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

CHARLESTON DIVISION

IN RE: C. R. BARD, INC.,
PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION

MDL No. 2187

THIS DOCUMENT RELATES TO CIVIL ACTION NUMBERS:

Rizzo, et al. v. C. R Bard, Inc.	2:10-cv-01224
Queen, et al. v. C. R. Bard, Inc.	2:11-cv-00012
Jones v. C. R. Bard, Inc.	2:11-cv-00114
Cisson, et al. v. C. R. Bard, Inc.	2:11-cv-00195

PRETRIAL ORDER # 71
(Trial Order for Bellwethers and Ruling on Plaintiffs' Motion for Consolidation of Trial)

Pursuant to PTO # 59 (THIRD AMENDED Discovery Scheduling Order for Group 1A Cases), the parties were to submit their proposals to the court for the first case or cases to be tried from Group 1A by March 1, 2013. In PTO # 59, the plaintiffs reserved the right to move the court to consolidate cases for trial.

On March 1, 2013, C. R. Bard, Inc. ("Bard") submitted its proposal to the court by letter as follows: (1) Donna and Dan Cisson; (2) Linda and Ron Rizzo; (3) Carolyn Jones; and (4) Wanda and Greg Queen.

On March 1, 2013, the plaintiffs filed Plaintiffs' Motion for Consolidation for Trial and Proposal for First Group 1A Cases to be selected for Trial in each of the individual cases listed above. Plaintiffs move, pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, that the court should order the three bellwether cases of *Cisson*, *Queen* and *Rizzo* consolidated for trial

or, in the alternative, that the court should seat three juries in a single trial but deliberate separately and render separate verdicts.

Should the court reject these proposals, the plaintiffs submit that the *Cisson* case be selected for the initial trial, followed by *Queen*. The plaintiffs assert that it would be appropriate to determine who next proceeds to trial (as between Ms. Rizzo and Ms. Jones) after the first two trials have been completed because Ms. Jones currently is scheduled to undergo reconstructive surgery in March.

By letter dated March 6, 2013, the plaintiffs responded to Bard's letter brief. On March 7, 2013, Bard filed a reply letter brief.

In each of the cases listed above where the plaintiffs' motion is pending, it is **ORDERED** that Plaintiffs' Motion for Consolidation for Trial and Proposal for First Group 1A Cases to be selected for Trial is **DENIED** insofar as the plaintiffs seek a consolidated trial as set forth above and also is **DENIED** as to the proposal that the court wait to set the order of the third and fourth bellwether cases, but **GRANTED** to the extent they seek to first try *Cisson* followed by *Queen.*

It is further **ORDERED** that the bellwether cases will be tried in the following order:

(1) *Cisson, et al. v. C. R. Bard, Inc.* 2:11-cv-00195
(2) *Queen, et al. v. C. R. Bard, Inc.* 2:11-cv-00012
(3) *Rizzo, et al. v. C. R Bard, Inc.* 2:10-cv-01224
(4) *Jones v. C. R. Bard, Inc.* 2:11-cv-00114

The Court **DIRECTS** the Clerk to file a copy of this order in 2:10-md-02187 and in 2:10-cv-01224, 2:11-cv-00012, 2:11-cv-00114, and 2:11-cv-00195 and it shall apply to each member related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:13-cv-03877. 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: March 7, 2013

JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE