

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

In Re: Davol/C.R. Bard Hernia Mesh Multi-Case Management
Coordination No. 2017-02, Master Docket No. PC-2018-9999

Civil Action No. _____
File as Hernia Mesh Case Type

SHORT FORM COMPLAINT

Come now the Plaintiff(s) named below, by and through their attorneys at Padwa Law LLC and Wright & Schulte, LLC, and for their Complaint against the Defendants named below, incorporate the Master Long Form Complaint in Coordination No. 2017-02, Master Docket No. PC-2018-9999 by reference. Plaintiff(s) further show the Court as follows:

1. Plaintiff

Nathan Botkin

2. Consortium Plaintiff

N/A

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

N/A

4. State of Residence

Missouri

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

☒ C.R. Bard, Inc. ("Bard")

☒ Davol, Inc. ("Davol")

6. Defendants' products implanted in Plaintiff (Check products implanted in Plaintiff)

☐ 3D Max

- ☐ Bard Mesh
- ☐ Composite Mesh (also known as Composix)
- ☐ Composix E/X
- ☐ Composix Kugel Hernia Patch
- ☐ Kugel Hernia Patch
- ☐ Marlex Mesh
- ☐ Modified Kugel Hernia Patch
- ☐ PerFix Plug
- ☐ Sepramesh Composite IP
- ☐ SpermaTex
- ☐ Ventralex
- ☐ Ventralex ST
- ☒ Ventrío
- ☐ Ventrío ST
- ☐ Visilex
- ☒ Other: Phasix

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

- ☐ 3D Max
- ☐ Bard Mesh
- ☐ Composite Mesh (also known as Composix)
- ☐ Composix E/X
- ☐ Composix Kugel Hernia Patch
- ☐ Kugel Hernia Patch
- ☐ Marlex Mesh
- ☐ Modified Kugel Hernia Patch

- ☐ PerFix Plug
- ☐ Sepramesh Composite IP
- ☐ SpermaTex
- ☐ Ventralex
- ☐ Ventralex ST
- ☒ Ventrío
- ☐ Ventrío ST
- ☐ Visilex
- ☐ Other:

8. Date of Implantation as to Each Product

Ventrío – 04/10/2013

Phasix – 08/23/2024

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

Ventrío – Parkland Health Center – Farmington, Missouri

Phasix – Mercy Hospital Jefferson – Festus, Missouri

10. Implanting Surgeon(s)

Ventrío – Brian J. Gallagher, DO

Phasix – Bruce Jones, DO

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

- ☒ Count I - Negligence
- ☒ Count II – Strict Liability – Defective Design
- ☒ Count III – Strict Liability – Manufacturing Defect
- ☒ Count IV – Failure to Warn
- ☒ Count V – Consumer Protection
- ☒ Count VI – Breach of Implied Warranty

- ☒ Count VII – Negligent Infliction of Emotional Distress
- ☒ Count VIII – Intentional Infliction of Emotional Distress
- ☒ Count IX – Fraud
- ☒ Count X – Punitive Damages
- ☒ Count XI – Unjust Enrichment
- ☐ Count XII – Loss of Consortium (By the Spouse)
- ☒ Count XIII – Discovery Rule, Equitable Tolling/Estoppel (Please state any additional facts and legal basis for Discovery Rule and Tolling below)

Plaintiff did not discover Defendants’ wrongful conduct until at least 08/23/2024 or sometime thereafter, when medical records were obtained documenting the type of mesh implanted in Plaintiff.

- ☐ Other _____ (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)

PRAYER FOR RELIEF

Wherefore, Plaintiff(s) respectfully request judgment in their favor against Defendants, and each of them, individually, jointly and severally, and Plaintiff(s) request compensatory damages, in a sum to confer jurisdiction upon this Court, together with interest on that amount at the legal rate from the date of judgment until paid, costs of suit, attorneys' fees, and all such other relief as this Court deems just and proper, as well as:

1. Compensatory damages to Plaintiff(s) for past, present, and future damages, including but not limited to, mental and physical pain and suffering for severe and permanent personal injuries sustained by Plaintiff(s), health and medical care costs, lost wages, or income, and loss of earning capacity, together with interest and costs as provided by law;
2. Restitution and disgorgement of profits;
3. Punitive damages;
4. Reasonable attorneys' fees;
5. The costs of these proceedings;
6. All ascertainable economic damages;
7. Survival damages (if applicable);
8. Wrongful death damages (if applicable); and
9. Such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

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

Dated: 2/3/25

/s/ Jeffrey Padwa
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