., DAVOL, INC., AND COVIDIEN, LP, and demanding judgment for monetary damages from Defendants for personal injuries caused by the failure of Defendants' hernia mesh and surgical tack medical products. In support thereof, Plaintiffs would show the following:

I.

DISCOVERY CONTROL PLAN

1. Plaintiffs intend to conduct discovery under a level 3 discovery control plan in accordance with Rule 194 of the Texas Rules of Civil Procedure.

II.

PARTIES

2. Plaintiff MAURIE GOUDEAU is a natural person and resident of Harris County, Texas.

3. Plaintiff JULIET GOUDEAU is a natural person and resident of Harris County, Texas.

4. Defendant C.R. BARD, INC. ("Bard") is a for profit corporation that designs, manufactures, markets and/or sells medical products and devices in Texas. Bard's principal place of business is in the state of New Jersey. Defendant Bard may be served with service of process by serving its registered agent CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

5. Defendant Davol, Inc. ("Davol") is for profit corporation that designs, manufactures, markets and/or sells medical products and devices in Texas and is a subsidiary of Defendant Bard. Davol is incorporated in Delaware and has its principal place of business in Rhode Island. Davol is a non-resident corporate defendant that may be served with service of process by serving the Texas Secretary of State pursuant section 17.44 of the Texas Civil Practices and Remedies Code. The Texas Secretary shall forward the service to Davol's registered agent CT Corporation System, 1200 S. Pine Island Rd., Plantation, Florida 33324.

6. Defendant Covidien, LP, ("Covidien") is a limited partnership that designs, manufactures, markets and/or sells medical products and devices in Texas and has a principal place of business in Mansfield, Massachusetts. Covidien is a non-resident corporate defendant that may be served with service of process by serving the Texas Secretary of State pursuant section 17.44 of the Texas Civil Practices and Remedies Code. The Texas Secretary shall forward the service to Covidien's registered agent Corporation Service Company, 1201 Hays Street, Tallahassee, FL 32301.

7. Defendant Bard was at all material times responsible for the actions of Davol. It exercised control over Davol's functions specific to the oversight and compliance with

applicable safety standards relating to and including Bard Sepra Mesh Composite, manufactured by Davol and sold in the U.S. In such capacity, Bard committed or allowed to be committed tortious and wrongful acts, including the violation of numerous safety standards relating to manufacturing, quality assurance/control, and conformance with design and manufacturing specifications. Bard's misfeasance and malfeasance caused Plaintiffs to suffer injuries and damages.

8. Defendants Bard and Davol are individually, jointly and severally liable to Plaintiffs for damages suffered arising from their design manufacture, marketing, labeling, distribution, sale and/or placement of Bard Sepra Mesh Composite into the stream of Texas' commerce, effectuated directly and indirectly through their respective agents, servants, employees and/or owners, all acting within the course and scope of their representative agencies, services, employments and/or ownership.

9. Defendant Covidien is liable to Plaintiffs for damages suffered arising from its design manufacture, marketing, labeling, distribution, sale and/or placement of its ProTack fixation device into the stream of Texas' commerce, effectuated directly and indirectly through its agents, servants, employees and/or owners, all acting within the course and scope of their representative agencies, services, employments and/or ownership.

III.

VENUE AND JURISDICTION

10. The amount in controversy and the damages sought in this civil action are within the jurisdictional limits of this Court, and compliance with Rule 47 of the Texas Rule of Civil Procedure. Plaintiff seeks and demands judgment for monetary relief over \$200,000 but not more than \$1,000,000.

11. Venue is proper in Harris County, Texas pursuant to Tex. Civ. Prac. & Rem. Code § 15.002(a)(1) because all of the events and/or omissions giving rise to Plaintiffs' claims occurred in Harris County, Texas.

12. This Court has personal jurisdiction over Defendants Bard, Davol and Covidien pursuant to Sections 17.041 and 17.042 Texas Civil Practices and Remedies Code in that Plaintiffs' causes of action and injuries arise from Defendants' transactions of business and commission of tortious acts and/or omissions in this State, as described in this complaint.

IV.

FACTUAL BACKGROUND

A. The Bard Sepra Mesh Composite

13. At all material times, Bard and/or its subsidiary Davol manufactured, marketed, and sold Bard Sepra Mesh Composite ("Bard Mesh") in Texas for use during hernia repair surgeries, like the one performed on Mr. Goudeau.

14. The Bard Mesh is constructed of a series of polypropylene fibers woven together to form a mesh. During hernia repair surgery, the Bard Mesh is attached to the hernia patient's abdominal wall to reinforce and support weakened abdominal tissue. The portion of the Bard Mesh adhering to a patient's abdominal wall is coated with a bioresorbable material called hydrogel. Defendants Bard and Davol claim in marketing material that the hydrogel coating minimizes tissue attachment between the Bard Mesh and the patient's abdominal wall. Further, Bard and Davol claim that the hydrogel coating is resorbed into the patient's body, thus leaving permanent foreign material in the body after the surgery.

B. The Covidien ProTack 5 mm Fixation Device

15. At all material times, Covidien designed, manufactured, marketed, and sold its Protack 5 mm Fixation Device (“ProTack”) in Texas for use during hernia repair surgeries, like the one performed on Mr. Goudeau. The Covidien ProTack is a sterile, single use device made of titanium. The ProTack acts as an implantable metal staple that secures prosthetic material, such as hernia mesh, to the soft tissue of a patient’s abdominal wall.

16. In 2010, Covidien notified customers through an “Urgent Medical Device Recall” letter that it was recalling the ProTack fixation devices due to the product’s failure to properly fasten to a patient’s soft tissue. The recall affected 5,638 units, including, upon information and belief, the ProTacks inserted into Plaintiff Mr. Goudeau.

C. The Bard Mesh and ProTack were used to repair Mr. Goudeau’s hernia.

17. In late 2008, Plaintiff Maurice Goudeau suffered from an upper midline reducible hernia. On or about October 20, 2008, a laparoscopic incisional hernia repair was performed on Mr. Goudeau. During the procedure, a 6 in. x 8 in. portion of Bard Mesh was placed into Mr. Goudeau’s abdominal cavity and unfurled onto his abdominal wall. Thereafter, the Bard Mesh was secured onto Mr. Goudeau’s abdominal wall by ProTacks manufactured by Defendant Covidien.

18. Defendants Bard and Davol manufactured, sold, and/or distributed the Bard Septra Mesh to Mr. Goudeau by and through his doctors, to be used for treatment and repair of his hernia. Defendant Covidien manufactured, sold, and/or distributed the ProTacks to Mr. Goudeau by and through his doctors, to be used for treatment and repair of his hernia.

19. On or about, March 2017, while sitting at home, Mr. Goudeau began experiencing severe abdominal pain. On or about March 19, 2017, Mr. Goudeau was taken to the hospital

emergency room and a CT scan performed. At that time, Mr. Goudeau learned that the Sepra Mesh and ProTacks had separated from his abdominal wall. Further, the Sepra Mesh had split into several pieces and portions of the separated Sepra Mesh had adhered to Mr. Goudeau's intestinal walls. The separated mesh caused Mr. Goudeau to experience (i) excruciating abdominal pain, (ii) swelling, (iii) vomiting, (iv) constipation, (v) bowel obstructions and (vi) to develop substantial scar tissue on his intestinal walls.

20. To repair the damage caused by the failure of the Bard Mesh and Covidien ProTacks, Mr. Goudeau underwent surgery. At that time, 18 inches of Plaintiff's small intestine had to be removed due to the damage caused by the separated Sepra Mesh and the ProTacks. Additionally, portions of the Sepra Mesh and the Protaks were removed from Mr. Goudeau's intestines.

21. After the surgery, Mr. Goudeau was released from the hospital and returned home. Thereafter, Mr. Goudeau began again experiencing severe pain in his abdominal region. On or about March 31, 2017, Mr. Goudeau underwent a second surgery. At that time, it was discovered that additional portions of the separated Sepra Mesh remained imbedded in Plaintiff Mr. Goudeau's intestines. The discovered portions of mesh were removed from Mr. Goudeau's damaged intestines. Additionally, the ProTacks had migrated from their insertion points to the bowels of Mr. Goudeau and had caused incisions in the bowel over time resulting in significant scar tissue buildup leading to pain, obstructions, constipation and overall wreaked havoc on the bowels of Mr. Goudeau.

IV.

CAUSE OF ACTION 1 – NEGLIGENCE TO ALL DEFENDANTS

22. Plaintiffs reallege and incorporate by reference paragraphs No. 1 through 20 as

though stated fully set forth herein, and further state as follows

23. Defendants Bard and Davol had a duty to properly manufacture, test, inspect, package, label, distribute, market, examine, maintain, supply, provide proper warnings, and prepare for use related to their Bard Sepra Mesh Composite product.

24. Similarly, Defendant Covidien had a duty to properly manufacture, test, inspect, package, label, distribute, market, examine, maintain, supply, provide proper warnings, and prepare for use related to its ProTack 5 mm Fixation Device.

25. For all relevant times, Defendants knew or should in the exercise of reasonable care should have known their respective products, the Bard Sepra Mesh Composite and Covidien ProTack 5 mm Fixation Device, were of such a nature that were not properly manufactured, tested, inspected, packaged, labeled, distributed, marketed, examined, sold, supplied, prepared and/or provided with proper warnings, and were unreasonable likely to injure users of the respective products.

26. Defendants Bard, Davol and Covidien breached the aforementioned duties by negligently and carelessly designing, manufacturing, testing, packaging and selling the Bard Sepra Mesh and Covidien ProTacks, respectively, that they were dangerous and unsafe for the use and purpose for which they were intended.

27. Defendants were aware of the probable consequences of their respective medical devices use in hernia repair surgeries. Defendants knew or should have known that the Bard Sepra Mesh and Covidien ProTacks would cause serious injury. They failed to disclose the known or knowable risks associated with their medical products. Defendants willfully and deliberately failed to avoid those consequence, and in doing so, Defendants acted in conscious disregard for the safety of Mr. Goudeau.

28. Defendants failures were the cause in fact and proximate cause of Plaintiffs' injuries.

CAUSE OF ACTION 2 – STRICT LIABILITY TO ALL DEFENDANTS

29. Plaintiffs reallege and incorporate by reference paragraphs No. 1 through 27 as though stated fully set forth herein, and further state as follows.

