

Hernia Mesh Lawsuit in Canada



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About This Guide

- Hernia mesh products have been heralded as a great medical breakthrough that can help patients recover from this often painful and uncomfortable condition.
- However, some of the products companies have introduced in the last 15–20 years can cause chronic and permanent pain, serious infections, organ damage, and even death.
- This Guide was created to help inform, educate and empower victims and survivors, families of individuals who have been hurt or who are deceased, and the medical community about the state of hernia mesh lawsuits in Canada.

Get Legal and Community Support

- If you, a loved one or a one of your patients have experienced side effects from a hernia mesh product, you know how physically and emotionally draining dealing with these post-surgical complications can be.
- While medical interventions may be the most appropriate initial step, sometimes a victim or survivor can only achieve a sense of closure when they seek justice for the harm they've experienced.
- By visiting the pages in this site, we hope you'll learn valuable information about hernia mesh defects and recalls, find a space in conjunction with a Facebook page ([facebook.com/HerniaMeshLawsuitCanada](https://www.facebook.com/HerniaMeshLawsuitCanada)) to connect with other victims/survivors to share your experiences, and to provide a way to help people who would like to start a hernia mesh lawsuit in Canada.



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Can I Participate in The Hernia Mesh Lawsuit?

- For the most part, to meet the threshold for participating in a lawsuit, a person (or loved one suing on their behalf) would have required surgical intervention after experiencing complications from their hernia mesh product.
- For candidates to file a mass tort action (individual lawsuit), would have or need to remove, fix, or repair their hernia mesh.
- By learning about potential side effects, symptoms and which products have been recalled due to problems, we believe you will be better placed to make informed decisions about your medical care and to exercise your legal options.



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What is a Hernia Mesh?



Hernia mesh is a surgical product used to strengthen or bridge tissue walls that normally hold bodily organs in place.

When tissue walls weaken or tear, an organ becomes displaced from its normal cavity. This condition, known as a hernia, is often painful and serious. Surgical operations can sometimes repair hernias by patching or binding the distressed tissue wall with biological or synthetic materials, but complications and recurrences are common. In the past decades, hernia mesh products made of a plastic substance called polypropylene have been increasingly used to treat hernias. Initially heralded as a breakthrough that would improve success rates, defective types of this hernia mesh actually increased the risk of the usual complications from hernia surgeries and posed new problems,¹ notably perforation and fissures of the skin and organs and pain due to nerve damage.² Particularly serious instances of perforation and infection have resulted in blood poisoning and death.

Some types of synthetic hernia mesh products have been subject to recalls. Once implanted into a person's body remedial surgeries are risky and some victims of this defective product may never fully recover from the damage it can cause even if it is removed or may even succumb to complications.

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1 <http://www.ctvnews.ca/health/growing-concerns-in-canada-over-surgical-mesh-usage-recalls-1.3372733>

2 <http://jamanetwork.com/journals/jama/fullarticle/2565771>

Hernia Mesh Product Recall

Hernia mesh products can be made from biological or synthetic materials. Biological hernia mesh is derived from animal tissue (usually cow or pig skin or intestine) that is disinfected before it is implanted. Fully absorbable, this mesh eventually degrades in the body and is expected to be replaced by new human tissue growth to strengthen the area bridged or patched.

Synthetic hernia mesh products can be made from both absorbable and/or non-absorbable materials. Non-absorbable mesh products, including those made from polypropylene plastics, are considered permanent implants that



are designed to provide permanent reinforcement to tissue walls that may not otherwise regenerate on their own.

Some types of hernia mesh products, particularly types of synthetic mesh, have been subject to recalls or are currently under review by government health agencies and regulators. If you are unsure of what type of product was used in your hernia operation and want to know whether it has been recalled or the potential to be recalled as a defective product, you can contact the hospital where the surgery was performed to obtain the product sticker.

For a list of hernia mesh products that have been recalled or have been subject to government review, please contact hernia mesh lawyer Paul Miller at pmiller@hshlawyers.com or 416-646-3901.

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Hernia Mesh Lawsuit in Canada

When companies manufacture and/or market a defective product to Canadians they can be held liable for damages and face punitive judgments if the courts find their negligence contributed to these damages. Some victims of defective hernia mesh - or their loved ones if they died as a result of the defective mesh - have taken legal action against the makers of these products.

Victims of defective hernia mesh interested in pursuing legal remedies should consult with a lawyer who is knowledgeable about personal injury law and product liability. These lawyers will listen to the victim's story and explain their legal options. **Hernia mesh lawsuits in Canada can be filed individually.** A knowledgeable and experienced lawyer can explain the advantages of bringing an individual action which is likely to provide a victim with a sense of justice.

Although no amount of money can fully erase the pain and suffering caused by a defective hernia mesh, judgments in favour of these plaintiffs or negotiated settlements with companies found liable, can provide these victims with financial awards to compensate them for their injuries, disabilities, or future medical needs (such as remedial surgeries).



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Do I Qualify to Join the Hernia Mesh Lawsuit?

Not all patients who have had defective mesh implanted will experience physical side effects or injuries from the product, but knowing you have a defective product in your body can result in mental anguish as well. Nevertheless, a victim must sometimes meet a particular threshold or condition to join a defective hernia mesh mass tort lawsuit. The following situations are general indications that you may qualify:



- You have experienced complications that you believe are the result of the defective mesh implant. These commonly include: chronic pain (more than three months), infection or abscess, hernia recurrence, mesh migration or adhesion, obstruction, fistula formation and organ perforation.
- The mesh that was implanted to repair a hernia or hernias is found on the recall list (a product sticker should be obtained from the hospital where the surgery was performed even if you have received a letter notifying you of the recall).
- You have had or require revision surgery to treat recurrence or infection from hernia mesh.
- You require surgery to remove the hernia mesh product.

Even if one or more of the above situations apply, a product liability lawyer who is knowledgeable about hernia mesh cases can explain exceptions that may apply.

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Frequently Asked Questions

How do I obtain my medical records?

You can obtain this information by contacting the Health Records Department of the Hospital where the surgery took place. You may ask them to provide you with a product sticker pertaining to your mesh. The product sticker will contain a serial number/lot number that will enable the lawyer to determine the product manufacturer's name.

How do I know if the pain I'm feeling is related to defective hernia mesh?

Your doctor/surgeon should provide information about how long short-term, temporary pain from the surgery should last. Longer term pain that prompts you to return to your doctor for care and suggestions for additional treatment from your doctor may indicate that you may need surgery to fix a problem with the mesh following an examination. Always follow your primary healthcare provider's advice and treatment plan.

Who is the defendant(s) in this lawsuit?

The defendant(s) in this lawsuit is a manufacturer of a faulty or defective hernia mesh product. Often, the manufacturer has had to recall the product and patients have experienced serious pain. This lawsuit does not list any doctors, medical staff and/or hospitals as defendants.



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How much money will I get?

It is impossible to tell the value of your case at this time. There is a cap on pain and suffering damages that can be awarded to a victim in Canada. At this time it is approximately \$365,000 (April 2017), which would be awarded to a paraplegic. This cap increases monthly with the cost of living.

A cap on pain and suffering was established with the supreme court ruling of *Andrews v. Grand & Toy Alberta Ltd.*, [1978] 2 S.C.R. 229.³

Are there time limits that could prevent me from joining a lawsuit?

You have two (2) years from the time you knew or ought to have known with the use of reasonable diligence that the damages you suffered was from the defective mesh to participate in a lawsuit.

What if I don't think I can afford a lawyer?

Your initial consultation is free. You only pay after being compensated. Our fee is deducted from the settlement amount. If we're not successful, you don't pay.

My loved one died from complications due to defective hernia mesh. Could I participate in a lawsuit on their behalf?

Yes. If your loved one's death was linked to problems they experienced with defective hernia mesh you have the right to sue for wrongful death and for the pain and suffering the loss of their companionship or loss of their earning potential has caused your family.

If something were to happen to me, would my family be able to continue my lawsuit on my behalf?

If you were not able to continue your lawsuit due to disability or death, your family or next of kin would be able to continue with your suit and seek justice for you.

How long do you expect litigation to take?

Hernia mesh lawsuits are estimated to take between three to five years to complete depending on the nature of the case and court timelines.

Is the Hernia mesh lawsuit a mass tort or class action?

Mass tort actions are often the best way to proceed with medical product liability lawsuits where the injuries victims sustain vary widely.

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³ <https://www.canlii.org/en/ca/scc/doc/1978/1978canlii1/1978canlii1.html?autocompleteStr=andrews&autocompletePos=1>

Mass Tort Versus Class Action: What is a Mass Tort Lawsuit?

Unlike class action lawsuits where plaintiffs (for example, victims of defective hernia mesh) share court-ordered awards equally, mass torts recognize that the extent of injuries from these products can vary greatly. Mass torts allow lawyers to try several test cases and use their judgments to propose settlement structures for other individual suits.

An individual pursuing a case through a mass tort will then have the ability to accept a settlement offer or proceed to their own trial. **There is individual control.** Members of a class action lawsuit are bound by the Court-approved settlement or decision. Mass tort actions recognize that a “one-size-fits-all” approach doesn’t always work best for everyone involved. Yet they use the power of many plaintiffs to achieve customized and personalized results.

