

**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 ALL WAVE 3 CASES

**PRETRIAL ORDER # 169
(Fourth Amended Docket Control Order for Discovery of
Certain Avaulta, Bard Only Cases – Wave 3)**

It is **ORDERED** that PTO # 154 related to the Wave 3 cases is amended. The new and/or amended provisions are contained in the following paragraphs: I.C.1.; I.C.1.b-d; I.C.2.b-f; I.D.1-3; II.A.1.a-f; II.A.2.a-f; II.A.4; II.B.1, II.B.1.b-d; II.B.2.b-f; and II.C.1-3. The remaining provisions remain in force and effect.

It is **ORDERED** as follows:

I. SIXTY CASE MINIWAVE IN WAVE 3.

- A. CASE SELECTION.** On or before **December 15, 2014**, the parties will each file a list of twenty-five (25) cases taken from the Wave 3 group of cases. A current list of the Wave 3 cases is attached as Exhibit A for the parties' reference. The court has directed that the nine (9) cases within Wave 3 from the Northern and Southern Districts of West Virginia shall be included in the miniwave. In addition, the court will choose one case, bringing the total number of cases to sixty (60). The sixty (60) cases chosen by the parties and the court will constitute a "Miniwave" within Wave 3, and will maintain their Wave 3 marking on CM/ECF.
- B. DEPOSITIONS.**

1. Treating physicians (implanting, explanting physicians). The parties may conduct the depositions of treating physicians pursuant to Rule 30 of the Fed. R. Civ. P. or in any other manner they choose in keeping with the Fed. R. Civ. P., assuming they agree on how such depositions will be conducted, including the length of depositions. In the absence of agreement, my previous order related to written depositions under Rule 31(a)(2) and Judge Eifert's rulings apply as follows:

- a.** The parties have exchanged written deposition questions, cross questions, and redirect questions, as well as written objections to each. Absent good cause shown, the parties must complete written depositions of the treating physicians by **February 10, 2015**, following the procedure identified in Rule 31(b) and Rule 30(c), (e) and (f).
- b.** In particular, the party responsible for the written deposition (the parties were directed by Judge Eifert to split the list in half), must arrange and notice the written deposition, subpoena the deponent and provide the court reporter with the written deposition questions and objections. At the deposition, the court reporter will read the written questions to the physician, record the questions and the physician's answers and certify the deposition. The court reporter will attach the written questions and objections to the transcript of the deposition. The party responsible for the written deposition shall maintain the original transcript of the deposition and its attachments.

2. Sales Representatives.

- a. In each Miniwave case, plaintiffs shall submit no more than ten (10) written deposition questions per sales representative to Bard by no later than **December 31, 2014**; Bard's written objections shall be provided to plaintiffs by **January 5, 2015**.
- b. Bard's cross-questions (limited to five (5)) shall be submitted to plaintiffs by no later than **January 7, 2015**; plaintiffs' written objections shall be provided to Bard by **January 9, 2015**.
- c. Plaintiffs' redirect questions (limited to three (3)) shall be submitted to Bard by no later **January 12, 2015**; Bard's written objections shall be provided to plaintiffs by **January 14, 2015**.
- d. Absent good cause shown, the parties must complete written depositions of the sales representatives by **February 10, 2015**, following the procedure identified in Rule 31(b) and Rule 30(c), (e) and (f).
- e. In particular, plaintiffs must arrange and notice the written deposition, subpoena the deponent and provide the court reporter with the written deposition questions and objections. At the deposition, the court reporter will read the written questions to the sales representative, record the questions and the sales representative's answers and certify the deposition. The court reporter will attach the written questions and objections to the transcript of the deposition. Plaintiffs shall be

responsible for maintaining the original transcript of the deposition and its attachments.