30. At all relevant times, Defendants were in the business of designing, manufacturing and selling Bard Sepra Mesh and/or ProTack 5 mm Fixation Device, and designed, manufactured, and sold the medical devices at issues in this suit.

31. The Defendants' respective medical devices were provided to surgeons for use in the same or similar condition as when they were manufactured and sold by Defendants and the devices were in a defective and unreasonably dangerous condition when designed, manufactured and sold by Defendants and used to repair Plaintiff Mr. Goudeau's hernia.

32. The Sepra Mesh and ProTacks used in Mr. Goudeau's hernia repair surgery were used in a manner reasonably anticipated when they caused injury to the Plaintiff. At the time that Defendants introduced their medical products into the stream of commerce, the products were in an unreasonably dangerous condition when put to a reasonably anticipated use. Specifically, Defendants negligently designed said medical devices so that they failed to adequately repair the hernia it was applied to, and in fact caused injury to Plaintiff. Therefore, Plaintiff would show that Defendants, through one or more of their agents, servants or employees are strictly liable pursuant to TEXAS CIVIL PRACTICE AND REMEDIES CODE, Chapter 82.

33. Plaintiff was injured as a direct and proximate result of the defective condition that existed when the Defendants' respective product were sold and/or provided for use during Plaintiff's hernia repair surgery. Plaintiff alleges the dangerous and defective condition of the

Bard Sepra Mesh Composite and Covidien ProTack 5 mm Fixation Device were producing causes of Plaintiff's injuries.

CAUSE OF ACTION 3 – LOSS OF CONSORTIUM TO ALL DEFENDANTS

34. Plaintiffs reallege and incorporate by reference paragraphs No. 1 through 32 as though stated fully set forth herein, and further state as follows.

35. As a direct, proximate and reasonably foreseeable result of Defendants Bard's, Davol's, and Covidien's negligence in regards to the design, manufacture, supply and sell of their respective medical products, Plaintiff Maurice Goudeau suffered a permanent loss in the quality of his marital relationship he had with his wife, Juliet Goudeau. As compensation for this loss, Maurice Goudeau should be awarded non-economic damages, in an amount to the determined by the jury.

36. As a direct, proximate and reasonably foreseeable result of Defendants Bard's, Davol's, and Covidien's negligence in regards to the design, manufacture, supply and sell of their respective medical products, Plaintiff Juliet Goudeau suffered a permanent loss in the quality of her marital relationship she had with her husband, Maurice Goudeau. As compensation for this loss, Juliet Goudeau should be awarded non-economic damages, in an amount to the determined by the jury.

V.

DAMAGES

37. Plaintiffs would show that as a proximate cause of Defendants' actions or inactions, Plaintiff Mr. Goudeau has suffered serious and permanent injuries to his body, including physical pain, mental anguish, and permanent bodily impairment. In all reasonable probability, Plaintiff Mr. Goudeau will suffer long into the future if not for the balance of his

natural life. Further, Plaintiff Juliet Goudeau has suffered a loss of consortium due to her husband's injuries, which were caused by Defendants' negligence.

38. The injuries have had a serious effect on Mr. Goudeau's health, well-being and marital relationship. Plaintiffs would show that as a result of the serious and permanent injuries sustained by Mr. Goudeau as a result of the Defendants' negligence, Plaintiffs asks for the following damages in the past and that in reasonable probability Plaintiffs will sustain in the future:

- a. Physical pain and mental anguish;
- b. Loss of earning capacity;
- c. Physical impairment;
- d. Medical care expenses; and
- e. Disfigurement

39. The injuries to Mr. Goudeau were significant and profound so as to interfere with not only the husband and wife relationship but also with regard to Mr. Goudeau's ability to perform household services. Accordingly, Mrs. Goudeau asks for the following damages in the past and that in reasonable probability Mrs. Goudeau will sustain in the future:

- a. Loss of consortium
- b. Loss of Household Services

VI.

REQUESTS FOR DISCLOSURE AND NOTICE OF INTENT

COMES NOW MAURICE GOUDEAU and JULIET GOUDEAU, Plaintiffs in the above-entitled and numbered cause, and pursuant to Rule 194, advises you are requested to disclose, within fifty (50) days of service of this request, the information or material described in

Rule 194.2 (a), (b), (c), (d), (e), (f), (g), (h), (i), (k) and (l). Such disclosure must comply with Tex. R. Civ. P. 194 and be presented in writing at the office of BairHilty, P.C.

Notice is hereby given of intent to utilize items produced in discovery in the trial of this matter and the authenticity of such items is self-proven pursuant to Tex. R. Civ. P. 193.7.

VII.

JURY DEMAND

COME NOW PLAINTIFFS MAURICE GOUDEAU and JULIET GOUDEAU, Plaintiffs, and hereby pray that the above and foregoing action be tried by a jury on all issues, claims, and demands presented herein, and that this case be placed upon this Court's jury docket. The required fee is being tendered with this jury demand.

Respectfully submitted,

BairHilty, P.C.



RONALD L. BAIR

State Bar No. 01554900

Email: rbair@bairhilty.com

14711 Pebble Bend Drive

Houston, Texas 77068

Telephone: (713)862-5599

Facsimile: (713)868-9444

**ATTORNEYS FOR PLAINTIFFS
MAURICE GOUDEAU AND JULIET
GOUDEAU**

1/16/2019 4:47:42 PM
Marilyn Burgess - District Clerk
Harris County
Envelope No: 30450616
By: CUERO, NELSON
Filed: 1/16/2019 4:47:42 PM

2019-04003 / Court: 234

CAUSE NO. _____

MAURICE GOUDEAU AND
JULIET GOUDEAU

Plaintiffs,

V.

C.R. BARD, INC., DAVOL, INC., AND
COVIDIEN, LP

Defendants

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

____ JUDICIAL DISTRICT COURT

**PLAINTIFFS' FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION TO C.R. BARD, INC**

TO: Defendant, C.R. Bard, Inc., by and through registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas Texas 75201.

Pursuant to CPRC §74.351(s)(1) and Rules 192.7, 196 and 197 of the Texas Rules of Civil Procedure, the Plaintiffs, MAURICE GOUDEAU and JULIET GOUDEAU, serve the following upon C.R. Bard, Inc.:

First Set of Interrogatories, the answers to which shall be made under oath separately or fully in writing by 5:00 p.m. on the 50th day after the service of such Interrogatories and shall be given to the undersigned attorney of record.

You are further charged with the duty, as imposed upon you by the Texas Rules of Civil Procedure, to supplement these answers if you later obtain information which:

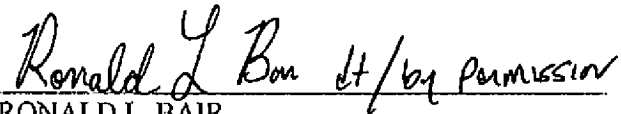
- (a) You or your attorney know that your answer to one or more of the foregoing Interrogatories was incomplete when made, or,
- (b) You or your attorney know that your answer to one or more of the foregoing Interrogatories though correct and complete when made, is no longer true and the circumstances are such that a failure to amend the answer is in substance misleading.

Requests for Production, the requested documents shall be produced for inspection and

copying within thirty (30) days after service of this request, at the office of BAIRHILTY, P.C., 14711 Pebble Bend Drive, Houston, Texas, 77068, or at such earlier time as may be ordered by this Court. In the alternative, you may comply with this request by delivering a true and correct copy of all requested documents and things to the undersigned counsel at or prior to such time and date in the manner specified below.

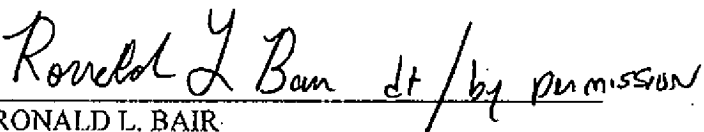
Respectfully submitted,

BAIRHILTY, P.C.


RONALD L. BAIR
State Bar No. 01554900
14711 Pebble Bend Drive
Houston, Texas 77068
Telephone: (713)862-5599
Facsimile: (713)868-9444
ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was served upon all counsel of record pursuant to the Texas Rules of Civil Procedure on this the 16th day of January 2019.


RONALD L. BAIR

DEFINITIONS

For the purposes of these Interrogatories, the following definitions shall apply and have the following meanings, unless the context requires otherwise:

1. "Defendant," "you," or "your," means C.R. Bard, Inc., its agents or representatives, and all other persons acting in concert with it or under its control, whether directly or indirectly, including any attorney.

2. "Plaintiffs" means MAURICE GOUDEAU and JULIET GOUDEAU, their agents or representatives, and all other persons acting in concert with them or under their control, whether directly or indirectly, including any attorney.

3. "Document" means all written, typed, or printed matters, and all magnetic or other records or documentation of any kind or description (including, without limitation: letters, correspondence, telegrams, memoranda, notes, records, minutes, contracts, agreements, records or notations of telephone or personal conversations, conferences, inter-office communications, e-mail, microfilm, bulletins, circulars, pamphlets, photographs, facsimiles, invoices, tape recordings, computer printouts, and work sheets), including drafts and copies not identical to the originals, all photographs and graphic matter, however produced or reproduced, and all compilations of data from which information can be obtained, and any and all writings or recordings of any type or nature, in your actual possession, custody, or control, including those in the possession, custody, or control of any and all present or former directors, officers, employees, consultants, accountants, attorneys or other agents, whether or not prepared by you.

4. "File" means any collection or group of documents maintained, held, stored, or used together, including, without limitation, all collections of documents maintained, held, or stored in folders, notebooks, or other devices for separating or organizing documents.

5. "Person" means any natural person, corporation, firm, association, partnership, joint venture, proprietorship, governmental body, or any other organization, business, or legal entity, and all predecessors or successors in interest.

6. "Relating to" and "relates to" means, without limitation, embodying, mentioning, or concerning, directly or indirectly, the subject matter identified in the request.

7. "Concerning" means, in whole or in part, directly or indirectly relating to, connected with, or commenting on.

8. "Communication" means any oral or written communication of which Defendant has knowledge, information, or belief.

9. "Date" means the exact date, month, and year, if ascertainable, or, if not, the best

available approximation.

10. "Describe" and "identify," when referring to a person, are defined to require that you state the following:

- a. The full name.
- b. The present or last known residential address.
- c. The present or last known residential and office telephone numbers.
- d. The present occupation, job title, employer, and employer's address at the time of the event or period referred to in each particular request.
- e. In the case of any person other than an individual, identify the officer, employee, or agent most closely connected with the subject matter of the request and identify the officer who is responsible for supervising that officer or employee.

