Transvaginal Mesh Ruling Improves Path to Justice

The Honorable Lee Yeakel has ruled that a safer alternative procedure and a proposed safer alternative design are each acceptable for the claim to proceed.

SANTA BARBARA, CALIFORNIA, UNITED STATES, February 27, 2020 /EINPresswire.com/ -- Many jurisdictions across the United States require evidence of a safer alternative design for a medical device known at the time of use for a successful claim in a product liability lawsuit against a manufacturer. In these jurisdictions there may be a Motion for Summary Judgment filed by the manufacturer to have the product liability claim dismissed. Courts have been split whether evidence of a "safer alternative procedure" or untested "safer alternative design" would be accepted by the Court to overcome the Motion for Summary Judgment, thereby allowing a case to go forward.

In Case 1:19-cv-01240-LY-SH the Honorable Lee Yeakel, Austin, Texas, has ruled on this specific issue and ruled that a safer alternative procedure and an untested proposed safer alternative design are each acceptable in allowing the design defect product claim to proceed forward.

In the Austin, Texas case, involving a woman with pudendal neuralgia caused by a Bard Align transobturator sling, Bard argued that there was no evidence offered by the Plaintiff that a safer alternative design existed at the time of implantation that would have prevented or significantly reduced the risk of injury.

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> *Dr. Greg Vigna*

Dr. Rosenzweig, an expert for the Plaintiff, testified that there were four safer alternative designs including the following: 1) Burch Procedures, 2) Autologous fascia slings, 3) biological slings, and 4) A sling with less polypropylene such as Ultrapro. Bard argued that Dr. Rosenzweig's evidence was not sufficient as it offered alternative procedures (not designs) and that Dr. Rosenzweig's proposed designs have not been demonstrated to be "safer." Judge Yeakel ruled otherwise.

Greg Vigna, MD, JD, practicing physician, national pharmaceutical injury attorney, and Certified Life Care Planner states, "The scientific literature has caught up to the lies and the fraudulent conduct of Bard, American Medical Systems, Ethicon, Coloplast, and Boston Scientific. The defense experts are being discredited. Catastrophically injured women with pudendal neuralgia, obturator neuralgia, ilioinguinal neuralgia, and Complex Regional Pain Syndrome, through my law firm, have a clearer path to the courthouse after this decision as cases involving newly injured women are being filed directly in Courts across the country—while others are finally being remanded out of the MDL after failing to achieve settlements with defendant

manufacturers. In addition, we represent women who have had their MDL claims dismissed without prejudice. We are refiling their cases all across the country.” Dr. Vigna adds, “This safer, alternative design issue is welcoming news."

Greg Vigna, MD, JD, operates a California and Washington DC law firm and has teamed up with Martin Baughman, a national pharmaceutical injury trial law firm from Dallas, Texas, and together they represent women with catastrophic pain syndromes that are proceeding down the path to justice.

For articles, video resources, and information, visit the Pudendal Neuralgia Educational Portal (https://pudendalportal.lifecare123.com/) or https://tvm.lifecare123.com/. Click here for information regarding sling related complications: https://tvm.lifecare123.com/slingebook.html

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