3. **Corporate and non-plaintiff-specific fact discovery.** Rule 30(b)(6) depositions may not exceed two (2) hours for direct examination and one (1) hour for cross-examination. Plaintiffs are limited to five (5) Rule 30(b)(6) witnesses. Plaintiffs must choose a lead questioner. If a corporate witness has been previously deposed in this MDL litigation, the parties shall attempt to agree on whether a second deposition should occur, and if so, the parameters of the deposition. Nothing in this Docket Control Order should be construed to abridge a party's right to seek a protective order as to any appropriate issue on any available ground. All other non plaintiff-specific fact discovery shall be completed by written deposition, be limited to five (5) questions per side; three (3) cross-questions per side and two (2) redirect and must comply with the provisions of Rule 31(b) and Rule 30(c), (d) and (e) as described above. To the extent applicable and practicable, the parties shall follow the procedures outlined above for exchanging questions and objections, arranging and scheduling the depositions.
4. All fact discovery in the Miniwave must be completed by **February 10, 2015**, including discovery related to treating physicians by whatever method.
5. The court will permit additional fact discovery where a party specifically describes the additional discovery and shows good cause for the taking of such discovery in accordance with the Federal Rules of Civil Procedure.

C. EXPERT DISCOVERY ON AVAULTA PRODUCTS

1. Expert Discovery and Reports. The parties may conduct general and specific expert discovery on the Avaulta products at issue in the Miniwave. In light of the bellwether trial that already occurred on the Avaulta Plus Posterior Support System and the substantial discovery conducted to date on the other Avaulta products, the parties are cautioned not to engage in duplicative general expert discovery, but instead, to tailor their discovery to the remaining Avaulta products at issue (to the extent such discovery is necessary), supplementing any discovery already completed and conducting specific causation discovery for the Miniwave plaintiffs. In light of the common products involved in this Miniwave, the likelihood of overlap in expert opinion from one case to another (except as to specific causation) and the need to streamline discovery in these cases, each side is limited to no more than three (3) experts per case (exclusive of treating physicians). It is the court's expectation that these experts will overlap for plaintiffs who have the same product(s), to some extent, if not entirely.

a. In each Miniwave case, the parties shall serve (i) expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2)(A) and Fed. R. Civ. P. 26(a)(2)(C), and (ii) expert reports pursuant to Fed. R. Civ. P. 26(a)(2)(B).

b. Absent good cause shown, plaintiffs shall re-serve expert disclosures and reports in each case on or before **March 19, 2015** in compliance with the order I entered recently related to defendant's motion to strike;

- c. Absent good cause shown, Bard shall serve expert disclosures and reports in each case on or before **March 26, 2015**.
- d. The parties shall serve disclosures and reports for rebuttal expert witnesses, if any, by no later than **April 2, 2015**.
- e. The court will permit additional expert discovery where a party specifically describes the additional discovery and shows good cause for the taking of such discovery in accordance with the Federal Rules of Civil Procedure.

2. Expert Depositions.

- a. **General Causation Expert Depositions.** The parties shall coordinate the depositions of general causation experts. Insofar as multiple plaintiffs have utilized the same general causation expert or experts, those experts shall be deposed only once on the issue of general causation. As to Bard's experts, plaintiffs are instructed to choose a lead questioner.
- b. **Plaintiffs' Specific Causation Expert Depositions.** The opinions of plaintiffs' experts regarding their specific causation opinions for individual plaintiffs shall be obtained by written deposition as follows:
 - i. Bard shall submit no more than thirty (30) written deposition questions per expert to the opposing party no later than **April 2, 2015**; the opposing party's written objections shall be provided by **April 7, 2015**.

ii. Cross-questions (limited to twenty (20)) shall be submitted by plaintiffs no later than **April 9, 2015**; the opposing party's written objections shall be provided by **April 14, 2015**.

iii. Redirect questions (limited to ten (10)) shall be submitted by Bard no later than **April 16, 2015**; the opposing party's written objections shall be provided by **April 21, 2015**.

