

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

IN RE: ETHICON, INC., PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL No. 2327
THIS DOCUMENT RELATES TO THE CASES LISTED BELOW	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

<i>Mullins, et al. v. Ethicon, Inc., et al</i>	2:12-cv-02952
<i>Sprout, et al. v. Ethicon, Inc., et al.</i>	2:12-cv-07924
<i>Iquinto v. Ethicon, Inc., et al.</i>	2:12-cv-09765
<i>Daniel, et al. v. Ethicon, Inc., et al.</i>	2:13-cv-02565
<i>Dillon, et al. v. Ethicon, Inc., et al.</i>	2:13-cv-02919
<i>Webb, et al. v. Ethicon, Inc., et al.</i>	2:13-cv-04517
<i>Martinez v. Ethicon, Inc., et al.</i>	2:13-cv-04730
<i>McIntyre, et al. v. Ethicon, Inc., et al.</i>	2:13-cv-07283
<i>Oxley v. Ethicon, Inc., et al.</i>	2:13-cv-10150
<i>Atkins, et al. v. Ethicon, Inc., et al.</i>	2:13-cv-11022
<i>Garcia v. Ethicon, Inc., et al.</i>	2:13-cv-14355
<i>Lowe v. Ethicon, Inc., et al.</i>	2:13-cv-14718
<i>Dameron, et al. v. Ethicon, Inc., et al.</i>	2:13-cv-14799
<i>Vanbuskirk, et al. v. Ethicon, Inc., et al.</i>	2:13-cv-16183
<i>Mullens, et al. v. Ethicon, Inc., et al.</i>	2:13-cv-16564
<i>Shears, et al. v. Ethicon, Inc., et al.</i>	2:13-cv-17012
<i>Javins, et al. v. Ethicon, Inc., et al.</i>	2:13-cv-18479
<i>Barr, et al. v. Ethicon, Inc., et al.</i>	2:13-cv-22606
<i>Lambert v. Ethicon, Inc., et al.</i>	2:13-cv-24393
<i>Cook v. Ethicon, Inc., et al.</i>	2:13-cv-29260
<i>Stevens v. Ethicon, Inc., et al.</i>	2:13-cv-29918
<i>Harmon v. Ethicon, Inc., et al.</i>	2:13-cv-31818
<i>Snodgrass v. Ethicon, Inc., et al.</i>	2:13-cv-31881
<i>Miller v. Ethicon, Inc., et al.</i>	2:13-cv-32627
<i>Matney, et al. v. Ethicon, Inc., et al.</i>	2:14-cv-09195
<i>Jones, et al. v. Ethicon, Inc., et al.</i>	2:14-cv-09517
<i>Humbert v. Ethicon, Inc., et al.</i>	2:14-cv-10640
<i>Gillum, et al. v. Ethicon, Inc., et al.</i>	2:14-cv-12756
<i>Whisner, et al. v. Ethicon, Inc., et al.</i>	2:14-cv-13023
<i>Tomblin v. Ethicon, Inc., et al.</i>	2:14-cv-14664
<i>Schepleng v. Ethicon, Inc., et al.</i>	2:14-cv-16061

<i>Tyler, et al. v. Ethicon, Inc., et al.</i>	2:14-cv-19110
<i>Kelly, et al. v. Ethicon, Inc., et al.</i>	2:14-cv-22079
<i>Lundell v. Ethicon, Inc., et al.</i>	2:14-cv-24911
<i>Cheshire, et al. v. Ethicon, Inc., et al.</i>	2:14-cv-24999
<i>Burgoyne, et al. v. Ethicon, Inc., et al.</i>	2:14-cv-28620
<i>Bennett, et al. v. Ethicon, Inc., et al.</i>	2:14-cv-29624

PRETRIAL ORDER # 185
(Briefing Order re: Pending Motions for Clarification on Consolidated TVT Cases)

Pending in case number 2:12-cv-9311 are (1) Defendants' Objection to PTO # 182 and Motion to Clarify, filed June 24, 2015 [Docket 30]; and (2) Plaintiffs' Motion for Clarification Regarding Pretrial Order No. 182, filed June 26, 2015 [Docket 33]. By PTO # 183, I vacated PTO # 182 (Order Consolidating above Cases for Trial on Issue of Design Defect) because most of the cases identified in the PTO did not involve West Virginia residents who were implanted in West Virginia with the TVT product. By PTO # 184, I entered a new PTO consolidating cases jointly identified by the parties as involving West Virginia residents who were implanted in West Virginia with the TVT product. The Clerk is **DIRECTED** to file the above-referenced motions in the lead case consolidated by PTO # 184, *Mullins, et al. v. Ethicon, Inc., et al.*, 2:12-cv-02952.

In the motions cited above, the parties raise issues, some of which I find must be addressed before they embark on discovery, and others which are deserving of clarification in order to ensure a smooth and efficient discovery period, motions practice and, ultimately, trial. Accordingly, it is **ORDERED** that plaintiffs and defendants may respond simultaneously to the motions above on or before **Wednesday, July 8, 2015 by 5:00 p.m.** While the parties may address any of the issues raised by the opposing parties in their responses, the court is specifically interested in responses to the following:

(1) Does Section 402A, comment k of the Restatement (Second) of Torts apply in West Virginia?

(2) If so, how?

The court **DIRECTS** the Clerk to file a copy of this order in **2:12-md-2327 and the above-referenced cases** 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 2:15-cv-08750. 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.wvsc.uscourts.gov.

ENTER: July 1, 2015



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE