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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ADAM PHILLIPPI,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>STRYKER CORPORATION; STRYKER SALES CORPORATION, Michigan corporations,</p> <p>Defendants - Appellees.</p>

No. 10-16651

D.C. No. 2:08-cv-02445-JAM-
GGH

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Argued and Submitted January 13, 2012
San Francisco, California

Before: WALLACE, NOONAN, and M. SMITH, Circuit Judges.

Adam Phillippi appeals from the district court’s summary judgment in favor
of Stryker Corporation and Stryker Sales Corporation (“Stryker”) in Phillippi’s

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

diversity products liability action. Reviewing the district court's order de novo, *see Alpha Delta Chi-Delta Chapter v. Reed*, 648 F.3d 790, 796 (9th Cir. 2011), we affirm.

Phillippi argues that as a result of the implantation of a Stryker pain pump, he suffered chondrolysis, the complete or nearly complete loss of cartilage, in his shoulder joint. However, as the district court found, Phillippi provided insufficient evidence to raise a known or knowable risk of chondrolysis at the time of Phillippi's surgery such that Stryker had a duty to warn. *See Brown v. Superior Court*, 751 P.2d 470, 475-76 (Cal. 1988).

Phillippi also argues that the district court erred in excluding the declaration of Dr. Younger. Because the district court clearly found that the declaration was self-serving and lacking foundation, we hold that its exclusion was not an abuse of discretion. *See ACLU of Nev. v. City of Las Vegas*, 333 F.3d 1092, 1097 (9th Cir. 2003) (holding that evidentiary rulings made in the context of summary judgment are reviewed for an abuse of discretion); *see also FTC v. Publ'g Clearing House, Inc.*, 104 F.3d 1168, 1171 (9th Cir. 1997) ("A conclusory, self-serving affidavit, lacking detailed facts and any supporting evidence, is insufficient to create a genuine issue of material fact.").

Accordingly, the judgment of the district court is **AFFIRMED**.

