

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

IN RE: ETHICON INC., PELVIC REPAIR
SYSTEM PRODUCTS LIABILITY
LITIGATION

MDL No. 2327

HONORABLE
JUDGE JOSEPH R. GOODWIN

**PRETRIAL ORDER # 301
(ORDER APPOINTING HON. JAMES ROSENBAUM AS SETTLEMENT MASTER
FOR PRIVATE SETTLEMENT AGREEMENT BETWEEN ETHICON AND CERTAIN
PLAINTIFFS' COUNSEL)**

Zimmerman Reed LLP (“Plaintiffs’ Counsel”) has entered into a separate Confidential Master Settlement Agreement (the “Settlement Agreement”) with Ethicon, Inc. and Johnson & Johnson, defined by agreement as “Ethicon,” to resolve the claims for certain plaintiffs related to the implantation of Ethicon’s Pelvic Repair Products (as defined in the Settlement Agreement). Plaintiffs’ Counsel has agreed to seek the approval of this Court to appoint a Settlement Master to perform certain defined functions related to the administration and implementation of the Settlement Agreement. Plaintiffs’ Counsel believes that Hon. James Rosenbaum is well-qualified to perform these and other functions discussed below.

Accordingly, Plaintiffs’ Counsel request, pursuant to the Court’s inherent case management powers, the appointment of Hon. James Rosenbaum to assist in the administration and implementation of their settlement with Ethicon, with the authority to:

- Determine that the calculation, allocation, division and distribution of settlement payments among the claimants pursuant to the terms of the Settlement Agreement provides for fair and reasonable compensation for each client based on the facts and circumstances of this litigation, including the risk to all parties of litigation, the cost, the time delay, the medical evidence, the science, the compensation circumstances, and the inherent risk of litigation generally;

- Serve as a mediator of claims if jointly requested by Plaintiffs' Counsel and Ethicon; and
- As agreed to by Plaintiffs' Counsel and their clients, serve as the final and binding arbitrator of any and all Appeals asserted by claimants to the settlement allocation. Ethicon does not oppose Plaintiffs' Counsel's request. The court, pursuant to its inherent authority and having considered the request, Unopposed Amended Motion and Supporting Affidavit of Hon. James M. Rosenbaum, and cognizant of the important public policy of encouraging settlement among litigating parties, hereby issues the following Order:

IT IS ORDERED THAT:

1. The Unopposed Motion [ECF No. 5799] is **GRANTED**.
2. Hon. James Rosenbaum, JAMS, 333 South Seventh Street, Suite 2550, Minneapolis, MN 55402 is hereby appointed as the Settlement Master for the administration of the settlement reached between Zimmerman Reed LLP, related to the implantation of Ethicon's Pelvic Repair Products (as defined in the Settlement Agreement).
3. The duties of the Settlement Master shall be set forth in the confidential Settlement Agreement entered into between Plaintiffs' Counsel and Ethicon.
4. In furtherance of the fair and efficient administration and implementation of the settlements, the Settlement Master may have *ex parte* communications with the parties to the Settlement Agreement, Plaintiffs' Counsel and their clients, Ethicon and its counsel, or the Court, and such *ex parte* communications shall not be deemed to have waived any attorney-client privileges.
5. The Settlement Master shall be compensated privately as specified respectively in the Settlement Agreement or by agreement with Plaintiffs' Counsel.
6. The Settlement Master shall report to the Court as requested by the Court.

The Court DIRECTS the Clerk to file a copy of this order in 2:12-md-02327 and it shall apply to each member related case previously transferred to, removed to, or filed in this district where applicable, which includes counsel in all member cases up to and including civil action number 2:18-cv-00949. 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.

ENTERED: May 29, 2018.



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
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IN RE: ETHICON INC., PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION

MDL No. 2327

HONORABLE JUDGE
JOSEPH R. GOODWIN

AFFIDAVIT OF JAMES M. ROSENBAUM

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

1. I am an attorney at law licensed to practice law in the state of Minnesota. I am in good standing.

2. I was admitted to the Minnesota Bar in 1969. I was a United States Attorney, District of Minnesota from 1981-1985. From 1985-2010, I served on the federal bench as a United States Federal Judge for the District of Minnesota. I joined JAMS, Minneapolis in 2010 and have managed disputes in Minnesota and throughout the country from 2010 to the present.

3. I have extensive experience serving as a mediator or arbitrator in complex matters including: Arbitration, domestic and international; Bankruptcy; Business and commercial law; Civil rights; Class actions and Multi-District Litigations; Employment; Environmental law; Insurance coverage; Intellectual property, patent, and trade secrets; International terrorism; Medical devices and pharmaceuticals; Mass tort/product liability; Securities; and, White collar crime

4. I have experience in complex pharmaceutical and medical device cases, including MDL litigation. Representative matters include:

In re Medtronic, Inc. Implantable Defibrillators Products Liability Litigation, MDL No.

05-1726, I presided over a settlement involving thousands of plaintiffs implanted with faulty Medtronic defibrillators.

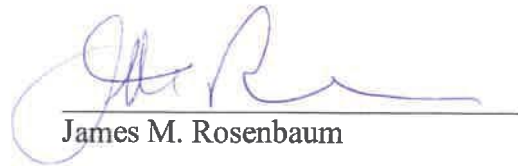
In re Mirapex Product Liability Litigation, MDL No. 07-1836, I presided over bellwether trials in the Mirapex cases involving patients prescribed the drug Mirapex who developed pathological gambling and other compulsive behaviors as a side effect, majority of cases settled.

4. I have acted as a Settlement Master in transvaginal mesh aggregate settlements and have previously been appointed by the Honorable Joseph R. Goodwin to act as Settlement Master for certain private settlement agreements between Plaintiffs' counsel and Covidien and Plaintiffs' counsel and Coloplast.

5. I have familiarized myself with the issues involved in the case captioned above, as a result of my knowledge of that case, I can attest and affirm that there are no grounds for disqualification that would prevent me from serving as Settlement Master in the above-captioned matter. I have reviewed the pleadings, medical information and scientific information pertaining to mesh cases generally and will use the information gathered, including information as it relates to Ethicon specifically, and my experience as Settlement Master in similar transvaginal mesh cases in performing my duties as Settlement Master in the above captioned case.

Further Affiant Sayeth Naught.

Date: May 17, 2018


James M. Rosenbaum

Sworn to before me and subscribed in my presence this 17 day of May, 2018
2018.



