MEDICAL DEVICE LITIGATION

The Device Inside

What the Implanted Port Litigation Teaches About Vetting a Device Case

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An implanted port is a small reservoir under the skin of the chest or arm, with a thin catheter running into a large vein near the heart. Cancer patients especially rely on them for chemotherapy and blood draws. They're generally safe and useful. They also have well-known complications: infection, blood clots, and catheters that crack or break, sometimes sending a fragment toward the heart or lungs.

Thousands of lawsuits over Bard implanted port catheters are consolidated in MDL 3081 in the District of Arizona before Judge David G. Campbell. Plaintiffs generally allege the catheter material degrades over time, making infections, clots, and fractures more likely, and that warnings were inadequate. The manufacturer disputes it.

The bellwether results so far are mixed, and instructive. The first trial, an infection case tried in spring 2026, ended with a defense verdict on failure to warn and related claims and a hung jury on design defect. The second, a fracture case involving a silicone catheter placed in the subclavian vein, ended in early September 2026 with a $40 million plaintiff verdict on design defect and failure to warn (the jury found no manufacturing defect and declined punitive damages). More bellwethers are planned. Different injury types may land differently with juries, but each case still rises or falls on its own record.

FIRST, PROVE THE DEVICE

What exactly was implanted: manufacturer, model, catheter material, size, lot number? The best evidence is usually the implant procedure note and the device sticker sheet or implant log. If those are missing, try supply chain or materials management records, billing codes, and later imaging, since some ports have features visible on X-ray. If you can't prove the device, nothing else matters.

THEN PROVE THE INJURY

For a fracture, you need imaging showing the break and, if a piece traveled, where it went, along with the retrieval note and any device analysis. For infection, you need evidence tying the infection to the port: blood cultures, catheter tip cultures, site findings, and a course that fits. Chemotherapy patients get infections from many sources, so the link has to be shown. For thrombosis, you need imaging showing a catheter-associated clot and the treatment that followed.

FACE THE ALTERNATIVE EXPLANATIONS

This is where the clinical work matters most.

Catheter fractures can come from pinch-off syndrome. A catheter placed through the subclavian vein can get squeezed between the collarbone and first rib, and repeated compression can damage and eventually break it. So placement technique and location matter. Did serial imaging show narrowing at that spot? Were there trouble drawing or flushing, which can be early signs? Worth noting: the $40 million fracture verdict involved a subclavian placement, so placement doesn't automatically defeat a claim, but it has to be dealt with.

Infections can come from how the port was accessed and maintained, from chemotherapy-weakened immunity, or from somewhere else entirely. Clots are common in cancer patients because the disease itself raises clotting risk, and they can also relate to catheter position or catheter-to-vein size.

An honest look at those possibilities doesn't sink a good claim. It makes it defensible.

A FICTIONAL CASE

A 52-year-old woman with breast cancer has a port placed through her left subclavian vein. She finishes chemo, and the port stays in for maintenance flushes. Three years later a routine chest X-ray shows part of the catheter missing. CT finds a fragment in her right pulmonary artery, and an interventional radiologist retrieves it. She has several procedures, a stretch of anxiety and recovery, and no permanent heart or lung damage.

To vet it, I'd want the implant record, three years of imaging to look for compression at the collarbone, the flush records for any trouble drawing or flushing, the retrieval note, and the fragment itself, preserved. I'd also ask why the port stayed in three years after chemo ended. Was that a deliberate clinical decision, and was she offered removal?

MAINTENANCE OVER TIME

Ports are flushed on a schedule, often monthly when not in use. Who did that: the oncology clinic, an infusion center, home health? Were there notes about resistance, inability to draw, or pain or swelling? Those records can show early signs of catheter trouble, and they show how the

device was accessed, which matters for infection claims.

WHAT THE IMPLANTING PHYSICIAN KNEW

In many states, the duty to warn about a prescription device runs to the physician under the learned intermediary doctrine. How that applies is for counsel, but it makes certain facts important: what the implanting physician knew about the risks, what instructions and warnings came with the device, and whether a different warning would have changed the choice of device, placement, or follow-up. The implanting physician's testimony can become central.

WHEN DID SHE FIND OUT?

Some device injuries are silent until an X-ray taken for another reason finds them. When she learned of the injury, and when she learned it might be device-related, can affect limitations periods. Pin down the imaging date, when she was told, and what she was told.

DAMAGES

A fragment retrieved without complication is different from one that caused an arrhythmia or couldn't be removed. An infection requiring hospitalization and port removal is different from one treated with a short antibiotic course. The post-injury records define the damages, including the emotional weight of knowing a piece of a device traveled through your body.

PRESERVE IT NOW

If a port or fragment was removed, find out where it is today. Hospitals often discard explanted devices unless asked not to, and some return them to the manufacturer. A discarded device can't be examined by anyone. Request preservation of the device and the native imaging immediately.

RECORDS WORTH REQUESTING

- Implant procedure note, device sticker sheet, implant log, and supply chain records
- All imaging from placement onward, in native format
- Flush and access records from every setting
- Culture results, infectious disease notes, and thrombosis imaging and treatment records
- Retrieval or explant procedure notes, pathology, and chain of custody for the device
- Oncology records explaining how long the port stayed in and why
- Records documenting when the patient was told of the injury

SOURCES

- *In re: Bard Implanted Port Catheter Products Liability Litigation*, MDL No. 3081 (D. Ariz.)

- MDL Update, “Bard PowerPort Bellwether Trial Tracker” and “$40 Million Plaintiff Verdict in the Divelbliss Fracture Trial” (Sept. 2026)

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Lexcura Clinical Intelligence provides integrated clinical and regulatory analysis for attorneys handling healthcare and product liability litigation. If you want device claims vetted for product identification, objective injury proof, and alternative causes before filing or bellwether selection, we’d welcome the conversation.

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