c. Bard's Specific Causation Expert Depositions. The opinions of Bard's experts regarding their specific causation opinions for individual plaintiffs shall be obtained by written deposition as follows:

i. Plaintiffs shall submit no more than thirty (30) written deposition questions per expert to the opposing party no later than **April 9, 2015**; the opposing party's written objections shall be provided by **April 14, 2015**.

ii. Cross-questions (limited to twenty (20)) shall be submitted by Bard no later than **April 16, 2015**; the opposing party's written objections shall be provided by **April 21, 2015**.

iii. Redirect questions (limited to ten (10)) shall be submitted by plaintiffs no later **April 23, 2015**; the opposing party's written objections shall be provided by **April 28, 2015**.

d. Specific Causation Expert Depositions for Rebuttal Expert Witnesses on Specific Causation. Any rebuttal opinions of experts regarding their specific causation opinions for individual plaintiffs shall be obtained by written deposition as follows:

ii. The depositions of Bard's specific experts must be completed between **April 29, 2015**, and **May 29, 2015**.

iii. Depositions of any rebuttal experts must be completed between **May 6, 2015**, and **June 6, 2015**.

f. Absent good cause shown, the parties must complete written depositions of specific causation experts by **June 12, 2015**, following the procedure identified in Rule 31(b) and Rule 30(c), (e) and (f) and as outlined above.

D. Motion Practice.

1. ***Daubert* Motion Practice.** To the extent the parties are able to file identical *Daubert* motions in multiple Miniwave cases or groups of cases, they are encouraged to do so. The parties must file such omnibus motion(s) in each Miniwave case to which it applies. If there are case-specific and/or omnibus *Daubert* motions in the individual Miniwave cases, such motions are due **June 29, 2015**. Responses are due **July 13, 2015**. Replies are due **July 20, 2015**.

2. ***Non Daubert* Based Dispositive (or partially dispositive) Motion Practice.**

Non *Daubert* based dispositive (or partially dispositive) motions also can be streamlined by grouping motions by issue and/or State. The parties are encouraged to file omnibus motions where common issues are involved in multiple Miniwave cases or groups of cases. If the parties file such motions, the parties are directed to file in each Miniwave case in which the motion

applies. Individual and/or omnibus motions are due **June 29, 2015**. Responses are due **July 13, 2015**. Replies are due **July 20, 2015**.

- 3. *Daubert* Based Dispositive Motion Practice.** *Daubert* based dispositive motions are due **August 20, 2015**. Responses are due **August 27, 2015**. No reply briefs shall be filed for *Daubert*-based dispositive motions.
- 4. Motions in Limine.** Motions in Limine may be filed only upon leave of court based on a showing of specific need for that particular issue to be determined prior to trial. In the event the court grants leave, motions are limited to 3 pages each, responses are limited to 2 pages each. No reply briefs shall be filed for motions in limine.
- 5. Hearings.** Dates for hearings on motions, if any, will be set at a future status conference.
- 6. Page limitations.** If the parties file omnibus motions related to multiple cases or groups of cases in the Miniwave, I will not impose additional page limits beyond those contained in the court's Local Rules of Civil Procedure 7.1(a)(2). The parties shall provide courtesy copies to the court in accordance with Local Civil Rule 7.1(a)(5), and requests that such courtesy copies include the header added upon filing. If a motion (other than a motion in limine) does not apply to more than one case, the court imposes the following deadlines: the memorandum in support of the motion is limited to five (5) double spaced pages; the response is limited to three (3) double spaced pages; and the reply is limited to two (2) double spaced pages.

7. Placeholder Exhibits. In the past, the court has permitted parties to file placeholder exhibits in support of *Daubert*, dispositive and other motions, responses and replies in the place of confidential documents that may be sealed and then, within five days, redact/dedesignate the documents or file a motion to seal. Moving forward, *the court will no longer permit this practice. Parties may no longer file placeholder exhibits. The court expects leadership counsel for plaintiffs and Bard to resolve issues related to confidential designations well before the filing of the above motions.* Filings containing placeholder exhibits will be struck. In the event there are issues related to sealing of confidential documents that the parties are unable to resolve, they must be brought to the court's attention in a consolidated manner as follows: Any consolidated motion to seal is due on or before **April 9, 2015**, any response is due **April 17, 2015**, and any reply is due **April 23, 2015**.

