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Georgia Law Prof Launches Study on Litigant Satisfaction in Women's Health MDLs

University of Georgia School of Law professor Elizabeth Chamblee Burch is performing a study focusing on women's health MDLs, including the pelvic mesh litigation, the talc litigation and the litigations involving birth control drugs, like Yasmin/Yaz.

By [Max Mitchell \(/author/profile/Max-Mitchell/\)](http://author/profile/Max-Mitchell/) | December 17, 2018 at 02:39 PM

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Elizabeth Chamblee Burch of the University of Georgia School of Law.

Many law review articles have been written about the procedural challenges for lawyers and judges when it comes to handling multidistrict litigation, but few studies have focused on what hurdles litigants may face when their cases are part of large consolidated actions.

One law professor is looking to change that with a study she is [undertaking \(https://www.elizabethchambleeburch.com/womens-mdls\)](https://www.elizabethchambleeburch.com/womens-mdls) that seeks to hear from litigants who have brought a claim through the MDL process.

University of Georgia School of Law professor Elizabeth Chamblee Burch is performing a study focusing on women's health MDLs, including the [pelvic mesh \(https://www.law.com/thelegalintelligencer/2018/12/04/pelvic-mesh-mdl-leadership-defends-settlement-record-as-infighting-ramps-up/\)](https://www.law.com/thelegalintelligencer/2018/12/04/pelvic-mesh-mdl-leadership-defends-settlement-record-as-infighting-ramps-up/) litigation, the [talc litigation \(https://www.law.com/thelegalintelligencer/2018/11/02/plaintiffs-lawyers-fight-to-keep-4-7b-talc-verdict-citing-jjs-perfect-storm-of-misconduct/\)](https://www.law.com/thelegalintelligencer/2018/11/02/plaintiffs-lawyers-fight-to-keep-4-7b-talc-verdict-citing-jjs-perfect-storm-of-misconduct/) and the litigations involving birth control drugs, like [Yasmin/Yaz \(https://www.law.com/thelegalintelligencer/almID/1202733834634/bayer-agrees-to-569m-settlement-program-for-yaz-claims/\)](https://www.law.com/thelegalintelligencer/almID/1202733834634/bayer-agrees-to-569m-settlement-program-for-yaz-claims/). The study consists of a questionnaire meant to gauge the satisfaction of litigants when it comes to the various aspects of the system they may have interacted with, such as judges, lawyers or third-party litigation funders. Burch has set Jan. 8 as the deadline for litigants to take part in the survey.

According to Burch, the last study done focusing on the experience of the plaintiffs in mass litigations was done in [1989 \(https://www.rand.org/content/dam/rand/pubs/reports/2006/R3708.pdf\)](https://www.rand.org/content/dam/rand/pubs/reports/2006/R3708.pdf). Although her study is focusing on products that deal with women's health issues, she said the narrow focus should give insight into the satisfaction of plaintiffs in MDLs as a whole.

"It just struck me that there are so many products aimed at women," she said.

Burch said the study is designed somewhat like a customer satisfaction survey, but aimed at the civil justice system at large. The questionnaire, Burch said, branches off like a choose-your-own adventure story, where the questions are tailored to gauge the satisfaction at each possible twist that a case can take, like whether the litigant ever appeared before the judge, whether their case was referred to multiple attorneys, whether third-party financial agreements were involved and whether the litigant had to go through a post-settlement claims administration process.

"The hope is to figure out if we can pinpoint the satisfaction, or dissatisfaction," she said. "I really don't want to just get people who are disgruntled. If there are aspects people are happy about, I absolutely want to know that."

In the short term, Burch said she is hoping the research will lead to a law review article, but in the long term, she said she hopes the research serves as a launching pad for a larger in-depth study that will become a book.

However, Burch said she has run into difficulty so far, both from lawyers and from the litigants, when it comes to participation. Some litigants, she said, are suspicious and have accused her of working with or being funded by attorneys involved in the litigation. The project, she said, is being funded entirely by the university. Attorneys, she said, also haven't appeared eager to pass the word along about the study.

“Nobody really wants you to look under the hood. Nobody much has an incentive to get people to participate,” she said.

A glance into the [social](#)

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to women who underwent pelvic mesh procedures might give some indication why, as many commenters report difficulty getting in touch with attorneys and feeling largely left out of the process. An attorney involved in the pelvic mesh litigation also recently took the unusual step of criticizing several of his colleagues, accusing them of taking on more cases than they could handle and then settling the cases for [cheap](#)

[\(https://www.law.com/thelegalintelligencer/2018/11/30/pelvic-mesh-trial-lawyer-slams-mdl-settlements-as-puny-opposing-leaderships-fee-petition/\)](https://www.law.com/thelegalintelligencer/2018/11/30/pelvic-mesh-trial-lawyer-slams-mdl-settlements-as-puny-opposing-leaderships-fee-petition/).

Although many complaints express dissatisfaction with the system as a whole, Burch said she hopes the study will help tease out exactly where the problem areas might be.

With more than 100,000 women involved at its peak, the pelvic mesh MDL was one of the largest consolidated actions ever, according to mass tort attorneys. It is far from the first large-scale litigation where claimants have been openly frustrated with the system—in particular, the \$1 billion class settlement the NFL reached regarding former players with concussion-related injuries has also recently [come under scrutiny](#)

[\(https://www.si.com/nfl/2018/10/23/NFL-players-brain-trauma-settlements-receive-little\)](https://www.si.com/nfl/2018/10/23/NFL-players-brain-trauma-settlements-receive-little).

When asked whether dissatisfaction typically always increases the larger the litigation is, or whether dissatisfaction appears to be increasing on the whole, Burch said she can't say for sure, but the study may help provide an answer in the future.

“We don't have a baseline,” Burch said. “We don't know how happy people used to be.”

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Max Mitchell

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