

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

October 1, 2008

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No. 08-30279  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

TRACY LYNN HOWARD

Plaintiff - Appellant

v.

ARROW INTERNATIONAL INC

Defendant - Appellee

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 1:04-CV-2327

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Before REAVLEY, WIENER, and PRADO, Circuit Judges.

PER CURIAM:\*

The judgment of the district court is affirmed for the following reasons:

1. This court relies upon the recitation in the record that no defendant remains in the case other than Arrow International to conclude that we have jurisdiction of the appeal from a final judgment dismissing the claims against Arrow.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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2. Testimony that a product could have been defective will not support a finding that it was defective.
3. Appellant states the appeal by saying that the fact that the catheter broke with Doctor Myers' statement (which was that the break was likely caused by excessive force in its removal, although a defect was a possibility), raises an issue of material fact. A possibility that a defect existed, that could possibly have caused the product to break, presents no factual issue for appellant's claim.

AFFIRMED.