

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

CHARLESTON DIVISION

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

MDL 2440

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER # 4
(Appointment of Leadership Counsel)

Upon review of the parties' applications for appointment as co-lead counsel in this MDL and for reasons appearing to the court, it is **ORDERED** that the following leadership appointments are made in this MDL:

- A. Co-Lead Plaintiffs' Counsel. In compliance with PTO # 1, the plaintiffs submitted a joint application nominating three attorneys for appointment as co-lead counsel in this MDL.

The court has considered the plaintiffs' submission and supporting documentation, and

APPOINTS the following attorneys as co-lead plaintiffs' counsel for this MDL:

Martin D. Crump
Davis & Crump, P.C.
1712 15th Street, 3rd Floor
Gulfport, MS 39501
228-863-6000 (phone)
228-864-0907 (fax)
martin.crump@daviscrump.com

Benjamin H. Anderson
Anderson Law Offices, LLC
1360 W. 9th Street, Suite 215
Cleveland, OH 44113
ben@andersonlawoffices.net

The Plaintiffs' Co-Lead Counsel shall have the following responsibilities in this MDL:

1. Act as spokesperson for all plaintiffs at pretrial proceedings and in response to any inquiries by the court, subject to the right of any plaintiff's counsel to present non-repetitive individual or different positions as long as the presentation does not unduly delay the proceedings.
2. Submit and argue any verbal or written motions presented to the presiding district judge or magistrate judge on behalf of the plaintiffs as well as oppose, when necessary, any motions submitted by the defendants which involve matters within the sphere of the responsibilities of Lead Counsel.
3. Examine witnesses and introduce evidence at hearings on behalf of plaintiffs.
4. Negotiate and enter into stipulations with defendants regarding this litigation. All stipulations entered into by Lead Counsel, except for strictly administrative details such as scheduling, must be submitted for court approval and will not be binding until the court has ratified the stipulation. Any attorney not in agreement with a non-administrative stipulation shall file with the court a written objection thereto within ten (10) days after service by counsel of the stipulation. Failure to object within the term allowed shall be deemed a waiver and the stipulation will automatically be binding on that party.
5. Explore, develop and pursue all settlement options pertaining to any claim or portion thereof of any case filed in this litigation.

6. Attend status conferences and have video conferencing capability.
7. Perform such other functions as may be expressly authorized by further orders of this court.

B. Co-Lead Defendants' Counsel. In compliance with PTO # 1, Douglas B. King and Jennifer Schuster submitted a joint application to serve as co-lead counsel for the Cook defendants (as defined in their application). The court has considered the submission of the above counsel and supporting documentation, and **APPOINTS** the following attorneys as co-lead defendants' counsel for this MDL:

Douglas B. King
211 North Pennsylvania Street
One Indiana Square, Suite 1800
Indianapolis, IN 46204
317-639-6151 (phone)
317-639-6444 (fax)
dking@woodmclaw.com

Jennifer Schuster
211 North Pennsylvania Street
One Indiana Square, Suite 1800
Indianapolis, IN 46204
317-639-6151 (phone)
317-639-6444 (fax)
jschuster@woodmclaw.com

Lead Counsel for the defendant shall have the following responsibilities:

1. Determine (after consultation with the defendant) and present (in brief, oral argument or such other fashion as may be appropriate, personally or by a designee) to the court and opposing parties the position of the defendant(s) on all matters arising during these pretrial proceedings.
2. Delegate the specific tasks in a manner to ensure pretrial preparation for the Defendant(s) is conducted effectively, efficiently and economically.

3. Negotiate and enter into stipulations with the plaintiffs on behalf of the defendant(s).
4. Act as the spokesperson to explore and develop settlement options pertaining to the cases filed against the defendant(s).
5. Attend status conferences and have video conferencing capability.
6. Perform such other duties as may be incidental to proper coordination of the defendants' pretrial activities or authorized by further order of the court.

C. Defendants' Co-Liaison Counsel. In compliance with PTO # 1, A. Timothy King, in joint application with Mr. King and Ms. Schuster, submitted an application to serve as defendants' co-liaison counsel for the Cook defendants. The court has considered the submission of the above counsel and supporting documentation, and **APPOINTS** the following attorney as defendants' co-liaison counsel for this MDL:

A. Timothy Jones
Hawkins, Parnell, Thackston & Young, LLP
109 Capitol Street, Suite 1000
Charleston, WV 25301-2609
304-345-8545 (phone)
304-345-8544 (fax)
tjones@hptylaw.com

The responsibilities of defendants' Co-Liaison Counsel shall be the following:

1. Serve as the recipient for all court orders for and on behalf of all defendants;
2. Coordinate service and filings for all defendants whether presently included or subsequently added;
3. Attend status conferences and have video conferencing capability;
4. Receive and distribute pleadings, orders, and motions by overnight courier service and telecopier within two days after receipt, unless such service has been waived,

in writing, by a receiving counsel **or is otherwise achieved through CM/ECF;**
and

5. Carry out such other duties as the court may order.

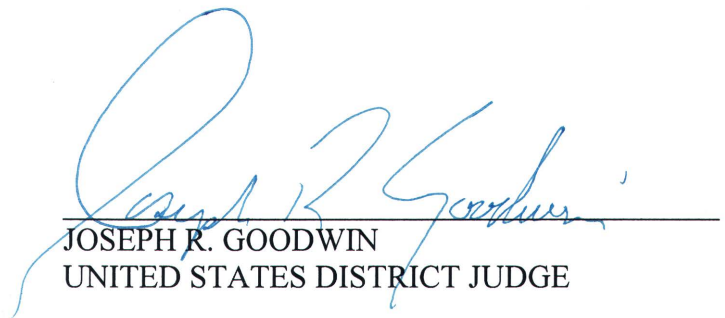
D. Remaining Leadership Structure. At this time, the court will not make additional appointments to the plaintiffs' executive committee, co-coordinating co-lead counsel, plaintiffs' co-liaison counsel or the Plaintiffs' Steering Committee. The court refers the reader to those orders entered in the related MDLs 2187, 2325, 2326, 2327 and 2387 and further information regarding leadership structure in these MDLs.

E. Representation of Clients. All attorneys representing parties to this litigation, regardless of their role in the management structure of the litigation and regardless of this court's designation of Lead and Liaison Counsel, a Plaintiffs' Executive Committee and a Plaintiffs' Steering Committee, continue to bear the responsibility to represent their individual client or clients. Going forward, the court reiterates its expectation that the lawyers in this complex civil action will devote their best efforts toward cooperation and positive interaction, a course of action that will doubtless lead to the service of their clients' best interests and the fair and orderly disposition of this litigation. In addition, the court expects counsel to regularly visit the court's website, review orders and keep abreast of developments in the MDL.

The court **DIRECTS** the Clerk to file a copy of this order in 2:13-md-2440 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 2:13-cv-17890. 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: July 30, 2013



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE