

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

In re:	)	Master File No.
	)	CV 92-P-10000-S
SILICONE GEL BREAST IMPLANTS	)	
PRODUCTS LIABILITY LITIGATION	)	This document relates to the cases
(MDL 926)	)	listed in the appendix to this order

**ORDER No. 50**

**(Show Cause Why Listed Cases Should Not Be Remanded to Federal Transferor Courts)**

Pending before the court are motions or letter-requests by plaintiffs or defendants in the cases listed in the appendix to this order, requesting remand to federal "transferor" courts of such cases. Upon consideration, it is ORDERED as follows:

1. All affected parties are directed to show cause in writing to this court by March 1, 1999, why this court should not suggest to the Judicial Panel on Multidistrict Litigation ("JPMDL") that the listed cases be remanded, with respect to claims against the defendants shown in the appendix, to the transferor courts subject to the terms and conditions specified in this order. The parties are expected to be very specific as to any objections—*e.g.*, that there are dispositive motions under submission that can best be determined by this court, or that the only claims by plaintiffs are against defendants participating in the Revised Settlement Program and none of the plaintiffs has "opted out" of the settlement, or that there are other defendants named in the complaint or an amended complaint against whom the plaintiff(s) can (and intend to) pursue a claim after remand.

2. Affected parties are requested to provide the court with corrections as to such matters as case captions and case numbers.

3. The terms and conditions under which such remands, if ordered by the JPMDL, will be effected are as follows:

(a) All claims against Dow Corning Corp. and Dow Corning Wright (including any crossclaims or third-party claims by defendants against Dow Corning Corp. or Dow Corning Wright) will, to the extent not previously dismissed, be severed and not remanded. Such claims will, however, be administratively closed in this court and dismissed without prejudice to the institution and pursuit of such claims in the United States District and Bankruptcy Courts for the Eastern District of Michigan in accordance with procedures established in those courts. This court will, however, retain jurisdiction to vacate such dismissals and reopen such claims against Dow Corning on written motion if filed within 30 days after reorganization proceedings of Dow Corning are dismissed or within 30 days after the Eastern District of Michigan determines that reopening of such cases against Dow Corning is the procedure to be followed in liquidating such claims.

(b) All claims by any party against The Dow Chemical Company, Inc. and Dow Holdings Inc. will, to the extent not previously dismissed or transferred, be severed and transferred to the United States District Court for the Eastern District of Michigan. Any requests for transfer of such claims to another federal court or for remand of such claims to state court will be determined by the Eastern District of Michigan.

(c) All claims by any party against McGhan Medical Corp., INAMED Corp., CUI Corp., and their subsidiaries and principals will, to the extent not previously dismissed, be severed and administratively closed, without prejudice to the pursuit of such claims in a pending class settlement of such claims (and with the same rights under any such settlement as if they still had a pending lawsuit against such companies and individuals). Moreover, this court retains jurisdiction to vacate such closings and reopen such claims on request if that pending class settlement should not be approved.

(d) All claims against the following companies have been dismissed with prejudice through unappealed final judgments: Bioplasty, Inc.; Bio-Manufacturing, Inc.; Cabot Medical Corporation; Corning, Inc.; Foamex Products, Inc.; General Electric Co.; General Felt Industries, Inc.; Huls America Inc.; Knoll International Holdings, Inc.; Petrarch Systems, Inc.; Recticel Foam Corporation; Scotfoam Corporation; Scott Paper Company; Surgitek, Inc.; '21' International Holdings, Inc; '21' Foam Company, Inc.; and Uroplasty, Inc.

(e) All listed claims against Mentor Corporation; Mentor Polymer Technologies, Inc.; Mentor O&O, Inc.; Mentor H/S, Inc.; Mentor Urology, Inc.; Mentor International, Inc.; and Teknar Corp. relating to breast implants implanted before June 1, 1993, will be dismissed with prejudice.

(f) All listed claims against Union Carbide Corporation will, to the extent based on its 1990-1992 ownership of McGhan NuSil Corporation, be remanded to the indicated transferor court, but will be subject to dismissal by such court as to any plaintiff who, though eligible, failed to timely opt out of the Revised Settlement Program. All other claims against Union Carbide Corporation, as well as all claims against Union Carbide Chemicals and Plastics Company, Inc., have been dismissed with prejudice pursuant to Order No. 37.

(g) All claims against Bristol-Myers Squibb Co., Medical Engineering Corp., Baxter Healthcare Corp., Baxter International Inc., Minnesota Mining and Manufacturing Co. ("3M"), and their subsidiaries will, if listed in the appendix, be remanded to the indicated transferor court, but will be subject to dismissal by such court as to any plaintiff who, though eligible, failed to timely opt out of the Revised Settlement Program. Previously-pending claims against those companies, if not listed in the appendix, will be dismissed (subject to the right to reopen to the extent permitted under the terms of the Revised Settlement Program should a participating defendant default in meeting its financial obligations under that settlement).

(h) All claims against other defendants not described in paragraphs 1(a) through 1(g) above will, if listed in the appendix, be remanded to the indicated federal courts, or, if not listed in the appendix, will be dismissed.

(j) Further proceedings in the transferor courts will be governed, in general and to the extent applicable, by the orders previously entered in MDL 926 and Master File No. CV 92-P-10000-S.

(1) Each plaintiff must, within 60 days after remand, serve upon the defendants in the case a completed questionnaire as previously prescribed by this court. This requirement does not apply if the plaintiff has previously served such a questionnaire on the defendants (or previously answered interrogatories seeking similar information) and such information is accurate and complete.

(2) Any motions for transfer under 28 U.S.C. § 1404 or § 1406, or for remand to state court, will, if not ruled upon by this court before remand, be decided by the transferor court after remand. If any such motions are granted by this court, the JPMDL will be notified so that the case can be removed from the list of those to be remanded to transferor courts.

(3) The provisions of Order No. 30, Order No. 30F, and Order No. 30G will apply to

such further proceedings, including paragraph 8 of Order No. 30 which imposes an assessment on recoveries for "common benefit" services and expenses.

(4) The deposition testimony of the members of the National Science Panel, appointed under Orders No 31 and 31D, will, when taken, be admissible and usable to the same extent as if taken before remand of the case.

4. This "show cause" order will be filed only in Master File CV 92-P-10000-S but will be posted on the webpage. Upon receiving from the JPMDL an order determining which cases should be remanded, a new order will be prepared for docketing and filing in those cases that are to be remanded.

This the 14th day of January, 1999.

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

Serve: Plaintiffs' Liaison Counsel  
Defendants' Liaison Counsel

Post also on website

Appendix to Order 50

Cases for potential remand to transferor courts

Transferor Ct.	ALN No.	Lead Plaintiff	Pltf Atty	Defendants
Against Whom	Claims to be Pursued		Namecode	
AZ	4:95-00515	CV95-18055	SCHIPKE	SCHIPK_M 3M; AESTHETECH; AESTHETIC SURG. OF TUSCON; BRISTOL-MYERS; COOPER CO'S; COOPERSURGICAL; CV SUB 1987; MEC; NATURAL Y; PIERCE, JOHN; SURGICAL CENTER
FLM	8-98-01301	CV98-12290	GRAVISH	BLACK_DA BRISTOL-MYERS; MEC
FLN	3:93-30192	CV93-12062	SCHOENBERGER	PAPANT_M BRISTOL-MYERS; MEC (CLAIMS BY PLAINTIFF MCMULLEN ONLY)
KS	2:97-02503	CV97-12212	NIFONG	CLOON_BR BRISTOL-MYERS; MEC; MEC
KS	2:97-02505	CV97-11919	CHAYER	SUB CLOON_BR BAXTER HEALTHCARE; BAXTER
KS	2:97-02540	CV97-11921	WHORTON	INT'L CLOON_BR BRISTOL-MYERS; MEC; MEC
KS	2:97-02574	CV98-10103	COLANGELO	SUB CLOON_BR BAXTER HEALTHCARE; BAXTER
KS	2:97-02575	CV98-10104	GUNZENHAUSER	INT'L; BRISTOL-MYERS; MEC; MEC SUB CLOON_BR BRISTOL-MYERS; MEC; MEC
KS	2:97-02579	CV98-10108	VICKERY	SUB CLOON_BR BRISTOL-MYERS; MEC; MEC
KS	2:97-02626	CV98-11314	BAKER	SUB CLOON_BR BRISTOL-MYERS; MEC; MEC
KS	2:97-02635	CV98-11315	BURGER	SUB CLOON_BR BRISTOL-MYERS; MEC; MEC
KS	2:97-02638	CV98-11318	O'MEARA	SUB CLOON_BR 3M
KS	2:98-02306	CV98-12257	WHITAKER	SUB CLOON_BR BRISTOL-MYERS; MEC; MEC
KYE	6:93-00044	CV93-11363	HENDERSON	CLARK_FR UNION CARBIDE
LAM	3:92-00373	CV92-10536	PEROT	HUNT_ERN BAXTER HEALTHCARE; BAXTER
LAM	3:92-00381	CV92-10537	TOUPS	INT'L HUNT_ERN BAXTER HEALTHCARE; BAXTER
LAM	3:92-00454	CV92-10367	LEBLANC	INT'L LUNDY_HU BAXTER HEALTHCARE; BAXTER
LAW	5:93-00984	CV93-12733	EDDINGTON	INT'L THOMP_RO MEC
MOW	4:97-00410	CV97-10522	LANE	CLOON_BR BRISTOL-MYERS; MEC; MEC

MOW	4:97-00895	CV97-10918	HOPKINS	SUB	CLOON_BR BRISTOL-MYERS; MEC; MEC
MOW	4:97-01530	CV98-10180	RESCHKE	SUB	CLOON_BR BRISTOL-MYERS; MEC; MEC
MOW	4:97-01531	CV98-10181	ARROW	SUB	CLOON_BR BRISTOL-MYERS; MEC; MEC
MOW	4:97-01541	CV98-10182	CALVERT	SUB	CLOON_BR BAXTER HEALTHCARE; BAXTER
MOW	4:97-01632	CV98-11366	WHITEHEAD	INT'L; SUB	BRISTOL-MYERS; MEC; MEC CLOON_BR BAXTER HEALTHCARE; BAXTER
MOW	4:97-01683	CV98-11540	CLEVINGER	INT'L; SUB	BRISTOL-MYERS; MEC; MEC CLOON_BR BAXTER HEALTHCARE; BAXTER
MOW	4:98-00047	CV98-11546	GREEN	INT'L; SUB	BRISTOL-MYERS; MEC; MEC CLOON_BR BRISTOL-MYERS; MEC; MEC
MOW	4:98-00048	CV98-11547	MORGAN	SUB	CLOON_BR BRISTOL-MYERS; MEC; MEC
MOW	4:98-00049	CV98-11548	BICKLEY	SUB	CLOON_BR BRISTOL-MYERS; MEC; MEC
MOW	4:98-00079	CV98-11648	WEST	SUB	CLOON_BR BRISTOL-MYERS; MEC; MEC
MOW	4:98-00122	CV98-11649	MERCURIO	SUB	CLOON_BR 3M; BRISTOL-MYERS; MEC;
MOW	4:98-00434	CV98-12036	SHERVA-OLLERICH	MEC SUB	CLOON_BR 3M
MOW	4:98-00436	CV98-12038	WALLINGFORD		CLOON_BR 3M
NJ	3:92-04586	CV92-11223	MAILLOUX-RITCHINGS		LEWINS_B BRISTOL-MYERS; COOPER
NYE	1:93-02283	CV93-12439	FORD	CO'S; COOPERSURGICAL; MEC	SEIDMA_L BAXTER HEALTHCARE; BAXTER
NYE	1:93-05698	CV94-10448	HEATH	INT'L	GORDON_R 3M; BAXTER HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS; COOPER
NYE	1:94-00013	CV94-11237	COOMBS	CO'S; COOPERSURGICAL; MEC	SEIDMA_L 3M
NYE	1:94-03286	CV94-14002	KEEGAN		BLAIR_NO BAXTER HEALTHCARE; BAXTER
NYE	1:94-04401	CV94-14548	SHARP	INT'L	BLAIR_NO 3M; BAXTER HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS; COOPER
NYS	1:93-04630	CV93-12480	ENGLISH	CO'S; MEC	PENNOC_P BAXTER HEALTHCARE; BAXTER
NYS	1:93-05547	CV93-13114	MARTIN	INT'L	PENNOC_P 3M; BAXTER HEALTHCARE;
NYS	1:95-04034	CV95-10243	BATES	BAXTER INT'L	RAM_CAND 3M; MCGHAN NUSIL; UNION
NYS	1:95-04049	CV95-10253	CITRON	CARBIDE	RAM_CAND

