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## Woman Sues Three PI Firms, Lawyers for Breach of Fiduciary Duty

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A Mississippi woman filed a negligence and breach of fiduciary duty suit against three Texas personal injury firms and three lawyers, alleging that a judge dismissed her product liability suit because the defendants filed it too late.

"In short, various 'Super Lawyers' who claim to have experience in 'bad drug' litigation allowed the statute of limitations on plaintiff's underlying claim to lapse, thereby forever barring plaintiff from receiving compensation for the serious injuries that she suffered as a result of the defective Mirena IUD," Crystal Lynn Starling alleges in a petition she filed in the 55th District Court in Harris County on April 14.

Starling seeks a minimum of \$500,000 in damages from the defendants: David Matthews and Steve Faries, both of Matthews & Associates of Houston; Adam Pulaski, of Houston-based Pulaski Law Firm, which according to the petition is also known as Pulaski & Middleman; and Freese & Goss of Dallas.

Pulaski, reached at Pulaski & Middleman, said he was unaware of the petition and declined to comment until he could read it. Matthews did not immediately return a telephone message seeking a comment. Neither did Richard Freese, a principal in Freese & Goss.

Starling, who lives in Alcorn County, Mississippi, alleges in *Starling v. Matthews* that she received a Mirena IUD on July 14, 2009, but underwent laparoscopic removal of the birth control device on March 14, 2011, because it had migrated outside the uterine cavity. She alleges she suffered "severe pain, excessive bleeding, nausea, soreness, loss of enjoyment of life and urinary issues, in addition to incurring tens of thousands of dollars in medical bills."

After seeing commercials in late 2012 or early 2013 about the "defectiveness" of the Mirena IUD, Starling contacted the Pulaski Firm in early 2013, and the Pulaski Firm "associated the case" with Matthews & Associates and Freese & Goss and formed a Mirena litigation team. She alleges that she returned a questionnaire and an employment contract to the Pulaski Firm and Matthews & Associates on Feb. 8, 2013, and the Pulaski Firm and Matthews & Associates agreed to "investigate, prepare and prosecute" her claim against the IUD manufacturer.

She alleges that because Mississippi has a three-year statute of limitation for product liability/personal injury claims, her suit needed to be filed by March 14, 2014. However, she alleges,

the lawyers delayed filing "to accumulate more plaintiffs" and filed a suit on May 2, 2014, on behalf of her and four other Mississippi residents against Bayer Healthcare Pharmaceuticals and other defendants.

Starling alleges that the underlying case was transferred to a multidistrict litigation president overseen by U.S. District Judge Cathy Seibel of the Southern District of New York. Starling alleges that on Feb. 13, 2015, Faries, on behalf of the lawyers, notified her that they were required to dismiss her case with prejudice because of an earlier order by Seibel dismissing a different case on statute of limitations grounds.

"In the letter, Faries reiterates his disagreement with Judge Seibel's decision but states, "We have no legal recourse to overturn or prevent application of her decision to our case," Starling alleges in the petition.

Starling alleges that her case was dismissed on Feb. 25, 2015. She alleges that if the defendants had filed her suit in a timely manner, she would have recovered a settlement from Bayer like other similarly situated plaintiffs. She alleges that the three defendant lawyers assumed joint responsibility for her lawsuit, and are therefore jointly and severely liable for her damages.

She seeks more than \$500,000 in damages consisting of the value of her underlying case, and exemplary damages due to the defendants' alleged intentional breach of fiduciary duty.

Plaintiffs attorney Lance Kassab, of the Kassab Law Firm of Houston, said Starling's rights were trampled on by the negligence of the defendants.

"They've just got so many cases going on that some of them just fall through the cracks," he said.

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