11. "Describe" and "identify," when referring to a document, are defined to require that you state the following:

- a. The nature (*e.g.*, letter, handwritten note) of the document.
- b. The title or heading that appears on the document.
- c. The date of the document and the date of each addendum, supplement, or other addition or change.
- d. The identity of the author and of the signer of the document, and of the person on whose behalf or at whose request or direction the document was prepared or delivered.
- e. The present location of the document, and the name, address, position, or title, and telephone number of the person or persons having custody of the document.

12. The term "Incident" or "Occurrence" shall refer to the detachment of the Bard Sepra Mesh Composite from Plaintiff Maurice Goudeau's abdominal wall and migration and adhesion of the mesh to Plaintiff Maurice Goudeau's intestinal walls, which forms the basis of Plaintiffs' lawsuit and occurred and/or was discovered on or about March 19, 2017.

13. "Product" or "Bard Mesh" shall refer to Bard Sepra Mesh Composite. Please see attached hospital billing record for Bard Sepra Mesh charges to Mr. Goudeau for reference.

PLAINTIFFS' FIRST SET OF INTERROGATORIES TO
DEFENDANT C.R. BARD, INC.

INTERROGATORY NO. 1:

Does Defendant contend that any change, modification or alteration of the Product by any third-party from the time it was marketed until the time of the Occurrence in question contributed in any way to the Occurrence in question? If so, in what way did the modifications, if any, contribute to the Occurrence in question?

ANSWER:

INTERROGATORY NO. 2:

List the names and addresses of any person or persons with whom Defendant had vested authority for the wording and/or dissemination of instructions for use or warnings associated with the use of the Product in question, including but not limited to, advertising, instruction manuals, and placards and labeling.

ANSWER:

INTERROGATORY NO. 3:

Please state exactly how the Product, as it is marketed today, differs from the Product as it was originally marketed.

ANSWER:

INTERROGATORY NO. 4:

With regard to any design changes in the Product since its original introduction into the United States medical device market, has Defendant considered any design changes which it has discarded that would affect the safety of the product or that would be relevant to the kind of accident or injury, such as Plaintiff's injuries detailed in the Plaintiff's Original Petition?

ANSWER:

INTERROGATORY NO. 5:

State the full name, address, job title and department or group of each person in the employ of Defendant who had ultimate chief and/or supervisory responsibility for:

- (a) The overall design of the Product;
- (b) The manufacture of the Product;
- (c) The assembly of the Product;
- (d) The preparation of instructions or warnings for the Product; and/or
- (e) The sale of the Product.

ANSWER:

INTERROGATORY NO. 6:

State whether Defendant contends that the Product had been improperly maintained and serviced before the Occurrence made the issue of this lawsuit?

ANSWER:

INTERROGATORY NO. 7:

If the product is no longer being marketed in the United States, please state why it is not.

ANSWER:

INTERROGATORY NO. 8:

From the time of the original design and manufacture of the Product to present, describe any tests done by Defendant with respect to the Product in question or on similar products sold by Defendant in order to determine the safe use of such products for hernia repair surgery.

ANSWER:

INTERROGATORY NO. 9:

State whether the Defendant offered, sold, and/or provided a written warranty plan to Product users and or Product purchasers covering the Product? If so, please briefly describe the terms of the warranty coverage.

ANSWER:

INTERROGATORY NO. 10:

State whether the Product in question has ever been the subject of a recall or service bulletin by Defendant or any other company. Include in your answer, the date of any recall and the reason for such recall or service bulletin.

ANSWER:

INTERROGATORY NO. 11:

State whether the Product was tested, approved or certified by any independent agency or laboratory before it was sold or placed in the United States medical device market? If so, please state the name and address of any such independent agency or laboratory. Include in your answer, the date(s) of the Product testing, the date the Product was approved, and the date the Product was certified.

ANSWER:

INTERROGATORY NO. 12:

From the date You placed the Product into the United States medical device market to present, identify all warnings of the dangers or risks of harm in the use of the Product made by Defendant in the marketing of this Product?

ANSWER:

INTERROGATORY NO. 13:

From the date You placed the Product into the United States medical device market to present, identify if there were any safety features available on the market to prevent the Occurrence at issue in this Lawsuit that could have been incorporated into the design, manufacture or assembly of the Product that were not so incorporated? If so, include in your answer, any such safety feature and state why it was not incorporated into the Product in question.

ANSWER:

INTERROGATORY NO. 14:

State whether Defendant has a procedure in place to receive, collect and maintain records of notices of accidents or injuries involving the Product in question, and if so, please describe procedure. Include in your response, the types of reports or records kept and the name of the person responsible for keeping such records.

ANSWER:

INTERROGATORY NO. 15:

From the time of the original design and manufacture of the Product to present, state whether You considered an alternate approach or design which would have eliminated or substantially reduced the danger or risk of the Occurrence at issue in this suit.

ANSWER:

INTERROGATORY NO. 16:

At the time of the original design and manufacture of the Product in question or since, was an alternate approach or design considered which would have eliminated or substantially reduced the danger or risk of harm related to reducing and/or eliminating the injuries detailed in Plaintiff's Original Petition.

ANSWER:

INTERROGATORY NO. 17:

Do you intend to use any evidence or any prior convictions of crime, pursuant to Texas Rules of Evidence 609(f) to impeach the Plaintiffs in this action or any other witness with relevant knowledge of the facts of the occurrence in question and any resulting damages? If so, please state the Court, cause number and date of conviction(s).

ANSWER:

**PLAINTIFF'S REQUESTS FOR PRODUCTION TO
DEFENDANT C.R. BARD, INC.**

REQUEST FOR PRODUCTION NO. 1:

From the date You first placed the Product into the United States medical device market to present, produce any and all brochures and literature printed, distributed or circulated by Defendant containing photographs, diagrams or descriptions of the Product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2:

From the date You first placed the Product into the United States medical device market to present, produce any and all instruction for assembly, construction or use pertaining to the Product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3:

From the date You first placed the Product into the United States medical device market to present, produce all documents or writings prepared for accompaniment with the Product in question containing warnings of any dangers to which ultimate users of the Product may be exposed or containing any instructions for use.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4:

From the time of the original design of the Product to present, produce any and all documents containing any sketches, schematics, blueprints or design specifications of the product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5:

From the time of the original design of the Product to present, produce any applicable safety standards or codes governing the design and/or manufacture of said Product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6:

From the date You first placed the Product into the United States medical device market to present, produce any documents or records reflecting other reported incidents similar to the Occurrence at issue and involving products of the same design as the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7:

From the time of the original design of the Product to the present, produce the results of any testing for product safety or safety inspection of the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8:

From the time of the original design of the Product to the present, produce the results of any testing for product safety or safety inspection of the group of products in which the Product in question was included at the time of manufacturing or marketing.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9:

From the time of the original design of the Product to present, any patents held by you on the product in question, including copies of any patent applications made by you.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10:

All documents reflecting ownership of the product at the time of the occurrence in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11:

Any and all expert reports that were or will be relied upon in whole or in part by any testifying expert in this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12:

Any and all consulting experts' reports that were or will be reviewed by any testifying expert in this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13:

Any and all work papers, notes and documents in the file of any expert witness who is expected to testify, or in the file of any expert witness who has written a report which is or will be relied upon in whole or in part by a testifying expert.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14:

A curriculum vitae or resume for each individual whom you expect to call as an expert witness at the trial in this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15:

Any treatises or authoritative literature which any expert intends to rely on in his testimony in this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16:

Any and all insurance agreements or policies under which any person or entity carrying on an insurance business may be liable to satisfy part or all of a judgment which may be rendered in this action or to indemnify or reimburse for payments made to satisfy the judgment.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17:

Any and all insurance policies, whether basic, umbrella or excess, which may pay any judgment in this case or provide any defense in this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18:

Copies of any and all statements previously made by Plaintiff Maurice Goudeau concerning the subject matter of this lawsuit, including any written statement signed or otherwise adopted or approved by the Plaintiff hereto and any stenographic, mechanical, electrical or other type of recording or any transcription thereof made by Plaintiff hereto and contemporaneously recorded.

RESPONSE:

REQUEST FOR PRODUCTION NO. 19:

Any and all settlement agreements, wherein you have arrived at a settlement or agreement between you and any other person, whether or not a party to this lawsuit, regarding or pertaining to the incident made the basis of this lawsuit or any damages resulting therefrom.

RESPONSE:

REQUEST FOR PRODUCTION NO. 20:

A copy of any surveillance movies or photographs which have been made of Plaintiff Maurice Goudeau.

RESPONSE:

REQUEST FOR PRODUCTION NO. 21:

From the date You first placed the Product into the United States medical device market to present, produce any report of investigation of any governmental agency or private organization relating to the Occurrence in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 22:

From the date You first placed the Product into the United States medical device market to present, produce any and all brochures, manuals, parts lists, instructions, written materials, advertising materials or other documents in your possession relating to the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 23:

Any photograph, videotape, movie or any other photographic reproduction in your client's or your possession which were taken by You or by any other individual which relates in any way to the subject matter and incident made the subject of this lawsuit, the product or similar model to the product involved in this lawsuit, or any component part of the aforementioned product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 24:

From the date You first placed the Product into the United States medical device market to present, produce any documents, pamphlets, brochures or operating manuals reflecting the safety features of the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 25:

A copy of all written instructions and sales literature which would have accompanied the Product at the time of sale.

RESPONSE:

REQUEST FOR PRODUCTION NO. 26:

From the date You first placed the Product into the United States medical device market to present, produce copies of all warning labels, placards or any other thing which accompanied the product at the time of sale.

RESPONSE:

REQUEST FOR PRODUCTION NO. 27:

From the date You first placed the Product into the United States medical device market to present, produce copies of all operator's manual for the Product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 28

From the date You first placed the Product into the United States medical device market to present, produce copies of any "Operating Instructions" and "Product Information" for the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29:

From the date You first placed the Product into the United States medical device market to present, produce copies of any service and/or maintenance manual or instructions relating to the Product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30:

From the time of the design of the Product to present, produce a copy of any photographs, films, videotapes or other thing relating to any testing of the Product in question with respect to its design or performance that is in any way relevant to the injuries to the Plaintiff in question or the manner in which the occurrence in question is alleged to have occurred, including but not limited to, dehiscence of the staple line and/or post gastric bypass surgery gastrointestinal bleed from or related to a staple suture line.

