



# INFUSE INQUIRER



Volume 5

Attorney-Client Confidential Communication

Fall/Winter 2013

## Introduction

Happy Holidays from the Branch Law Firm! We hope this newsletter finds you and yours well. This is the fifth Branch Law Firm Infuse Inquirer. Please review it for a general update on the Medtronic Infuse litigation. As always, if you have any questions or concerns, please contact us.

## Litigation Update

The vast majority of our Infuse clients' cases are filed in Hennepin County District Court in Minneapolis, Minnesota. In May 2013, the parties argued Medtronic's Motion to Dismiss filed in the first Infuse case named *Lawrence v. Medtronic, Inc.* Judge Laurie Miller ruled to partially dismiss some of the claims that were made against Medtronic. The Judge also ruled that she would allow us time to speak to the surgeons who performed the Infuse surgery so that we may add new language into the lawsuit regarding the claims that survived. In non-legal terms, this means that we survived Medtronic's initial blow and can continue litigating a case against them. We anticipate Medtronic will file another Motion to Dismiss after we add the new language. Several months may pass until we have a final resolution on this matter.

In the meantime, we are beginning the process of discovery. Discovery is a phase in a lawsuit in which the parties obtain evidence from the opposing party. We anticipate our requests of Medtronic will generate millions of documents that they will be forced to hand over to us. The heavy lifting will be sifting through these millions of documents to obtain the hundreds of documents that will ultimately prove our case that Medtronic fraudulently schemed to promote Infuse for off-label uses. In addition, we will be requesting the depositions of many of the high ranking executives, scientists, marketers, and other individuals of Medtronic.

## The Filing of Your Case

We have received many phone calls inquiring when your case will be filed. Please note that we are filing cases on a

rolling basis. We first must obtain all the necessary records for our experts to review your case. Once the experts give us a green light, we then file the case. Unfortunately, there are so many cases a week our experts can review and still be able to treat their own patients! You will know when your case was filed by a letter in the mail.

## Your Current Treatment

We appreciate you informing us of the current treatments you are undergoing to combat the pain related to your Infuse. Information on such treatments will be immensely important in determining the amount of damages we can request from Medtronic or from a jury. When you e-mail us, please include the following information: (1) the date of treatment, (2) a description of the treatment (i.e., injections, revision surgery, manipulation, etc.), (3) the name of the physician/surgeon, and if applicable, (4) the name and address of the hospital.

Once received, we will order the records from these facilities. Medical records and bills are the most important pieces of evidence, other than your own testimony, to support your case. Obtaining these records and providing them to the defense will allow them to understand the severity of your injuries as well.

## Yale University Open Data Access (YODA) Project on Infuse®

As you may have heard in the news, after a prominent orthopedic surgery medical journal and the U.S. Senate lambasted Medtronic for its fraudulent actions related to Infuse, Medtronic decided to hand over detailed clinical trial data on Infuse to a team of experts at Yale University. Yale University worked with two other independent groups on this project – Oregon Health & Sciences University in Portland and the University of York in the United Kingdom. The groups analyzed data from 17 spinal studies involving more than 2,000 Infuse recipients. The study was recently published in a medical journal called the *Annals of Internal Medicine*.

The researchers analyzed the data and came to a few

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conclusions. Complication rates for fusion surgeries were the same regardless of whether Infuse was used. In other words, Infuse did not help a patient recover any better than the traditional fusion methods of local bone, cadaver bone, or plates and screws. This is important because Medtronic always claimed that using Infuse was better for the patient than making another incision to obtain local bone from the hip. One of the authors from Oregon stated that his team found no “reason to use this product at this point” for typical low-risk patients.

In addition, the researchers found that “there were many more harms reported in the actual data than were reported in many of the publications.” In other words, Medtronic received many more adverse event reports about Infuse, but chose not to publish it in the data. This is a clear indication that Medtronic committed fraud when disclosing the safety profile of Infuse to the medical and patient communities.

The YODA Study is significant because after its release Medtronic was hit hard in their pocketbook. Within a few days, Medtronic’s shares fell 1.5 percent and analysts said the drop could continue. In addition, sales of Infuse have taken an enormous hit due to the previous studies and the YODA study. Specifically, Infuse sales used to account for about \$1 Billion in revenue for Medtronic. Now, sales are at \$528 Million and dropping.

## Medical Malpractice Lawsuits

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It is of the utmost importance that you know that the Branch Law Firm and the other law firm(s) working on your Medtronic Infuse case **are not handling a medical malpractice case against your surgeon and/or hospital.** Should you desire to pursue such a claim, we suggest you find a local attorney in your area that handles medical malpractice claims. In addition, we also would like to speak to you about pursuing such a claim and how it will affect your claims against Medtronic. Therefore, before you contact another attorney, please call us to discuss!

## New Information

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It is imperative to inform us if you have been treated by a new physician, clinic, or hospital related to the injuries you have suffered due to Infuse. This allows us to obtain records from these facilities and present your case in its complete form. Please contact us by telephone or e-mail and update us!

## Death of Client

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Should you receive this newsletter addressed to our client who has recently passed away, please call us immediately. The law has specific protocols we must follow in order to pursue a claim for wrongful death. We will discuss the next steps that will be taken to preserve the claims against Medtronic during that call.

## Contact Information

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If any of your phone numbers or addresses change, it is imperative that you contact us immediately. The best way to contact us is by e-mail at [infuse@branchlawfirm.com](mailto:infuse@branchlawfirm.com).

If you have any questions or concerns, please do not hesitate to contact any one of our Infuse Team members at 800-828-4529 or at the email address above.

## New Team Member

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Chris McDaniel recently joined the Branch Law Firm and is exclusively working on the Infuse Team. Chris is a graduate of the University of New Orleans School of Business Management and has extensive experience in client service at a large law firm in Houston, Texas. Chris is excited to be a part of the Infuse team and help out those in need.

Sincerely,

**Turner W. Branch, Esq.**  
**Margaret Moses Branch, Esq.**



**and the Infuse Team**

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