

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
OHIO, EASTERN DIVISION

Lester v. Abiomed, Inc., et al.

Lester v. Abiomed, Inc., No. 1:25 CV 1081 (N.D. Ohio 2026) · No. 1:25 CV 1081 · Decided March 31, 2026

SUMMARY

The United States District Court for the Northern District of Ohio granted Abiomed, Inc. and Johnson & Johnson’s partial motion to dismiss and motion to strike amended class allegations in a medical-device product-liability action. The court dismissed with prejudice claims for fraudulent concealment, fraudulent misrepresentation, and violations of the Ohio Consumer Sales Practices Act as abrogated by the Ohio Product Liability Act. The court also struck the proposed nationwide personal-injury class allegations because individualized issues, differing state laws, and lack of predominance and superiority defeated class treatment.

CASE DETAILS

COURT	United States District Court for the Northern District of Ohio, Eastern Division
WRITING FOR THE COURT	Patricia A. Gaughan
JURISDICTION	United States District Court for the Northern District of Ohio, Eastern Division
DECIDED	March 31, 2026
DOCKET	1:25 CV 1081
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12 to dismiss three counts of Plaintiff's amended class-action complaint and moved to strike all class allegations. The court granted both motions.
STANDARD OF REVIEW	On a motion to dismiss, the court presumed the well-pleaded factual allegations true. For the class allegations, the court applied Federal Rule of Civil Procedure 23 and considered whether the complaint itself demonstrated that class treatment could not be maintained and discovery would not cure the defect.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion; persuasive value only

PARTIES

Rebecca L. Lester, individually and as administrator of the Estate of Garry D. Lester, and all others similarly situated v. Abiomed, Inc., Johnson & Johnson, et al.

TOPICS

motions to dismiss

class actions

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Ohio Product Liability Act abrogated Plaintiff's fraudulent concealment, fraudulent misrepresentation, and Ohio Consumer Sales Practices Act claims because they were based on alleged defects and failure-to-warn conduct involving the medical devices.
2. Whether the fraud claims independently failed under Federal Rule of Civil Procedure 9(b) for failure to plead reliance and the who, what, when, where, and how of the alleged concealment or misrepresentation.
3. Whether the Ohio Consumer Sales Practices Act claim was unavailable because the complaint sought damages for personal injury or death and failed to plead reliance or proximate cause.
4. Whether the proposed nationwide personal-injury and product-liability class failed the predominance and superiority requirements of Federal Rule of Civil Procedure 23(b)(3), such that the class allegations should be stricken before discovery.

HOLDINGS

1. The Ohio Product Liability Act abrogates Plaintiff's fraudulent concealment and fraudulent misrepresentation claims because the claims are substantively failure-to-warn product-liability claims, notwithstanding their fraud labels.
2. The Ohio Consumer Sales Practices Act claim was abrogated by the OPLA because it was primarily rooted in product-liability allegations concerning the safety and defects of the devices; it also failed because the complaint sought damages for personal injury or death and did not adequately plead reliance or proximate cause.
3. Even if the fraud claims were not abrogated by the OPLA, they would be dismissed because Plaintiff failed to plead reliance and failed to identify with particularity the alleged concealment or misrepresentation.
4. The proposed nationwide personal-injury and product-liability class failed the predominance requirement because individualized questions concerning defects, causation, medical histories, warnings, defenses, and applicable state law overwhelmingly predominated over common questions.

5. The proposed class failed the superiority requirement because the individualized inquiries and differing legal standards made a class action an inferior method of adjudication.

