



Minnesota State Court Grants Summary Judgment for 3M: Dismissing 61 Lawsuits Filed in State Court

- 3M won a major court victory in the litigation involving the 3M™ Bair™ Hugger warming system.
- A Minnesota state court granted summary judgment on Monday in favor of 3M, dismissing 61 lawsuits filed by Minnesota plaintiffs who had claimed the warming device caused their infections.
- The court ruled that “there is no generally accepted scientific evidence – and plaintiffs offer none – that the risk of infection associated with [forced air warming] is greater than that associated with patients who are not warmed during surgery.” In addition, the court said there is no scientific evidence that other warming devices have a lesser infection rate than forced-air warming devices.
- In excluding the plaintiffs’ experts, the court noted that: “None of these experts had studied the efficacy of forced-air warming devices prior to being retained by Plaintiffs. They have not published any peer-reviewed articles relevant to the claims made in this litigation. They do not claim that their general causation opinions are generally accepted within the relevant scientific community.”
- The court cited the August 2017 letter from the U.S. Food and Drug Administration to health care providers that recommended the continued use of patient warming devices, including forced-air warming devices such as the 3M Bair Hugger system. In the letter, the agency said that, after a thorough review of available data, it was unable to find a consistently reported association between forced-air warming and infections.
- In the state ruling, District Court Judge William H. Leary III also detailed the nefarious activities of Scott Augustine, whose company markets a competing product called the HotDog warming blanket.
- Augustine has waged a decades-long campaign to malign the Bair Hugger warming system while offering to sell his competitive products to 3M.
- “Scott Augustine blatantly and unapologetically threatened Defendants with ‘negative rhetoric’ and ‘studies’ with pre-determined findings to pursue a



business advantage,” Judge Leary wrote. He detailed a history of bad behavior by Augustine, including a conviction for Medicare fraud and repeated warnings from regulators about his marketing tactics.

- Judge Leary also noted that Augustine worked closely with Kennedy Hodges, the plaintiffs’ law firm that filed the first complaints against the Bair Hugger system.
- The ruling does not affect more than 4,000 lawsuits filed in Minnesota federal court by plaintiffs living outside the state. The federal court has different standards for allowing expert testimony and a federal court ruled last month that it would allow plaintiffs to present their evidence to a jury. The first bellwether case is set for trial in May 2018.
- Both the state and federal courts already had denied all plaintiffs’ requests to seek punitive damages in the bellwether trials, and separately noted that plaintiffs failed to show scientific proof that the Bair Hugger system causes infections or that 3M disregarded patient safety.
- 3M is eager to defend the safety of the Bair Hugger system, which has been used more than 200 million times in the past 30 years and continues to be used daily in healthcare facilities worldwide.

KNOW THE TRUTH about the 3M™ Bair Hugger™ System

The Bair Hugger system has been safely used more than 200 million times in the past 30 years. There is no proof that the Bair Hugger warming system has ever caused an infection.

A large number of studies continue to recommend patient warming, which has been shown to provide valuable benefits to surgical patients, including reducing the risk of surgical site infections, reduced mortality, fewer post-operative heart attacks, reduced blood loss and faster recovery times. A compendium of studies can be found [here](#).

Patient Safety is 3M’s No. 1 priority and we stand behind our products, patients and customers. For more information, go to the following websites: www.FAWfacts.com, www.TruthAboutBairHugger.com, and www.BairHuggerfacts.com.