

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

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

MDL No. 2187

THIS DOCUMENT RELATES TO ALL CASES

**PRETRIAL ORDER # 161
(Order re: Responses and Replies to *Daubert* Motions filed in Wave 1 and 2 Cases)**

PTO ##s 118 and 158 contain the applicable deadlines related to the Wave 1 and 2 cases in this MDL. Pursuant to those PTOs, the parties filed dispositive motions and *Daubert* motions related to the Wave 1 and 2 cases.

The court's initial review of the *Daubert* motions indicates that the parties have identified experts and filed *Daubert* motions in individual cases that apply to all Wave 1 and Wave 2 cases. As a result, these motions are over inclusive, as they address experts and/or opinions that may be irrelevant to the particular case in which they are filed. For example, a party may have filed a *Daubert* motion on an expert who opined on matters related to stress urinary incontinence ("SUI"), when that particular plaintiff is only making a claim with regard to defendant's pelvic organ prolapse ("POP") product. While I had informally indicated to the parties that they may file motions related to more than one plaintiff where, for example, an expert had examined those plaintiffs for purposes of specific causation, the parties have exceeded the bounds of this instruction.

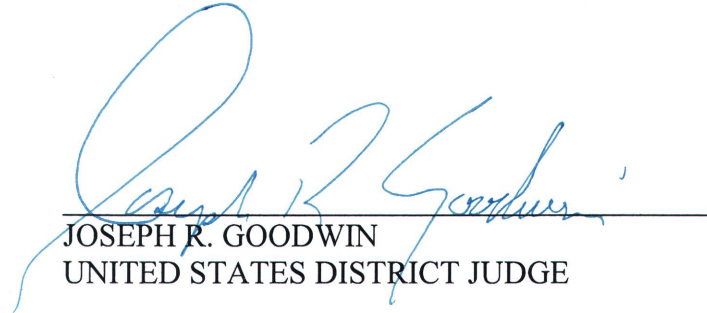
The Wave 1 and 2 cases are individual cases. Each of the individual cases in Wave 1 and 2 must stand on its own, and the motion practice must be so tailored. While the parties are certainly welcome to utilize time-saving mechanisms such as filing identical motions in every case where appropriate (indeed I encourage that), it is not acceptable or in keeping with the Federal Rules of Civil Procedure to file blanket motions in every single case where certain issues are not uniform among Wave 1 and 2 cases and/or where the expert at issue will never be called in the case. This approach does not provide adequate and helpful rulings to the presiding District Judge who receives the case on remand.

To remedy this problem without requiring the parties to file amended motions, it is **ORDERED** that in filing the responses and replies to *Daubert* motions, to the extent the party has no intention of using the expert for one of the challenged opinions or for calling that expert at all, the party should so indicate in each response.

The court **DIRECTS** the Clerk to file a copy of this order in 2:10-md-02187 and **in the cases that have been designated by the parties as Wave 1 and 2 cases**. In cases subsequently filed in this district after civil action number 2:15-cv-00860, 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: January 22, 2015



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE