

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: DAVOL, INC./C.R. BARD, INC.,
POLYPROPYLENE HERNIA MESH
DEVICES LIABILITY LITIGATION**

Case No. 2:18-md-2846

**JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Kimberly A. Jolson**

This document relates to:

ALL ACTIONS

**PLAINTIFFS' STEERING COMMITTEE'S BRIEF IN OPPOSITION TO
DEFENDANTS' BRIEF REGARDING THE REPRESENTATIVENESS OF
*STINSON AND BRYAN***

Pursuant to the Court’s directive at the May 17 2023 Case Management Conference (“CMC”) and CMO No. 44 (MDL 2846 ECF No. 733), the Plaintiffs’ Steering Committee (“PSC”) submits this brief in opposition to Defendants’ Brief Regarding Representativeness of *Stinson* and *Bryan*, and in further support that *Stinson* and *Bryan* remain the third and fourth bellwether cases, respectively—as previously ordered by the Court—and should proceed to trial as already determined.¹ As outlined below, this position is aligned with the general bellwether case selection process and is consistent with the Court’s prior rulings as they relate to bellwether cases in this MDL.

I. INTRODUCTION

Since 2018, when the parties began the bellwether selection process, Defendants have been attempting to eliminate the *Stinson* matter from the pool of bellwether cases. Defendants first argued that it was not representative on July 12, 2019, when the parties each selected three cases from the pool of twelve bellwether cases. *See* MDL 2846 ECF No 125. Thereafter, on January 13, 2020, and on January 21, 2020, after Core Discovery of the six cases was completed, Defendants again set forth their arguments against selecting *Stinson* for trial in multiple rounds of briefing. *See* MDL 2846 ECF Nos. 299, 307. The Court, however, found Defendants’ arguments as to *Stinson*’s unrepresentativeness unconvincing, and issued CMO No. 25 on January 24, 2020, setting *Stinson* as the third bellwether trial case. *See* MDL 2846 ECF No. 318. However, the Court’s Order did not stop Defendants from once again raising the issue of *Stinson*’s representativeness more than a year later, at the February 2, 2021 CMC. The Court permitted Defendants to brief the *Stinson*

¹ As the Court is aware, both parties have briefed these same bellwether selection issues multiple times in the past. *See* MDL 2846 ECF Nos. 298, 299, 307, 308, 343, 344, 483, 484, 492, 493. As such, many of the arguments that the PSC will raise in this brief have been previously raised and fully briefed and ruled on by this very Court. This is yet another transparent attempt by Defendants to avoid trial by undermining the Court’s authority and undoing the Court’s prior rulings regarding the bellwether trial pool. While it is not the intention to relitigate the same facts and arguments *ad nauseum*, the PSC is forced to once again re-raise the arguments made in its prior briefing and incorporate the same as if fully set forth herein.

representativeness issue once again, notwithstanding Defendants' failure to follow the procedure for raising objections as outlined in CMO 25. Thereafter, on February 23, 2021, Defendants filed additional briefing once again outlining their arguments and objections to *Stinson*. See MDL 2846 ECF No. 484. Specifically, Defendants argued that: (1) the injuries alleged in *Stinson* are not representative of the injuries alleged in the MDL; (2) a two-mesh products case is not representative of the broader range of cases in the MDL; and (3) *Stinson* should be replaced with a single product case. Unsurprisingly, the Court found Defendants' arguments unavailing yet again and held that *Stinson* will remain the third bellwether case to proceed to trial. See MDL 2846 ECF No 514. Incredulously, now Defendants are trying to take yet another bite at the proverbial apple by reraising the same arguments yet again in a hail Mary attempt to avoid a jury trial in the *Stinson* case.

As to *Bryan*, Defendants themselves requested that *Bryan* replace *Miller* as the fourth bellwether case when unforeseen circumstances necessitated the Court to remove *Miller* from the bellwether case pool. Notably, Defendants chose *Bryan* as their bellwether trial case despite the fact that Mr. Bryan testified at his deposition that he had ongoing issues stemming from his Bard 3DMax implant, including a "burning testicle" sensation. See 6/7/19 *Bryan* Deposition Tr. 23:22, 88:4-88:7, 128:24-129:9, 130:7-130:11; 132:1-132:8, 134:5-134:15, 134:24-135:10, 136:8-136:11, 137:6-137:11, 142:12-142:15 (attached hereto as Exhibit A). Therefore, Defendants were fully aware that Mr. Bryan's hernia mesh implant was causing complications far beyond those of general pain, yet they chose *Bryan* as their trial case nonetheless, a strategic decision Defendants made more than two years ago. Now, Defendants should be estopped from randomly discarding *Bryan* and going back to the pool of 19,000 cases to search for another case with minor injuries and/or relatively low damages simply because Defendants' mesh product is causing Mr. Bryan to experience additional complications necessitating treatment, a common occurrence with all Bard implants at issue in this

litigation.²

It is respectfully submitted that the Court must not countenance any further of Defendants' repeated attempts to attack the representativeness of the bellwether cases. Not only are the cases at issue representative and will inform the Court and the parties on how to best assign values to a multitude of cases currently pending in this MDL but all parties and the Court have expended enormous amounts of time and resources on working these cases up for trial. Therefore, these cases must proceed to trial as scheduled without any further delays.

II. DEFENDANTS' ARGUMENTS OF UNREPRESENTATIVENESS ARE A TRANSPARENT END-AROUND PRIOR COURT RULINGS AND SHOULD BE GIVEN NO WEIGHT

Defendants make no attempt to explain why additional treatment of ongoing symptoms, of which they have been aware for years, automatically renders these cases unrepresentative. Instead, for tactical reasons, Defendants deliberately waited until the *Stinson* and *Bryan* trial schedules were re-set to once again raise their baseless objections as to the cases' representativeness in hopes of causing additional delays and stalling this litigation further. Defendants' request should be denied on this basis alone. Indeed, Defendants cite to no legal authority as to why their request is timely and/or appropriate. Finally, Defendants' preposterous notion that conducting supplemental discovery in *Stinson* and/or *Bryan* will be as lengthy and time consuming as selecting and preparing two brand new cases for trial, is equally unavailing and should be swiftly rejected.

