

APP 1

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 26 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ANITA LAUX,

Plaintiff-Appellant,

v.

MENTOR WORLDWIDE, LLC,

Defendant-Appellee.

No. 17-56832

D.C. No. 2:16-cv-01026-ODW-
AGR

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Otis D. Wright, II, District Judge, Presiding

Submitted November 18, 2019**

Before: CANBY, TASHIMA, and CHRISTEN, Circuit Judges.

Anita Laux appeals pro se from the district court's summary judgment in her diversity action alleging state law claims arising from alleged defects in her breast implants manufactured by Mentor Worldwide, LLC. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Kohler v. Bed Bath & Beyond, LLC*, 780

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

APPENDIX A

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F.3d 1260, 1263 (9th Cir. 2015). We may affirm on any basis supported by the record. *Id.* We affirm

Summary judgment was proper for Mentor on each of Laux’s state law claims because Laux failed to raise a genuine dispute of material fact as to whether Mentor violated a Food and Drug Administration (“FDA”) requirement, and therefore her state law claims are expressly preempted under the Medical Device Amendments (“MDA”) to the Food, Drug, and Cosmetic Act. *See Weber v. Allergan, Inc.*, 940 F.3d 1106, 1111 (9th Cir. 2019) (“[F]or a state law claim regarding a Class III medical device[, such as breast implants,] to survive express preemption by the MDA, a plaintiff must establish that the defendant violated an FDA requirement.”).

The district court did not abuse its discretion by excluding the opinions of Laux’s proffered expert witnesses because their opinions failed to satisfy the requirements of Federal Rule of Evidence 702. *Wendell v. GlaxoSmithKline LLC*, 858 F.3d 1227, 1231-32 (9th Cir. 2017) (setting forth standard of review and admissibility requirements for expert opinion testimony under Rule 702, as explained in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993)); *see also Yeti by Molly, Ltd. v. Deckers Outdoor Corp.*, 259 F.3d 1101, 1106 (9th Cir. 2001) (district court may exclude information by an expert witness “required to be disclosed by [Federal Rule of Civil Procedure] 26(a) that [was] not properly

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disclosed”).

The district court did not abuse its discretion by denying Laux’s motion for leave to amend her complaint because amendment would have caused an undue delay, prejudiced Mentor, and been futile. *See Desertrain v. City of Los Angeles*, 754 F.3d 1147, 1154 (9th Cir. 2014) (setting forth standard of review and factors for determining whether to grant leave to amend).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Laux’s motion to supplement the record on appeal is denied. *See Gonzalez v. United States*, 814 F.3d 1022, 1031 (9th Cir. 2016) (“Absent extraordinary circumstances, we generally do not permit parties to supplement the record on appeal.”).

Mentor’s motion to strike references to portions of deposition transcripts that are not part of the record on appeal is denied as unnecessary.

AFFIRMED.

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ANITA LAUX

Plaintiff,

v.

MENTOR WORLDWIDE, LLC; and
DOES 1-10, inclusive

Defendants.

Case No. 2:16-cv-01026-ODW(AGR)

**ORDER GRANTING
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT [59]**

I. INTRODUCTION

Plaintiff Anita Laux initiated this action against Defendant Mentor Worldwide, LLC, on December 29, 2015, in Ventura County Superior Court. (Compl., ECF No. 1-2.) On February 12, 2016, Defendant removed this case to United States District Court for the Central District of California. (ECF No. 1.) Before the Court now is Defendant's Motion for Summary Judgment. (Mot., ECF No. 59.) Having considered the parties' submissions, and for the reasons that follow, the Court **GRANTS** Defendant's Motion.¹

¹ After considering the moving papers, the Court deems the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78(b); C.D. Cal. L.R. 7-15.

APPENDIX B

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1 **II. FACTUAL BACKGROUND**

2 Defendant is a manufacturer of saline filled inflatable breast implants (“Mentor
3 Saline Breast Implants” or “breast implants”). (Compl. ¶ 12.) On December 30,
4 2005, Plaintiff underwent surgery and Plaintiff’s doctor implanted Defendant’s
5 Mentor Saline Breast Implants. (*Id.*) After the surgery, Plaintiff allegedly began to
6 suffer from, among other things, pain throughout her body, respiratory congestion,
7 severe fatigue, and numbness. (*Id.* ¶ 16.)

8 In May 2014, Plaintiff’s doctors performed several tests that revealed the
9 presence of debris and bio-toxins from mold inside of Plaintiff’s breast implants. (*See*
10 *id.* ¶¶ 18–19.) On May 23, 2014, Dr. Susan Kolb removed Plaintiff’s breast implants,
11 and concluded that they were leaking bilaterally. (*Id.* ¶ 20.) In June 2015, Dr. Pierre
12 Blais examined the explanted breast implants. (*Id.* ¶ 23.) In his “Failure Analysis
13 Report,” Dr. Blais concluded that the Mentor Saline Breast Implants had defective
14 valves, causing them to leak bilaterally. (*See id.* ¶¶ 23–30.) Dr. Blais also opined that
15 the leaking breast implants caused Plaintiff to suffer from a variety of injuries,
16 including: debilitating bio-toxin disease, auto-immune disorders, respiratory disease,
17 and fibromyalgia. (*Id.* ¶ 30.)

18 Subsequently, Plaintiff brought this suit alleging that she has suffered injuries
19 as a result of Defendant’s manufacturing defects, negligence, and breach of warranty.
20 (*See generally* Compl.) Initially, Plaintiff was represented by counsel, but that
21 counsel later moved to withdraw—which this Court granted. (ECF Nos. 44, 51.)
22 Therefore, Plaintiff is proceeding in this action pro se. (*See* ECF No. 55.) On August
23 4, 2017, Defendant moved to exclude the opinions of Plaintiff’s proffered experts and
24 filed the instant Motion for Summary Judgment on all of Plaintiff’s claims.

25 **III. LEGAL STANDARD**

26 Summary judgment is appropriate under Federal Rule of Civil Procedure 56 if
27 the moving party demonstrates the absence of a genuine issue of material fact and
28 entitlement to a judgment as a matter of law. *Celotex Corp. v. Catrett*, 477 U.S. 317,

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1 322 (1986). A fact is material when, under the governing law, the resolution of that
2 fact might affect the outcome of the case. *Anderson v. Liberty Lobby, Inc.*, 477 U.S.
3 242, 248 (1986). A dispute is genuine if “the evidence is such that a reasonable jury
4 could return a verdict for the nonmoving party.” *Id.* at 249.

5 A party seeking summary judgment bears the initial burden to establish the
6 absence of a genuine issue of material fact. *Celotex*, 477 U.S. at 323. To satisfy this
7 burden, the moving party may simply point to portions of pleadings, admissions,
8 answers to interrogatories and depositions which, along with affidavits, show the
9 absence of a genuine issue of material fact. *See id.* If the moving party satisfies its
10 burden, the nonmoving party must produce specific evidence to show that a genuine
11 dispute exists. Fed. R. Civ. P. 56(e). The Court draws all inferences in the light most
12 favorable to the nonmoving party. *See T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors*
13 *Ass’n*, 809 F.2d 626, 630–31 (9th Cir. 1987). However, the nonmoving party “must
14 do more than simply show that there is some metaphysical doubt as to the material
15 facts.” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986)
16 (footnote omitted). “If the evidence is merely colorable, or is not significantly
17 probative, summary judgment may be granted.” *Liberty Lobby*, 477 U.S. at 249–50
18 (citations omitted).

19 **IV. DISCUSSION**

20 Defendant moves for summary judgment on Plaintiff’s state-law claims for: (1)
21 manufacturing defect, (2) negligence, and (3) breach of warranty. (Mot. 10.)

22 **A. Federal Preemption Under the Medical Device Amendments of 1976 and**
23 ***Riegel v. Medtronic, Inc.***

24 Defendant first contends that the Mentor Saline Breast Implant at issue is a
25 Class III device approved by the Food and Drug Administration (“FDA”) through the
26 premarket approval process (“PMA process”), and thus, Plaintiff’s manufacturing
27 defect and negligence claims are expressly preempted by the Medical Device
28

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1 Amendments (“MDA”), 21 U.S.C. §§ 360 *et seq.*, to the Federal Food, Drug and
2 Cosmetic Act (“FDCA”), 21 U.S.C. §§ 301 *et seq.* (*See id.*)