RESPONSE:

REQUEST FOR PRODUCTION NO. 31:

From the time of the design of the Product to present, produce any written or recorded statements of Plaintiff or Plaintiff's representatives regarding the Occurrence made the basis of this suit or the damages resulting therefrom.

RESPONSE:

REQUEST FOR PRODUCTION NO. 32:

From the time of the design of the Product to present, produce any documents, reports or other written records pertaining to any investigation pertaining to Occurrence made the basis of this lawsuit, that is not privileged at law.

RESPONSE:

REQUEST FOR PRODUCTION NO. 33:

From the time of the design of the Product to present, produce any and all documents containing warnings from any third-party of any danger to which the user and/or patient of the Product may be exposed or may experience.

RESPONSE:

REQUEST FOR PRODUCTION NO. 34:

From the time of the design of the Product to present, produce any and all documents containing warnings from You concerning any danger to which the user and/or patient of the Product may be exposed or may experience.

RESPONSE:

REQUEST FOR PRODUCTION NO. 35:

From the time of the design of the Product to present, produce any and all patents employed in the design and construction of said Product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 36:

From the time of the design of the Product to present, produce copies of warranties offered given to the purchasers of the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 37:

From the time of the design of the Product to present, produce copies of all advertising, promotional and descriptive literature for products that were designed subsequent to the time this Product was placed on the market, that were designed to improve, change or take the place of the Product which is the subject of this litigation.

RESPONSE:

REQUEST FOR PRODUCTION NO. 38:

Any documents, photographs or other physical evidence which You will use or offer at trial.

RESPONSE:

REQUEST FOR PRODUCTION NO. 39:

From the time of the design of the Product to present, produce copies of any trade journals or similar publications that have discussed, criticized or analyzed the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 40:

Produce any and all documents and/or tangible things which support, evidence and/or relate to your contention, if any that Plaintiffs were negligent and/or the cause of damages regarding the injuries made the basis of this lawsuit.

RESPONSE:

REQUEST FOR PRODUCTION NO. 41:

Produce any and all depictions, graphs, illustrations, charts, pictures, models, blow-ups, computer animations or any other document or thing which you intend to utilize as a demonstrative exhibit or aid in the trial of this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 42:

Please produce the following:

- a. any charts, summaries, or calculations of the contents of any voluminous writings, recordings, or photographs, as defined by Tex.R.Civ.Evid. 1001, which cannot be conveniently examined in court, and which you or your attorney plan or expect, or may offer, as evidence at the trial of this cause pursuant to Tex.R.Civ.Evid. 1006, or any other law;
- b. the contents on voluminous writings, recordings, or photographs which you or your attorneys plan, expect, or may present in the form of such summaries, charts, or photographs, as described in (a) above.

RESPONSE:

REQUEST FOR PRODUCTION NO. 43:

From the time of the design of the Product to the present, produce any and all documents related to this case (liability or damages), whether or not you intend to offer same into evidence at the time of trial, that would be categorized under any exception listed under any subsection of Texas Rules of Evidence 803.

RESPONSE:

REQUEST FOR PRODUCTION NO. 44:

From the time of the design of the Product to the present, produce any and all documents related to this case (liability or damages) whether or not you intend to offer same into evidence at the time of trial, that would be categorized under any exception listed under any subsection of Texas Rules of Evidence 902.

RESPONSE:

REQUEST FOR PRODUCTION NO. 45:

From the time of the design of the Product to the present, produce all internal memos related to the suitability and proper function of the Product for hernia repair surgery.

RESPONSE:

REQUEST FOR PRODUCTION NO. 46:

This request is not intended to have Defendant create a document or chart but rather produce any and all documents which contain any of the following subject matter areas as to any injury to the patient and/or death of the patient:

- a. All statistical data related to the identity, number and severity of adverse complications which occurred following use of the Bard Sepra Mesh manufactured by Defendant in hernia repair surgery.
- b. A brief statement of facts and names, address and phone numbers of any attorneys who represented patients related to their adverse complications.

RESPONSE:

REQUEST FOR PRODUCTION NO. 47:

From the time of the original design of the Product to present, all documents submitted by You to the Food and Drug Administration regarding the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 48:

From the time of the original design of the Product to present, all documents generated by the Food and Drug Administration regarding the Product in question, including but not limited to any approvals and/or restrictions and application for use, sale and marketing.

RESPONSE:

NOTICE

PLEASE ACCEPT THIS AS ACTUAL NOTICE PURSUANT TO 193.7 TEX. R. CIV. P. THAT ALL DOCUMENTS PRODUCED IN RESPONSE TO THESE REQUESTS FOR PRODUCTION WILL BE USED AT THE TIME OF TRIAL AND/OR IN PRETRIAL PROCEEDINGS.

**St. Luke's CMC - Woodlands
Nursing Intraop Record**

Patient Name: GOUDEAU, MAURICE

Pt. Preferred Name:

Medical Record #: 01395042

Case Conf. #: [REDACTED]

Proc. Date: 10/20/2008

Pt. Acct. #: [REDACTED]

Age: 54y

Sex: Male

OR #: OR03-01 x64208

DOB: 03/10/1954

Materials

MAPS #	Billing Code	Used	Wasted	Name
		1	0	[REDACTED] BARD SEpra MESH COMPOSITE
14008		0	0	[REDACTED]
23746		2	0	INSTRUMENT, PROTACK 5MM
				[REDACTED]

Signature: _____ Date: _____

This Record Electronically Signed by

Atkinson, Anita

10/20/2008 01:01:18PM

Atkinson, Anita/RN/Record Sign Off

CAUSE NO. _____

**MAURICE GOUDEAU AND
 JULIET GOUDEAU**

Plaintiffs,

V.

**C.R. BARD, INC., DAVOL, INC., AND
 COVIDIEN, LP**

Defendants

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

____ JUDICIAL DISTRICT COURT

**PLAINTIFFS' FIRST SET OF INTERROGATORIES AND REQUESTS
 FOR PRODUCTION TO DEFENDANT COVIDIEN, LP.**

TO: Defendant, COVIDIEN, LP., by and through its registered agent Corporation Service Company, 1201 Hays Street, Tallahassee, FL 32301.

Pursuant to CPRC §74.351(s)(1) and Rules 192.7, 196 and 197 of the Texas Rules of Civil Procedure, the Plaintiffs, MAURICE GOUDEAU and JULIET GOUDEAU, serve the following upon COVIDIEN, LP.:

First Set of Interrogatories, the answers to which shall be made under oath separately or fully in writing by 5:00 p.m. on the 50th day after the service of such Interrogatories and shall be given to the undersigned attorney of record.

You are further charged with the duty, as imposed upon you by the Texas Rules of Civil Procedure, to supplement these answers if you later obtain information which:

- (a) You or your attorney know that your answer to one or more of the foregoing Interrogatories was incomplete when made, or,
- (b) You or your attorney know that your answer to one or more of the foregoing Interrogatories though correct and complete when made, is no longer true and the circumstances are such that a failure to amend the answer is in substance misleading.

Requests for Production, the requested documents shall be produced for inspection and

HCDistrictclerk.com

GOUDEAU, MAURICE vs. C R BARD INC

2/21/2019

Cause: 201904003 CDI: 7 Court: 234

APPEALS

No Appeals found.

COST STATEMENTS

No Cost Statments found.

TRANSFERS

No Transfers found.

ABSTRACTS

No Abstracts found.

SETTINGS

No Settings found.

NOTICES

No Notices found.

All

SUMMARY**CASE DETAILS**

File Date	1/16/2019
Case (Cause) Location	
Case (Cause) Status	Active - Civil
Case (Cause) Type	Product Liability - Other
Next/Last Setting Date	N/A
Jury Fee Paid Date	1/17/2019

CURRENT PRESIDING JUDGE

Court	234 th
Address	201 CAROLINE (Floor: 13) HOUSTON, TX 77002 Phone:7133686350
JudgeName	LAUREN REEDER
Court Type	Civil

POST TRIAL WRITS

Description	Requested	Assigned	Issued	Returned
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ACTIVE PARTIES

Name	Type	Post Jdgm	Attorney
GOUDEAU, MAURICE	PLAINTIFF - CIVIL		BAIR, RONALD L
C R BARD INC	DEFENDANT - CIVIL		
GOUDEAU, JULIET	PLAINTIFF - CIVIL		BAIR, RONALD L
DAVOL INC	DEFENDANT - CIVIL		
COVIDIEN LP	DEFENDANT - CIVIL		
C R BARD INC (FOR PROFIT CORPORATION) BY SERVING ITS REGISTERED AGENT 1999 BRYAN STREET SUITE 900, DALLAS, TX 75201	REGISTERED AGENT		
DAVOL INC (FOR PROFIT CORPORATION) BY SERVING THROUGH SECRETARY OF	REGISTERED AGENT		

1200 S PINE ISLAND RD, PLANTATION, FL 33324

COVIDIEN LP (LIMITED PARTNERSHIP) BY REGISTERED AGENT
SERVINGTHE SECRETARY OF STATE

1201 HAYS STREET, TALLAHASSEE, FL 32301

INACTIVE PARTIES

No inactive parties found.

