

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
Southern Division

In re:) Master File No. CV 92-
P-10000-S)
)
SILICONE GEL BREAST IMPLANTS) This Document Relates To:
PRODUCTS LIABILITY LITIGATION) All Cases
(MDL-926))

ORDER NO. 8

At a telephone conference conducted on October 13, 1992, the court heard the motion of Plaintiffs' Steering Committee for an injunction against Baxter Healthcare regarding communications with recipients of Silicone Gel Breast Implants. Upon consideration, it is ORDERED as follows:

1. Employees of Baxter are not precluded from communicating, orally or in writing, directly with recipients of silicone gel breast implants who have not filed individual actions against Baxter concerning such implants or their removal--including the conditions under which Baxter would be willing to consider potential reimbursement for the cost of explant procedures in exchange for a release of claims or other settlement of claims against Baxter--provided the communications:

(a) are in response to unsolicited contact or inquiries initiated by such recipients;

(b) are not made, directed, or supervised by Baxter's counsel (other than to the extent of advising Baxter of the terms of this order);

(c) advise the recipients of the status of the class certification in the Dante case and of the name, address, and telephone number of class counsel in the Dante case and of national liaison counsel for the plaintiffs, indicating that the recipients should consider consulting such persons or other counsel of their own choice before deciding whether to proceed with possible direct settlement of any claims against Baxter; and

(d) do not attempt to provide legal advice to the recipients, to disparage or minimize the claims such persons may have against Baxter or other defendants, or to dissuade (other than by conditioning Baxter's willingness to provide reimbursement upon release of claims) such persons from filing their own law suits or from becoming or remaining members of any class action.

Plaintiff National Steering Committee and Baxter's counsel shall attempt to agree on a neutrally-worded form letter suitable for use by Baxter in responding to inquiries concerning possible explant procedures or settlement, consistent with the above restrictions and with Baxter's desire to condition reimbursement of explant expenses upon a release of claims. If counsel cannot agree on the wording, their differences may be submitted to this court for resolution.

2. Baxter shall maintain, and on request make available to plaintiffs, copies of all written communications from and to implant recipients with respect to filing, maintenance, or settlement of claims against Baxter regarding silicone gel breast implants and possible reimbursement of costs of explant procedures or other settlement of claims against Baxter.

3. Baxter shall promptly establish a method for electronically recording oral communications from and to implant recipients with respect to filing, maintenance, or settlement of claims against Baxter regarding silicone gel breast implants and possible reimbursement of costs of explant procedures or other settlement of claims against Baxter. Before recording such communications, Baxter shall advise the recipients that, in order to prevent disputes regarding the content of any discussion, this court is requiring that such discussions be recorded and that it can discuss the matters only if the conversations are recorded. The recordings shall be preserved and made available to plaintiffs on request.

4. The identification of the recipients contained in such written communications and electronic recordings shall, when provided to plaintiffs, be kept confidential for use only by the litigants as needed during the course of these proceedings.

5. The conditions of this order are intended to apply only to communications directly between Baxter employees and silicone gel implant recipients or members of their families, and do not apply to discussions between attorneys for such recipients and attorneys for Baxter.

This the 14th day of October, 1992.

/s/ Sam C. Pointer, Jr.

United States District Judge