3 The FDCA has long required the FDA to approve medical devices before they
4 are introduced into the market. *Riegel v. Medtronic, Inc.*, 552 U.S. 312, 315 (2008).
5 In 1976, Congress enacted the MDA which “swept back some state obligations and
6 imposed a regime of detailed federal oversight” over medical devices. *Id.* at 316.
7 Class III devices, such as the one at issue in this case, receive the most oversight. *Id.*
8 at 317. To obtain FDA premarket approval, a manufacturer’s product undergoes a
9 rigorous application process. *Id.* After the FDA spends an average of 1,200 hours
10 reviewing an application, a medical device receives premarket approval only if the
11 FDA finds that “there is a reasonable assurance of the device’s safety and
12 effectiveness.” *Id.* at 317–18 (internal quotations omitted). Thus, as a result of the
13 federal government’s exclusive authority to regulate and assess the safety and
14 effectiveness of certain medical devices, the MDA contains an express preemption
15 provision which provides:

16 [N]o State or political subdivision of a State may establish
17 or continue in effect with respect to a device intended for
18 human use any requirement—

19 (1) which is different from, or in addition to, any
20 requirement applicable under this chapter to the device, and

21 (2) which relates to the safety or effectiveness of the
22 device or to any other matter included in a requirement
23 applicable to the device under this chapter.

24 21 U.S.C. § 360k(a).

25 In *Riegel*, the Supreme Court established the framework for analyzing express
26 preemption under the MDA. *Riegel*, 552 U.S. at 321–24. Under the *Riegel*
27 framework, the MDA preempts state law claims if: (1) specific federal requirements
28 apply to the particular medical device that is the subject of the state-law claim, and (2)
the state-law claim imposes a standard of care or behavior that is different from, or in

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1 addition to the specific federal requirements. *See generally id.* (holding that MDA
 2 preemption applies to common law claims such as “strict liability, breach of implied
 3 warranty, and negligence”). Following *Riegel*, district courts in the Ninth Circuit have
 4 applied the § 360(k) preemption provision to a broad range of state-law claims
 5 brought against FDA-approved Class III medical devices, including products liability
 6 and negligence.²

7 Nevertheless, state-law claims are preempted under the MDA “only to the
 8 extent that they are different from, or in addition to, the requirements imposed by
 9 federal law.” *Riegel*, 552 U.S. at 330. Thus, a State may provide remedies for state-
 10 law claims premised on violations of FDA regulations. *Id.*; *see also Stengel v.*
 11 *Medtronic, Inc.*, 704 F.3d 1224, 1228 (9th Cir. 2013) (en banc) (“[T]he MDA does not
 12 preempt a state-law claim for violating a state-law duty that parallels a federal-law
 13 duty under the MDA”). To illustrate, in *Stengel*, the Ninth Circuit held that a state-
 14 law negligence claim based on a defendant’s failure to report a product’s performance
 15 and adverse consequences to the FDA was not expressly preempted because the
 16 “state-law duty parallel[ed the] federal law duty” to report under the MDA. *See*
 17 *Stengel*, 704 F.3d at 1232–33. In that case the Ninth Circuit reasoned that the state-
 18 law claim for failure to warn paralleled the federal law because it demanded the same
 19 conduct of manufacturers as the MDA—i.e., to report known risks associated with the
 20 use of its medical device to the FDA. *See generally id.*

21 **I. Defendant’s Mentor Saline Implants Received FDA Premarket**
 22 **Approval**

23 As an initial inquiry, this Court must first determine whether specific federal
 24 requirements apply to the breast implants at issue in this case. *See Riegel*, 552 U.S.

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 26 ² *See, e.g., Dunbar v. Medtronic, Inc.*, No. CV 14-0529-RGK(AJWx), 2014 WL 3056026 (C.D.
 27 Cal. June 25, 2014) (dismissing strict liability and design defect claims as expressly preempted
 28 because the claims conflicted with FDA premarket approval of the product); *see also Anderson v.*
Medtronic, No. 14-CV-00615-BAS(RBB), 2015 WL 2115342 (S.D. Cal. May 6, 2015) (dismissing
 strict liability and negligence claims as expressly preempted by the MDA).