JUDGMENT/EVENTS

Date	Description	Order Signed	Post Jdgm	Pgs /Page	Volume Filing	Filing Attorney	Person Filing
1/16/2019	JURY FEE PAID (TRCP 216)			0			
1/16/2019	ORIGINAL PETITION			0		BAIR, RONALD L	GOUDEAU, MAURICE
1/16/2019	ORIGINAL PETITION			0		BAIR, RONALD L	GOUDEAU, JULIET

SERVICES

Type	Status	Instrument	Person	Requested	Issued	Served	Returned	Received	Tracking	Deliver To
CITATION (CERTIFIED)	SERVICE RETURN/EXECUTED	ORIGINAL PETITION	C R BARD INC (FOR PROFIT CORPORATION) BY SERVING ITS REGISTERED AGENT	1/16/2019	1/24/2019	2/1/2019		2/12/2019	73583283	CVC/CTM SVCE BY CERTIFIED MAIL
1999 BRYAN STREET SUITE 900 DALLAS TX 75201										
CITATION (SECRETARY OF STATE CORPORATE NON-RESIDENT)	SERVICE RETURN/EXECUTED	ORIGINAL PETITION	DAVOL INC (FOR PROFIT CORPORATION) BY SERVING THROUGH SECRETARY OF	1/16/2019	1/24/2019	2/7/2019		2/13/2019	73583306	MAIL TO ATTORNEY
1200 S PINE ISLAND RD PLANTATION FL 33324										
PROTECTIVE ORDER - ENFORCEMENT			COVIDIEN LP (LIMITED PARTNERSHIP) BY SERVINGTHE SECRETARY OF STATE						73583308	
CITATION (SECRETARY OF STATE NON-RESIDENT)	SERVICE RETURNED/UNEXECUTED	ORIGINAL PETITION	COVIDIEN LP (LIMITED PARTNERSHIP) BY SERVINGTHE SECRETARY OF STATE	1/16/2019	1/24/2019			2/19/2019	73585395	MAIL TO ATTORNEY

DOCUMENTS

Number	Document	Post Jdgm	Date	Pgs
83960854	Secretary of State		02/19/2019	1
83873031	Certificate of Service - DAVOL, INC.		02/13/2019	1
83932420	Domestic Return Receipt		02/12/2019	2
83772839	Certified Mail Receipt		01/28/2019	1
83598114	Certified Mail Tracking # 7017 1450 0001 3701 6452		01/24/2019	2
83507338	Letter to Clerk		01/22/2019	1
83458760	Plaintiff Original Petition Request for Disclosure		01/16/2019	11

-> 83458761	Plaintiffs' First Set of Interrogatories and Requests for Production to C R BARD INC	01/16/2019	18
-> 83458762	Plaintiffs' First Set of Interrogatories and Requests for PRoduction to DAVOL INC	01/16/2019	18
-> 83458763	Plaintiffs' First Set of Interrogatories and Requets for Production to COVIDIEN LP	01/16/2019	18
-> 83458764	Request-Issuance of Service - C.R. Bard, Inc.	01/16/2019	1
-> 83458766	Request-Issuance of Service - Covidien, LP	01/16/2019	1
-> 83458765	Request-Issuance of Service - Davol, Inc.	01/16/2019	1

copying within thirty (30) days after service of this request, at the office of BAIRHILTY, P.C., 14711 Pebble Bend Drive, Houston, Texas, 77068, or at such earlier time as may be ordered by this Court. In the alternative, you may comply with this request by delivering a true and correct copy of all requested documents and things to the undersigned counsel at or prior to such time and date in the manner specified below.

Respectfully submitted,

BAIRHILTY, P.C.

Ronald L Bair dt/By permission

RONALD L. BAIR
State Bar No. 01554900
14711 Pebble Bend Drive
Houston, Texas 77068
Telephone: (713)862-5599
Facsimile: (713)868-9444
ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was served upon all Defendants with the Original Petition pursuant to the Texas Rules of Civil Procedure on this the 16th day of January 2019.

Ronald L Bair dt/By permission
RONALD L. BAIR

DEFINITIONS

For the purposes of these Interrogatories, the following definitions shall apply and have the following meanings, unless the context requires otherwise:

1. "Defendant," "you," or "your," means COVIDIEN, L.P., its agents or representatives, and all other persons acting in concert with it or under its control, whether directly or indirectly, including any attorney.
2. "Plaintiffs" means MAURICE GOUDEAU and JULIET GOUDEAU, their agents or representatives, and all other persons acting in concert with them or under their control, whether directly or indirectly, including any attorney.
3. "Document" means all written, typed, or printed matters, and all magnetic or other records or documentation of any kind or description (including, without limitation: letters, correspondence, telegrams, memoranda, notes, records, minutes, contracts, agreements, records or notations of telephone or personal conversations, conferences, inter-office communications, e-mail, microfilm, bulletins, circulars, pamphlets, photographs, facsimiles, invoices, tape recordings, computer printouts, and work sheets), including drafts and copies not identical to the originals, all photographs and graphic matter, however produced or reproduced, and all compilations of data from which information can be obtained, and any and all writings or recordings of any type or nature, in your actual possession, custody, or control, including those in the possession, custody, or control of any and all present or former directors, officers, employees, consultants, accountants, attorneys or other agents, whether or not prepared by you.
4. "File" means any collection or group of documents maintained, held, stored, or used together, including, without limitation, all collections of documents maintained, held, or stored in folders, notebooks, or other devices for separating or organizing documents.
5. "Person" means any natural person, corporation, firm, association, partnership, joint venture, proprietorship, governmental body, or any other organization, business, or legal entity, and all predecessors or successors in interest.
6. "Relating to" and "relates to" means, without limitation, embodying, mentioning, or concerning, directly or indirectly, the subject matter identified in the request.
7. "Concerning" means, in whole or in part, directly or indirectly relating to, connected with, or commenting on.
8. "Communication" means any oral or written communication of which Defendant has knowledge, information, or belief.
9. "Date" means the exact date, month, and year, if ascertainable, or, if not, the best

available approximation.

10. "Describe" and "identify," when referring to a person, are defined to require that you state the following:

- a. The full name.
- b. The present or last known residential address.
- c. The present or last known residential and office telephone numbers.
- d. The present occupation, job title, employer, and employer's address at the time of the event or period referred to in each particular request.
- e. In the case of any person other than an individual, identify the officer, employee, or agent most closely connected with the subject matter of the request and identify the officer who is responsible for supervising that officer or employee.

11. "Describe" and "identify," when referring to a document, are defined to require that you state the following:

- a. The nature (*e.g.*, letter, handwritten note) of the document.
- b. The title or hearing that appears on the document.
- c. The date of the document and the date of each addendum, supplement, or other addition or change.
- d. The identity of the author and of the signer of the document, and of the person on whose behalf or at whose request or direction the document was prepared or delivered.
- e. The present location of the document, and the name, address, position, or title, and telephone number of the person or persons having custody of the document.

12. The term "Incident" or "Occurrence" shall refer to the detachment of the Covidien ProTack 55 mm Fixation Device from Plaintiff Maurice Goudeau' abdominal wall and migration of the Protack 55 mm Fixation Device to Plaintiff Maurice Goudeau's bowels, which forms the basis of Plaintiffs' lawsuit and occurred and/or was discovered on or about March 19, 2017.

13. "Product" or "ProTack" shall refer to Covidien ProTack 5 mm Fixation Device. Please see attached Excerpt of hospital billing for ProTack to Mr. Goudeau for reference.

PLAINTIFFS' FIRST SET OF INTERROGATORIES TO
DEFENDANT COVIDIEN, LP.

INTERROGATORY NO. 1:

Does Defendant contend that any change, modification or alteration of the Product by any third-party from the time it was marketed until the time of the Occurrence in question contributed in any way to the Occurrence in question? If so, in what way did the modifications, if any, contribute to the Occurrence in question?

ANSWER:

INTERROGATORY NO. 2:

List the names and addresses of any person or persons with whom Defendant had vested authority for the wording and/or dissemination of instructions for use or warnings associated with the use of the Product in question, including but not limited to, advertising, instruction manuals, and placards and labeling.

ANSWER:

INTERROGATORY NO. 3:

Please state exactly how the Product, as it is marketed today, differs from the Product as it was originally marketed.

ANSWER:

INTERROGATORY NO. 4:

With regard to any design changes in the Product since its original introduction into the United States medical device market, has Defendant considered any design changes which it has discarded that would affect the safety of the product or that would be relevant to the kind of accident or injury, such as Plaintiff's injuries detailed in the Plaintiff's Original Petition?

ANSWER:

INTERROGATORY NO. 5:

State the full name, address, job title and department or group of each person in the employ of Defendant who had ultimate chief and/or supervisory responsibility for:

- (a) The overall design of the Product;
- (b) The manufacture of the Product;
- (c) The assembly of the Product;
- (d) The preparation of instructions or warnings for the Product; and/or
- (e) The sale of the Product.

ANSWER:

INTERROGATORY NO. 6:

State whether Defendant contends that the Product had been improperly maintained and serviced before the Occurrence made the issue of this lawsuit?

ANSWER:

INTERROGATORY NO. 7:

If the product is no longer being marketed in the United States, please state why it is not.

ANSWER:

INTERROGATORY NO. 8:

From the time of the original design and manufacture of the Product to present, describe any tests done by Defendant with respect to the Product in question or on similar products sold by Defendant in order to determine the safe use of such products for hernia repair surgery.

ANSWER:

INTERROGATORY NO. 9:

State whether the Defendant offered, sold, and/or provided a written warranty plan to Product users and or Product purchasers covering the Product? If so, please briefly describe the terms of the warranty coverage.

ANSWER:

INTERROGATORY NO. 10:

State whether the Product in question has ever been the subject of a recall or service bulletin by Defendant or any other company. Include in your answer, the date of any recall and the reason for such recall or service bulletin.

ANSWER:

INTERROGATORY NO. 11:

State whether the Product was tested, approved or certified by any independent agency or laboratory before it was sold or placed in the United States medical device market? If so, please state the name and address of any such independent agency or laboratory. Include in your answer, the date(s) of the Product testing, the date the Product was approved, and the date the Product was certified.

ANSWER:

INTERROGATORY NO. 12:

From the date You placed the Product into the United States medical device market to present, identify all warnings of the dangers or risks of harm in the use of the Product made by Defendant in the marketing of this Product?

ANSWER:

INTERROGATORY NO. 13:

From the date You placed the Product into the United States medical device market to present, identify if there were any safety features available on the market to prevent the Occurrence at issue in this Lawsuit that could have been incorporated into the design, manufacture or assembly of the Product that were not so incorporated? If so, include in your answer, any such safety feature and state why it was not incorporated into the Product in question.

ANSWER:

INTERROGATORY NO. 14:

State whether Defendant has a procedure in place to receive, collect and maintain records of notices of accidents or injuries involving the Product in question, and if so, please describe procedure. Include in your response, the types of reports or records kept and the name of the person responsible for keeping such records.

ANSWER:

INTERROGATORY NO. 15:

From the time of the original design and manufacture of the Product to present, state whether You considered an alternate approach or design which would have eliminated or substantially reduced the danger or risk of the Occurrence at issue in this suit.

ANSWER:

INTERROGATORY NO. 16:

At the time of the original design and manufacture of the Product in question or since, was an alternate approach or design considered which would have eliminated or substantially reduced the danger or risk of harm related to reducing and/or eliminating the injuries detailed in Plaintiff's Original Petition.

