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Medical device defendant probes origin of mesh claims

(Reuters) - A major defendant in the 100,000-case pelvic mesh litigation has subpoenaed the mid-sized Houston law firm AkinMears, as well as several smaller law firms and a company that sells personal-injury claims, seeking documents and testimony related to AkinMears' acquisition last summer of the smaller firms' mass torts practices.

The subpoenas - issued Tuesday by American Medical Systems in the consolidated federal court mesh litigation in Charleston, West Virginia - are an unusual development in the long-running case because the medical device company has already agreed to settle most of the claims against it. AMS announced in 2014 that it would pay about \$1.6 billion to resolve more than 40,000 filed and unfiled claims by women who alleged its mesh implants caused bleeding, infection and other painful side effects.

Despite the settlement, the company's defense lawyers have begun challenging some recently filed claims. They contend in court filings that plaintiffs may have undergone unnecessary surgical procedures to make them candidates for bigger settlements. The wide-ranging new subpoenas ask the Florida marketing company, AkinMears and the other law firms to produce documents that may link them to doctors, surgical centers and private investors involved in funding medical procedures for mesh plaintiffs.

AMS is also interested in the origin of thousands of claims filed after its settlement was announced. The mesh maker wants to know how a Florida-based legal marketing business called Law Firm Headquarters acquired the potential claims it referred to several one- and two-lawyer shops, which in turn transferred claims to AkinMears last summer. AMS is demanding to see Law Firm HQ databases, client leads, telephone scripts and tapes, and logs of Internet communications with potential clients. The subpoenas also seek (among many other things) documents showing the relationship between Law Firm HQ and the small law firms to which it referred cases.

In July, four of those firms - Alpha Law, Sigma Law, MartindaleVoight and the Albert Lazo Law Firm - transferred their mass torts practices to AkinMears, which ordinarily specializes in advertising for personal injury clients. Most, but not all, of the claims AkinMears acquired in the transaction involved pelvic mesh. Neither AkinMears nor the Alpha Law firms have disclosed the number of claims transferred to AkinMears, but an Alpha Law principal told Reuters in an interview last April that his firm had more than 10,000 mesh claims on its docket.

AkinMears said in an email statement that it will oppose the new AMS subpoena, which it called "a transparent attempt by AMS to distract from the fact that its defective product caused devastating, life-altering injuries to our clients # We pursue only meritorious cases. We never associate with doctors, surgical centers or medical finance firms. Our clients are real women who have suffered real harm."

A representative for Law Firm HQ said he had no immediate comment on the AMS subpoenas. We did not receive a response to a telephone message left for Lonny Bramzon, a lawyer now listed as the executing officer of Alpha Law, Sigma Law and MartindaleVoight. Albert Lazo did not respond to our email and phone messages. The AMS lawyer who signed the subpoenas, Michael Scott of Reed Smith, also did not respond to our email.

Before the AMS subpoenas were issued, we had been reporting on Law Firm HQ and the small firms to which it referred cases as part of an inquiry on how law firms acquire and screen claims in mass torts litigation. In particular, we were interested in

Law Firm HQ's relationship with overseas call centers in countries such as India, Mexico and the Philippines, where labor costs are lower than in the U.S.

It is not uncommon (or improper) for legal marketing companies to use offshore call centers to screen prospective clients who make "inbound" calls in response to legal advertising, an online survey or email. Some offshore call centers, however, make unsolicited "outbound" calls to prospective clients who fit such criteria as age and gender. Lawyers are not permitted under state bar rules to solicit clients to bring lawsuits. Filing a claim on behalf of a plaintiff whose case began with an outbound call from a telemarketer could run afoul of ethics rules.

Law Firm HQ co-owner (and non-lawyer) Michael Chhabra told us in an interview in November that the company purchases client leads from offshore call centers, in addition to generating claims through sophisticated marketing tactics like Internet advertising and online surveys. Chhabra said Law Firm HQ's screening processes are designed to filter out any cases improperly generated by other call centers.

