

Introduction

We hope this newsletter finds you and yours well. This is the sixth 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

Minnesota

In our previous newsletter we wrote about Judge Laurie Miller's upcoming decision on Medtronic's Motion to Dismiss. We are happy to report that Judge Miller has since issued an Order on the Motion and denied it. This means that we are able to proceed with our claims of fraud against Medtronic in Minnesota. The next step is to conduct discovery. Discovery is the phase of a lawsuit in which we request documents and take depositions of senior officials at Medtronic.

Hawaii

Our firm also recently filed a case in Hawaii Federal Court. Magistrate Judge Richard Pugilisi was assigned to the case and a Status Conference has been scheduled for March 18, 2014. The Status Conference is a hearing in which the Court sets deadlines for motions, discovery, and trial.

Kentucky

A large number of cases have been filed in Kentucky State Court. The cases were consolidated, or grouped, together into one action in Louisville, KY. Another group of cases are being litigated in Pike County, KY. Pike County is considered to be one of the most favorable jurisdictions in the nation. We are working closely with the law firms that filed these cases.

St. Louis

A large number of cases have been filed in City of St. Louis Circuit Court. Medtronic attempted to remove these cases to federal court in Missouri; however, the plaintiff law firms were able to remand the cases back to state court. Branch Law Firm is heavily involved in aiding these law firms and will also be filing cases in St. Louis soon.

Trial Settings

Several trials have been set for Medtronic InFUSE cases around the nation. In California, one trial is scheduled to start in February 2014. The California case, however, is not primarily an InFUSE case, but rather a case involving a different product. The reason Medtronic is involved in the case is because the plaintiff's revision surgery used InFUSE and slightly reinjured her. The majority of the plaintiff's injuries, however, were caused by a different product.

Two other trials are currently scheduled for Spring and Summer 2014 in Colorado and Maryland, respectively. The Branch Law Firm is working hand in hand with the law firm who represents the plaintiffs in those cases.

How Much Longer?

You may be wondering how much longer until your case is resolved. Complex litigation like this takes a significant amount of time. It is important to know why that is. A lawsuit requires us to prove three main elements. First, we must prove liability. What did Medtronic know about InFUSE, how did it act, and what would a reasonable medical device company have done in similar circumstances? We must prove that a reasonable company would not have acted the way Medtronic did. Second, we must prove that InFUSE not only generally causes certain injuries, but that it also specifically caused your particular injury. These are two different types of elements for causation. Finally, we must prove damages. It is not enough to prove that you were hurt. We must also prove how much you were hurt.

The Court requires much more than just the plaintiff and the attorneys telling it how we prove these elements. The Court requires documents, depositions testimony, and expert opinions. We anticipate Medtronic will produce 10-20 Million documents to us in response to our request. We must pore over and review these documents. We will also take over 100 depositions of Medtronic executives, scientists, sales representatives, and doctors. Finally, we will need to retain and work with a number of experts who will give us the opinions necessary to prove our case. As

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you can see, the process takes time because we need to prove our case thoroughly and by way of several moving parts.

Medical device litigations in the past have taken anywhere between three to six years. We do not know how long the InFUSE litigation will take, but we are doing everything in our power to get it resolved quickly.

Your Current Treatment

We appreciate you informing us of the current treatments you are undergoing to combat the pain related to 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.

U.S. Supreme Court

In 2010, Medtronic was sued by Richard Stengel for injuries he sustained due to Medtronic's SynchroMed Pump & Infusion System. The SynchroMed Pump is a device that is implanted in a patient and is then programmed to provide medication to the patient. Mr. Stengel claimed that Medtronic failed to warn him and his physician who implanted the SynchroMed Pump about the dangers associated with the device. Medtronic moved to dismiss the claims based on federal law preemption (see previous newsletters regarding preemption). Medtronic won and the case was dismissed. Mr. Stengel appealed the decision and the Appellate Court reversed the lower court. The Appellate Court held that Mr. Stengel's failure-to-warn claims were not preempted. In order to appeal the Appellate Court's decision, a party must write to the U.S. Supreme Court and request that the highest court accept the case. This is called a Writ of Certiorari. Medtronic filed their Writ in the Spring of 2013. Mr. Stengel's attorneys filed their opposition in the Summer of 2013. The U.S. Supreme Court has not yet ruled whether it will accept the *Stengel* case.

This case does not involve InFUSE, but it is important. If the Court does not accept Medtronic's Writ, then the Appellate Court's decision will stand. This means that it will be possible to pursue failure-to-warn claims against medical device companies, including Medtronic with InFUSE.

Medical Malpractice Lawsuits

It is of the utmost importance that you know that the Branch Law Firm is **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.

New Information

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!

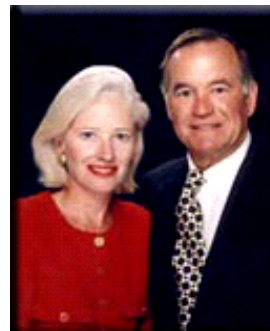
Contact Information

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.

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.

Thank You

Thank you for allowing us to be of assistance to you and extending us the honor and privilege of representing you and your family members. As we have said all along, we can't control results, but we can control our commitment to work hard and our tenaciousness.



Sincerely,

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

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Attorney-Client Confidential Communication

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and the Infuse Team (Adam Funk, Esq., Rebecca Armijo and Chris McDaniel)

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