Defendants' only goal here is to delay trying these cases in front of a jury in an effort to ultimately delay the resolution of all cases currently pending in the MDL. In true defense counsel

² Based on the PPF data collected from 3,461 plaintiffs in 2019: (1) 64% suffered mesh adhesions; (2) at least 22% experienced nerve and/or organ damage; (3) 78% experienced at least one of the following: infections, abscesses, fistula and/or seromas; (4) 46% suffered from a bowel injury including bowel obstructions, perforations and/or removal of bowel; (5) 72% suffered from a hernia recurrence; and (6) 46% reported mesh migration and/or mesh shrinkage. See ECF No. 298.

fashion, Defendants want to try cases involving low damages and minor injuries; however, that is not the purpose of bellwether trials. To that end, cases with more significant damages involving a multitude of injuries and a variety of surgical and non-surgical treatments cannot be discarded simply because they may result in a larger verdict. Indeed, those are the very cases that must be tried as they will inform what the appropriate settlement values should be for the varying injuries at issue in this MDL. As the Court noted during the last CMC, Defendants have a “big hill to climb here.” 5/17/23 CMC Tr. at 13:2-3. As shown in this brief, Defendants’ arguments do not even get them off the base of the hill, let alone come remotely close to reaching the summit.

A. *Stinson* Should Remain the Third Case to be Tried as Previously Ordered by the Court

Stinson remains a representative case and should continue to trial as scheduled. Nearly 2 years and 3 months since their last transparent attempt, Defendants are once again rehashing the very same arguments that failed time and again in an effort to prevent the *Stinson* trial from going forward. The PSC once again submits that Defendants’ challenges of *Stinson*’s representativeness should be swiftly rejected. While nothing in the *Stinson* case has materially changed, Defendants are improperly attempting to use Plaintiff’s ongoing injuries and damages to stall this litigation and deny Mr. Stinson his day in court. Nevertheless, as the PSC advanced over two years ago and a year prior to that, Mr. Stinson’s age, general health, mesh implant, and all of his injuries are common to many plaintiffs in this MDL and his case is an informative bellwether case.

By way of a brief background, Aaron Stinson was implanted with a PerFix Plug to repair a right inguinal hernia in Maine on August 5, 2015, at the age of 44. Mr. Stinson experienced severe and ongoing groin pain, very commonly seen in patients with PerFix Plugs. Before resorting to surgical intervention, Mr. Stinson underwent nerve block injections for approximately 18 months in an attempt to alleviate his chronic pain. His symptoms, however, were not relieved by the

injections, necessitating revision surgery to remove the PerFix Plug on June 20, 2017. Upon removal, Mr. Stinson required implantation of a new mesh in its place to cover the opening left following the removal of the plug. The need to implant a second mesh product is a very common occurrence and approximately 64% of Plaintiffs in this MDL have undergone two or more mesh implant surgeries.³ Coincidentally, another Bard mesh product was ultimately used to repair the damage left by the PerFix Plug.⁴ Following its removal in 2017, Mr. Stinson continued to experience pain and discomfort in his groin area. Indeed, the injuries Mr. Stinson suffered as the result of his PerFix Plug implant, including chronic pain necessitating months of nerve block injections and then surgical explanation of the mesh and the implantation of a new mesh product, are very common with PerFix Plug implants as well as with other Bard implants.

Moreover, once the PerFix Plug was removed, the damage it left behind was not remedied by its removal, and Mr. Stinson continued to experience chronic groin pain and discomfort which required further treatment. As is often the case, Mr. Stinson's treating physician took a conservative approach, at first, and recommended therapeutic nerve injections and symptom management. However, when conservative treatment failed to relieve Mr. Stinson's pain, as it often does, he was forced to undergo another surgical procedure, also a common occurrence among Plaintiffs, as at least 15% of Plaintiffs have required two or more surgical procedures related to issues following two different Bard products.⁵ In Mr. Stinson's case, the treating surgeon removed the second mesh and resorted to performing an orchiectomy, the very injury that is specifically associated with

³ According to the data collected in 2021 from 5,347 randomly selected filed cases, 3,434 Plaintiffs have undergone two or more hernia mesh implant surgeries.

⁴ According to the data collected in 2021 from 5,347 randomly selected filed cases, 1,649 or 30.1% of Plaintiffs have had two different Bard mesh products implanted.

⁵ According to the data collected in 2021 from 5,347 randomly selected filed cases, at least 816 Plaintiffs that had two or more Bard implants where each required a surgical procedure.

inguinal Bard implants, as was first discussed at the onset of this litigation during Science Day in 2018. *See* Exhibit B. Interestingly, while only approximately 4.4% of the PerFix cases involve an orchiectomy,⁶ at least 75% of inguinal cases in the bellwether discovery pool have undergone and/or may undergo an orchiectomy.⁷ Indeed, the fact that the current briefing is centered around two bellwether cases involving testicular issues and/or orchiectomies further underscores the representativeness of *Stinson* and *Bryan*.

While an orchiectomy in itself may not be the most common injury experienced by many Plaintiffs in this MDL, the *Stinson* case remains representative. Moreover, the removal of Mr. Stinson's Bard Mesh does not diminish the representativeness of his case. As before, the PSC will demonstrate at trial that Mr. Stinson's complaints of pain, chronic inflammation, and excessive fibrosis resulted from the PerFix, and all other injuries he suffered, including undergoing a surgical removal of the Bard Mesh and the orchiectomy, were the result of the defective PerFix implant.

To reiterate further, none of the factors in favor of *Stinson*'s representativeness have changed. Mr. Stinson was of average age and physical condition when he underwent his hernia mesh implant, and when he suffered his mesh-related injuries. Additionally, he does not suffer from any unique comorbidities and is not making claims against the Bard Mesh that was implanted in 2017 and recently removed. Accordingly, *Stinson* does not involve any unique questions that would render the case non-representative even though Plaintiff underwent a recent additional surgical procedure. In fact, *Stinson* is **more representative** now because of the more significant damages, as a jury verdict will now be even more informative and will better instruct both sides on

⁶ According to the data collected in 2021 from 5,347 randomly selected filed cases, at least 42 Plaintiffs with a PerFix Plug implant required an orchiectomy.

⁷ In addition to Aaron Stinson, Steven Pierzchalski has undergone an orchiectomy, and Jacob Bryan may potentially require an orchiectomy as well. *See* CMO 15 listing Plaintiffs in the bellwether discovery pool.

how to best assess the values for cases with more expansive injuries and larger damages, such as cases involving more than one revision or removal surgery and/or nonsurgical intervention/treatment. Therefore, litigating *Stinson* before a jury would provide key information and guidance on how many of the MDL cases should be resolved—information that could not be gathered by litigating a case with minimal injuries and/or very low damages.

