

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO.: _____

LEAD CASE: **Bettie Ann Smith**
CIVIL ACTION NO.: **1781CV01845**
Q Session Docket

SHORT FORM COMPLAINT

NOTE: IF PLAINTIFF INTENDS TO PURSUE A CLAIM INVOLVING ANY HERNIA MESH PRODUCT SOLD BY DEFENDANTS OTHER THAN PARIETEX HYDROPHILIC, PARIETEX COMPOSITE (PCO), OR PARIETEX OPTIMIZED COMPOSITE (PCO_x) – DO NOT USE THIS SHORT FORM COMPLAINT. THIS SHORT FORM COMPLAINT IS ONLY FOR CASES THAT ASSERT CLAIMS INVOLVING PARIETEX HYDROPHILIC, PCO, AND/OR PCO_x AND THAT DO NOT ASSERT CLAIMS INVOLVING ANY OTHER COVIDIEN HERNIA MESH PRODUCT.¹

Come now Plaintiff(s) named below, by and through the undersigned counsel of record, and for their Complaint against the Defendants named below, incorporate the Master Complaint filed in this litigation by reference. Plaintiff(s) further show the Court as follows:

1. Plaintiff(s) Name

RECEIVED

7/23/24

tc

Nicole Jones

2. Consortium Plaintiff (where applicable)

N/A

¹ As used herein, “Parietex Hydrophilic” means Parietex Hydrophilic 3-Dimensional Mesh (TET product codes), Parietex Hydrophilic 2-Dimensional Mesh (TEC, TEL, and TECR product codes), and Parietex Hydrophilic Anatomical Mesh (TECT product codes). “PCO” means Parietex Composite Mesh (PCO, PCO_F, PCO_H, and PCO_OS product codes). “PCO_x” means Parietex Optimized Composite Mesh (PCO_X, PCO_FX, and PCO_OSX product codes).

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

N/A

4. Current State of Residence

Ohio

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

N/A

6. Defendants' Products about which Plaintiff is making a claim (check all that apply) – **SEE INTRODUCTORY NOTE, SUPRA, REGARDING CLAIMS INVOLVING ANY OTHER PRODUCTS:**

 A. Parietex Hydrophilic

 x B. Parietex Composite (PCO)

 C. Parietex Optimized Composite (PCOx)

7. Parietex Hydrophilic, PCO, or PCOx Product Code (if multiple products, list product code for each) – **SEE FOOTNOTE 1, SUPRA, FOR APPLICABLE PRODUCT CODES:**

Parietex Hydrophilic: _____

PCO: PCO2015OS

PCOx: _____

8. Parietex Hydrophilic, PCO, and/or PCOx Product Lot No. (if multiple products, list product lot no. for each):

Parietex Hydrophilic: _____

PCO: PII00219

PCOx: _____

9. Date of Implantation as to Each Parietex Hydrophilic, PCO, or PCOx Product (if multiple products, list date of implantation for each product and list the product implanted on such date)

3/23/2009

10. Hospital(s) where Plaintiff was Implanted with Parietex Hydrophilic, PCO, or PCOx, including City and State (if multiple products, list name, city and state of each hospital where such product was implanted and list the product implanted at such hospital)

Kettering Medical Center Network. Kettering, OH

11. Implanting Surgeon(s) as to Each Parietex Hydrophilic, PCO, or PCOx Product (if multiple products, list name of implanting surgeon for each product and list the product implanted on such date)

Carol J. Sawmiller, MD

12. Date of Explant, Removal, and/or Revision Surgeries as to Each Parietex Hydrophilic, PCO, or PCOx Product (if multiple products or surgeries, list date of each explant, removal, and/or revision surgery for each product)

11/2/2023

13. Hospital(s) where Plaintiff had Explant, Removal, or Revision Surgery for Each Parietex Hydrophilic, PCO, or PCOx Product, including City and State (if multiple products or surgeries, list name, city and state of each hospital where Plaintiff had explant, removal, or revision surgery for each such product and list the product explanted, removed, and/or revised at such hospital)

Cleveland Clinic. Cleveland, OH

14. Explanting/Removal/Revision Surgeon(s) as to Each Parietex Hydrophilic, PCO, or PCOx Product (if multiple products, list name of explanting/removal/revision surgeon for each product and list the product explanted, removed, and/or revised on such date)

Xiaoxi Feng, MD

15. Injuries Alleged to be Caused by the Parietex Hydrophilic, PCO, or PCOx Mesh (check all that apply)

A. Recurrence

B. Infection

C. Abscess

D. Fistula

E. Adhesions

F. Small bowel obstruction

G. Small bowel resection

H. Short-term pain (less than 6 months)

I. Chronic pain (greater than 6 months)

J. Seroma

K. Hematoma

L. Mesh erosion

M. Mesh migration

N. Spermatic cord involvement

O. Nerve damage

P. Death

Q. Other (specify)

16. Counts in the Master Complaint brought by Plaintiff(s) related to Parietex Hydrophilic, PCO, or PCOx (check all that apply)

Count I – Defective Design – Breach of Warranty

Count II – Failure to Warn

- Count III – Negligence
- Count IV – Deceptive Trade Practices
- Count V – Loss of Consortium
- Count VI – Punitive Damages
- Count VII – Discovery Rule, Fraudulent Concealment, Equitable Tolling/Estoppel
(Please state additional facts and legal basis for Discovery Rule and Tolling below, including the approximate alleged date of discovery and alleged the reason(s) such discovery could not be made earlier)

Plaintiff did not discover Defendants' wrongful conduct until medical records were obtained that identified what mesh was used in their procedure.

- Other(s) (Please state factual and legal basis for any other claim not included in the Master Complaint below and the applicable product(s))

Consumer Protection - Mass. Gen. Laws 93A, §§1, et seq.; Implied Warranty - Mass. Gen. Laws 106(2) §§ 2-314, et seq
&
O.R.C. 2307.76 (Failure to Warn); O.R.C. Section 2307.74 (Defective Manufacturing); O.R.C. Section 2307.75 (Design Defect); O.R.C. Section 2307.77 (Non-Conformance with Representations); O.R.C. Section 1302.77 and O.R.C. Section 1302.28 (Statutory Warranties)

PRAYER FOR RELIEF

Wherefore, Plaintiff(s) pray for judgment against Defendants, individually, jointly and severally, as follows:

1. For general and compensatory damages in an amount to be proven at the time of trial;
2. For special damages in an amount to be proven at the time of trial;
3. For statutory damages as set forth above, in an amount to be proven at the time of trial;
4. For exemplary and punitive damages in an amount to be proven at the time of trial, and sufficient to punish and penalize Defendants or to deter Defendants and others from repeating the injurious conduct alleged herein;
5. For pre-judgment and post-judgment interest on the above general and special damages;

6. For costs of this suit and attorneys' fees; and
7. All other relief that this Court deems necessary, proper and just.

PLAINTIFF(S) REQUEST A TRIAL BY JURY ON ALL COUNTS

Respectfully Submitted this 23rd day of July, 2024.

/s/ Corey J. Artim

Corey J. Artim (BBO #707937)

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