

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: DAVOL, INC./C.R. BARD, INC.,
POLYPROPYLENE HERNIA MESH
PRODUCTS LIABILITY LITIGATION

Case No. 2:18-md-2846

JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Kimberly A. Jolson

This document relates to:
Johns v. CR Bard et al.,
Case No. 2:18-cv-01509

MOTIONS IN LIMINE ORDER No. 14

On July 30, 2021, oral argument was held on Plaintiff's Proffer Related to Trial Use of Evidence of Composix Kugel Recall, FDA Inspection, and Audits. (ECF Nos. 486; 500.) For the reasons set forth on the record, the Court adheres to its prior rulings that evidence related to other devices, including the Composix-Kugel, is admissible to show Defendants' notice or knowledge, *In re Davol, Inc./C.R. Bard, Inc., Polypropylene Hernia Mesh Prods. Liab. Litig.*, 499 F. Supp. 3d 505, 517 (S.D. Ohio. 2020), so long as that evidence is connected to Plaintiff's injuries in this case, adhesions from the Ventralight ST, *In re Davol, Inc./C.R. Bard, Inc., Polypropylene Hernia Mesh Prods. Liab. Litig.*, --- F. Supp. 3d ----, Nos. 2:18-md-2846, 2:18-cv-1509, 2021 WL 81821, at *4 (S.D. Ohio Jan 11, 2021). This includes the Court's specific determination that evidence of the Composix Kugel recall, FDA inspections, and third-party audits is relevant to whether Defendants were on notice of regulatory and statutory violations that also occurred during the manufacture of the Ventralight ST, including violations pertaining to Defendants' quality management systems and their design control process. *In re Davol, Inc./C.R. Bard, Inc.*, 499 F. Supp. 3d. at 516; *In re Davol, Inc./C.R. Bard, Inc.*, 2021 WL 81821, at *6 . At this juncture, the appropriate course is to evaluate this

evidence in at trial where the Court can better ascertain whether Plaintiff has established a connection between the Composix Kugel evidence and the instant case, and weigh Federal Rule of Evidence 403 concerns, such as undue prejudice to Defendants and the risk of a mini trial.

However, statements or characterizations that the Composix Kugel recall was mandatory will be excluded. Both parties agreed during these proceedings that the recall was voluntary.

IT IS SO ORDERED.

8/2/2021
DATE

s/Edmund A Sargus, JR.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE