

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-11784

D.C. Docket No. 0:13-cv-62260-JIC

NORMA OLMO,
NELSON OLMO,

Plaintiffs-Appellants,

versus

DAVOL, INC.,
C.R. BARD, INC.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida

(February 7, 2018)

Before MARCUS, ANDERSON, and HULL, Circuit Judges.

PER CURIAM:

We have had the benefit of oral argument and have carefully reviewed the briefs and the summary judgment record in this case. The learned intermediary doctrine provides that the manufacturer's duty to warn runs to the physician, not directly to the patient. If the physician had independent knowledge of the risk that caused the plaintiff's injuries – substantially the same knowledge as an adequate warning should have communicated – then the plaintiff cannot prevail on a failure-to-warn claim. Christopher v. Cutter Laboratories, 53 F.3d 1184, 1192 (11th Cir. 1995). We agree with the district court that the physician who implanted the instant patch had such independent knowledge. With respect to the patch that was implanted in plaintiff, there is insufficient evidence that the ring in the patch buckled.

For the foregoing reasons, including reasons fully explained at oral argument, the judgment of the district court is

AFFIRMED.