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 CIVIL ACTION NO.:

Karnes, et al. v. C. R. Bard, Inc. 2:13-cv-32464

PRETRIAL ORDER # 110
(Initial Order Regarding Severance of Actions)

The complaint filed in the above-referenced action joined multiple plaintiffs whose only apparent connection with one another is that they allege they were injured by a C. R. Bard, Inc. pelvic mesh product. I **FIND** that multiple plaintiff complaints, except those complaints in which only one individual alleges using a C. R. Bard, Inc. product but another derivative plaintiff is named as well (e.g. cases in which a spouse is asserting only a loss of consortium claim), should be severed. Accordingly, to resolve any misjoinder concerns and to facilitate the efficient administration of these actions, it is **ORDERED** as follows:

1. Except for the first named plaintiff (and derivative plaintiff(s) claiming under her, if any) listed in Exhibit A, attached hereto, **and** any plaintiff(s) who objects to severance (see paragraph 7), the remaining plaintiffs in the aforementioned case shall be dismissed without prejudice on or around **March 10, 2014**.

2. Within thirty (30) days after the entry of this Pretrial Order ("PTO"), each individual plaintiff dismissed pursuant to paragraph 1 of this PTO who did not object to severance and any

derivative plaintiff claiming under her, may file an individual severed complaint to continue the prosecution of the claims they alleged in the dismissed civil action. Each such plaintiff may choose to file in this court, a Short Form Complaint in the form available on the court's website. **Each plaintiff is reminded of her obligation to comply with Rule 4 of the Federal Rules of Civil Procedure.**

3. Any Short Form Complaint filed by a severed plaintiff must be accompanied by the appropriate filing fee, and assigned a separate civil action number determined by the Clerk.

4. Any severed plaintiff who wishes to name as defendants parties who are not listed in the current Master Long Form Complaint as defendants must file an individual complaint in the District Court where such action properly can be filed and await transfer by the Judicial Panel on Multidistrict Litigation (the "Panel").

5. **Any re-filed action (whether filed in another district or in the Southern District of West Virginia) shall refer to the dismissed civil action and its original filing date**. This information must be added to the Short Form Complaint immediately under the Civil Action Number or to the style of the long form complaint immediately under the Civil Action Number assigned by the Clerk in the district where the action is filed. (*See* Exhibit B, attached hereto.)

6. Any individual Complaint filed within the time provided by this PTO will be deemed to have been filed on and relate back to the original filing date of the applicable multi-plaintiff civil action. Any statute of limitations defense that existed as of the filing dates of the original multi-plaintiff complaints shall be preserved.

7. Any plaintiff(s) who objects to this PTO must do so within ten (10) days of entry of this PTO or by **March 3, 2014**. Such plaintiff should file her objections in the Southern District of West Virginia in the original multi-plaintiff case, with any objection not to exceed two (2)

pages. Any plaintiff(s) who objects shall not be severed until such objection is resolved by the court.

8. The court **DIRECTS** the Clerk to place a copy of this PTO in each re-filed action filed pursuant to this PTO that is directly filed in the Southern District and in each re-filed action filed pursuant to this PTO that is transferred by the Panel on the date the case is opened in the Southern District.

The court **DIRECTS** the Clerk to file a copy of this order in 2:10-md-02187 and in member case **2:13-cv-32464** 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-10927. 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: February 24, 2014

JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE

MDL 2187 - EXHIBIT A

Plaintiffs	Originating District	Originating Case No.	SDWV – MDL Member Case No.
Barbara Karnes Kerry Karnes Kathleen Harding Eulonda Albright Terry Albright Joan Colletti David Colletti Pamela Roberts Billy Roberts Bessie McCarty Shirley Smith Martha Aquino Peggy Luke Brian Luke Mandy Seats Linda Morgan Ardeen McCord Trudy Richards Betty Samples John Wayne Samples Cecilia Sipple Kenneth Sipple Linda Hall Elisa Tumelson Keith Tumelson Sylvia Knight Karen Lehman Michael Lehman Delores Marsh Gradon Marsh Deborah Shook Betty Lou Worrells Judy Ann Leavine Gary Leavine Victoria Stanton Kathy Joan Trammel Patricia Gold Robert Gold Anne Kagy Brian Kagy Joyce Kirkendall Cleon Clark Julie Hennessy	Missouri Eastern	4:13-cv-1681	2:13-cv-32464

Plaintiffs	Originating District	Originating Case No.	SDWV – MDL Member Case No.
Sharon Pritchard Sherry Proctor Terry Seymour Catherine Tocco Judy Roberts Marguerite Foley Nancy Jones Anita Miskell Delia Gonzales Martina Faz Beverly Cox Claudette Richardson Mandey Hettle Evelyn Edwards Alicia Brensinger Patricia Crook Linda Johns Dianne Mire Brenda Norman-Perry Angel Page Victoria Rojas Dathen Thomas Pamela Wright	Missouri Eastern	4:13-cv-1681	2:13-cv-32464

Exhibit "B"

I. <u>For Directly Filed Cases</u>:

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

Civil Action No. _____
(Severed from Civil Action No. _____ filed _____)

<u>SHORT FORM COMPLAINT</u>

I. <u>For All Other Cases</u>:

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

PATRICIA BERGGREN,

Plaintiff,

v.

Civil Action No. _____
(Severed from SDWV Civil Action No. _____ filed _____)

C. R. BARD, INC., ET AL.,

Defendants.

<u>COMPLAINT AND JURY DEMAND</u>