ANSWER:

INTERROGATORY NO. 17:

Do you intend to use any evidence or any prior convictions of crime, pursuant to Texas Rules of Evidence 609(f) to impeach the Plaintiffs in this action or any other witness with relevant knowledge of the facts of the occurrence in question and any resulting damages? If so, please state the Court, cause number and date of conviction(s).

ANSWER:

**PLAINTIFF'S REQUESTS FOR PRODUCTION TO
DEFENDANT COVIDIEN, LP.**

REQUEST FOR PRODUCTION NO. 1:

From the date You first placed the Product into the United States medical device market to present, produce any and all brochures and literature printed, distributed or circulated by Defendant containing photographs, diagrams or descriptions of the Product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2:

From the date You first placed the Product into the United States medical device market to present, produce any and all instruction for assembly, construction or use pertaining to the Product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3:

From the date You first placed the Product into the United States medical device market to present, produce all documents or writings prepared for accompaniment with the Product in question containing warnings of any dangers to which ultimate users of the Product may be exposed or containing any instructions for use.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4:

From the time of the original design of the Product to present, produce any and all documents containing any sketches, schematics, blueprints or design specifications of the product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5:

From the time of the original design of the Product to present, produce any applicable safety standards or codes governing the design and/or manufacture of said Product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6:

From the date You first placed the Product into the United States medical device market to present, produce any documents or records reflecting other reported incidents similar to the Occurrence at issue and involving products of the same design as the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7:

From the time of the original design of the Product to the present, produce the results of any testing for product safety or safety inspection of the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8:

From the time of the original design of the Product to the present, produce the results of any testing for product safety or safety inspection of the group of products in which the Product in question was included at the time of manufacturing or marketing.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9:

From the time of the original design of the Product to present, any patents held by you on the product in question, including copies of any patent applications made by you.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10:

All documents reflecting ownership of the product at the time of the occurrence in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11:

Any and all expert reports that were or will be relied upon in whole or in part by any testifying expert in this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12:

Any and all consulting experts' reports that were or will be reviewed by any testifying expert in this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13:

Any and all work papers, notes and documents in the file of any expert witness who is expected to testify, or in the file of any expert witness who has written a report which is or will be relied upon in whole or in part by a testifying expert.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14:

A curriculum vitae or resume for each individual whom you expect to call as an expert witness at the trial in this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15:

Any treatises or authoritative literature which any expert intends to rely on in his testimony in this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16:

Any and all insurance agreements or policies under which any person or entity carrying on an insurance business may be liable to satisfy part or all of a judgment which may be rendered in this action or to indemnify or reimburse for payments made to satisfy the judgment.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17:

Any and all insurance policies, whether basic, umbrella or excess, which may pay any judgment in this case or provide any defense in this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18:

Copies of any and all statements previously made by Plaintiff Maurice Goudeau concerning the subject matter of this lawsuit, including any written statement signed or otherwise adopted or approved by the Plaintiff hereto and any stenographic, mechanical, electrical or other type of recording or any transcription thereof made by Plaintiff hereto and contemporaneously recorded.

RESPONSE:

REQUEST FOR PRODUCTION NO. 19:

Any and all settlement agreements, wherein you have arrived at a settlement or agreement between you and any other person, whether or not a party to this lawsuit, regarding or pertaining to the incident made the basis of this lawsuit or any damages resulting therefrom.

RESPONSE:

REQUEST FOR PRODUCTION NO. 20:

A copy of any surveillance movies or photographs which have been made of Plaintiff Maurice Goudeau.

RESPONSE:

REQUEST FOR PRODUCTION NO. 21:

From the date You first placed the Product into the United States medical device market to present, produce any report of investigation of any governmental agency or private organization relating to the Occurrence in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 22:

From the date You first placed the Product into the United States medical device market to present, produce any and all brochures, manuals, parts lists, instructions, written materials, advertising materials or other documents in your possession relating to the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 23:

Any photograph, videotape, movie or any other photographic reproduction in your client's or your possession which were taken by You or by any other individual which relates in any way to the subject matter and incident made the subject of this lawsuit, the product or similar model to the product involved in this lawsuit, or any component part of the aforementioned product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 24:

From the date You first placed the Product into the United States medical device market to present, produce any documents, pamphlets, brochures or operating manuals reflecting the safety features of the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 25:

A copy of all written instructions and sales literature which would have accompanied the Product at the time of sale.

RESPONSE:

REQUEST FOR PRODUCTION NO. 26:

From the date You first placed the Product into the United States medical device market to present, produce copies of all warning labels, placards or any other thing which accompanied the product at the time of sale.

RESPONSE:

REQUEST FOR PRODUCTION NO. 27:

From the date You first placed the Product into the United States medical device market to present, produce copies of all operator's manual for the Product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 28:

From the date You first placed the Product into the United States medical device market to present, produce copies of any "Operating Instructions" and "Product Information" for the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29:

From the date You first placed the Product into the United States medical device market to present, produce copies of any service and/or maintenance manual or instructions relating to the Product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30:

From the time of the design of the Product to present, produce a copy of any photographs, films, videotapes or other thing relating to any testing of the Product in question with respect to its design or performance that is in any way relevant to the injuries to the Plaintiff in question or the manner in which the occurrence in question is alleged to have occurred, including but not limited to, dehiscence of the staple line and/or post gastric bypass surgery gastrointestinal bleed from or related to a staple suture line.

RESPONSE:

REQUEST FOR PRODUCTION NO. 31:

From the time of the design of the Product to present, produce any written or recorded statements of Plaintiff or Plaintiff's representatives regarding the Occurrence made the basis of this suit or the damages resulting therefrom.

RESPONSE:

REQUEST FOR PRODUCTION NO. 32:

From the time of the design of the Product to present, produce any documents, reports or other written records pertaining to any investigation pertaining to Occurrence made the basis of this lawsuit, that is not privileged at law.

RESPONSE:

REQUEST FOR PRODUCTION NO. 33:

From the time of the design of the Product to present, produce any and all documents containing warnings from any third-party of any danger to which the user and/or patient of the Product may be exposed or may experience.

RESPONSE:

REQUEST FOR PRODUCTION NO. 34:

From the time of the design of the Product to present, produce any and all documents containing warnings from You concerning any danger to which the user and/or patient of the Product may be exposed or may experience.

RESPONSE:

REQUEST FOR PRODUCTION NO. 35:

From the time of the design of the Product to present, produce any and all patents employed in the design and construction of said Product.

RESPONSE:

REQUEST FOR PRODUCTION NO. 36:

From the time of the design of the Product to present, produce copies of warranties offered given to the purchasers of the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 37:

From the time of the design of the Product to present, produce copies of all advertising, promotional and descriptive literature for products that were designed subsequent to the time this Product was placed on the market, that were designed to improve, change or take the place of the Product which is the subject of this litigation.

RESPONSE:

REQUEST FOR PRODUCTION NO. 38:

Any documents, photographs or other physical evidence which You will use or offer at trial.

RESPONSE:

REQUEST FOR PRODUCTION NO. 39:

From the time of the design of the Product to present, produce copies of any trade journals or similar publications that have discussed, criticized or analyzed the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 40:

Produce any and all documents and/or tangible things which support, evidence and/or relate to your contention, if any that Plaintiffs were negligent and/or the cause of damages regarding the injuries made the basis of this lawsuit.

RESPONSE:

REQUEST FOR PRODUCTION NO. 41:

Produce any and all depictions, graphs, illustrations, charts, pictures, models, blow-ups, computer animations or any other document or thing which you intend to utilize as a demonstrative exhibit or aid in the trial of this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 42:

Please produce the following:

- a. any charts, summaries, or calculations of the contents of any voluminous writings, recordings, or photographs, as defined by Tex.R.Civ.Evid. 1001, which cannot be conveniently examined in court, and which you or your attorney plan or expect, or may offer, as evidence at the trial of this cause pursuant to Tex.R.Civ.Evid. 1006, or any other law;
- b. the contents on voluminous writings, recordings, or photographs which you or your attorneys plan, expect, or may present in the form of such summaries, charts, or photographs, as described in (a) above.

RESPONSE:

REQUEST FOR PRODUCTION NO. 43:

From the time of the design of the Product to the present, produce any and all documents related to this case (liability or damages), whether or not you intend to offer same into evidence at the time of trial, that would be categorized under any exception listed under any subsection of Texas Rules of Evidence 803.

RESPONSE:

REQUEST FOR PRODUCTION NO. 44:

From the time of the design of the Product to the present, produce any and all documents related to this case (liability or damages) whether or not you intend to offer same into evidence at the time of trial, that would be categorized under any exception listed under any subsection of Texas Rules of Evidence 902.

RESPONSE:

REQUEST FOR PRODUCTION NO. 45:

From the time of the design of the Product to the present, produce all internal memos related to the suitability and proper function of the ProTack 5 mm Fixation Device for hernia repair surgery.

RESPONSE:

REQUEST FOR PRODUCTION NO. 46:

This request is not intended to have Defendant create a document or chart but rather produce any and all documents which contain any of the following subject matter areas as to any injury to the patient and/or death of the patient:

- a. All statistical data related to the identity, number and severity of adverse complications which occurred following use of a ProTack 55 mm Fixation Device manufactured by Defendant in hernia repair surgery.
- b. A brief statement of facts and names, address and phone numbers of any attorneys who represented patients related to their adverse complications.

RESPONSE:

REQUEST FOR PRODUCTION NO. 47:

From the time of the original design of the Product to present, all documents submitted by You to the

Food and Drug Administration regarding the Product in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 48:



From the time of the original design of the Product to present, all documents generated by the Food and Drug Administration regarding the Product in question, including but not limited to any approvals and/or restrictions and application for use, sale and marketing.

