

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

***In Re: Atrium Medical Corp., C-Qur Mesh Products Liability Litigation
MDL No. 2753***

**Civil Action No. 1:18-cv-1234
(Jury Trial Demanded)**

SHORT FORM COMPLAINT

Come now the Plaintiff(s) named below, by and through their attorneys at Wright & Schulte, LLC,
and for their Complaint against the Defendants named below, incorporate the Master Long Form
Complaint in MDL No. 2753 by reference. Plaintiff(s) further show the Court as follows:

1. Plaintiff

Peggy Winstead

2. Consortium Plaintiff

Tommy Winstead

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator)

N/A

4. Current State of Residence

Mississippi

5. State of Residence at the Time of Implant (if different)

N/A

6. State of Residence at the Time of Explant (if applicable and different)

N/A

7. District Court and Division in which venue would be proper absent direct

filing USDC for the Southern District of Mississippi - Northern Division at Jackson

8. Defendants (Check Defendants against whom Complaint is made):

- A. Atrium Medical Corporation (“Atrium”);
- B. Maquet Cardiovascular US Sales, LLC (“Maquet”);
- C. Getinge AB (“Getinge”);

9. Basis of Subject Matter Jurisdiction

- Diversity of Citizenship

A. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

Paragraphs 20, 21, 22, 23, 24, 25, and 26.

B. Other allegations of jurisdiction and venue:

**Direct Filing - Pursuant to this Court's order, Plaintiff
has authority to directly file into this Court.**

10. Defendants’ products implanted in Plaintiff (Check products implanted in Plaintiff)

- A. C-QUR;
- B. C-QUR Mosaic;
- C. C-QUR Edge;
- D. C-QUR TacShield;
- E. C-QUR Lite Mesh V-Patch
- F. C-QUR Mesh V-Patch
- G. Other C-QUR mesh product

11. Defendants' Products about which Plaintiff is making a claim. (Check applicable products)

- A. C-QUR;
- B. C-QUR Mosaic;
- C. C-QUR Edge;
- D. C-QUR TacShield;
- E. C-QUR Lite Mesh V-Patch
- F. C-QUR Mesh V-Patch
- G. Other C-QUR mesh product;

12. Date of Implantation as to Each Product

10/14/2015

9/12/2016

13. Date of Explant as to Each Product

8/8/2018

14. Hospital(s) where Plaintiff was implanted (including City and State)

Rush Foundation Hospital

Meridian, MS

15. Implanting Surgeon(s)

David Makey, MD

16. Hospital(s) Where Plaintiff Had Explant (including City and State, if applicable)

Baptist Medical Center

Jackson, MS

17. Explanting Surgeon(s)

Lee Nichols, MD

18. Plaintiff alleges the following injury(ies) he or she suffered as a result of the implantation of the subject C-QUR mesh product.

Severe abdominal pain, digestive problems, scar tissue,
mesh removal, hernia recurrence, adhesions, and other
severe complications.

19. Counts in the Master Complaint brought by Plaintiff(s)

- Count I - Negligence
- Count II – Strict Liability – Design Defect
- Count III – Strict Liability – Manufacturing Defect
- Count IV – Strict Liability – Failure to Warn
- Count V – Strict Liability – Defective Product
- Count VI – Breach of Express Warranty
- Count VII – Breach of Implied Warranties of Merchantability and Fitness of Purpose
- Count VIII – Fraudulent Concealment
- Count IX – Constructive Fraud
- Count X – Discovery Rule, Tolling and Fraudulent Concealment
- Count XI – Negligent Misrepresentation

- Count XII – Negligent Infliction of Emotional Distress
- Count XIII – Violation of Consumer Protection Laws
- Count XIV – Gross Negligence
- Count XV – Unjust Enrichment
- Count XVI – Loss of Consortium
- Count XVII – Punitive or Enhanced Compensatory Damages
- Other Miss. Code Claims (please state the facts supporting this Count under applicable state law in the space immediately below)
- Other _____(please state the facts supporting this Count under applicable state law in the space immediately below)

The below claims are supported by facts in the master complaint.

Mississippi Product Liability Act (MPLA) Miss. Code Ann. § 11-1-63 (1993)

Miss. Code Ann. §§ 75-24-1 et seq. (Consumer Protection Laws)

WHEREFORE, Plaintiff(s) demand(s) judgment against Defendants, and each of them, individually, jointly and severally and prays for the following relief in accordance with applicable law and equity:

- i. Compensatory damages to Plaintiff(s) for past, present, and future damages, including, but not limited to, pain and suffering for severe and permanent personal injuries sustained by Plaintiff(s), permanent impairment, mental pain and suffering, loss of enjoyment of life, past and future health and medical care costs, and economic damages including past and future lost earnings and/or earning capacity, together with interest and costs as provided by law;
- ii. Restitution and disgorgement of profits;

- iii. Punitive or enhanced compensatory damages;
- iv. Reasonable attorneys' fees as provided by law;
- v. The costs of these proceedings, including past and future cost of the suit incurred herein;
- vi. All ascertainable economic damages;
- vii. Survival damages (if applicable);
- viii. Wrongful death damages (if applicable);
- ix. Prejudgment interest on all damages as is allowed by law; and
- x. Such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff(s) hereby demand(s) a trial by jury on all issues so triable.

Dated: 12/27/2018

/s/ Richard W. Schulte

Richard W. Schulte (Ohio Bar # 0066031)
Wright & Schulte, LLC
865 S. Dixie Dr.
Vandalia, OH 45377
P: (937) 435-7500
F: (937) 435-7511
Email: rschulte@yourlegalhelp.com

Counsel for Plaintiffs