

LITIGATION | MEDICAL DEVICES

Firm's combined filter verdicts top \$7M

Company is exploring appeals options after its latest court loss

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A federal jury in Dallas found that C.R. Bard Inc.'s IVC blood clot filter is defective in the latest of a series of verdicts that brings the combined awards for trial lawyers at Dallas-based Martin Baughman to more than \$7 million.

Martin Baughman, which represents several hundred patients who experienced injuries caused by the defective filters, has won four out of six personal

injury lawsuits since May, with the largest verdict at \$3.3 million.

In the latest case, decided July 21, jurors found that Bard's Recovery IVC filter caused serious complications when the device fractured after being implanted in plaintiff Debra Branch. The verdict includes \$386,250 in damages.

"Once again, jurors have heard the facts and agreed that these filters are dangerous," said Martin Baughman partner Laura Baughman. "After recklessly marketing these products and placing profit over safety, it's time for Bard to acknowledge how risky they are."

Bard, a subsidiary of Becton,

Dickinson and Co., is exploring appeals options following the decision. All implantable medical devices, like IVC filters, come with inherent risks, said BD spokesman Troy Kirkpatrick.

"Our IVC filter products are cleared for use by FDA and continue to offer life-saving benefits that have helped tens of thousands of patients for more than 15 years," Kirkpatrick said. "In addition, our IVC filter complication rates are well below Society of Interventional Radiology guidelines. These facts are reflected in the many BD IVC filter cases in which courts and juries have ruled in the company's favor."

Bard at one point faced more than 8,000 lawsuits that were consolidated in multidistrict litigation in a Phoenix federal court. Martin Baughman rejected a proposed settlement and is instead pursuing individual trials for its clients.

"There have been group settlements of thousands of cases," Baughman said. "We could have participated in those, but we didn't feel that those aggregate settlements adequately took into account the serious nature of our clients' injuries."

The medical technologies developer and manufacturer's line of IVC filters, which include the Recovery, G2, G2X, Eclipse, Meridian and Denali filters, are

inserted into the inferior vena cava vein to prevent blood clots from traveling to the heart and lungs. When those devices tilt, fracture or perforate vein walls, metal pieces can dislodge and migrate into other parts of the body.

Martin Baughman partner Ben Martin said he was first alerted to the devices about 10 years ago after patients began complaining of complications caused by fracturing filters. Now, the firm, which is made up of 13 attorneys and specializes in injury and malpractice cases, has a full schedule of individual trials set for the rest of the year in courts across the country.

The firm's strategy hinges on

two legal theories: design defects and failure to warn. Bard's failure to properly warn doctors of the filters' potential faults, Baughman said, put patients at risk.

"Patients have no idea there's a difference in different brands, that one might be more dangerous than another. The doctors assumed they were all the same," Baughman said. "It's up to the manufacturer to tell the truth, but it was against their financial interest to do so."

In the most recent case, Bard was not found to be negligent in its warning regarding the device use.

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