RESPONSE:


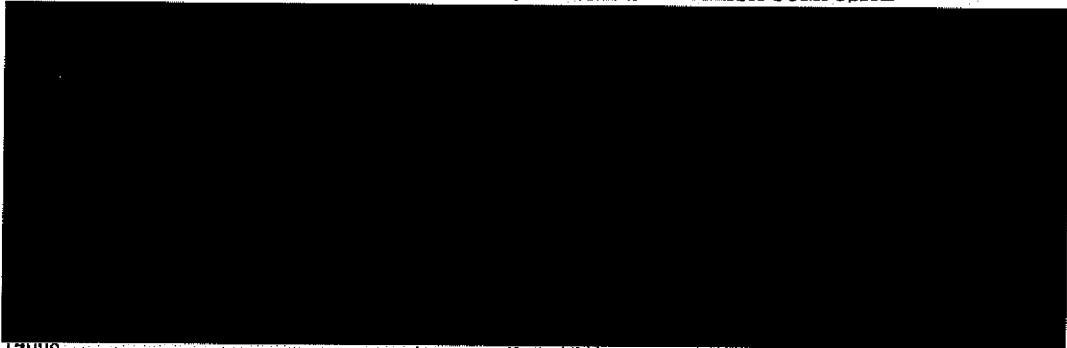
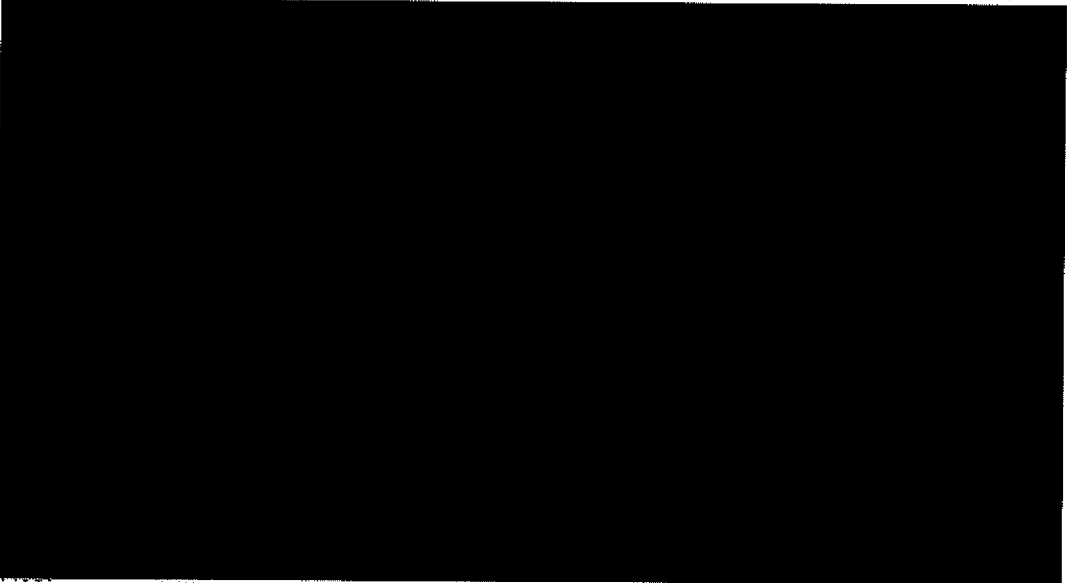
NOTICE

PLEASE ACCEPT THIS AS ACTUAL NOTICE PURSUANT TO 193.7 TEX. R. CIV. P. THAT ALL DOCUMENTS PRODUCED IN RESPONSE TO THESE REQUESTS FOR PRODUCTION WILL BE USED AT THE TIME OF TRIAL AND/OR IN PRETRIAL PROCEEDINGS.

**St. Luke's CMC - Woodlands
Nursing Intraop Record**

Patient Name: GOUDEAU, MAURICE
 Pt. Preferred Name:
 Medical Record #: 01395042 Case Conf. #: 
 Proc. Date: 10/20/2008 Pt. Acct. #: 
 Age: 54y Sex: Male
 OR #: OR03-01 x64208 DOB: 03/10/1954

Materials

MAPS #	Billing Code	Used	Wasted	Name
		1		
		1	0	BARD SEpra MESH COMPOSITE
				
14008				GOVIA, MAURICE DTD EGE
23746		2	0	INSTRUMENT, PROTACK 5MM
				

Signature: _____ Date: _____

This Record Electronically Signed by
 Atkinson, Anita

10/20/2008 01:01:18PM
 Atkinson, Anita/RN/Record Sign Off

1/16/2019 4:47:42 PM
Marilyn Burgess - District Clerk
Harris County
Envelope No: 30450616
By: CUERC NELSON
Filed: 1/16/2019 4:47:42 PM

Marilyn Burgess - Harris County District Clerk

Request for Issuance of Service

CASE NUMBER: _____ CURRENT COURT: _____

Name(s) of Documents to be served: Plaintiff's Original Petition, Request for Disclosure and Plaintiffs' First Set of Interrogatories and Requests for Production to C.R. Bard, Inc.

FILE DATE: January 16, 2019 (Month/Day/Year)

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served): C.R. BARD, INC.

Issue Service to: CT CORPORATION SYSTEM

Address of Service: 1999 BRYAN STREET, SUITE 900

City, State & Zip: DALLAS, TEXAS 75201

Agent (if applicable): _____

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

- Citation Citation by Posting Citation by Publication Citations Rule 106 Service
- Citation Scire Facias Newspaper _____
- Temporary Restraining Order Precept Notice
- Protective Order
- Secretary of State Citation (\$12.00) Capias (not an E-Issuance) Attachment
- Certiorari Highway Commission (\$12.00)
- Commissioner of Insurance (\$12.00) Hague Convention (\$16.00) Garnishment
- Habeas Corpus Injunction Sequestration
- Subpoena
- Other (Please Describe) _____

(See additional Forms for Post Judgment Service)

- SERVICE BY (check one):
- ATTORNEY PICK-UP (phone) _____ CONSTABLE
 - MAIL to attorney at: _____
 - CERTIFIED MAIL by District Clerk E-Issuance by District Clerk (No Service Copy Fees Charged)
 - (Note: **CAPIAS** is not an E-Issuance Option)
 - CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____
 - OTHER, explain _____

Issuance of Service Requested By: Attorney/Party Name: RONALD L. BAIR Bar # or ID: 01554900

Mailing Address: Bair Hilty, P.C., 14711 Pebble Bend Drive, Houston, Texas 77068

Phone Number: (713) 862-5599

Marilyn Burgess - Harris County District Clerk

Request for Issuance of Service

CASE NUMBER: _____ CURRENT COURT: _____

Name(s) of Documents to be served: Plaintiff's Original Petition, Request for Disclosure and Plaintiffs' First Set of Interrogatories and Requests for Production to Davol, Inc.

FILE DATE: January 16, 2019 (Month/Day/Year)

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served): **DAVOL, INC.**

Issue Service to: CT CORPORATION SYSTEM

Address of Service: 1200 S. PINE ISLAND RD.

City, State & Zip: PLANTATION, FLORIDA 33324

Agent (if applicable): _____

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

- Citation Citation by Posting Citation by Publication Citations Rule 106 Service
- Citation Scire Facias Newspaper _____
- Temporary Restraining Order Precept Notice
- Protective Order
- Secretary of State Citation (\$12.00) Capias (not an E-Issuance) Attachment
- Certiorari Highway Commission (\$12.00)
- Commissioner of Insurance (\$12.00) Hague Convention (\$16.00) Garnishment
- Habeas Corpus Injunction Sequestration
- Subpoena
- Other (Please Describe) _____

(See additional Forms for Post Judgment Service)

SERVICE BY (check one):

- ATTORNEY PICK-UP (phone) _____ CONSTABLE
- MAIL to attorney at: BairHilty, P.C., 14711 Pebble Bend Drive, Houston, Texas 77068
- CERTIFIED MAIL by District Clerk E-Issuance by District Clerk (No Service Copy Fees Charged)
- (Note:) CAPIAS is not an E-Issuance Option
- CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____
- OTHER, explain _____

Issuance of Service Requested By: Attorney/Party Name: RONALD L. BAIR Bar # or ID: 01554900

Mailing Address: Bair Hilty, P.C., 14711 Pebble Bend Drive, Houston, Texas 77068

Phone Number: (713) 862-5599

1/16/2019 4:47:42 PM
Marilyn Burgess - District Clerk
Harris County
Envelope No: 30450616
By: CUEVO NELSON
Filed: 1/16/2019 4:47:42 PM

Marilyn Burgess - Harris County District Clerk

Request for Issuance of Service

CASE NUMBER: _____ CURRENT COURT: _____

Name(s) of Documents to be served: Plaintiff's Original Petition, Request for Disclosure and Plaintiffs' First Set of Interrogatories and Requests for Production to Covidien, LP

FILE DATE: January 16, 2019 (Month/Day/Year)

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served): **COVIDIEN, LP**

Issue Service to: CORPORATION SERVICE COMPANY

Address of Service: 1201 HAYS STREET

City, State & Zip: TALLAHASSEE, FLORIDA 32301

Agent (if applicable): _____

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

- Citation Citation by Posting Citation by Publication Citations Rule 106 Service
- Citation Scire Facias Newspaper _____
- Temporary Restraining Order Precept Notice
- Protective Order
- Secretary of State Citation (\$12.00) Capias (not an E-Issuance) Attachment
- Certiorari Highway Commission (\$12.00)
- Commissioner of Insurance (\$12.00) Hague Convention (\$16.00) Garnishment
- Habeas Corpus Injunction Sequestration
- Subpoena
- Other (Please Describe) _____

(See additional Forms for Post Judgment Service)

SERVICE BY (check one):

- ATTORNEY PICK-UP (phone) _____ CONSTABLE
- MAIL to attorney at: BairHilty, P.C., 14711 Pebble Bend Drive, Houston, Texas 77068
- CERTIFIED MAIL by District Clerk E-Issuance by District Clerk (No Service Copy Fees Charged)
- (Note:) CAPIAS is not an E-Issuance Option
- CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____
- OTHER, explain _____

Issuance of Service Requested By: Attorney/Party Name: RONALD L. BAIR Bar # or ID: 01554900

Mailing Address: Bair Hilty, P.C., 14711 Pebble Bend Drive, Houston, Texas 77068

Phone Number: (713) 862-5599

BAIR ★ HILTY
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW

RONALD L. BAIR
Shareholder
Board Certified:
Civil Trial Law and
Personal Injury Trial Law
Texas Board of Legal Specialization

14711 Pebble Bend Drive
Houston, Texas 77068
Telephone: (713) 862-5599
Facsimile: (713) 868-9444

January 21, 2019

Marilyn Burgess
Harris County District Clerk
201 Caroline Street, Suite 110
Houston, TX 77002

Re: Cause No. 2019-04003; *Maurice Goudeau and Juliet Goudeau v. C.R. Bard, Inc. Davol, Inc. and Covidien, LP*; In the 234th Judicial District Court of Harris County, Texas

Ms. Burgess,

In response to your email of January 17, 2019 regarding service on Defendant Davol, Inc., in the above-referenced litigation, please take note of the following:

1. Defendant, **DAVOL, INC.**, is to be served through the Secretary of State. With the filing of this correspondence, we are providing an additional \$4.00 representing the balance of the service fee previously provided.
2. Defendant, **COVIDIEN, LP**, is also to be served through the Secretary of State. With the filing of this correspondence, we are providing an additional \$4.00 for the balance of the service fee previously provided on this Defendant as well.