E. CASES READY FOR TRANSFER, REMAND OR TRIAL.

1. At the conclusion of pre-trial proceedings, the court, pursuant to PTO # 51 and 28 U.S.C. § 1404(a), will transfer each directly-filed case to a federal district court of proper venue as defined in 28 U.S.C. § 1391. In the alternative, pursuant to PTO # 51 and 28 U.S.C. § 1407, cases that were transferred by the JPML shall be remanded for trial to the federal district court from which each such case was initially transferred. The trial date for cases transferred or remanded to other federal district courts shall be set by the judge to whom the transferred or remanded case is assigned (including the undersigned through

intercircuit assignment). The federal district court to which the case is remanded will be advised that no further discovery should be permitted as such would interfere with the handling of the MDL.

2. If a case is to be tried in the United States District Court for the Southern District of West Virginia (either by agreement of the parties or where venue in the Southern District is determined to be proper by the court), the case shall be deemed trial-ready as soon as discovery is completed and the court rules on the parties' motions in limine and non dispositive *Daubert* motions.

II. REMAINING WAVE 3 CASES (EXCLUDING MINIWAVE CASES).

Upon completion of the Miniwave, the remaining cases in Wave 3 are subject to the following deadlines:

A. Depositions.

1. **Treating physicians (implanting, explanting physicians).** The parties may conduct the depositions of treating physicians pursuant to Rule 30 of the Fed. R. Civ. P. or in any other manner they choose in keeping with the Fed. R. Civ. P., assuming they agree on how such depositions will be conducted, including the length of depositions. In the absence of agreement, my previous order related to written depositions under Rule 31(a)(2) applies with the following deadlines:

- a. In each case, Bard shall submit no more than thirty (30) written deposition questions per treating physician to the opposing party no later than **September 10, 2015**; the opposing party's written objections shall be provided by **September 15, 2015**.

- b. Cross-questions (limited to twenty (20)) shall be submitted by plaintiffs no later than **September 17, 2015**; the opposing party's written objections shall be provided by **September 22, 2015**.
- c. Redirect questions (limited to ten (10)) shall be submitted by Bard no later than **September 24, 2015**; the opposing party's written objections shall be provided by **September 29, 2015**.
- d. Regarding the procedure for conducting written depositions, the party responsible for the written deposition (the parties were directed by Judge Eifert to split the list in half) must arrange and notice the written deposition, subpoena the deponent and provide the court reporter with the written deposition questions and objections. At the deposition, the court reporter will read the written questions to the treating physicians, record the questions and the treating physician's answers and certify the deposition. The court reporter will attach the written questions and objections to the transcript of the deposition. The party responsible for the deposition shall maintain the original transcript of the deposition and its attachments.
- e. The depositions of the treating physicians must be completed between **September 30, 2015** and **October 30, 2015**.
- f. Absent good cause shown, the parties must complete written depositions of the treating physicians by **November 6, 2015**, following the procedure identified in Rule 31(b) and Rule 30(c), (e) and (f).

2. Sales Representatives.

- a. In each case, plaintiffs shall submit no more than ten (10) written deposition questions per sales representative to the opposing party no later than **September 10, 2015**; the opposing party's written objections shall be provided by **September 15, 2015**.
- b. Cross-questions (limited to five (5)) shall be submitted by Bard no later than **September 17, 2015**; the opposing party's written objections shall be provided by **September 22, 2015**.
- c. Redirect questions (limited to three (3)) shall be submitted by plaintiffs no later than **September 24, 2015**; the opposing party's written objections shall be provided by **September 29, 2015**.
- d. Regarding the procedure for conducting written depositions, plaintiffs must arrange and notice the written deposition, subpoena the deponent and provide the court reporter with the written deposition questions and objections. At the deposition, the court reporter will read the written questions to the sales representative, will record the questions and the sales representative's answer and certify the deposition. The court reporter will attach the written questions and objections to the transcript of the deposition. Plaintiffs shall be responsible for maintaining the original transcript of the deposition and its attachments.
- e. The depositions of the sales representatives must be completed between **September 30, 2015** and **October 30, 2015**.

f. Absent good cause shown, the parties must complete written depositions of the sales representatives by **November 6, 2015**, following the procedure identified in Rule 31(b) and Rule 30(c), (e) and (f).

