

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: AVAULTA PELVIC SUPPORT SYSTEMS
PRODUCTS LIABILITY LITIGATION

MDL NO. 2187

THIS DOCUMENT RELATES TO
CIVIL ACTION NOS. 2-11-cv-00536 and 2-11-cv 00295

**PRETRIAL ORDER #23
(Dismissal and Severance of Actions)**

The following order is entered pursuant to the stipulation of the parties. This order shall apply to Civil Action Number 2-11-cv-00536 and Civil Action Number 2-11-cv-00295 originally filed in the United States District Court for the Northern District of Mississippi.

1.

On October 11, 2011, Defendants Sofradim Production, Covidien, Inc. and C.R. Bard, Inc. filed a Motion to Sever for Improper Joinder in Civil Action Number 2-11-cv-00536 (Dckt. 32) and Civil Action Number 2-11-cv-00295 (Dckt. 20). Based on the following agreement reached by the parties, those motions are **DENIED AS MOOT**.

2.

By stipulation of the parties, it is ordered that said civil action numbers 2-11-cv-00536 and 2-11-cv-00295 are **DISMISSED** without prejudice.

3.

Within 30 days after the entry of this order, each plaintiff named in civil action numbers 2-11-cv-00536 and 2-11-cv 00295 may re-file a complaint in a United States District Court alleging the same claims as to that plaintiff as made in the dismissed civil

actions. Any re-filed complaint may name as an additional party plaintiff the husband of the original plaintiff.

4.

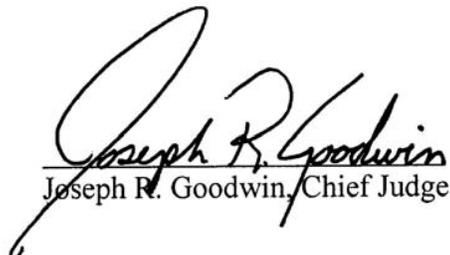
Any re-filed action shall make reference to the dismissed civil action and its original filing date. Any re-filed complaint filed within the time provided by this order will be deemed to have been filed on and relate back to the original filing date of civil action number 2-11-cv-00536 and 2-11-cv 00295 as to the applicable plaintiff for all purposes, including purposes of the applicable limitations period; provided, however, that as to any additional Party Plaintiff named in the re-filed complaint, the complaint will be deemed to have been filed on the filing date of the re-filed complaint. Any statute of limitations defenses that existed as of the filing dates of the original complaints shall be preserved.

5.

A re-filed complaint shall be served as provided by law, and the defendants named therein shall answer and serve their defenses to the complaint as provided by the Federal Rules of Civil Procedure.

The court **DIRECTS** the Clerk to file a copy of this order in 2:10-md-2187 and in member cases 2:11-cv-00295 and 2:11-cv-00536. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsd.uscourts.gov.

ENTER: December 1, 2011


Joseph R. Goodwin, Chief Judge