

COMMONWEALTH OF KENTUCKY
PIKE CIRCUIT COURT
DIVISION NO. I

ENTERED
PIKE CIRCUIT/DISTRICT COURT
OCT 30 2009
BY: DAVID DESKINS, CLERK
D.C.

ACTION NO. 08-CI-00918

RAY WILLIAMS

PLAINTIFF

V. ORDER & PARTIAL SUMMARY JUDGMENT

ENDOLOGIX, INC., ET AL


DEFENDANTS

This cause coming before the Court on Endologix's Motion for Summary Judgment, and the Court having conducted a hearing on October 28, 2009, with the proceedings recorded on CD No. 35-1-2009-VR-101-A-1, IT IS HEREBY ORDERED AS FOLLOWS:

1. Endologix's Motion for Summary Judgment is GRANTED IN PART and DENIED IN PART. All claims against Endologix premised on a violation of the Food and Drug Administration regulations shall remain active in this Action, because such a case is a parallel claim and does not add to the federal requirements. *See Riegel v. Medtronic, Inc.*, 552 U.S. 312, ___; 128 S.Ct. 999, 1011; 169 L.Ed.2d 892, 906 (2008). All other claims against Endologix are DISMISSED WITH PREJUDICE, based on federal preemption under 21 U.S.C.S. Section 360k(a) and *Riegel, supra*.

2. All claims against Pikeville Medical Center and Boston Scientific Corporation shall remain active in this Action, pending further Orders of the Court.

ENTERED this 29th day of October, 2009.



HON. EDDY COLEMAN
PIKE CIRCUIT COURT
DIVISION NO. I

4

CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of the foregoing Order & Partial Summary Judgment was this day mailed to:

Hon. A. David Blankenship
328 East Court Street
Prestonsburg, KY 41653

Hon. Joshua Owen
P.O. Box 1439
Pikeville, KY 41502

Hon. W. Kennedy Simpson
600 West Main Street, Suite 500
Louisville, KY 40202

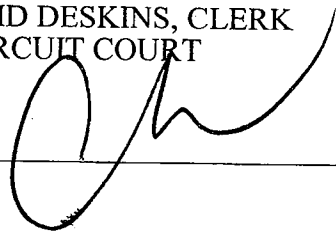
Hon. Holly Lankster
250 West Main Street, Suite 2300
Lexington, KY 40507

This is the 30 day of Oct, 2009.

W. DAVID DESKINS, CLERK
PIKE CIRCUIT COURT

BY:

D.C.



Court 1 DIVISION 1 COURTROOM
Judge HON. EDDY COLEMAN

Prep Info @00000027185 10/26/2009 2:38:40PM

10/28/2009 Court Docket
Page 1 of 1

Start of docket 1

1 CI 08-CI-00918 WILLIAMS, RAY VS. ENDOLOGIX, INC, , ET AL



Pty Memo: SER ALSO

THE CORPORATION TRUST COMPANY
CORPORATION TRUST CENTER
1209 ORANGE STREET
WILMINGTON DE 19801

<input checked="" type="checkbox"/> MAY, PAMELA ROBINETTE - <i>Blanca</i>	ATTORNEY FOR DEFENDANT (CIVIL)	MAYPR
<input checked="" type="checkbox"/> SIMPSON, KENNEDY W.	ATTORNEY FOR DEFENDANT (CIVIL)	SIMPKW
<input checked="" type="checkbox"/> WARD, ASHLEY W. <i>Holly Blankenship</i>	ATTORNEY FOR DEFENDANT (CIVIL)	WARAS
<input checked="" type="checkbox"/> BLANKENSHIP, A. DAVID.	ATTORNEY FOR PLAINTIFF	BLANDA
<input type="checkbox"/> BOSTON SCIENTIFIC CORPORATION,	DEFENDANT / RESPONDENT	
<input type="checkbox"/> ENDOLOGIX, INC,	DEFENDANT / RESPONDENT	
<input type="checkbox"/> PIKEVILLE MEDICAL CENTER FOUNDATION,	DEFENDANT / RESPONDENT	
<input type="checkbox"/> PIKEVILLE MEDICAL CENTER, INC,	DEFENDANT / RESPONDENT	
<input type="checkbox"/> UNKNOWN DEFENDANTS,	DEFENDANT / RESPONDENT	
<input type="checkbox"/> WILLIAMS, RAY	PLAINTIFF / PETITIONER	
<input type="checkbox"/> BURKE, KATHRYN,	WARNING ORDER ATTORNEY	BURKK

ENTERED
PIKE CIRCUIT/DISTRICT COURT
OCT 30 2009
DAVID DESKINS, CLERK
D.C.

Bail Set:

Posted:

OTHER HEARING on *Endologix's*
Sch Memo: MOTION FOR SUMMARY JUDGMENT based on federal preemption and
Riegel v. Medtronic

Hearing held - submitted.

07/18/2008	1	MH
08/01/2008	1	MH
09/11/2009	1	MH
10/28/2009	1	OH

MOTION FOR SUMMARY JUDGMENT

End of Docket	2	# of Cases
---------------	---	------------

4