Thank you for your attention and assistance with this important matter.

Sincerely,



Ronald L. Bair

1/21 By Permission

RLB/yc

7017 1450 0001 3701 6452

P.2

CAUSE NO. 201904003

RECEIPT NO.

75.00

CTM

TR # 73583283

PLAINTIFF: GOUDEAU, MAURICE
vs.
DEFENDANT: C R BARD INC

In The 234th
Judicial District Court
of Harris County, Texas
234TH DISTRICT COURT
Houston, TX

CITATION (CERTIFIED)

THE STATE OF TEXAS
County of Harris

TO: C R BARD INC (FOR PROFIT CORPORATION) BY SERVING ITS REGISTERED AGENT
CT CORPORATION SYSTEM

1999 BRYAN STREET SUITE 900 DALLAS TX 75201

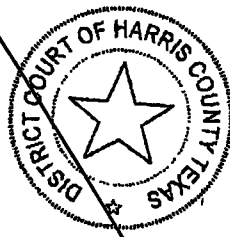
Attached is a copy of PLAINTIFFS ORIGINAL PETITION REQUEST FOR DISCLOSURE FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION

This instrument was filed on the 16th day of January, 2019, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 24th day of January, 2019, under my hand and seal of said Court.



Marilyn Burgess

Issued at request of:
BAIR, RONALD L.
14711 PEBBLE BEND DRIVE
HOUSTON, TX 77068
Tel: (713) 862-5599
Bar No.: 1554900

MARILYN BURGESS, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

Generated By: RAMEY, MERCEDES MATASHA 2Y1//11139811

CLERK'S RETURN BY MAILING

Came to hand the _____ day of _____, _____, and executed by mailing to Defendant certified mail, return receipt requested, restricted delivery, a true copy of this citation together with an attached copy of PLAINTIFFS ORIGINAL PETITION REQUEST FOR DISCLOSURE FIRST SET to the following addressee at address:

(a) ADDRESSEE

ADDRESS

Service was executed in accordance with Rule 106 (2) TRCP, upon the Defendant as evidenced by the return receipt incorporated herein and attached hereto at

on _____ day of _____, _____
by U.S. Postal delivery to _____

This citation was not executed for the following reason: _____

MARILYN BURGESS, District Clerk
Harris County, TEXAS

By _____, Deputy

7017 1450 0001 3701 6452

CAUSE NO. 201904003

RECEIPT NO.

75.00 CTM

TR # 73583283

PLAINTIFF: GOUDEAU, MAURICE
vs.
DEFENDANT: C R BARD INC

In The 234th
Judicial District Court
of Harris County, Texas
234TH DISTRICT COURT
Houston, TX

CITATION (CERTIFIED)

THE STATE OF TEXAS
County of Harris

TO: C R BARD INC (FOR PROFIT CORPORATION) BY SERVING ITS REGISTERED AGENT
CT CORPORATION SYSTEM

1999 BRYAN STREET SUITE 900 DALLAS TX 75201

Attached is a copy of PLAINTIFFS ORIGINAL PETITION REQUEST FOR DISCLOSURE FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION

This instrument was filed on the 16th day of January, 2019, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 24th day of January, 2019, under my hand and seal of said Court.



Marilyn Burgess

MARILYN BURGESS, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

Issued at request of:
BAIR, RONALD L.
14711 PEBBLE BEND DRIVE
HOUSTON, TX 77068
Tel: (713) 862-5599
Bar No.: 1554900

Generated By: RAMEY, MERCEDES MATASHA 2Y1//11139811

CLERK'S RETURN BY MAILING

Came to hand the _____ day of _____, _____, and executed by mailing to Defendant certified mail, return receipt requested, restricted delivery, a true copy of this citation together with an attached copy of PLAINTIFFS ORIGINAL PETITION REQUEST FOR DISCLOSURE FIRST SET to the following addressee at address:

(a) ADDRESSEE

ADDRESS

Service was executed in accordance with Rule 106
(2) TRCP, upon the Defendant as evidenced by the return receipt incorporated herein and attached hereto at

on _____ day of _____,
by U.S. Postal delivery to _____

This citation was not executed for the following reason: _____

MARILYN BURGESS, District Clerk
Harris County, TEXAS

By _____, Deputy

201904003

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee \$ _____

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$ _____

Return Receipt (electronic) \$ _____

Certified Mail Restricted Delivery \$ _____

Adult Signature Required \$ _____

Adult Signature Restricted Delivery \$ _____

Postage \$ 1.75 JAN 29 2019

Total Postage at _____

Sent To Marilyn Burgess MR
CT CORPORATION
District Clerk
SYSTEM 1999 BRYAN STREET SUITE 900
DALLAS TX 75201

Street and Apt. # _____
City, State, ZIP+4 _____

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

2549 T02E 1000 3701 6452
7017 1450 0001 3701 6452

RECEIVED
JAN 29 2019
2847
HOUSTON, TEXAS 77002

01-28-19

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging.



The State of Texas
Secretary of State

2019-301126-1

I, the undersigned, as Secretary of State of the State of Texas, DO HEREBY CERTIFY that according to the records of this office, a copy of the Citation; Plaintiff's Original Petition, Request for Disclosure; and First Set of Interrogatories and Requests for Production to Davol Inc in the cause styled:

Maurice Goudeau VS C R Bard Inc
234th Judicial District Court Of Harris County, Texas
Cause No: 201904003

was received by this office on February 1, 2019, and that a copy was forwarded on February 4, 2019, by CERTIFIED MAIL, return receipt requested to:

Davol Inc
CT Corporation System
1200 S Pine Island Rd
Plantation, FL 33324

The RETURN RECEIPT was received in this office dated February 7, 2019, bearing signature.

Date issued: February 8, 2019



A handwritten signature in black ink, appearing to read "David Whitley".

David Whitley
Secretary of State
GF/vm

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

C R BARD INC C/O CT CORPORATION
 SYSTEM 1999 BRYAN STREET SUITE 900
 DALLAS TX 75201

2019-04003



9590 9402 4408 8248 6168 41

2. Article Number (Transfer from service label)

7017 1450 0001 3701 6452

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

CHRIS [unclear]

C. Date of Delivery

FEB 14 2019

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

201904003
 234th court

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

USPS TRACKING#



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 4408 8248 6168 41

United States
Postal Service

FILED

Sender: Please print your name, address, and ZIP+4® in this box*

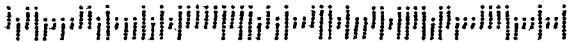
MARILYN BURGESS
DISTRICT CLERK
HARRIS COUNTY TEXAS

MARILYN BURGESS
HARRIS COUNTY DISTRICT CLERK
P.O. BOX 4651
HOUSTON, TEXAS 77210-4651

2019 FEB 12 AM 10:08

02-12-19

BY MAIL PROCESSING ADMIN





The State of Texas
Secretary of State

2019-301126-2

I, the undersigned, as Secretary of State of the State of Texas, DO HEREBY CERTIFY that according to the records of this office, a copy of the Citation; Plaintiff's Original Petition, Request for Disclosure; and First Set of Interrogatories and Requests for Production to Davol Inc in the cause styled:

Maurice Goudeau VS C R Bard Inc
234th Judicial District Court Of Harris County, Texas
Cause No: 201904003

was received by this office on February 1, 2019, and that a copy was forwarded on February 4, 2019, by CERTIFIED MAIL, return receipt requested to:

Covidien LP
Corporation Service Company
1201 Hays Street
Tallahassee, FL 32301

The RETURN RECEIPT was received in this office dated February 7, 2019, bearing signature.

Date issued: February 13, 2019



A handwritten signature in black ink, appearing to read "David Whitley", written over a horizontal line.

David Whitley
Secretary of State
GF/vm

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 MAURICE GOUDEAU AND JULIET GOUDEAU
(b) County of Residence of First Listed Plaintiff Harris County (Texas)
(c) Attorneys (Firm Name, Address, and Telephone Number) See Attachment A

DEFENDANTS C.R. BARD, INC., DAVOL INC., and COVIDIEN, LP
County of Residence of First Listed Defendant Union County (New Jersey)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known) See Attachment B

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)
Citizen of This State PTF DEF
Citizen of Another State
Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT REAL PROPERTY
PERSONAL INJURY CIVIL RIGHTS PRISONER PETITIONS
FORFEITURE/PENALTY LABOR IMMIGRATION
BANKRUPTCY SOCIAL SECURITY FEDERAL TAX SUITS
OTHER 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. Sections 1331, 1441, and 1446
Brief description of cause:
Medical device product liability lawsuit

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 Sargus (SD OH) DOCKET NUMBER MDL 2846

DATE 02/21/2019 SIGNATURE OF ATTORNEY OF RECORD /s/ Julie A. Hardin

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Civil Cover Sheet Attachment A

Counsel of Record for Plaintiffs

Ronald L. Blair
State Bar No. 01554900
Bair Hilty, P.C.
14711 Pebble Bend
Houston, Texas 77068
Telephone: 713.862.5599
Facsimile: 713.868.9444
E-mail: rbair@bairhilty.com

Civil Cover Sheet Attachment B

Defendant

Covidien, LP

Counsel of record unknown

Counsel of Record for Defendants C.R. Bard, Inc. and Davol Inc.

Julie A. Hardin

(Attorney-in-charge)

State Bar No. 24013613

Fed No. 26459

jhardin@reedsmith.com

Curtis R. Waldo

State Bar No. 24090452

Fed. Bar No. 2331235

cwaldo@reedsmith.com

811 Main Street, Suite 1700

Houston, Texas 77002-6110

Telephone: 713.469.3800

Facsimile: 713.469.3899

ATTORNEYS FOR DEFENDANT
C.R. BARD, INC. AND DAVOL INC.