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1 321–22. In *Riegel*, the Supreme Court reasoned that premarket approval necessarily
2 “imposes requirements under the MDA.” *Id.* at 322 (internal quotations omitted). On
3 May 10, 2000, the FDA concluded that the Mentor Saline Breast Implants
4 manufactured by Defendant were safe and effective Class III Medical Devices.
5 (Statement of Uncontroverted Facts (“SUF”) ¶ 8, ECF No. 59-1; *see also* FDA
6 Approval, ECF No. 59-4.) Accordingly, the FDA issued premarket approval for the
7 Mentor Saline Breast Implants. (SUF ¶ 8.) Furthermore, the Mentor Saline Breast
8 Implants were manufactured and marketed pursuant to a valid PMA process, and the
9 FDA’s approval of the Mentor Saline Breast Implants has never been suspended or
10 revoked. (*See* SUF ¶ 8; *see also* Mot. 19.) Thus, the Court finds that there are
11 specific federal requirements that apply to the Mentor Saline Breast Implant at issue in
12 this case and, consequently, the FDA’s premarket approval for those medical devices
13 is sufficient to establish the first prong of *Riegel*’s preemption analysis. *See Funke v.*
14 *Sorin Grp. USA, Inc.*, 147 F. Supp. 3d 1017, 1023 (C.D. Cal. 2015) (finding the first
15 prong of *Riegel*’s preemption analysis satisfied when a Class III product received
16 FDA premarket approval and was subject to continued regulation by the FDA).

17 2. Plaintiff’s Claims for Manufacturing Defect and Negligence

18 Next, under *Riegel*’s second prong, the Court must determine whether
19 Plaintiff’s manufacturing defect or negligence claims are based on any requirement of
20 state law that is “different from, or in addition to” federal requirements and relate to
21 safety and effectiveness. *See Riegel*, 552 U.S. at 323.

22 Plaintiff’s manufacturing defect and negligence claims may survive express
23 preemption only if she sufficiently pleads state-law claims that parallel, rather than
24 add to, federal requirements. *See id.* To plead parallel claims sufficient to survive
25 preemption, a plaintiff must allege facts “(1) showing an alleged violation of FDA
26 regulations or requirements related to [the device], and (2) establishing a causal nexus
27 between the alleged injury and the violation.” *Erickson v. Bos. Sci. Corp.*, 846 F.
28 Supp. 2d 1085, 1092 (C.D. Cal. 2011). In its Motion, Defendant first argues that

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1 Plaintiff fails to plead a manufacturing defect or negligence claim that parallels federal
2 requirements because Plaintiff does not allege that Defendant deviated from any
3 specific manufacturing requirement imposed by the FDA. (Mot. 20.) Defendant
4 contends that, instead, Plaintiff relies on allegations that Defendant “purportedly
5 violated vague and generic” Current Good Manufacturing Practices (“CGMPs”).³
6 (*Id.*)

7 Defendant argues that Plaintiff’s attempt to establish parallel claims which are
8 based on vague and unspecified CGMPs cannot survive express preemption. (*Id.*)
9 The Court agrees with Defendant. “CGMPs are guidelines that do not create a federal
10 requirement, and a claim based on alleged failure to comply with [CGMPs] fails to
11 plead violation of a federal requirement.” *Pearsall v. Medtronics, Inc.*, 147 F. Supp.
12 3d 188, 198 (E.D.N.Y. 2015). “To permit a claim that mandates compliance with
13 such ‘vague’ standards effectively imposes ‘different, or additional’ requirements, and
14 is preempted by [§ 360].” *Id.* (citation omitted); see *Simmons v. Bos. Sci. Corp.*, CV
15 12-7962 PA (FFMx), 2013 WL 12130261 (C.D. Cal. Jan. 14, 2013) (finding that a
16 Plaintiff’s manufacturing defect claim based on unspecified violations of CGMPs was
17 “too generic, standing alone, to serve as the basis” for Plaintiff’s claims); see also *In*
18 *re Medtronic, Inc. Sprint Fidelis Leads Prod. Liab. Litig.*, 592 F. Supp. 2d 1147, 1158
19 (D. Minn. 2009) (finding that the flexibility inherent in CGMPs demonstrates why a
20 manufacturing defect claim based on them is not “parallel,” and that “in the absence
21 of a specific requirement in the CGMPs” . . . to hold the defendant liable for conduct
22 would impose requirements “different from, or in addition to” those under federal
23 law) (citations and internal quotations omitted).

24 Here, Plaintiff seeks to hold Defendant liable for manufacturing defects and
25 negligence without citing to any specific violation of the CGMPs. (*See generally*

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27 ³ Current Good Manufacturing Practices (“CGMPs”) govern “the methods used in, and the
28 facilities and controls used for, the design, manufacture, packaging, labeling, storage, installation,
and servicing of all finished devices intended for human use.” *Simmons v. Bos. Sci. Corp.*, CV 12-
7962 PA (FFMx), 2013 WL 12130261 (C.D. Cal. Jan. 14, 2013) (citing 21 C.F.R. § 820.1(a)(1)).