B. *Bryan* Should Remain the Fourth Case to be Tried as Previously Ordered by the Court

While *Bryan* was chosen by Defendants when they thought it involved relatively minor injuries and little to no damages, Defendants are now attempting to preclude this case from reaching the jury because of the mere speculation that the injuries and damages at issue may no longer be nominal. Defendants chose Bryan to replace *Miller* when Plaintiff Miller ended his relationship with his then counsel and was no longer being represented by an attorney. Defendants chose *Bryan* despite Mr. Bryan's testimony that he was experiencing ongoing issues following his mesh implant, including that of pain and a burning sensation in his testicles. Unsurprisingly, Mr. Bryan recently sought treatment for his ongoing symptoms and may require surgery and/or an orchiectomy. While the surgical intervention has yet to occur, Defendants contend that the case should be thrown out for lack of representativeness. Similar to *Stinson*, nothing material has changed here and even if Mr. Bryan were to undergo additional surgery, which is common with Bard implants, the facts and theories of the case will remain the same, only damages may increase.

What is more confusing about Defendants' request to eliminate *Bryan* from the bellwether pool is that the parties have yet to engage in case-specific expert discovery and/or motion practice. Defendants will have ample time and opportunity to retain a rebuttal expert and conduct depositions of Plaintiff's case specific expert surgeon as the *Bryan* case advances further to trial. Moreover, Defendants also fail to articulate how any potential change in Mr. Bryan's medical circumstances,

such as Mr. Bryan seeking additional treatment and/or surgical intervention for his symptoms, makes this case so unique that it will no longer serve the purpose of a bellwether case.

On the contrary, should Mr. Bryan undergo additional treatment, his case will also become even more representative as his injuries and damages will be more on par with other Plaintiffs in this MDL, and the verdict the *Bryan* jury will render will be more informative to all parties and the Court as to how best to assign settlement values to a large number of similarly situated cases. Most importantly, the Court, has already determined *Bryan* to be representative, it should not disturb its decision more than two years later simply because Defendants decided that their chances of succeeding on the merits may have decreased because Mr. Bryan is seeking medical treatment for his chronic pain and discomfort.

III. SELECTING NEW BELLWETHER CASES AT THIS JUNCTURE IS UNNECESSARY AND WILL CAUSE IRREPARABLE HARM TO PLAINTIFFS, WASTE RESOURCES, AND WOULD INDEFINITELY STALL THE RESOLUTION OF THIS MDL

As the Court is aware, selecting new bellwether cases from a pool of over 19,000 and working up two brand new cases for trial is a herculean task that will take years and will unnecessarily and unfairly cause the PSC to expend well over a million additional dollars. Defendants' ludicrous contention that selecting and preparing two new bellwether cases for trial will result in the same expenditure of time and resources as conducting supplemental discovery in *Stinson* and *Bryan* is laughable and further illustrates their bad faith efforts to stall the resolution of this MDL. As discussed in detail below, selecting and preparing new cases for trial will be an immensely arduous and lengthy process that will unduly prejudice all plaintiffs in this MDL and will inevitably prevent a fair and just resolution of same.

A. *Stinson*

The parties have been working diligently since 2019 to prepare *Stinson* for trial. All party

and witness depositions have already taken place, and expert discovery has concluded. As outlined above, there are **no** new facts and/or circumstances in *Stinson* that will change the strategy of Plaintiff's case-in-chief and/or Defendants' trial strategy. The only additional facts are those related to the extent of Mr. Stinson's injuries, which now include additional surgical intervention. The mesh products at issue are the same and Plaintiff's liability claims against Defendants remain exactly the same. Therefore, the only supplemental discovery that will need to be conducted in *Stinson* as to damages is: (1) supplemental deposition of Plaintiff; (2) deposition of Plaintiff's new treating physician; (3) supplemental deposition of Plaintiff's expert, Dr. Grischkan; and (4) supplemental deposition of Defendants' rebuttal expert, Dr. Pomerants. A total of four depositions to be conducted over the next four months is nowhere near the amount of work that would be required to work up brand new cases for trial and conduct fact and expert discovery anew.

Furthermore, the additional depositions can be completed in a matter of days and will not be unduly burdensome to either party. In fact, at Defendants' behest, the PSC was already forced to conduct four additional depositions in the three months leading up to the *Johns* trial. The parties conducted: (1) two case-specific depositions; (2) one expert deposition; and (3) two third-party depositions in May, June, and July of 2021 before the *Johns* trial commenced on August 3, 2021. Similarly, on the eve of the *Milanesi* trial, the PSC was required to conduct a supplemental deposition of Dr. Beatrice and then engage in last-minute motion practice by responding to Defendants' novel motions to strike and *Daubert* motions well after expert discovery had been completed.

The PSC respectfully submits that there is ample time to conduct the additional discovery required in *Stinson*, which will be much less laborious than conducting new plaintiff and expert depositions, and then engaging in motion practice in brand new cases, any of which could then also

have a change in circumstances similar to that of *Stinson*. Indeed, at least 40% of Plaintiffs with cases currently pending in the MDL,⁸ still have at least one Bard product in place. Therefore, if any of these cases are selected as new bellwethers, there is a very high likelihood that those Plaintiffs may also undergo another surgery before their case proceeds to trial three to five years from now. In short, if the Court accepts Defendants' flawed logic and grants their requested relief, the parties—and this MDL—could be stuck in the Bellwether process in perpetuity. A result that Defendants may desire but would deprive tens of thousands of injured plaintiffs of a resolution in their lifetime, which is a result that this Court cannot allow.

B. *Bryan*

As it stands right now, there are no new developments in *Bryan* requiring supplemental discovery. The parties have completed all Core Fact Discovery pursuant to CMO 10, inclusive of all party and fact witness depositions.⁹ Should Mr. Bryan undergo another surgery, Defendants will have ample time and opportunity to conduct supplemental depositions of Plaintiff Bryan and his treating physician(s). Moreover, as Defendants correctly point out, *Bryan* has had no case-specific expert discovery or motion practice yet. Therefore, no supplemental expert reports and/or depositions of the case-specific experts are required at this time, but should that become necessary at any point prior to trial, the time and resources the parties will have to expend on supplemental discovery pale in comparison to the time and resources both parties and the Court will have to expend on picking and preparing new bellwether cases for trial. As such, the Court should not consider Defendants' absurd proposal that new bellwether cases should be chosen more than five years after the litigation has begun.

⁸ According to the data collected in 2021 from 5,347 randomly selected filed cases, at least 2,173 Plaintiffs have a Bard mesh product currently implanted in them.

⁹ CMO 10 does allow for 3 additional case-specific fact depositions should Defendants so choose.

