

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
Southern Division**

In re:	)	Master File No.
SILICONE GEL BREAST IMPLANTS	)	CV 92-P-10000-S
PRODUCTS LIABILITY LITIGATION	)	
(MDL 926)	)	This document applies to all cases

**ORDER No. 46  
Final Judgment under Rule 54(b)  
in favor of Petrarch Systems, Inc. and Huls America, Inc.**

For the reasons stated in the accompanying opinion, the Motion for Summary Judgment filed on April 14, 1998, by defendants Petrarch Systems, Inc. and Huls America, Inc. is GRANTED. All claims against Petrarch Systems, Inc. and Huls America, Inc. are hereby SEVERED under Fed. R. Civ. P. 42 from other issues and claims remaining in this litigation and are DISMISSED WITH PREJUDICE.

Under Fed. R. Civ. P. 54(b), the court expressly determines that there is no just reason for delay and expressly directs entry of final judgment dismissing all claims against Petrarch Systems, Inc. and Huls America, Inc. in all cases that are pending or may be later opened in this court under the master file number CV 92-P-10000-S. The Clerk will docket and file a copy of this Order and the accompanying opinion in CV 92-P-10000-S.

The Clerk will also make a docket entry, cross-referencing such Order and opinion, in each case currently pending in which either Petrarch Systems, Inc. or Huls America, Inc. remains as a party. Upon opening a new case later filed in, removed to, or transferred to this court in which either such company is a defendant, the Clerk will make a similar docket entry in such case under Rules 42 and 54(b), and the time for post-judgment motions or appeals will commence on the date of such entry.

This the 16th day of September, 1998.

/s/ Sam C. Pointer, Jr.  
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Chief Judge Sam C. Pointer, Jr.

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**Memorandum of Opinion**  
**(Granting Motion by Petrarch Systems, Inc. and Huls America, Inc. for Summary Judgment)**

Under submission is an unopposed motion for summary judgment filed on April 14, 1998, by defendants Petrarch Systems, Inc. and Huls America, Inc. They seek summary judgment in all breast implant cases currently pending in, or later filed in, removed to, or transferred to this court in which they may be named as defendants.<sup>1</sup> **The motion is due to be granted.**

**During the early 1980s Petrarch Systems, Inc., a small Pennsylvania corporation organized in 1975, sold small quantities of some silicone products to customers for use in research and development or testing purposes. It never sold silicone products to any breast implant manufacturer or raw materials supplier in sufficient quantity to have been used in the commercial production of the gel or shell of mammary prostheses, and plaintiffs have presented no evidence to indicate that any breast implant included materials that had been manufactured or sold by Petrarch. At no time did Petrarch manufacture or distribute any breast implants or participate in the design or testing of breast implants. The only connection Huls America, Inc., has to this litigation is that it is the successor to Petrarch as a result of a 1988 corporate acquisition and merger.**

**This court has in several opinions —most recently in August 1997 in granting summary judgment in favor of General Electric Company—considered at length the question of how the raw materials/bulk supplier doctrines are to be applied in this litigation. There is no need to repeat those discussions here. The uncontroverted facts demonstrate that Petrarch and Huls America are clearly entitled to summary judgment.**

**By separate order, summary judgment will be entered in favor of Petrarch Systems, Inc. and**

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<sup>1</sup>Although not named as a defendant as frequently as many other companies, the movants are parties in a substantial number of cases.

**Huls America, Inc. All claims against them will be severed under Fed. R. Civ. P. 42 from other issues and claims remaining in this litigation, and the order dismissing these claims will be made final under Fed. R. Civ. P. 54(b). It is appropriate and desirable to make this determination under Rule 54(b) because this will, if not reversed on appeal, result in the dismissal of these companies in hundreds of cases and will result in shorter and less confusing trials of claims against the remaining defendants in those cases.**

**This the 16th day of September, 1998.**

**/s/ Sam C. Pointer, Jr.**  
**Chief Judge Sam C. Pointer, Jr.**