

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

In Re: COOK MEDICAL, INC., IVC FILTERS
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

Case No. 1:14-ml-2570-RLY-TAB
MDL No. 2570

This Document Relates to the Following Action only:

Tonya Brand
No. 1:14-cv-06018-RLY-TAB

**COOK DEFENDANTS’
MOTION FOR JUDGMENT AS A MATTER OF LAW**

Defendants Cook Incorporated, Cook Medical LLC (f/k/a Cook Medical Incorporated), and William Cook Europe ApS (collectively, the “Cook Defendants” or “Cook”) move the Court to grant them judgment as a matter of law (JMOL) under Rule 50(a) on Plaintiff’s claims for compensatory damages based on strict-liability design defect and negligent design. Plaintiff failed to offer sufficient evidence to permit a reasonable jury to find in her favor on three critical elements of her design claims: (1) causation, (2) condition of product, and (3) design defect, plus a portion of her damages claim.¹

This motion is based on all the filings, records, pleadings, and transcripts herein, and on the accompanying memorandum of law in support.

¹ Cook is entitled to a partial JMOL on a portion of Plaintiff’s damages claim on the ground that Plaintiff offered insufficient evidence of the likelihood of future injury to sustain her claim for damages from fear of future injury. Because of the form of the damages question on the verdict form, however, the improper portion of the jury’s damage award cannot be segregated from the proper portions, and the grant of relief on that issue would require a new trial. Cook therefore addresses the issue in its motion for new trial.

Respectfully submitted,

Dated: March 12, 2019

/s/ Andrea Roberts Pierson

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Cook Medical LLC (f/k/a Cook Medical
Incorporated), and William Cook Europe ApS

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2019, a copy of the foregoing document was filed electronically, and notice of the filing of this document will be sent to all parties by operation of the Court's electronic filing system to CM/ECF participants registered to receive service in this matter. Parties may access this filing through the Court's system. Lead Counsel for Defendants will serve any non-CM/ECF registered parties.

/s/ Andrea Roberts Pierson