

**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 No. 2440

THIS DOCUMENT RELATES TO ALL CASES

**PRETRIAL ORDER # 45
(ORDER AMENDING PRETRIAL ORDER # 12)**

Upon consideration of issues relating to the potential impediment of the disbursement of funds presented by the current Pretrial Order # 12, the Court hereby **ORDERS** that Pretrial Order # 12 be amended as follows:

Paragraph 3.e. of the present PTO # 12 currently provides as follows:

“A Defendant and its counsel shall not distribute any potential common benefit portion of any settlement proceeds with respect to any Covered Claims until: (1) Defendant’s counsel notifies the PSC in writing of the existence of a settlement and the name of the individual plaintiff’s attorney holding such Covered Claims and (2) Plaintiffs’ Liaison Counsel has confirmed to Defendant’s counsel in writing that the individual plaintiff attorney’s cases or claims are subject to an Assessment pursuant to this Agreed Order.”

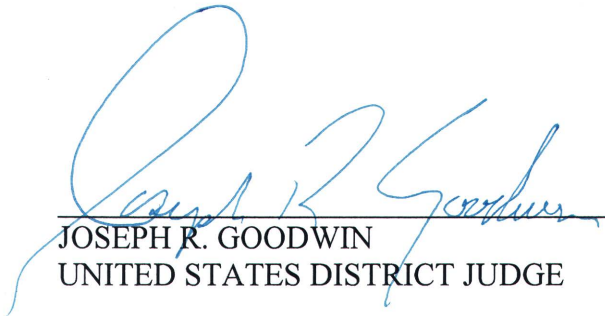
Paragraph 3.e. is amended, and the following language is substituted for Paragraph 3.e. PTO # 12 as follows:

“A Defendant and its counsel shall withhold the Assessment from payments made on all claims and pay the Assessment directly into the MDL 2440 Assessment Fund as a credit against the settlement or judgment on all claims. Such payment(s) may be made in periodic lump sums for multiple cases that have settled and have been funded in accordance with the terms of various settlement agreements. If a Plaintiff contests whether the assessment applies to her case, then that objection shall be presented to the Executive Committee of the MDLs for resolution. If no resolution is reached, a petition for repayment of the assessed amount may be made to the Court for

resolution at such time as the Court approves the final assessment fund amount and the distribution of those funds.”

The court **DIRECTS** the Clerk to file a copy of this order in 2:13-md-02440 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-24709. 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: August 14, 2014



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE