

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

**CHARLESTON DIVISION**

IN RE: NEOMEDIC PELVIC REPAIR  
SYSTEM PRODUCTS LIABILITY LITIGATION

MDL 2511

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THIS DOCUMENT RELATES TO ALL CASES

**PRETRIAL ORDER # 7**

(Initial Hearing Summary, Counsel Structure, Plan for Proceeding Forward,  
Future Status Conferences)

The court conducted an initial case management conference on May 8, 2014.<sup>1</sup> Judge Joseph R. Goodwin and Magistrate Judge Cheryl Eifert addressed a variety of issues summarized below.

- A. Co-Lead Plaintiffs' Counsel. In compliance with PTO # 1, the plaintiffs submitted two applications for appointment as co-lead counsel in this MDL. The court has considered the plaintiffs' submission and supporting documentation and, finding no objection, **APPOINTS** the following attorneys as co-lead plaintiffs' counsel for this MDL:

Derek H. Potts  
The Potts Law Firm, LLP  
908 Broadway, 3rd Floor  
Kansas City, MO 64105  
816-931-2230 (phone)  
816-931-7030 (fax)  
[dpotts@potts-law.com](mailto:dpotts@potts-law.com)

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<sup>1</sup> This MDL is one of 7 pelvic mesh MDLs assigned to the court; MDL 2187, MDL 2325, MDL 2326, MDL 2327, MDL 2387 and MDL 2440.

Riley L. Burnett, Jr.  
Burnett Law Firm  
55 Waugh Drive, Suite 803  
Houston, TX 77007  
832-413-4410 (phone)  
832-900-2120 (fax)  
[rburnett@rburnettlaw.com](mailto:rburnett@rburnettlaw.com)

The Plaintiffs' Co-Lead Counsel shall have the following responsibilities in this MDL:

1. Act as spokesperson for all plaintiffs at pretrial proceedings and in response to any inquiries by the court, subject to the right of any plaintiff's counsel to present non-repetitive individual or different positions as long as the presentation does not unduly delay the proceedings.
2. Submit and argue any verbal or written motions presented to the presiding district judge or magistrate judge on behalf of the plaintiffs as well as oppose, when necessary, any motions submitted by the defendants which involve matters within the sphere of the responsibilities of Lead Counsel.
3. Examine witnesses and introduce evidence at hearings on behalf of plaintiffs.
4. Negotiate and enter into stipulations with defendants regarding this litigation. All stipulations entered into by Lead Counsel, except for strictly administrative details such as scheduling, must be submitted for court approval and will not be binding until the court has ratified the stipulation. Any attorney not in agreement with a non-administrative stipulation shall file with the court a written objection thereto within ten (10) days after service by counsel of the stipulation. Failure to object within the term allowed shall be deemed a waiver and the stipulation will automatically be binding on that party.

5. Explore, develop and pursue all settlement options pertaining to any claim or portion thereof of any case filed in this litigation.
6. Attend status conferences and have video conferencing capability.
7. Perform such other functions as may be expressly authorized by further orders of this court.

B. Co-Lead Defendants' Counsel. In compliance with PTO # 1, Ernest F. Koschineg, III applied to serve as lead counsel for DIMA, S.L., Specialities Reemex International, S.L., Neomedic, Inc. and Neomedic International, S.L. ("Neomedic"). The court has considered the submission of the above counsel and supporting documentation and, finding no objection, **APPOINTS** the following attorney as lead defendants' counsel for this MDL:

Ernest F. Koschineg, III  
Cipriani & Werner, P.C.  
450 Sentry Parkway East  
Suite 200  
Blue Bell, PA 19422  
610-567-0700 (phone)  
610-567-0712 (fax)  
[ekoschineg@c-wlaw.com](mailto:ekoschineg@c-wlaw.com)

Lead Counsel for the defendant shall have the following responsibilities:

1. Determine (after consultation with the defendant) and present (in brief, oral argument or such other fashion as may be appropriate, personally or by a designee) to the court and opposing parties the position of the defendant(s) on all matters arising during these pretrial proceedings.
2. Delegate the specific tasks in a manner to ensure pretrial preparation for the Defendant(s) is conducted effectively, efficiently and economically.

