

The Order of the Court is stated below:

Dated: April 02, 2018
02:57:02 PM

/s/ Thomas R. Lee
Associate Chief Justice



IN THE SUPREME COURT OF THE STATE OF UTAH

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Dale Burningham and Lana
Burningham,
Appellants,

v.

Wright Medical Group, Inc.;
Wright Medical Technology, Inc.;
and Harlan C. Amstutz, M.D.,
Appellees.

ORDER

Appellate Case No. 20180143-SC

Federal Case No. 2:17-CV-92

This matter is before the Utah Supreme Court upon the Certification of Question of State Law to this Court by the United States District Court for the District of Utah.

The certification is granted. The Utah Supreme Court accepts the following questions certified to it:

1. Under Utah law, does the unavoidably unsafe exception to strict products liability in design defect claims recognized in Comment k to Section 402A of the Restatement (Second) of Torts apply to implanted medical devices?
2. If the answer to Question 1 is in the affirmative, does the exception apply categorically to all implanted medical devices, or does the exception apply only to some devices on a case-by-case basis?
3. If the exception applies on a case-by-case basis, what is the proper analysis to determine whether the exception applies?
4. If the answer to Question 1 is in the affirmative, does the exception require a showing that such devices were cleared for market through the FDA's premarket approval

process as opposed to the § 510(k) clearance process?

The certifying court has not filed any portion of its record in this matter with the Supreme Court. Within fourteen days of the date of receipt of this order, counsel for the parties shall advise this Court as to what portions of the record they believe necessary for consideration of the certified question.

Following the expiration of the fourteen days, this Court will request those portions of the record from the United States District Court and provide notice to the parties as to a briefing schedule.

End of Order - Signature at the Top of the First Page