Mass tort actions are also generally funded through contingency fees which help to facilitate participation by people who may not be able to pay for legal services up front or out of pocket before a decision or settlement provides an award.

If you have any questions, please contact product liability lawyer Paul Miller at pmiller@hshlawyers.com, or 416-646-3901.



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Support Groups

- Join the Canadian Victims of Defective Hernia Mesh Products
Facebook Page: <https://www.facebook.com/HerniaMeshLawsuitCanada/>



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Blog, News and Related Links

Blog Post Topics

Visit herniameshlawsuit.ca/support/news/ to read the following blogs:

Thinking of a Lawsuit Related to Faulty or Defective Hernia Mesh Products? Keep These Things in Mind

Hernia repair is a common surgical procedure. Each year, about 50,000 Canadians go under the knife hoping to put an end to their hernia related pain. What can you do if a procedure that was meant to help you leads to further complications? ([Read full article on the website.](#))

An Ounce of Prevention: Serious Mesh-Related Complications

The prospect of surgery can be frightening. We put our faith in well-trained doctors, surgeons and other healthcare professionals to make the best decisions for us when we're under their care. But a little knowledge can go a long way to helping us alleviate some of our fears. Learning about our condition and prospective surgery can also help us to ask relevant, intelligent questions and become advocates for our own health. ([Read full article on the website.](#))

Beware of Hernia Mesh Surgical Repairs and Recalls

If you've suffered the discomfort or pain of a hernia, you may have been excited to learn that a surgical procedure involving a medical mesh product could help ease your suffering. Sadly, not all surgical mesh products corrected the condition. Instead of easing pain and suffering, design flaws in some products have caused some patients to feel worse. ([Read full article on the website.](#))



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News

- CTV news: [Canadian patients join class-action suit over recalled hernia mesh](#)

Related Links

- [Mesh for Hernia Repair Reduces Recurrence: Study](#)
- [Hernia Surgical Mesh Implants](#)
- [Which mesh for hernia repair?](#)
- [Chronic abdominal pain secondary to mesh erosion into cecum following incisional hernia repair: a case report and literature review](#)

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Join The Hernia Mesh Lawsuit

Deciding whether to join a class action or mass tort lawsuit is an important decision. To help you make an informed decision, contact a personal injury/ product liability lawyer to learn more about your options. You are under no obligation to participate and if you do decide to join an action, you will not be charged for services unless you sign a fee agreement.

If you have any questions or if you would like to participate in the Hernia Mesh Lawsuit in Canada, please contact product liability lawyer Paul Miller at pmiller@hshlawyers.com, or 416-646-3901.



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Other Faulty or Defective Medical Devices and Implants

Hernia mesh is one of many faulty or defective medical devices and implants reported to have caused suffering, disability and death to users. Your life and health are precious and if a medical product manufacturer's negligence cause you harm, the law provides ways to seek compensation and damages for their actions.

Two faulty or defective medical devices and implants that have been subject to manufacturing recalls or warnings from health agencies and regulators include: St. Jude Defibrillator/Pacemaker, and SynchroMed II. If you have suffered harm from one of these products, a personal injury/product liability lawyer can help you to determine if you might be eligible to seek justice by participating in a lawsuit.

To learn more about your legal options, please visit www.hshlawyers.com/expertise/mass-tort-litigation/defective-medical-devices-and-implants/

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Contacts

About Howie, Sacks & Henry @hshlawyers

Formed in 2000, Howie, Sacks & Henry (HSH) is consistently ranked as one of Canada's top personal injury law firms. With a mission to handle serious personal injury cases with compassion and professionalism, HSH strives to ensure its clients receive adequate compensation for their pain, suffering, damages and future needs. HSH also advances mass tort claims and class actions on behalf of people injured by dangerous products, pharmaceuticals and medical devices. Victims who have suffered exposure to asbestos, cancer caused by the use of baby powder, the side effects of pharmaceuticals like Taxotere and Abilify, and those adversely impacted by defective medical devices, including St. Jude Defibrillators, SynchroMed II and Hernia Mesh, trust HSH's product liability lawyers to represent their interests and advocate for their needs as they fight for justice.

For more information, visit: www.hshlawyers.com.

Key Contact



Paul Miller, Partner

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A dedicated advocate for people who have suffered personal injuries, Paul's 20 years of experience involving cases of defective products and medical devices, motor vehicle accidents, slip and falls, and long-term disability benefits denials make him a formidable figure in the courtroom and at the negotiating table.

Team



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A bilingual (English and French) graduate of the University of Ottawa's Law School, Valerie built a career in personal injury law after her own traumatic experience and legal battle ([From Air France Flight 358 Crash Victim to Personal Injury Advocate: An Interview With HSH Lawyer Valerie Lord](#)). Valerie provides clients with legal advocacy for accident benefits and tort claims, conducts hearings of personal injury cases, and represents clients involved in mass tort litigation, including Hernia Mesh.

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Skilled in production of pleadings, legal documentation and correspondence Marina has a keen ability to research and analyze complex legal documents. Fluent in Russian and Ukrainian, she excels in product liability procedures and mass tort litigation. Marina takes great pride in her work and is “dedicated to ensuring all clients obtain their maximum recovery.”



Ryan Ferguson, Mass Tort Law Clerk/Legal Assistant

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A licensed paralegal, mass tort law clerk, and legal assistant, Ryan graduated with a B.A. (Hons) in Criminal Justice and Public Policy at the University of Guelph before completing an accelerated paralegal diploma from Seneca College. Ryan’s passion for justice and human rights led her to a tenure as Global Research Coordinator for Inclusion International, an organization that advocates for the rights of persons with intellectual disabilities and their families.



Pamela Foster, Community Liaison

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With an extensive career in marketing and business development across numerous industry sectors, as Director of Marketing & Business Development at HSH, Pamela has facilitated tremendous outreach efforts to community groups and victim support groups for people with disabilities and personal injuries. A pre-law graduate of the University of Lethbridge, Pamela’s energy and organizational abilities have been an enormous asset to HSH community partnerships.

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Glossary of Terms

Class Action Lawsuit

A representative plaintiff is identified to fairly and adequately represent the interests of an entire class of plaintiffs. When a court-approved settlement or court decision is reached, all members of the class action are bound to accept it. Plaintiffs will be categorized by the extent and severity of their injuries as the award is distributed and will have virtually no input into how much they believe they should receive personally.

Epigastric Hernia

A hernia located in fibrous tissue in the area between the belly button and breast bone.

Hernia

Hernias occur when tissue or organs push through a muscle wall or exit a body cavity which normally holds them in place. Most often found in the abdominal region or groin, symptoms often include pain which may worsen depending on physical movement or position, strenuous activities, and actions such as coughing or urinating depending on the type of hernia present. Some hernias can be managed through lifestyle changes (weight-loss, eating habits), while others may require corrective surgery.

Hernia Mesh

A patch – made of either animal tissue or synthetic fabric – hernia mesh products are used as a bridging device to strengthen weakened or torn tissue in the human body. Hernia mesh products have been used for half a century and were considered a major medical advance in helping the success rates of initial hernia operations. In recent decades, synthetic hernia mesh products have increasingly been manufactured using a plastic material called polypropylene.

Hernia Mesh Remedial or Corrective Surgery

Although hernia surgeries are often successful, failures can result in hernia reoccurrence or complications such as infection, chronic pain, adhesion of skin, and obstruction. A defective hernia mesh product increases the risk of these complications and may also cause organ perforation, fissures, nerve damage and, in serious cases, blood poisoning and death. Hernia mesh remedial or corrective surgery either replaces or removes hernia mesh and accompanying scar tissue.

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Inguinal Hernias

These hernias occur when tissue or an organ, such as an intestine, push out of the abdominal muscle wall or the fatty tissue in the groin or scrotum. This hernia can result in a bulge under the skin which may or may not cause pain. Pain can result from strenuous activities or actions such as coughing or bending.

Laposcopic Hernia Repair Operations

Sometimes called “key hole” surgeries, these operations are usually used for inguinal or femoral hernia repairs. Following general anaesthesia, a small incision is made through which a thin scope can be inserted to place a mesh product. This minimally invasive surgery usually provides patients with a faster recovery period and less pain than an open hernia surgery.

Mass Tort Lawsuit

Generally funded through contingency fees (where legal fees are only payable if the lawsuit ends in a settlement or court award), mass tort actions allow for multiple classes of plaintiffs with similar but varying interests to sue a defendant. Often used in medical product liability cases where assessments of the severity of injury varying widely among persons joining an action, personal injury and product liability lawyers may proceed with a few test cases to establish structures for future settlement discussions. Mass tort actions provide individual plaintiffs with the benefits of collective action and the flexibility of an individual lawsuit. For example, a plaintiff in a mass tort action may decline to accept a settlement proposal that other plaintiffs have accepted and opt to proceed to a trial or try to negotiate an alternative settlement.

Umbilical Hernias

An inguinal hernia that pushes through the belly button area of the abdomen, umbilical hernias sometimes resolve on their own without surgery.

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