



**AdvaMed**

Advanced Medical Technology Association

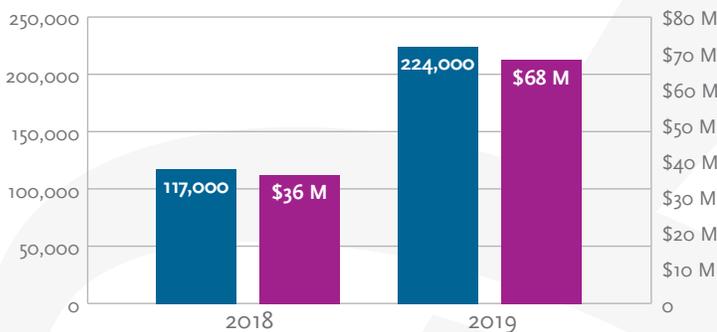
# Why Misleading Medical Device Ads Harm Patients

While most plaintiff ads address public health needs, an increasing number of well-funded plaintiff ads are misleading members of the public into thinking they have been treated with faulty medical devices that need to be removed.

These ads often deceive patients into thinking these ads stem from U.S. Food and Drug Administration (FDA) action. Patients conclude they can solve the issue by joining a lawsuit, questioning their care, and in severe cases seeking the removal of an implanted medical device.

## Medical Device Litigation Advertising Rapidly Increasing

In just one year's time (2018 to 2019), the number of medical devices litigation advertising increased 52 percent from **117,000 to 224,000** and estimated spending on these ads nearly doubled from **\$36 million to \$68 million**.



## Risks to Patients

Misleading television and digital ads can lead to public safety risks and threaten the doctor-patient relationship.

- Misleading litigation advertising may cause people to undergo unnecessary surgeries, avoid receiving essential procedures, or stop taking life-saving medications. **The FDA reported 213 such cases in February 2019; of those 213 cases, 27% of them reported an adverse event after stopping treatment.**
- Physicians report that **lawsuit ads overemphasize risks, imply a product is dangerous, or suggest a product has been recalled**, often scaring patients from using FDA-approved or cleared devices and drugs.
- When a patient responds to an advertisement, **they are often referred to a doctor or clinic that is part of the claim generation machine**, which can result in doctors convincing patients to undergo dangerous procedures such as removing the medical device even when not medically necessary.

*Civil justice is a way for individuals to achieve a just solution when they have been injured or harmed due to another person's negligence, recklessness, or malpractice. The civil justice system allows one to sue for money damages and obtain recovery for injuries.*

- Patients who **view negative advertisements often perceive them as medical advice, and the ads are frequently in direct contradiction to that of their physicians**. This leads patients to distrust their doctors and refuse sound medical advice.

## A Lack of Transparency

Deceptive medical device ads are typically funded by firms that front money to lawyers and businesses that specialize in claim generation and are paid if the litigation generates a settlement or verdict. These firms then work closely with marketing agencies to create well-funded ad campaigns designed to look like FDA public service announcements and target those with specific medical devices. Once the claims add up, the plaintiffs' lawyers seek to have the claims consolidated into a state mass tort panel.

These "lawsuit ads" intentionally leave viewers—who may be potential plaintiffs and jurors—with the impression that a particular product is a target of an FDA "Health Alert" or "Medical Alert" and may suggest that the product has been recalled, even when the product remains FDA-approved.

Most lawsuit ads conclude with fine print that is too small and too briefly shown for viewers to read. This text often informs viewers that the advertisement is for legal services, that the sponsor is not an attorney but a company that specializes in generating "leads" for law firms, and that any legal work may be handled by others. Callers are sometimes routed to foreign call centers, who take basic information to screen claims. Very few of the ads advise viewers to speak with their doctors before discontinuing or reducing use of a prescription medication.