MASTERS OF MASS TORT: MASS TORT SPEED SESSION

**NAME OF LITIGATION:** Bard Hernia Mesh MDL 2846

**A BREIF SUMMARY:** The JPML consolidated all Bard polypropylene hernia mesh claims into the Southern District of Ohio in front of Chief Judge Sargus Jr. on August 2, 2018. Judge Sargus has prior MDL experience and is determined to keep the cases moving forward at a fast pace. To ensure the litigation continues to progress, Judge Sargus holds monthly in-person case management conferences.

**THE BIG PICTURE:**

* Bard utilized non-medical grade polypropylene to make its hernia mesh products.
* Bard was instructed by the polypropylene manufacturer not to implant in humans.
* Polypropylene is subject to oxidation and degradation after implantation, leading to mesh failure and other complications.
* Some Bard hernia mesh products involve ineffective adhesion barriers, which can lead to bowel obstructions and bowel resections.
* Other Bard hernia mesh products involve a three-dimensional design, which increases the risk of mesh migration and deformation.

**THE NUMBERS:**

* Hernia mesh is the most utilized medical device.
* Bard makes up approximately 60% of the hernia mesh market.
* Over 10,000 potential claims exist.
* Numerous injuries / mesh failures continue to happen every day.
* Injuries include revision surgeries, bowel obstructions, bowel resections, and orchiectomies.
* Injuries can range from outpatient procedures to weeks in the hospital.

**CURRENT LITIGATION/MDL STATUS:**

* Involves all Bard polypropylene-based hernia meshes with the exception of Bard Soft.
* In front of Chief Judge Sargus in SDOH, who previously oversaw the Dupont C8 litigation.
* Judge pushing MDL at a very fast pace. Trials set for early 2020.
* Over 1,000 cases filed in the MDL, currently averaging 250+ cases filed every month.
* Daughter litigation in RI state court.

**DEVELOPMENT OF LEADERSHIP:** MDL leadership is formed. Co-leads are Tim O’Brien of Levin Papantonio, and Kelsey Stokes of Fleming, Nolen and Jez. The rest of the plaintiffs executive committee includes Michael London of Douglas & London, Brett Vaughn of Hollis Law Firm, David Buchanan of Seeger Weiss, Troy Brenes of Brenes Law Group, and David Butler of Taft Law.

**RULINGS OF NOTE:** A direct filing order was entered on September 7, 2018. All case management orders and master forms can be accessed at BardMDL.com. After extensive briefing, Judge Sargus recently permitted foreign discovery to take place – this is a significant victory after the recent changes to Rule 26, which added a proportionality analysis.

**HOW TO GET INVOLVED:** Now is a great time to get involved in this litigation, as bellwethers are closed, and hernia mesh failures continue to accrue every day.