- 3. Corporate and non-plaintiff specific fact discovery.** Rule 30(b)(6) depositions may not exceed two (2) hours for direct examination and one (1) hour for cross-examination. Plaintiffs are limited to five (5) Rule 30(b)(6) witnesses. Plaintiffs must choose a lead questioner. If a corporate witness has been previously deposed in this MDL litigation, the parties shall attempt to agree on whether a second deposition should occur, and if so, the parameters of the deposition. Nothing in this Docket Control Order should be construed to abridge a party's right to seek a protective order as to any appropriate issue on any available ground. All other non plaintiff-specific fact discovery shall be completed by written deposition, be limited to five (5) questions per side; three (3) cross-questions per side and two (2) redirect and must comply with the provisions of Rule 31(b) and Rule 30(c), (d) and (e) as described above. To the extent applicable and practicable, the parties shall follow the procedures outlined above for exchanging questions and objections, arranging and scheduling the depositions.
- 4.** All fact discovery in the remaining Wave 3 cases must be completed by **November 6, 2015**, including discovery related to treating physicians by whatever method.

5. The court will permit additional fact discovery where a party specifically describes the additional discovery and shows good cause for the taking of such discovery in accordance with the Federal Rules of Civil Procedure.

B. EXPERT DISCOVERY ON AVAULTA PRODUCTS

1. **Expert Discovery and Reports.** The parties may conduct general and specific expert discovery on the Avaulta products at issue in Wave 3. In light of the bellwether trial that already occurred on the Avaulta Plus Posterior Support System, the substantial discovery conducted to date on the other Avaulta products and the workup of the Miniwave, the parties are cautioned not to engage in duplicative general expert discovery, but instead, to tailor their discovery to the remaining Avaulta products at issue (to the extent such discovery is necessary), supplementing any discovery already completed and conducting specific causation discovery for the Wave 3 plaintiffs. In light of the common products involved in this wave, the likelihood of overlap in expert opinion from one case to another (except as to specific causation) and the need to streamline discovery in these cases, each side is limited to no more than three (3) experts per case (exclusive of treating physicians). It is the court's expectation that these experts will overlap for plaintiffs who have the same product(s), to some extent, if not entirely.
 - a. In each case, the parties shall serve (i) expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2)(A) and Fed. R. Civ. P. 26(a)(2)(C), and (ii) expert reports pursuant to Fed. R. Civ. P. 26(a)(2)(B).

- b. Absent good cause shown, plaintiffs shall serve expert disclosures and reports in each case on or before **November 20, 2015**.
- c. Absent good cause shown, Bard shall serve expert disclosures and reports in each case on or before **December 22, 2015**.
- d. The parties shall serve disclosures and reports for rebuttal expert witnesses, if any, by no later than **January 21, 2016**.
- e. The court will permit additional expert discovery where a party specifically describes the additional discovery and shows good cause for the taking of such discovery in accordance with the Federal Rules of Civil Procedure.