IV. CONCLUSION

For the reasons outlined above, the PSC urges the Court to keep *Stinson* and *Bryan* as the next two bellwether cases because *Stinson* and *Bryan* are instructive and representative of other cases in the MDL and will inform the Court and the parties on cross-cutting issues relevant to large swaths of cases in this MDL thereby steering this MDL towards a fair resolution.

Date: May 30, 2023

Respectfully submitted,

/s/ David J. Butler

Plaintiffs' Liaison Counsel

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of May 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of this electronic filing to all counsel of record.

/s/ David J. Butler

Plaintiffs' Liaison Counsel

EXHIBIT A

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: DAVOL, INC./C.R. BARD, MDL NO. 2846
5 INC., POLYPROPYLENE HERNIA MESH
6 PRODUCTS LIABILITY LITIGATION,

7 THIS DOCUMENT RELATES TO:

8 JACOB BRYAN, Case No.: 2:18-cv-1440

9 Plaintiff,

10 vs.

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

12 Defendants.
13 -----

14 VIDEOTAPED DEPOSITION

15 OF

16 JACOB BRYAN

17 taken on behalf of the Defendants
18 pursuant to a Notice of Taking Deposition

19 DATE: Friday, June 7, 2019
20 TIME: 9:06 a.m. to 3:10 p.m.
21 PLACE: Scribe Associates, Inc.
22 201 Southeast 2nd Avenue, Suite 207
23 Gainesville, Florida
24 REPORTER: Ingrid T. Cox, RPR
25 Notary Public, State of
 Florida at Large

<p style="text-align: right;">Page 22</p> <p>1 Q. And when that occurred can you rate the pain on a 2 scale of one to ten with ten being the worst pain and 3 one being no pain? 4 A. A nine. 5 Q. And can you describe the progression of the pain 6 you experienced in your back since you herniated your 7 disc in 2016? 8 A. Could you repeat the question? 9 Q. Yeah. Can you describe the progression of your 10 back pain since you herniated your disc? 11 A. It's went down some. 12 Q. And how would you currently rate your back pain 13 on a scale of one to ten? 14 A. About a seven. 15 Q. And how would you describe that pain? 16 A. Stabbing. 17 Q. Do you currently receive any medical treatment 18 for your back pain? 19 A. No. 20 Q. And why has your back pain precluded you from 21 working? 22 A. It hurts too much if I do too much. 23 Q. And can you describe what is it that you do which 24 causes you to experience pain? 25 A. Bending over, stooping, reaching up high.</p>	<p style="text-align: right;">Page 24</p> <p>1 the deposition. 2 Mr. Bryan, have you ever been terminated or 3 voluntarily left a job due to any medical, physical or 4 psychiatric conditions? 5 A. Just in 2017 with Winn-Dixie. 6 Q. Was that 2016 or '17? 7 A. 2016, I mean, yes. 8 Q. And aside from when you left Winn-Dixie, have you 9 ever been fired from a job? 10 A. No. 11 Q. Do you currently have medical insurance? 12 A. No. 13 Q. When was the last time you had medical insurance? 14 A. A child. 15 Q. Say that again. 16 A. A child was the last time, when I was a kid. 17 Q. Oh, when you were a child? 18 A. Yes. 19 Q. Have you ever received Medicaid? 20 A. Only as a child. 21 Q. And when you say as a child, what would just be 22 your ballpark estimate as to the last time you received 23 Medicaid? 24 A. I'd say -- I'd say about 15 maybe. 25 Q. 15 years old?</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Lifting? 2 A. And, yeah, lifting. 3 Q. About how much weight can you lift before you 4 experience back pain? 5 A. I'd say 75. 6 Q. And when you say 75 is that referring to lifting 7 weights or lifting various objects? 8 A. Various objects. 9 Q. Do you currently go to the gym? 10 A. No. 11 Q. When was the last time you lifted 75 pounds? 12 A. I'd say the last time I lifted 75 pounds was in 13 2017. 14 Q. And what were you doing? 15 A. No, not 2017. I'm sorry, 2016 when I hurt my 16 back. I was moving that pallet. 17 Q. And you say you also can't work because of your 18 hernia surgery? 19 A. Yes. 20 Q. What do you mean by that? 21 A. If I -- if I lift anything that's over ten pounds 22 it hurts in my left testicle. 23 Q. And how long have you experienced that pain for? 24 A. Ever since 2015. 25 Q. We'll discuss this more as we progress throughout</p>	<p style="text-align: right;">Page 25</p> <p>1 A. Yes. 2 Q. Have you ever applied for life insurance? 3 A. No. 4 Q. Are you currently married? 5 A. No. 6 Q. Have you ever been married? 7 A. No. 8 Q. Are you dating anyone? 9 A. No. 10 Q. Since January 2009 has anyone accompanied you to 11 a doctor's appointment? 12 A. No. 13 Q. Do you have any children? 14 A. No. 15 Q. Are your parents still alive? 16 A. Yes. 17 Q. And, to your knowledge, did they ever have a 18 hernia? 19 A. My dad. 20 Q. And do you know what was done to treat your dad's 21 hernia? 22 A. Mesh. 23 Q. And do you know which mesh product was implanted 24 in your dad? 25 A. No.</p>

7 (Pages 22 - 25)