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1 Compl.) In her Complaint, Plaintiff cites to the CGMPs as a whole and states that
2 Defendant's breast implants were not manufactured in accordance to the general
3 provisions of the CGMPs. (See Compl. ¶ 35.) As established above, to hold
4 Defendant liable for conduct in the absence of a specific federal requirement would
5 impose requirements different from, or in addition to the federal law. See *Riegel*, 552
6 U.S. at 323. Plaintiff has not identified any specific requirements in the CGMPs that
7 were purportedly violated by Defendant, nor has Plaintiff shown how those violations
8 were related to any defect in the breast implants or negligence by Defendant. Thus,
9 the Court finds that Plaintiff has failed to establish a parallel claim and, further, that
10 her claims for manufacturing defect and negligence are preempted by the MDA, 21
11 U.S.C. §§ 360 *et seq.*

12 Therefore, the Court **GRANTS** Defendant's Motion for Summary on Plaintiff's
13 claims for manufacturing defect and negligence.

14 **B. Causation**

15 In addition to the substantive reasoning provided above, the Court finds that
16 Plaintiff provides no evidence of causation—a required element for her manufacturing
17 defect and negligence causes of action.⁴ See *Sanderson v. Int'l Flavors &*
18 *Fragrances, Inc.*, 950 F. Supp. 981 (C.D. Cal. 1996) (stating that expert testimony is
19 required to establish causation). Plaintiff's only evidence of causation is in the form
20 of her three causation experts whose testimony this Court has already excluded. (See
21 Order Granting Defendant's Motions to Exclude the Opinions of Dr. Susan Kolb, Dr.
22 Pierre Blais, and Dr. Arthur Brawer.)

23 **C. Plaintiff's Breach of Express Warranty Claim**

24 Next, Defendant argues that Plaintiff has failed to plead a viable claim for
25 breach of express warranty. (Mot. 32.) Plaintiff alleges that Defendant's breast
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27 ⁴ See, e.g., *Bentzlin v. Hughes Aircraft Co.*, 833 F. Supp. 1486, 1490 (C.D. Cal. 1993) (observing
28 that “[e]ven in a manufacturing defect suit, plaintiffs must prove proximate causation”); see
also *Sanderson v. Int'l Flavors & Fragrances, Inc.*, 950 F. Supp. 981 (C.D. Cal. 1996) (observing
that under California law causation is an essential element in a claim for negligence).

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1 implants contained an express warranty against defects for at least ten years. (Compl.
2 ¶ 53.) However, Defendant argues that Plaintiff is precluded from bringing a warranty
3 claim, because she failed to satisfy the warranty conditions. (Mot. 33.) For the
4 reasons discussed below, the Court finds that Plaintiff has not established a genuine
5 dispute of material fact as to her breach of express warranty claim.

6 To prevail on a claim for breach of express warranty, a plaintiff must prove that
7 the seller “(1) made an affirmation of fact or promise or provided a description of its
8 goods; (2) the promise or description formed part of the basis of the bargain; (3) the
9 express warranty was breached; and (4) the breach caused injury to the plaintiff.”
10 *Asghari v. Volkswagen Grp. of Am., Inc.*, 42 F. Supp. 3d 1306, 1333 (C.D. Cal. 2013)
11 (citation omitted). Further, “[m]anufacturers are ‘not liable for breach of express
12 warranty merely because a product manifests recurring failures during the warranty
13 period. Rather, the question is whether [a plaintiff] sought repairs, refunds, or
14 replacements and if so, whether [the manufacturer] responded appropriately under the
15 warranty.’” *Apodaca v. Whirlpool Corp.*, No. SACV 13-00725 JVS (ANx), 2013 WL
16 6477821, at * 9 (C.D. Cal. Nov. 8, 2013) (alterations in original) (quoting *Clark v. LG*
17 *Elec. U.S.A., Inc.*, No. 13-CV-485-JM (JMAx), 2013 WL 2476145, at *4–5 (S.D. Cal.
18 Jun. 7, 2013).

19 Under Defendant’s limited warranty, to be reimbursed for out-of-pocket costs
20 related to a revision surgery, a patient must: “(1) make a request for financial
21 assistance to [Defendant’s] Customer Quality; (2) have [Plaintiff’s] surgeon contact
22 [Defendant] to confirm the eligible event; (3) sign a release; and (4) submit
23 information to [Defendant] so that [Defendant] can evaluate the claim.” (SUF ¶ 83.)
24 Plaintiff contacted Defendant twice in 2015 to make a warranty claim, but failed to
25 satisfy the remaining conditions of Defendant’s limited warranty. (*See id.* ¶ 85.)
26 Specifically, (1) Plaintiff’s physician did not contact Defendant to confirm the
27 occurrence of a covered event, (2) Plaintiff did not provide Defendant with any
28 information regarding the serial numbers of her breast implants, (3) Plaintiff did not

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1 sign a release, and (4) Plaintiff's physician did not return the explanted breast implants
2 to Defendant's Production Evaluation Department as required under the warranty.
3 (See *id.* ¶¶ 86–88.) Additionally, Plaintiff has failed to plead facts or present evidence
4 which demonstrates that Defendant failed to repair, refund, or replace her breast
5 implants pursuant to the terms of the warranty. See *Apodaca*, 2013 WL 6477821, at
6 *9. Therefore, the Court finds that Plaintiff has not proved the existence of a genuine
7 dispute as to a material fact regarding her breach of express warranty claim. For the
8 reasons stated above, the Court **GRANTS** Defendant's Motion for Summary
9 Judgment on Plaintiff's claim for breach of express warranty.

10 **V. CONCLUSION**

11 For the reasons discussed above, the Court **GRANTS** Defendant's Motion for
12 Summary Judgment. (ECF No. 59.) In light of this ruling, the Court **DENIES AS**
13 **MOOT** the following Motions: Defendant's Motion to Strike Undisclosed Witnesses
14 and Experts (ECF No. 75), Defendant's Motion in Limine #1 (ECF No. 76), and
15 Defendant's Motion in Limine #2. (ECF No. 77.) The Clerk of the Court shall close
16 the case.

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18 **IT IS SO ORDERED.**

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20 November 8, 2017

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23 **OTIS D. WRIGHT, II**
24 **UNITED STATES DISTRICT JUDGE**

App. 14

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

FEB 14 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ANITA LAUX,

Plaintiff-Appellant,

v.

MENTOR WORLDWIDE, LLC,

Defendant-Appellee.

No. 17-56832

D.C. No. 2:16-cv-01026-ODW-
AGR

Central District of California,
Los Angeles

ORDER

Before: CANBY, TASHIMA, and CHRISTEN, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See Fed. R.*

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Laux's petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 50) are denied.

No further filings will be entertained in this closed case.

APPENDIX C

App. 15

UNITED STATES COURT OF APPEALS

FILED

FOR THE NINTH CIRCUIT

DEC 9 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ANITA LAUX,

Plaintiff-Appellant,

v.

MENTOR WORLDWIDE, LLC,

Defendant-Appellee.

No. 17-56832

D.C. No.

2:16-cv-01026-ODW-AGR

Central District of California,

Los Angeles

ORDER

Before: CANBY, TASHIMA, and CHRISTEN, Circuit Judges.

Laux's motion for an extension of time to file a petition for rehearing (Docket Entry No. 48) is granted. Any petition for rehearing is due on January 10, 2020.

APPENDIX D

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UNITED STATES COURT OF APPEALS

FILED

FOR THE NINTH CIRCUIT

JUN 27 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ANITA LAUX,

Plaintiff-Appellant,

v.

MENTOR WORLDWIDE, LLC,

Defendant-Appellee.

No. 17-56832

D.C. No.

2:16-cv-01026-ODW-AGR

Central District of California,

Los Angeles

ORDER

Before: CANBY and RAWLINSON, Circuit Judges.

Appellant's motion to unseal (Docket Entry No. 12) and motion to submit documents for in camera review (Docket Entry No. 17) are denied.

The responses to the February 14, 2018 order demonstrate that this appeal involves non-frivolous issues. The order to show cause is therefore discharged, and appellant's motion to proceed in forma pauperis (Docket Entry No. 2) is granted. *See* 28 U.S.C. § 1915(a). The Clerk shall amend the docket to reflect appellant's in forma pauperis status.

The opening brief is due August 13, 2018; the answering brief is due September 12, 2018; and the optional reply brief is due within 21 days after service of the answering brief.

Because appellant is not represented by counsel, appellant does not need to submit excerpts of record for this appeal. *See* 9th Cir. R. 30-1.2. Appellee's

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supplemental excerpts of record should include only the district court docket report, the notice of appeal, the judgment or order appealed from, and any specific portions of the record cited in the answering brief. *See* 9th Cir. R. 30-1.7.

**Additional material
from this filing is
available in the
Clerk's Office.**