2. Expert Depositions.

- a. **General Causation Expert Depositions.** The parties shall coordinate the depositions of general causation experts. Insofar as multiple plaintiffs have utilized the same general causation expert or experts, those experts shall be deposed only once on the issue of general causation. As to Bard's experts, plaintiffs are instructed to choose a lead questioner.
- b. **Plaintiffs' Specific Causation Expert Depositions.** The opinions of plaintiffs' experts regarding their specific causation opinions for individual plaintiffs shall be obtained by written deposition as follows:
 - i. Bard shall submit no more than thirty (30) written deposition questions per expert to the opposing party no later than **December 4, 2015**; the opposing party's objections shall be provided by **December 9, 2015**.

ii. Cross-questions (limited to twenty (20)) shall be submitted by plaintiffs no later than **December 11, 2015**; the opposing party's written objections shall be provided by **December 16, 2015**.

iii. Redirect questions (limited to ten (10)) shall be submitted by Bard no later than **December 18, 2015**; the opposing party's written objections shall be provided by **December 23, 2015**.

c. Bard's Specific Causation Expert Depositions. The opinions of Bard's experts regarding their specific causation opinions for individual plaintiffs shall be obtained by written deposition as follows:

i. Plaintiffs shall submit no more than thirty (30) written deposition questions per expert to the opposing party no later than **January 7, 2016**; the opposing party's objections shall be provided by **January 12, 2016**.

ii. Cross-questions (limited to twenty (20)) shall be submitted by Bard no later than **January 14, 2016**; the opposing party's written objections shall be provided by **January 19, 2016**.

iii. Redirect questions (limited to ten (10)) shall be submitted by plaintiffs no later than **January 21, 2016**; the opposing party's written objections shall be provided by **January 26, 2016**.

d. Specific Causation Expert Depositions for Rebuttal Expert Witnesses on Specific Causation. Any rebuttal opinions of experts regarding their specific causation opinions for individual plaintiffs shall be obtained by written deposition as follows:

- i.** Bard or plaintiffs shall submit no more than thirty (30) written deposition questions per rebuttal expert to the opposing party no later than **February 4, 2016**; the opposing party's written objections shall be provided by **February 9, 2016**.
 - ii.** Cross-questions (limited to twenty (20)) shall be submitted no later than **February 11, 2016**; the opposing party's written objections shall be provided by **February 16, 2016**.
 - iii.** Redirect questions (limited to ten (10)) shall be submitted no later than **February 18, 2016**; the opposing party's written objections shall be provided by **February 23, 2016**.
- e.** Regarding the procedure for conducting written depositions, the party initiating the written deposition must arrange and notice the written deposition, subpoena the deponent and provide the court reporter with the written deposition questions and objections. At the deposition, the court reporter will read the written questions to the expert, record the questions and the expert's answers and certify the deposition. The court reporter will attach the written questions and objections to the transcript of the deposition. The party initiating the written deposition shall be responsible for maintaining the original transcript of the deposition and its attachments.

 - i.** The depositions of plaintiffs' specific experts must be completed between **December 24, 2015, and January 24, 2016**.

ii. The depositions of Bard's specific experts must be completed between **January 27, 2016**, and **February 27, 2016**.

iii. Depositions of any rebuttal experts must be completed between **February 24, 2016**, and **March 24, 2016**.

f. Absent good cause shown, the parties must complete written depositions of experts by **March 31, 2016**, following the procedure identified in Rule 31(b) and Rules 30(c), (e) and (f).

C. Motion Practice.

1. ***Daubert* Motion Practice.** To the extent the parties are able to file identical *Daubert* motions in multiple cases or groups of cases, they are encouraged to do so. The parties must file such omnibus motion(s) in each Wave 3 case to which it applies. If there are case-specific and/or omnibus *Daubert* motions in the individual cases, such motions are due **April 17, 2016**. Responses are due **May 1, 2016**. Replies are due **May 8, 2016**.

2. **Non *Daubert* Based Dispositive (or partially dispositive) Motion Practice.** Non *Daubert* based dispositive (or partially dispositive) motions also can be streamlined by grouping motions by issue and/or State. The parties are encouraged to file omnibus motions where common issues are involved in multiple cases or groups of cases. If the parties file such motions, the parties are directed to file in each Wave 3 case in which the motion applies. Individual and/or omnibus motions are due **April 17, 2016**. Responses are due **May 1, 2016**. Replies are due **May 8, 2016**.

