



Defective Medical Devices Are Costing Taxpayers Billions Because of Supreme Court Ruling

Written On April 15, 2010 By Bob Kraft

Here is an editorial opinion from Anthony Tarricone, president of the American Association for Justice:

Faulty medical devices are costing taxpayers billions of dollars that should be paid by the manufacturer, but because of the complete immunity status device manufacturers enjoy from a Supreme Court decision, taxpayers are left with the bill.

One such example is Medtronic's Sprint Fidelis defibrillator lead, a wire that connects the defibrillator to the heart, which was recalled in 2007 because it is prone to fracture and send electric shocks throughout the body. According to a new analysis, the single defective wire is costing Medicare up to one billion dollars in additional claims as a direct result of Medtronic enjoying immunity from the Supreme Court decision in *Riegel v. Medtronic*.

In 2008, the Court held that FDA-approved medical devices have complete immunity from product liability cases, even in instances when the devices have proven to be unsafe or defective. As a result, Medicare, patients, and insurance companies end up paying the price instead of the manufacturer at fault.

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The analysis, prepared by Professor Dennis Tolley, a consulting actuary and statistician for attorneys handling the Sprint Fidelis cases, cites studies that found a 3.75 percent failure rate annually, and a cumulative failure rate that may be as high as 12 percent for the faulty defibrillator wire, and escalating each year.

Congress has introduced the Medical Device Safety Act (S. 540 / H.R. 1346) to restore the rights of medical device patients to receive justice through the courts when medical devices fail. Without MDSA, thousands of patients injured by faulty medical devices have no way to hold the manufacturers accountable for their defective products. This leaves innocent patients and taxpayers footing the bill, in this case of Sprint Fidelis wire, up to a billion dollars.

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