

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

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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

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This Document Relates to the Following Action only:

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

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**COOK DEFENDANTS’  
MOTION FOR NEW TRIAL**

Defendants Cook Incorporated, Cook Medical LLC (f/k/a Cook Medical Incorporated), and William Cook Europe ApS (collectively, “Cook”) hereby move this Court under Fed. R. Civ. P. 59 to grant them a new trial on Plaintiff’s claim for compensatory damages.<sup>1</sup> Cook is entitled to a new trial on multiple grounds:

1. The Court committed prejudicial error in admitting Plaintiff’s Exhibit PX-1913, which was inadmissible for multiple reasons, including lack of foundation, failure to establish substantial similarity, multiple levels of hearsay, minimal probative value, and extreme and unfair prejudice.

2. The Court erred in admitting the unqualified and unsupported testimony of Plaintiff’s expert Dr. Gregory Gordon.

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<sup>1</sup> Cook does not seek a new trial of Plaintiff’s claim for punitive damages, nor would the grant of a new trial on Plaintiff’s compensatory damages claim entitle Plaintiff to a new trial on her punitive damages claim.

3. The Court erred in admitting the unqualified and unsupported testimony of Plaintiff's expert Dr. Harlan Krumholz.

4. The Court erred in admitting evidence concerning Plaintiff's claim of fear of future damages and in permitting the jury to award damages based on future fear.

5. Plaintiff's attorneys engaged in a pattern of improperly interjecting obviously objectionable questions about warnings that repeatedly injected warnings into a trial in which they were not an issue and unfairly prejudiced Cook enough to warrant a new trial.

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

Respectfully submitted,

Dated: March 12, 2019

/s/ Andrea Roberts Pierson

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Counsel for the Defendants, Cook Incorporated,  
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