

E CEIVE

PKE CHARCUT, DISTRICT COURT ICKY OCT 3 0 2009

NOV - 2 2009

The COMMONWEALTH OF KENTUCKY

PIKE CIRCUIT COURT,

DIVISION NO. 16 THOMPSON MILLER & SIMPSON, PLC ACTION NO. 08-CI-00918

DESKUSTEAK

O.C.PL

RAY WILLIAMS

\* PLAINTIFF

**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, \_\_\_ 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

Ten

remain active in this Action, pending further Orders of the Court.

ENTERED this 29 day of October, 2009.

—

( IX , X M HÓN. EDDY COLEMAN PIKE CIRCUIT COURT DIVISION  
NO.+

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

day  
of

·  
2009.

W.DAVID DESKINS, CLERK PIKE CIRCUIT COURT

BY:

D.

C.

**PIKE**

Court Judge

**11:00 AM CI 1**

**DIVISION 1 COURTROOM HON. EDDY COLEMAN**

Run Date: 10/26/2009 2:38:42PM DocketList. Rpt Prep Info W00000027185 10/26/2009 2:38:40PM

**10/28/2009 Court Docket**

Page 1 of 1

AN  
K  
.

**Start of docket 1**

told

-40

**CI 08-CI-00918**

**WILLIAMS, RAY VS, ENDOLOGIX, INC, , ET AL**

MAYPR SIMPKW

WARAS URTBLANDA

Pty Memo: *SER ALSO*

*THE CORPORATION TRUST COMPANY CORPORATION TRUST CENTER  
1209 ORANGE STREET*

*WILMINGTON DE 19801 W MAY, PAMELA ROBINETTE - ilute ATTORNEY FOR  
DEFENDANT (CIVIL) XSIMPSON, KENNEDY W.*

**TATTORNEY FOR DEFENDANT (CIVIL) WARD. ASHLEY W.**

**ATTORNEY FOR DEFENDANT (CIVIL) BLANKENSHIP, A. DAVID,**

ATTORNEY FOR PLAINTIFF BOSTON SCIENTIFIC CORPORATION,  
DEFENDANT / RESPONDENT ENDOLOGIX, INC,  
DEFENDANT / RESPONDENT PIKEVILLE MEDICAL CENTER FOUNDATION,  
DEFENDANT / RESPONDENT INC, PIKEVILLE MEDICAL CENTER, INC,  
DEFENDANT / RESPONDENT O UNKNOWN DEFENDANTS,  
DEFENDANT / RESPONDENT O WILLIAMS, RAY  
PLAINTIFF / PETITIONER O BURKE, KATHRYN,  
WARNING ORDER ATTORNEY Bail Set:

Posted:

ENTERED PIKE CHACUITIDISTRICT COURTBLA

D.C

OCT 3 0 2009 DAVID DESKINS\_CLERK

BURKK

**OTHER HEARING** an *Endolagir'* Sch Memo:  
*MOTION FOR SUMMARY JUDGMENT based*  
*on Federal preemption and*  
- Riegel ve Medtronic

Heing held - submitted

07/18/2008 08/01/2008 09/11/2009 10/28/2009

MH MH MH OH

MOTION FOR SUMMARY JUDGMENT

**End of Dockets**

**2**

**# of Cases**

.

4

*kelele*

10/28/2009

1

11:00 AM

Page 1 of 1

Judge Signature:- Celal  
ten