<p style="text-align: right;">Page 86</p> <p>1 A. No. I don't recall that.</p> <p>2 Q. Do you recall experiencing left groin pain on</p> <p>3 September 23rd, 2012?</p> <p>4 A. No. I don't recall that.</p> <p>5 Q. Do you recall experiencing left groin pain a</p> <p>6 month prior to this September 23rd, 2012, visit?</p> <p>7 A. No. I don't recall that.</p> <p>8 Q. Do you believe that medical record is inaccurate</p> <p>9 stating that?</p> <p>10 A. Yes.</p> <p>11 Q. And if you'd turn to the next page which is Bates</p> <p>12 marked 00019. At the bottom it says review of symptoms</p> <p>13 and it says gastrointestinal. Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And it says positive for nausea, vomiting and</p> <p>16 abdominal pain. As of the date of this September 23rd,</p> <p>17 2012, doctor visit do you recall experiencing nausea?</p> <p>18 A. No.</p> <p>19 Q. Do you believe that part of the medical record is</p> <p>20 inaccurate?</p> <p>21 A. Yes.</p> <p>22 Q. It then says that you were positive for vomiting.</p> <p>23 Is that accurate?</p> <p>24 A. No.</p> <p>25 Q. Do you believe the medical record saying that you</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. Do you believe that part of the medical record is</p> <p>2 inaccurate?</p> <p>3 A. Yes.</p> <p>4 Q. When did you first experience testicular pain?</p> <p>5 A. 2015, the summer of 2015.</p> <p>6 Q. And did you say that was on your right testicle?</p> <p>7 A. Left.</p> <p>8 Q. Left. Have you ever experienced pain on your</p> <p>9 right testicle?</p> <p>10 A. No.</p> <p>11 Q. And then, Mr. Bryan, if you turn to the next</p> <p>12 page, it says 00020. Kind of midway on the page it says</p> <p>13 left testes shows tenderness. Do you recall</p> <p>14 experiencing tenderness?</p> <p>15 A. No.</p> <p>16 Q. Do you believe that part of the medical record is</p> <p>17 inaccurate?</p> <p>18 A. Yes.</p> <p>19 Q. Prior to the implant surgery did you experience a</p> <p>20 lump in your groin region?</p> <p>21 A. No.</p> <p>22 Q. Mr. Bryan, I'm going to show you another medical</p> <p>23 record which I'm marking as Exhibit 9.</p> <p>24 (Bryan Exhibit Number 9 was marked for</p> <p>25 Identification.)</p>
<p style="text-align: right;">Page 87</p> <p>1 experienced vomiting is inaccurate?</p> <p>2 A. Yes.</p> <p>3 Q. It then says you experienced abdominal pain. Do</p> <p>4 you recall experiencing abdominal pain?</p> <p>5 A. Yes.</p> <p>6 Q. So that part of the medical record is accurate?</p> <p>7 A. Yes.</p> <p>8 Q. And when you said that you went to the emergency</p> <p>9 room in terms of your abdominal pain were you referring</p> <p>10 to this September 23rd, 2012, visit?</p> <p>11 A. Yes.</p> <p>12 Q. All right. It then says -- beneath that it says</p> <p>13 positive for testicular pain. Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Is that accurate?</p> <p>16 A. No.</p> <p>17 Q. So as of September 23rd, 2012, is it accurate to</p> <p>18 state that you did not experience testicular pain?</p> <p>19 A. No.</p> <p>20 Q. By no do you mean it's correct?</p> <p>21 A. Yes, that's correct.</p> <p>22 Q. In other words, just to clarify just because we</p> <p>23 got a negative -- double negative in there, did you</p> <p>24 experience testicular pain as of September 23rd, 2012?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 89</p> <p>1 BY MR. CADIGAN:</p> <p>2 Q. And at the top it says date of service</p> <p>3 September 23rd, 2012. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Then where it says comments on the right side it</p> <p>6 says had felt lump in inguinal area, but it was after</p> <p>7 here he may have reduced it. Do you recall experiencing</p> <p>8 a left lump in that area?</p> <p>9 A. No.</p> <p>10 Q. So prior to the implant surgery you did not</p> <p>11 experience pain in your groin; is that correct?</p> <p>12 A. No -- yes, that's correct.</p> <p>13 Q. Okay. So the only pain you experienced prior to</p> <p>14 the implant surgery was just in your left abdomen area?</p> <p>15 A. Yes.</p> <p>16 Q. And was that above your waistline?</p> <p>17 A. Below it.</p> <p>18 Q. Beneath your waistline?</p> <p>19 A. Yes.</p> <p>20 Q. And approximately how far beneath your waistline</p> <p>21 was the pain you experienced?</p> <p>22 A. Can I show you?</p> <p>23 Q. Yes.</p> <p>24 A. Just right here (indicating).</p> <p>25 Q. Okay.</p>

23 (Pages 86 - 89)

<p style="text-align: right;">Page 126</p> <p>1 Q. Does that mean that your -- the pain you'd 2 experienced in your lower left abdominal region had 3 resolved? 4 A. Yes. 5 Q. And the bulge you experienced in your lower left 6 abdominal region had resolved? 7 A. Yes. 8 Q. And then it says that he has progressively 9 returned to his daily activities with no complications. 10 And is that an accurate characterization? 11 MS. STOKES: It's the next page. 12 BY MR. CADIGAN: 13 Q. I'm talking about page -- the first page, 00058. 14 MS. STOKES: Oh, there. 15 BY MR. CADIGAN: 16 Q. It says -- it's kind of about a little over 17 halfway on the page. It says he reports his presurgical 18 symptoms have resolved. He has progressively returned 19 to his daily activities with no complications. Do you 20 agree with Dr. Caban's characterization that you've 21 returned to your daily activities with no complications? 22 A. No. 23 Q. Why do you disagree with that? 24 A. Because I told him I had a soreness still left. 25 Q. In the lower left abdominal region?</p>	<p style="text-align: right;">Page 128</p> <p>1 A. No. 2 Q. Do you have any criticisms of Dr. Caban? 3 A. No. 4 MR. CADIGAN: Mr. Bryan, are you okay to keep 5 going or do you want to take a little break? 6 THE WITNESS: A bathroom break. 7 VIDEOGRAPHER: Going off the record at 12:07. 8 (A brief recess was held.) 9 VIDEOGRAPHER: The time on the record is 12:14. 10 BY MR. CADIGAN: 11 Q. Mr. Bryan, on October 20th, 2017, Dr. Jeffrey 12 Rose explanted the 3DMax mesh from you, correct? 13 A. Yes. 14 Q. So I wanted to talk about the time period between 15 the implant surgery and that explant surgery, okay? So 16 did the hernia repair surgery, did it provide you any 17 relief from the pain you experienced in your lower left 18 abdominal region? 19 A. Up until 2015. 20 Q. And in 2015 did you notice pain occur again? 21 A. Yes. 22 Q. Initially was it soreness before it rose to the 23 level of pain? 24 A. No. I was walking on the beach with my friends 25 and it felt like a squeeze in my left testicle.</p>
<p style="text-align: right;">Page 127</p> <p>1 A. Yes. 2 Q. And after you told that to Dr. Caban do you 3 recall what he told you in response? 4 A. He said that's normal. 5 Q. Did he say how long you'd experience the soreness 6 for? 7 A. Probably a month. 8 Q. Did that soreness eventually go away? 9 A. Yes. 10 Q. About how long after this appointment with Dr. 11 Caban did it go away for? 12 A. Until 2015. 13 Q. Let me just rephrase this to make sure I 14 understand correctly. 15 So at the time of this visit with Dr. Caban on 16 December 10th, 2012, you experienced a soreness in your 17 lower left abdominal region, correct? 18 A. Yes. 19 Q. And how long after this December 10th visit did 20 the soreness go away? 21 A. A month. I'm sorry. 22 Q. No problem. That's why I'm just asking again so 23 we're all clear about everything. 24 Now, Mr. Bryan, did you see Dr. Caban again after 25 this December 10th, 2012, visit?</p>	<p style="text-align: right;">Page 129</p> <p>1 Q. Now, was that the first time since the implant 2 surgery that you experienced pain in either your groin 3 region, your testicles, or your abdominal region? 4 A. Yes. 5 Q. And now approximately when in 2015 did that 6 occur? 7 A. The summer. 8 Q. So would your best estimate be June or July 2015? 9 A. Yes. 10 Q. Okay. So between the time of the implant surgery 11 in June or July of 2015 did you experience pain in your 12 lower left abdominal region? 13 A. No. 14 Q. Between the time of the implant surgery in June 15 or July of 2015 did you experience pain in your 16 testicles? 17 A. No. 18 Q. Between the time of the implant surgery in June 19 or July of 2015 did you experience pain in your lower 20 left abdominal region? 21 A. No. 22 Q. So when you -- let's talk about the time when you 23 experienced this squeeze, as you refer to it. How long 24 had you been walking before you experienced that 25 squeeze?</p>

33 (Pages 126 - 129)

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1 A. I would say about 30 minutes.
 2 Q. And prior to that had you been -- what were you
 3 doing prior to that?
 4 A. Sitting in a car on the way over there.
 5 Q. Had you been recently exercising?
 6 A. No.
 7 Q. And was the squeeze in the left testicle?
 8 A. Yes.
 9 Q. And what did you do after you experienced that?
 10 A. I just stopped and almost dropped to my knees and
 11 it hurt.
 12 Q. How long did it feel -- this squeezing sensation,
 13 how long did you feel that for?
 14 A. About a few minutes and then it subsided a little
 15 bit.
 16 Q. And when you experienced a squeeze, on a scale of
 17 one to ten with ten being the worst, how would you rate
 18 the pain?
 19 A. About an eight or nine.
 20 Q. And when you experienced that pain did you
 21 experience any pain in the lower left abdominal region
 22 where you had the surgery?
 23 A. No. But I did feel it in my inner thigh.
 24 Q. Was that on your left inner thigh?
 25 A. Yes.

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1 Q. And what was the pain you experienced on the left
 2 inner thigh?
 3 A. Like it just kind of went numb a little bit.
 4 Q. And how long did you have the sensation of the
 5 left inner thigh feeling numb?
 6 A. Up until I had the surgery.
 7 Q. And did that start as soon as you experienced the
 8 squeeze in the left testicle?
 9 A. Yes.
 10 Q. So at the time you had the squeeze you also
 11 experienced pain in the left inner thigh, you did not
 12 experience pain in the lower left quadrant of your
 13 abdomen, correct?
 14 A. A burning sensation.
 15 Q. When did you experience the burning sensation?
 16 A. The day after.
 17 Q. A day after the squeeze you experienced a burning
 18 sensation in your lower left abdomen?
 19 A. Yes.
 20 Q. And how long did you experience that burning
 21 sensation for?
 22 A. Until I had the surgery.
 23 Q. Now, at the time you first experienced that
 24 burning sensation, on a scale of one to ten, ten being
 25 the worst, what would you rate the pain?

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1 A. The burning sensation is about a seven or eight.
 2 Q. And between the time you first experienced that
 3 in June or July of 2015, did you continuously experience
 4 it all the way up to the time of the explant surgery?
 5 A. Yes.
 6 Q. So the burning sensation that you felt never went
 7 away; is that correct?
 8 A. Yes.
 9 Q. Yes, meaning that's correct?
 10 A. That's correct.
 11 Q. And the pain of the seven -- did you say a seven
 12 or an eight?
 13 A. Yes.
 14 Q. That pain of a seven or eight, did it
 15 progressively get worse or get better or stay the same
 16 since it began on June or July of 2015?
 17 A. It stayed the same.
 18 Q. Now, the numbness on your inner thigh, left inner
 19 thigh, did that -- did you experience that at any other
 20 time since the squeeze?
 21 A. Yes.
 22 Q. When did you experience that?
 23 A. Now.
 24 Q. Have you continuously experienced that since June
 25 or July of 2015?

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1 A. Yes.
 2 Q. So did you experience that from June or July of
 3 2015 all the way to the time of the explant surgery?
 4 A. Yes.
 5 Q. Now, did the numbness -- did it increase or did
 6 it decrease or stay the same?
 7 A. It increases.
 8 Q. And does it increase at times or has it
 9 continuously increased since you first experienced it?
 10 A. Only when I walk.
 11 Q. Is there any other activities you perform that
 12 causes you to experience that numbness sensation?
 13 A. Fishing, camping, and when I walk. I already
 14 said walk, but...
 15 Q. So between the time of the implant and explant
 16 surgery -- actually let me rephrase that.
 17 Between June or July of 2015 and the time of the
 18 explant procedure did you experience that numbness
 19 sensation when you were walking, fishing or went
 20 camping?
 21 A. Yes.
 22 Q. And did you also experience it when you were just
 23 laying down or sitting?
 24 A. If I sit, yes. Not laying down.
 25 Q. You do not experience the pain while laying down?