Chhabra acknowledged, however, that some of Law Firm HQ's former call center partners used improper tactics such as asking prospective clients to wire them money or urging potential plaintiffs to sue. Of the 75 call centers that sold client leads to Law Firm HQ, Chhabra said, Law Firm HQ eventually terminated relationships with 37.

"Sad to say, some were trying to cheat clients," said Chhabra, who said that after Law Firm HQ received complaints from some plaintiffs, the company hired a private investigator to check out its call center partners. (AMS has subpoenaed Chhabra and his father Vincent, who founded the business in 2014 but is no longer an owner. Their representative did not comment on the subpoenas.)

Chhabra confirmed to us that his company had referred cases to Alpha Law and the other small firms that transferred their mass torts practices last summer to AkinMears. He also confirmed what we knew from business records in Washington, D.C., where three of the firms were registered: He was a founding partner at two of the small firms. Washington has an idiosyncratic bar rule that permits non-lawyers like Michael Chhabra to serve as law firm partners. Chhabra was not a partner at Alpha Law, but a non-lawyer friend of the Chhabra family was one of Alpha's founders.

By the time AkinMears bought the small firms' mesh practices, Law Firm HQ had generated leads for, by its own account, more than 20,000 potential personal injury suits in a variety of mass tort cases, including mesh, Bayer birth control pills and the blood thinner Xarelto. If that number is correct, Law Firm HQ's lead generation productivity far outpaced that of well-established legal marketers that spend hundreds of millions of dollars a year on advertising for personal injury clients.

AkinMears allegedly paid \$45 million to Alpha Law, Sigma Law, MartindaleVoight and Albert Lazo for their mass torts practices, according to a Texas state court lawsuit filed in September 2015 by a former AkinMears business development officer. AkinMears said the lawsuit, in which the executive said he was insufficiently compensated for the deal, misstated the price, which Reuters could not confirm independently. Partners from the small firms on the other side of the transaction either declined to comment on the terms of the deal, citing confidentiality agreements, or did not return calls for comment.

The former AkinMears employee's lawsuit also asserted that the transaction was financed by Gerchen Keller, a \$1.4 billion litigation fund headed by two former U.S. Supreme Court clerks and a former Goldman Sachs banker. Gerchen Keller declined to comment on the allegations in the suit, which has since settled on confidential terms.

AkinMears told us in December that it was not aware Law Firm HQ had purchased client leads from offshore call centers. In a written statement responding to questions from Reuters, AkinMears said Alpha Law and the other firms that transferred their practices specifically "represented to AkinMears that no foreign call centers were utilized" to generate claims.

In the aftermath of the deal between AkinMears and the firms in the Alpha Law network, AkinMears said it received complaints from a small number of transferred clients who claimed they had been solicited by non-lawyer case generators without giving consent. Michael Chhabra of Law Firm HQ said sometimes clients do not realize they have consented to receive legal marketing calls by responding to online inquiries or surveys. He also said relatives of prospective clients sometimes give consent on behalf of potential plaintiffs.

AkinMears told Reuters that a significant percentage of former Alpha Law network clients refused to allow the Houston firm to take over their cases. Some sought new lawyers; others did not sign forms consenting to AkinMears' representation. The rate of dropped claims "has been significantly higher than what we expected," the AkinMears statement said.

AkinMears declined to tell us what has become of the claims that clients agreed to transfer. Asked how many claims have resulted in filed lawsuits or settlements, the firm said: "We are not at liberty to discuss litigation strategy."

Meanwhile, three of the law firms that sold their mass torts practices to AkinMears, including Alpha Law, effectively ceased operations after the sale last summer, according to lawyers from the firms—a little more than a year after Alpha Law opened for business. The lawyers associated with Alpha, Sigma and MartindaleVoight at the time of the AkinMears deal have all parted ways with the firms, Law Firm HQ and Law Firm HQ's parent company.

Law Firm HQ remains in business. It bills itself as "one of the preeminent legal marketing and support organizations in the U.S., working in conjunction with a national group of highly reputable and experienced attorneys and law firms," and says on its website that it has generated more than 30,000 cases.

(Reporting by Alison Frankel and Jessica Dye)

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