- 3. *Daubert* Based Dispositive Motion Practice.** *Daubert* based dispositive motions are due **June 8, 2016**. Responses are due **June 22, 2016**. No reply briefs shall be filed for *Daubert*-based dispositive motions.
- 4. Motions in Limine.** Motions in Limine may be filed only upon leave of court based on a showing of specific need for that particular issue to be determined prior to trial. In the event the court grants leave, motions are limited to 3 pages each, responses are limited to 2 pages each. No reply briefs shall be filed for motions in limine.
- 5. Hearings.** Dates for hearings on motions, if any, will be set at a future status conference.
- 6. Page limitations.** If the parties file omnibus motions related to multiple cases or groups of cases, I will not impose additional page limits beyond those contained in the court's Local Rules of Civil Procedure 7.1(a)(2). The parties shall provide courtesy copies to the court in accordance with Local Civil Rule 7.1(a)(5), and requests that such courtesy copies include the header added upon filing. If a motion (other than a motion in limine) does not apply to more than one case, the court imposes the following deadlines: the memorandum in support of the motion is limited to five (5) double spaced pages; the response is limited to three (3) double spaced pages; and the reply is limited to two (2) double spaced pages.
- 7. Placeholder Exhibits.** In the past, the court has permitted parties to file placeholder exhibits in support of *Daubert*, dispositive and other motions, responses and replies in the place of confidential documents that may be

sealed and then, within five days, redact/dedesignate the documents or file a motion to seal. Moving forward, *the court will no longer permit this practice. Parties may no longer file placeholder exhibits. The court expects leadership counsel for plaintiffs and Bard to resolve issues related to confidential designations well before the filing of the above motions.* Filings containing placeholder exhibits will be struck. In the event there are issues related to sealing of confidential documents that the parties are unable to resolve, they must be brought to the court's attention in a consolidated manner as follows: Any consolidated motion to seal is due on or before **November 9, 2015**, any response is due **November 17, 2015**, and any reply is due **November 24, 2015**.

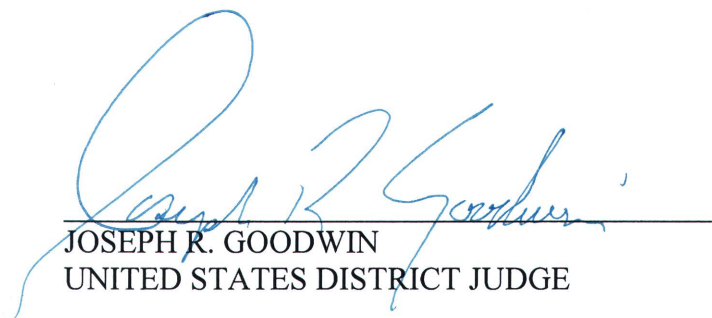
D. CASES READY FOR TRANSFER, REMAND OR TRIAL.

1. At the conclusion of pre-trial proceedings, the court, pursuant to PTO # 51 and 28 U.S.C. § 1404(a), will transfer each directly-filed case to a federal district court of proper venue as defined in 28 U.S.C. § 1391. In the alternative, pursuant to PTO # 51 and 28 U.S.C. § 1407, cases that were transferred by the JPML shall be remanded for trial to the federal district court from which each such case was initially transferred. The trial date for cases transferred or remanded to other federal district courts shall be set by the judge to whom the transferred or remanded case is assigned (including the undersigned through intercircuit assignment). The federal district court to which the case is remanded will be advised that no further discovery should be permitted as such would interfere with the handling of the MDL.

2. If a case is to be tried in the United States District Court for the Southern District of West Virginia (by agreement of the parties), the case shall be deemed trial-ready as soon as discovery is completed and the court rules on the parties' motions in limine and non dispositive *Daubert* motions.

The court **DIRECTS** the Clerk to file a copy of this order in 2:10-md-02187 and **in all Wave 3 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-02860. 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 12, 2015



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE