



500 Cases Dismissed - All in Favor of 3M

October 11, 2018

More than 500 lawsuits now have been dismissed - all in favor of 3M - in the litigation involving the 3M™ Bair Hugger™ warming system.

The large number of dismissals result from a variety of reasons:

- Plaintiffs are unable to substantiate their claims.
- Plaintiff's attorneys have voluntarily dismissed cases, including bellwether cases they nominated for trial.
- The Bair Hugger system may not have been used during surgery.
- Plaintiffs did not comply with orders of the court.

Just one case filed in the past three years has made it to trial. On May 30, 2018, a federal jury deliberated for less than two hours in the first bellwether case involving the Bair Hugger system before reaching its verdict. The jury determined that the patient warming device is not defectively designed and did not cause the plaintiff's infection.

Bellwether cases are selected to be representative of the entire pool of cases. Of the first six bellwether cases, four have been dismissed by plaintiffs' attorneys, one was removed from the bellwether pool and the other resulted in the recent verdict. Another group of six bellwether cases were selected this year and, already, one has been dismissed.

Large numbers of lawsuits are an unfortunate characteristic of the multi-district litigation process, which is designed to streamline the legal process by concentrating multiple lawsuits on the same subject into one court.

In a 2015 report, the U.S. Chamber Institute for Legal Reform discussed the negative side effects of MDL practice.

"Through aggressive advertising and highly sophisticated client-recruitment strategies, plaintiffs' counsel has been able to use the existence of multidistrict proceedings to attract claims of dubious merit. And because multidistrict proceedings by design have tended to prioritize global issues over individual ones, plaintiffs' counsel have successfully warehoused claims and shielded them from judicial scrutiny in a way they never could if all the cases were being tried individually."

The litigation against the Bair Hugger system is emblematic of that issue. More than 5,000 cases have been filed, but none have been shown to have merit.

While 3M is sympathetic to patients who experience surgical site infections, there is absolutely no conclusive evidence that Bair Hugger warming therapy causes or increases the risk of surgical site infections.

For more information, go to:

www.FAWfacts.com

www.truthaboutbairhugger.com

www.bairhuggerfacts.com