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## Texas Firms Botched Case Against Bayer's Mirena, Suit Says

By Paul DeBenedetto

Law360, Houston (April 14, 2015, 6:45 PM ET) -- A Mississippi woman on Tuesday sued Matthews & Associates, Pulaski Law Firm PLLC and Freese & Goss PLLC, alleging the Texas law firms botched a product liability suit involving Bayer Healthcare Pharmaceuticals Inc.'s Mirena intrauterine contraceptive device by letting the statute of limitations pass on her claims.

Crystal Lynn Starling said she contacted the three firms in 2013 after seeing commercials advertising that customers affected by the IUD implant's alleged defects could contact them in order to file claims against Bayer.

But the firms held off on filing her lawsuit in order to accumulate more clients against the company, passing Mississippi's statute of limitations by almost two months, the complaint said.

"In short, various Texas 'Super Lawyers' who claim to have experience in 'bad drug' litigation allowed the statute of limitations on [Starling's] underlying claim to lapse, thereby forever barring [her] from receiving compensation for the serious injuries that she suffered as a result of the defective [Mirena] IUD," the complaint said, referring to the situation as a "disastrous series of events involving a 'bad drug' and, unfortunately, equally bad legal representation."

David Eric Kassab of the Kassab Law Firm, representing Starling, said in an email that the firm looks forward to "bringing justice" for Starling.

"It is unfathomable that three separate law firms specializing in products liability lawsuits would have failed to follow one of the most elementary legal principles: File the lawsuit within the statute of limitations," Kassab told Law360. "Thus, it is plaintiff's allegation that the only explanation is that the lawyers knowingly delayed in filing the lawsuit until it was more beneficial to them; that is, once they obtained more similarly situated clients and were able to file the suit as a mass tort to minimize their own expense."

None of the three firms immediately responded to requests for comment.

According to the complaint, Starling, a 32-year-old mother of three, had the IUD inserted in July 2009. Almost two years later, she visited her doctor for her annual exam complaining of abdominal cramping and severe stomach pain, the complaint said.

When an abdominal X-ray allegedly showed no IUD in her uterine cavity, Starling was scheduled for laparoscopic surgery a month later, where doctors discovered the IUD had migrated to the omentum with severe adhesions and removed it in March 2011. The migration led to severe pain, excessive bleeding, nausea, soreness, and other ailments, as well as tens of thousands of dollars in hospital bills, according to the complaint.

Starling said she began to see commercials for the Pulaski Law Firm in early 2013, which urged women to file compensation claims, and contacted the firm soon after. Pulaski took on the case and associated it with Matthews and Freese & Goss, according to the suit.

But despite telling the firm her surgery was in March 2011, lawyers representing Starling waited until May 2, 2014, to file her claims while they searched for three additional clients, passing the three-year Mississippi statute of limitations, the complaint said.

Starling's case was eventually transferred to a multidistrict litigation in New York, where in July 2014 a federal judge issued an order stating that plaintiffs should have known about the defect when it perforated the uterus, and thus started the statute of limitations. Her case was dismissed soon after.

Starling is suing for negligence and breach of fiduciary duty, and is asking for more than \$500,000 in damages.

Starling is represented by Lance Christopher Kassab and David Eric Kassab of the Kassab Law Firm.

Counsel information for the three law firms was not immediately available.

The case is Starling v. David P. Matthews LLP d/b/a Matthews & Associates et al., case number 2015-21402, in the 55th Judicial District Court of Harris County, Texas.

--Editing by Mark Lebetkin.

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