<p style="text-align: right;">Page 134</p> <p>1 A. Some, some, some.</p> <p>2 Q. But you experienced it mostly when you were</p> <p>3 standing?</p> <p>4 A. Yes.</p> <p>5 Q. Now, since -- between June or July of 2015 at the</p> <p>6 time of the explant procedure did you experience a</p> <p>7 squeezing sensation on your left testicle again?</p> <p>8 A. Yes.</p> <p>9 Q. And how often did you experience that?</p> <p>10 A. I still experience it.</p> <p>11 Q. So between -- between the time of June or July of</p> <p>12 2015 and the explant surgery how frequently would you</p> <p>13 experience that squeezing sensation on your left</p> <p>14 testicle?</p> <p>15 A. Constantly.</p> <p>16 Q. And when you say constantly do you mean</p> <p>17 throughout the entire day or did you experience it --</p> <p>18 A. It never goes away.</p> <p>19 Q. So, Mr. Bryan, correct me if I'm wrong because I</p> <p>20 just want to make sure I understand what you experienced</p> <p>21 correctly. So you said that in June or July of 2015 you</p> <p>22 experienced a squeezing sensation in your left testicle.</p> <p>23 A. Uh-huh.</p> <p>24 Q. And then I thought you testified that after a</p> <p>25 certain amount of time that squeezing sensation went</p>	<p style="text-align: right;">Page 136</p> <p>1 as it is.</p> <p>2 Q. So when did you first see a physician for that</p> <p>3 testicular pain?</p> <p>4 A. It could have been in -- either in August or</p> <p>5 September.</p> <p>6 Q. Of which year?</p> <p>7 A. 2017.</p> <p>8 Q. So the first time you told the physician you'd</p> <p>9 experienced testicular pain was in August or September</p> <p>10 of 2017; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And when was the first time you told the</p> <p>13 physician that you experienced numbness on your left</p> <p>14 inner thigh?</p> <p>15 A. I don't recall.</p> <p>16 Q. Was that during the August or September of 2017</p> <p>17 appointment?</p> <p>18 A. Yes, I believe so.</p> <p>19 Q. And when was the first time you told the</p> <p>20 physician that you experienced the burning sensation in</p> <p>21 your lower left abdomen?</p> <p>22 A. That's the first -- when I went to the emergency</p> <p>23 room.</p> <p>24 Q. And was that in August or September of 2017?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 135</p> <p>1 away. Is that accurate?</p> <p>2 A. It don't go completely away. It eases off. Let</p> <p>3 me clarify that.</p> <p>4 Q. Okay. So since that incident in June or July of</p> <p>5 2015, between that time and the time of the explant</p> <p>6 surgery, that squeezing sensation that you experienced</p> <p>7 on the beach, how frequently have you experienced that</p> <p>8 same sensation again?</p> <p>9 A. It hasn't never got to that level. It stays</p> <p>10 right about a six or a seven.</p> <p>11 Q. And since the time of the June, July 2015</p> <p>12 squeezing incident has it continuously stayed at a six</p> <p>13 or seven pain level?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And did you ever experience that squeezing</p> <p>16 sensation in your right testicle?</p> <p>17 A. No.</p> <p>18 Q. So after you were on the beach in June or July of</p> <p>19 2015 when you experienced this squeezing sensation in</p> <p>20 your left testicle did you see a physician?</p> <p>21 A. No.</p> <p>22 Q. Why didn't you see a physician?</p> <p>23 A. I can't afford it.</p> <p>24 Q. Why didn't you go to the emergency room?</p> <p>25 A. I can't afford it. I already have too many bills</p>	<p style="text-align: right;">Page 137</p> <p>1 Q. Okay. So that August or September 2017, was that</p> <p>2 -- so that was an appointment at the emergency room?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And which emergency was that?</p> <p>5 A. North Florida.</p> <p>6 Q. So between June or July of 2015 and August or</p> <p>7 September of 2017 you experienced a continuous left</p> <p>8 testicular pain of six out of seven and yet you did not</p> <p>9 document -- or you did not go to a physician for that</p> <p>10 pain, correct?</p> <p>11 A. Yes, correct.</p> <p>12 Q. And between June or July of 2015 and August or</p> <p>13 September of 2017 you also experienced a seven or an</p> <p>14 eight pain level of a burning sensation on your lower</p> <p>15 left abdomen, but you did not go to a physician during</p> <p>16 that time, correct?</p> <p>17 MS. STOKES: Object to the form.</p> <p>18 THE WITNESS: Correct.</p> <p>19 BY MR. CADIGAN:</p> <p>20 Q. And just so I'm clear, the reason you did not see</p> <p>21 a physician during that time period for these symptoms</p> <p>22 was because you could not afford to seek medical</p> <p>23 treatment; is that correct?</p> <p>24 A. Correct, yes.</p> <p>25 Q. Did you see any physicians or medical</p>

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1 professionals during that time?
 2 A. No.
 3 Q. So do you -- so do you have any documentation of
 4 yourself experiencing that testicular, abdominal and
 5 thigh pain between the time of June or July of 2015 and
 6 August or September of 2017?
 7 MS. STOKES: Object to the form.
 8 THE WITNESS: No.
 9 MS. STOKES: Go ahead.
 10 THE WITNESS: I said no.
 11 MS. STOKES: Oh. I said go ahead. I didn't hear
 12 him say no.
 13 BY MR. CADIGAN:
 14 Q. Mr. Bryan, I'm going to show you what I'm marking
 15 as Exhibit 14, which is a January 12th, 2016, medical
 16 visit.
 17 (Bryan Exhibit Number 14 was marked for
 18 Identification.)
 19 BY MR. CADIGAN:
 20 Q. And this is a Dr. Troy Trimble. Mr. Bryan, do
 21 you recall receiving treatment from Dr. Trimble?
 22 A. Yes.
 23 Q. And why did you see Dr. Trimble?
 24 A. Dr. Trimble was for my back injury.
 25 Q. And do you recall seeing Dr. Trimble on

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1 January 12th, 2016?
 2 A. Yes.
 3 Q. And why did you see him?
 4 A. That's when I had herniated my disc in my back.
 5 Q. Was that after you herniated the disc in your
 6 back while working for the Winn-Dixie?
 7 A. Yes.
 8 Q. So when you saw Dr. Trimble how did you afford to
 9 pay for this visit with him?
 10 A. Workers' compensation.
 11 Q. So did workers' compensation pay for this visit
 12 with Dr. Trimble?
 13 A. Yes.
 14 Q. Did workers' compensation pay for all of your
 15 visits with Dr. Trimble?
 16 A. Yes.
 17 Q. And when did you receive workers' compensation?
 18 A. 2016, I think.
 19 Q. So did you actually -- so is it accurate to say
 20 that you did not actually receive any benefits from
 21 workers' compensation until after this January 12th,
 22 2016, visit with Dr. Trimble?
 23 MS. STOKES: Object to the form.
 24 THE WITNESS: Yes.
 25

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1 BY MR. CADIGAN:
 2 Q. So when you went to see Dr. Trimble you didn't
 3 know if you were going to ultimately have to pay for
 4 that visit; is that correct?
 5 MS. STOKES: Object to form.
 6 THE WITNESS: Yes, I knew. I knew because they
 7 already told me.
 8 BY MR. CADIGAN:
 9 Q. What do you mean you knew?
 10 A. Workers' compensation told me that I wouldn't
 11 have to pay for this visit even though it was before.
 12 Q. And when you say workers' compensation told you,
 13 who are you referring to? Is that referring to like a
 14 person?
 15 A. No. A company.
 16 Q. So why did you not tell Dr. Trimble that you were
 17 also experiencing testicular pain, pain in your groin,
 18 and the numbness in your left thigh?
 19 A. It had nothing to do with this case.
 20 Q. But Dr. Trimble was the first doctor you had seen
 21 since you experienced that squeezing sensation, correct?
 22 A. Yes.
 23 Q. So the reason you didn't tell Dr. Trimble, is
 24 that because you saw Dr. Trimble for only back pain?
 25 A. Yes.