3. Negotiate and enter into stipulations with the plaintiffs on behalf of the defendant(s).
  4. Act as the spokesperson to explore and develop settlement options pertaining to the cases filed against the defendant(s).
  5. Attend status conferences and have video conferencing capability.
  6. Perform such other duties as may be incidental to proper coordination of the defendants' pretrial activities or authorized by further order of the court.
- C. Defendants' Co-Liaison Counsel. The court will revisit the appointment of Defendants' Co-Liaison Counsel in the future.
- D. Remaining Leadership Structure. At this time, the court will not make additional appointments to the plaintiffs' executive committee, co-coordinating co-lead counsel, plaintiffs' co-liaison counsel or the Plaintiffs' Steering Committee. The court refers the reader to those orders entered in the related MDLs 2187, 2325, 2326 and 2327 for further information regarding leadership structure in these MDLs.
- E. Representation of Clients. All attorneys representing parties to this litigation, regardless of their role in the management structure of the litigation and regardless of this court's designation of Lead and Liaison Counsel, a Plaintiffs' Executive Committee and a Plaintiffs' Steering Committee, continue to bear the responsibility to represent their individual client or clients. Going forward, the court reiterates its expectation that the lawyers in this complex civil action will devote their best efforts toward cooperation and positive interaction, a course of action that will doubtless lead to the service of their clients' best interests and the fair and orderly disposition of this litigation. In addition,

the court expects counsel to regularly visit the court's website, review order and keep abreast of developments in the MDL.

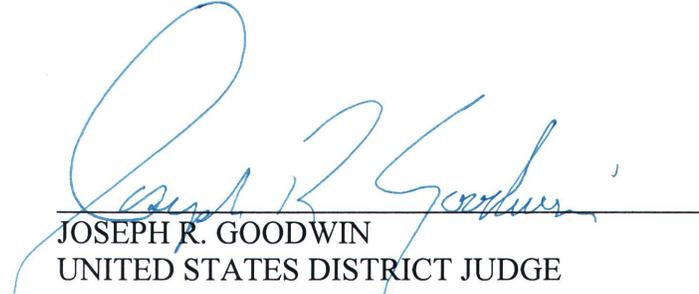
- F. Phone Participation. The court does not permit phone participation in status conferences. Counsel is welcome to attend any status conference in person.
- G. Discovery and Plan Moving Forward. Plaintiffs reported that they have learned that defendants, who are based in Spain, have limited insurance, and defendants have represented that they have no assets. Plaintiffs wish to conduct limited discovery to confirm defendants' financial condition and the nature of their insurance situation. Counsel for defendants stated that his clients have a wasting insurance policy, no excess coverage and no other available assets. The parties proposed a plan whereby they will informally exchange information and conduct limited discovery before this MDL proceeds any further. Judge Goodwin agreed to allow the parties a short amount of time to work out these issues and conduct limited discovery. Judge Goodwin directed the parties to report to the court in sixty (60) days (**July 7, 2014**), with bimonthly reports by phone to the court's law clerk. In the meantime, on or before **May 16, 2014**, plaintiffs will file a Master Long Form Complaint and Jury Demand. Thereafter, the court will add the Neomedic entities to the Short Form Complaint and set a deadline for filing a Master Answer.
- H. Cases Where the Court has entered a Scheduling Order. Around March 6, 2014, after the entry of PTO # 1, the court entered scheduling orders in individual cases then filed in this MDL. The court will stay the deadlines in those scheduling orders for sixty (60) days.

- I. Extension and Stay. The extension of time for responding by motion or answer to the complaint(s) until a date to be set by this court, as set forth in PTO # 1, paragraph 6 remains in force.
- J. Tolling Agreement. The parties stated that they had agreed to a tolling agreement.
- K. Protective Order. On or before **May 19, 2014**, the parties will submit a stipulated protective order similar to those entered in the other MDLs.
- L. Uniform Certificates of Service. The court will enter an order stating that the parties may use uniform certificates of service.
- M. Waiver of Service Orders. Counsel for Neomedic indicated that at this time, his client will not enter into a waiver of service order.
- N. Future Status Conferences. The next status conferences are presently scheduled for **July 24, 2014**, and **September 4, 2014**, both at **10:00 a.m.**

The court **DIRECTS** the Clerk to file a copy of this order in 2:14-md-2511 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 2:14-cv-15285. 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](http://www.wvsd.uscourts.gov).

ENTER: May 13, 2014



JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE