

News **Mass Torts**

Elizabeth Burch's New Book 'The Pain Brokers' Details Scheme That Upended Pelvic Mesh

Elizabeth Burch, a professor at the University of Georgia School of Law, and expert on mass torts, talked to Law.com about her new book, 'The Pain Brokers,' which is about a sordid scheme within the pelvic mesh litigation that shocked the mass tort world.

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Elizabeth Chamblee Burch, University of Georgia School of Law professor (Photo: Courtesy Photo)

In the litigation over transvaginal mesh, implanted in women to relieve urinary incontinence, a nefarious scheme unfolded several years ago that shocked the mass tort world: call centers were luring potential patients to doctors' offices, forcing them to undergo

unnecessary surgeries to remove the devices.

The women, who were convinced to pull out high-interest medical loans, rather than use their health insurance, became plaintiffs who sued device manufacturers like Boston Scientific and American Medical Systems for much higher damages than if they hadn't gotten the devices removed.

The details of that scheme, and what happened to the people behind it, is the subject of "The Pain Brokers," which comes out on Tuesday. Author Elizabeth Burch, a professor at the University of Georgia School of Law, an expert in mass torts, talked to Law.com about her book, which tells the tale of a complicated ruse engineered by con men but uncovered in large part by lawyers—in particular, defense counsel for American Medical Systems, and an attorney for one of the women plaintiffs.

This article has been edited for length and clarity.

Law.com: What inspired you to write this book?

Elizabeth Burch: I've been writing in this field for 20-something years, and it seems like very little changes. So, part of it was just frustration and feeling like if anything was going to change, I needed to talk to a bigger audience. We did a study where we asked plaintiffs involved in women's health mass torts about what their experiences were with the justice system—the judges, the lawyers, the claims administrators, etc. Talking to the plaintiffs involved in these cases was disheartening, and it made me want to find out what was going on. Pelvic mesh was one that I began to hear that the system itself wasn't always working ideally for plaintiffs.

Law.com: You are a law professor with multiple published articles on mass torts. Is this your first book?

Elizabeth Burch: It's the first general audience book. I've had an academic book before, but this is the first one people might actually read.

Law.com: Who is your audience, and what do you hope they take away from this book?

Elizabeth Burch: I hope consumers will learn to be wary when and if they get a call like this. I hope it also helps people be better patients, in the sense of advocating for themselves, rather than just accepting whatever it is. And I hope it will begin some conversations about how we can change the legal system so that people don't feel like numbers on a spreadsheet and that they have greater opportunities to be heard and tell their stories within MDLs and mass torts.

Law.com: You chose to tell this tale in what you called "narrative nonfiction." Why?

Elizabeth Burch: I think stories are what stick with people. Everything in this is true, not made up or improvised. But it also includes scene details and story details that would get cut from the short, give-me-the-facts version you'd find in newspapers.

Law.com: There have been numerous criticisms about mass torts and multidistrict litigation over the years, from meritless cases to litigation funding, some of which you highlight in this book. But the sophisticated scheme that occurred in the pelvic mesh litigation appears on another scale—many of the characters had

previous criminal records, scams and seedy lifestyles. Why did you choose to highlight these guys in particular?

Elizabeth Burch: It's a combination of the story you find that was compelling, and the people you have access to. When Ron called me, my first inclination was, 'Surely this is made up. Surely, it's not this bad.' But I started digging into it and was shocked that what he told me checked out. It is one of those stories, and I think it's not empirical data, but it's all true, and I think it can really show you the underbelly of the system that no one wants to talk about or acknowledge exists.

Law.com: "Ron" is Ron Lasorsa, the whistleblower who was among those running one of these businesses, a pseudo-law firm called Alpha Law LLC. Why did he reach out to you?

Elizabeth Burch: I had written the academic book, "Mass Tort Deals: Backroom Bargaining in Multidistrict Litigation." So, he thought I might lend a sympathetic ear. He was a business guy, helping run the call center in South Florida, and he was a partner and one of these DC law firms that has non-lawyer partners.

Law.com: It's clear you spent a lot of time looking at thousands of court records, reading transcripts and attending hearings, not to mention 150 interviews. What stands out the most for you?

Elizabeth Burch: I came in later on for some of the criminal hearings. And a lot of this was happening during COVID, so it was only later on I could show up in person and see what was happening. Those are the moments that stand out the most to me because I was there and able to witness it first-hand. But I've also

been able to meet with the key people in person. Connecting with people from all walks of life has been really eye-opening, and I hope readers get a sense of who those people are.

Law.com: Your book highlights Reed Smith's Barbara Binis, now retired, who represented American Medical Systems, and subpoenaed many of these guys for details about their scheme, and J.R. Baxter, the Arkansas attorney who sued them on behalf of a woman whose life was destroyed by this scheme. Did they work closely together at all?

Elizabeth Burch: By the time J.R. started investigating, Barbara was at the end of the investigation. So, they had a couple of phone calls back and forth.

Law.com: Your book briefly mentions some lawyers frequently in mass tort leadership, such as Bryan Aylstock and Aimee Wagstaff, who were involved in pelvic mesh. What role did they play, do you think, in these events?

Elizabeth Burch: I have to be careful here about what I can say. As you've seen, Bryan Aylstock was talking very early on with these guys. He has one version of what came out of their meeting, and they have a different version of what came out of that meeting. But sufficed to say, both Bryan Aylstock and Aimee Wagstaff, and perhaps others, profited from the plaintiffs involved in these schemes, and whether they knew all the details about all that or not, I do not know.

Law.com: Many of the judges found the schemes repulsive, but few of these guys ended up serving jail time. Why do you think that was?

Elizabeth Burch: I don't want to give away the end of the book, but in terms of the judges who ultimately presided over some of the criminal cases, the cases did not go to trial, and so the judges were only privy to the information provided to them at sentencing. By the time charges were brought, a bunch of the statute of limitations had run. So, I don't think prosecutors were able to charge all the people they would've liked to charge. It is disappointing: the number of people who got off scot-free.

Law.com: How has this book changed the way you view all the players in mass torts, from the plaintiffs, to the leadership committees, to the judges?

Elizabeth Burch: The medical liens were the most surprising to me. If you read the billing on all the third-party litigation stuff, they're saying these are people who don't have access to health care. And that's absolutely not true. They were tricked into flying down, in order for these lien companies to be able to make money. The number of people who profited off these women is just astronomical. The women themselves got little to nothing. It kind of blows your mind.

Law.com: What's the subject of your next book?

Elizabeth Burch: I've been working on the Tom Girardi book. A little bit different, but it also involves litigation funding and all kinds of characters.

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