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1 Q. And, Mr. Bryan, you saw Dr. Trimble for some
 2 time, didn't you?
 3 A. Yes.
 4 Q. You saw him -- since January of 2016 you saw him
 5 all the way through at least August of 2016, correct?
 6 A. Yes.
 7 Q. And you saw him for six visits, correct?
 8 A. Yes.
 9 Q. So during any of those six visits with Dr.
 10 Trimble did you ever tell him that you experienced pain
 11 in your left testicle?
 12 A. No.
 13 Q. Did you ever tell Dr. Trimble that you
 14 experienced a burning sensation on your lower left
 15 abdomen?
 16 A. No.
 17 Q. Did you ever tell Dr. Trimble that you
 18 experienced a numbing sensation on your inner left
 19 thigh?
 20 A. No.
 21 Q. Mr. Bryan, did you see any medical professional
 22 between October 2013 and December 2015?
 23 A. Not that I recall.
 24 Q. Did you see any medical professionals between
 25 September 2016 and March 2017?

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<p style="text-align: right;">Page 142</p> <p>1 A. Yes.</p> <p>2 Q. Who did you see during that time period?</p> <p>3 A. I seen Dr. Trimble and Dr. Reddy and stuff like</p> <p>4 that, I believe.</p> <p>5 Q. So between September 2016 and March 2017 did you</p> <p>6 see any health care providers besides Dr. Reddy or</p> <p>7 anyone at Shands or North Florida?</p> <p>8 A. Not that I can recall.</p> <p>9 Q. Okay. On April 1st, 2017, you went to the</p> <p>10 emergency room at Shands; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. And why did you go to the emergency room?</p> <p>13 A. That's 2017, right?</p> <p>14 Q. Yes.</p> <p>15 A. Because I was hurting in my left testicle.</p> <p>16 Q. And you also experienced pain in your lower left</p> <p>17 abdomen?</p> <p>18 A. A little bit of burning pain, not much.</p> <p>19 Q. And, Mr. Bryan, when you said you went to the</p> <p>20 emergency room in August or September of 2017 do you</p> <p>21 think it actually could have been April 1st, 2017?</p> <p>22 A. Yes. I'm not real good on dates.</p> <p>23 Q. Well, throughout this deposition if there's any</p> <p>24 dates you've said at any time which you think you're</p> <p>25 incorrect about I'd ask if you could just correct them</p>	<p style="text-align: right;">Page 144</p> <p>1 2006. Did you have a hernia repair in 2006?</p> <p>2 A. No.</p> <p>3 Q. So it was actually the 2012 operation?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. It then states that you presented with a</p> <p>6 month-long history of left-sided inguinal pain and left</p> <p>7 testicular pain for the past month. Is that an accurate</p> <p>8 representation of what you experienced?</p> <p>9 A. No.</p> <p>10 Q. And is it not accurate? What about it is</p> <p>11 inaccurate?</p> <p>12 A. Because I had the left testicle pain for -- since</p> <p>13 2015.</p> <p>14 Q. And when you went to the emergency room did you</p> <p>15 tell them that you experienced pain in your left</p> <p>16 testicle since 2015?</p> <p>17 A. No.</p> <p>18 Q. So what did you tell them?</p> <p>19 A. I just told them that I had the left testicle</p> <p>20 pain basically is all I said.</p> <p>21 Q. And did you tell them you had pain in your left</p> <p>22 testicle for the past month?</p> <p>23 MS. STOKES: Objection to form.</p> <p>24 THE WITNESS: No, I didn't say that.</p> <p>25</p>
<p style="text-align: right;">Page 143</p> <p>1 for the record.</p> <p>2 A. Okay.</p> <p>3 Q. So, Mr. Bryan, I'm going to show you that April</p> <p>4 -- it appears to be the April 1st, 2017, visit at the</p> <p>5 Shands emergency room. Now, if you look where it says</p> <p>6 HPI comments on the middle of the first page Bates</p> <p>7 labeled 00094. Do you have it?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. It says patient is a 32-year-old male with</p> <p>10 a past medical history of left-sided inguinal hernia</p> <p>11 repair in 2006. He presents with a month-long history</p> <p>12 of left-sided inguinal pain and left testicular pain for</p> <p>13 the past month. Did I read that correctly?</p> <p>14 A. 2006?</p> <p>15 Q. Did I read that correctly?</p> <p>16 MS. STOKES: He's asking you if he read it</p> <p>17 correctly.</p> <p>18 THE WITNESS: Yes. I'm sorry. I'm sorry.</p> <p>19 BY MR. CADIGAN:</p> <p>20 Q. No, it's totally fine.</p> <p>21 A. Yes.</p> <p>22 Q. Let me just -- first did I read that correctly,</p> <p>23 though?</p> <p>24 A. Yes.</p> <p>25 Q. So it says a left-sided inguinal hernia repair in</p>	<p style="text-align: right;">Page 145</p> <p>1 BY MR. CADIGAN:</p> <p>2 Q. Why didn't you tell them that you experienced</p> <p>3 left testicular pain since June or July of 2015?</p> <p>4 MS. STOKES: Objection, form.</p> <p>5 THE WITNESS: I'm not sure.</p> <p>6 BY MR. CADIGAN:</p> <p>7 Q. And then it states the patient reports that the</p> <p>8 pain has been ten out ten at times and it hurts more</p> <p>9 during p.m. Is that accurate?</p> <p>10 A. Yes.</p> <p>11 Q. And how frequent would the pain be a ten out of</p> <p>12 ten?</p> <p>13 A. Every time I used the bathroom.</p> <p>14 Q. And, Mr. Bryan, this doctor's visit was</p> <p>15 approximately two months after you first saw a</p> <p>16 commercial regarding hernia mesh, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Then it states the patient reports two episodes</p> <p>19 of vomiting yesterday. Was that accurate?</p> <p>20 A. No.</p> <p>21 Q. Did you experience any episodes of vomiting?</p> <p>22 A. No.</p> <p>23 Q. So would you agree that that portion of the</p> <p>24 medical record is inaccurate?</p> <p>25 A. Yes.</p>

37 (Pages 142 - 145)

EXHIBIT B

**Spermatic cord and
testicle are surgically removed**

0:03:52

0:00:32

Perfix v1