KEY QUOTATIONS

“A court may strike class action allegations prior to a motion for class certification where the complaint itself demonstrates that the requirements for maintaining a class action cannot be met and where discovery would not alter the central defect in the class claim.” (8)

“A failure on either front dooms the class.” (8)

“No one set of operative facts establishes liability because liability as to each class member will involve highly individualized inquiries.” (11)

“Taken together, it is clear that the individual issues of class members, requiring individualized proof, overwhelmingly outweigh any common issues subject to generalized proof and applicable to the whole class.” (13)

FACTUAL BACKGROUND

Abiomed manufactured Impella Class III medical devices approved by the FDA for use during coronary procedures. Plaintiff alleged that the devices could perforate heart ventricles and surrounding tissue, that Defendants concealed adverse-event information, and that a device used during Garry Lester's May 2021 procedure caused a perforation leading to complications and his death. Plaintiff later filed an individual and class action involving persons nationwide who allegedly suffered ventricular perforations or cardiovascular injuries from the devices.

PROCEDURAL HISTORY

Plaintiff filed an amended class-action complaint asserting ten claims arising from injuries allegedly caused by an Impella medical device. Defendants sought dismissal of the fraudulent concealment, fraudulent misrepresentation, and Ohio Consumer Sales Practices Act claims, arguing that they were abrogated by the Ohio Product Liability Act, and also sought to strike the class allegations. The court dismissed Counts V, VI, and VII with prejudice, struck the class allegations, and allowed the action to proceed on Counts I-IV and VIII-X on an individual basis.

DISPOSITION

other

CASES CITED

- *Wimbush v. Wyeth*, 619 F.3d 632, 639 (6th Cir. 2010)
- *Evans v. Hanger Prosthetics & Orthotics, Inc.*, 735 F. Supp. 2d 785, 795-96 (N.D. Ohio 2010)
- *Flex Homes, Inc. v. Ritz-Craft Corp. of Mich., Inc.*, 2009 WL 3242140, at *13 n.22 (N.D. Ohio Sept. 30, 2009)

- Muncie Power Prod., Inc. v. United Techs. Auto., 328 F.3d 870, 873 (6th Cir. 2003)
- McKinney v. Microsoft Corp., 2011 WL 13228141, at *7 (S.D. Ohio May 12, 2011)
- Mitchell v. Proctor & Gamble, 2010 WL 728222, at *4 (S.D. Ohio Mar. 1, 2010)
- Perry v. Ethicon, Inc., 2022 WL 912214, at *3 (S.D. Ohio Mar. 29, 2022)
- Everhart v. Merrick Mfg. II, LLC, 204 N.E.3d 620, 638 (Ohio Ct. App. 2022)
- Hogue v. Pfizer, 893 F. Supp. 2d 914, 918 (S.D. Ohio 2012)
- Stratford v. SmithKline Beecham Corp., 2008 WL 2491965, at *8 (S.D. Ohio June 17, 2008)
- Smith v. Gen. Motors LLC, 988 F.3d 873, 884 (6th Cir. 2021)
- Pilgrim v. Universal Health Card, LLC, 660 F.3d 943, 945-49 (6th Cir. 2011)
- Speerly v. Gen. Motors, 143 F.4th 306, 316-18, 321 (6th Cir. 2025)
- Doster v. Kendall, 54 F.4th 398, 430-31 (6th Cir. 2022)
- Tyson Foods, Inc. v. Bouaphakeo, 577 U.S. 442, 453 (2016)
- In re Nissan N. Am., Inc. Litig., 122 F.4th 239, 252 (6th Cir. 2024)
- In re Am. Med. Sys., Inc., 75 F.3d 1069, 1084-85 (6th Cir. 1996)
- Wal-Mart Stores, Inc. v. Dukes, 564 U.S. 338, 351 n.6 (2011)
- Young v. Nationwide Mut. Ins., 693 F.3d 532, 545 (6th Cir. 2012)
- Amchem Prods., Inc. v. Windsor, 521 U.S. 591, 625 (1997)
- Colley v. Procter & Gamble Co., 2016 WL 5791658, at *3 (S.D. Ohio Oct. 4, 2016)
- Durocher v. NCAA, 2015 WL 1505675, at *10 (S.D. Ind. Mar. 31, 2015)
- Ehlers v. Abiomed, Inc., 792 F. Supp. 3d 941 (E.D. Mo. 2025)

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