				3M; AESTHETECH; BRISTOL-MYERS; COOPER CO'S; MARKHAM MED INT'L; MCGHAN NUSIL; MEC; NATURAL Y; UNION CARBIDE
NYS	1:95-04167	CV95-10439	AWN	RAM_CAND
				BRISTOL-MYERS; MEC
NYS	1:95-04206	CV95-10270	PAPPIS	RAM_CAND
				BRISTOL-MYERS; MEC
NYS	1:95-04215	CV95-10277	SIMONIN	RAM_CAND
				AESTHETECH; APPLIED SILICONE; BRISTOL-MYERS; COOPER CO'S; COOPERSURGICAL; MARKHAM MED INT'L; MEC; NATURAL Y
NYS	1:95-04244	CV95-10449	SINATRA	RAM_CAND
				BRISTOL-MYERS; MEC
NYS	1:95-05924	CV95-14054	HAFFNER	PENNOC_P
				PALUMBO, STEVEN
NYS	1:95-06046	CV95-13519	PATTI	PENNOC_P
				WEINER, DANIEL
NYS	1:95-06049	CV95-13522	ROJAS	PENNOC_P
				BELLIN, HOWARD
NYS	1:95-06052	CV95-13525	ROSARIO	PENNOC_P
				BAXTER HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS; COOPER CO'S; MEC
NYS	1:95-06117	CV95-13559	SAVINO	WEITZ_PE
				ASSOC PLASTIC SURG;
NYS	1:95-06121	CV95-13563	SELAGE	DUBOYS, ELLIOT B; KAREN, JOEL
				WEITZ_PE
				LAPIDUS, STEVEN M
NYS	1:95-06170	CV95-14117	D'ALESSANDRO	PENNOC_P
				3M
NYS	1:95-06173	CV95-14119	DEBELLIS	PENNOC_P
				GRAFF, ARTHUR; NSHORE PLASSURG
NYS	1:95-06273	CV95-14152	LABELLA	PENNOC_P
				VITOLO, ROBERT
NYS	1:95-06353	CV95-17643	FELDMAN	PENNOC_P
				3M
NYS	1:95-06438	CV95-17682	GENOVESE	WEITZ_PE
				SUFFOLK CTR PLAS REC;
NYS	1:95-06449	CV95-17693	GONZALEZ	TUREK, MILTON
				WEITZ_PE
				3M
NYS	1:95-06670	CV95-17769	QUATTROCCHI	WEITZ_PE
				HERMAN, STEVEN
NYS	1:95-06831	CV95-17821	SAHNI	WEITZ_PE
				TAUB, STANLEY
NYS	1:95-06841	CV95-17829	SCHELLACI	WEITZ_PE
				MARKS, FREDERICK
NYS	1:95-06912	CV95-17837	ARCHER	WEITZ_PE
				LOEB, THOMAS; NY PLASTIC SURGERY; PROFILES & CONTOURS
NYS	1:95-06991	CV96-12087	HEIFETZ	WEITZ_PE
				3M
NYS	1:95-07015	CV95-17852	BARTILINI	WEITZ_PE
				ALAN KISNER MDPC
NYS	1:95-07237	CV96-10326	VON SEGGERINI	WEITZ_PE
				3M; BRISTOL-MYERS; MEC; UNION CARBIDE
NYS	1:95-07266	CV95-19173	WANDREY	WEITZ_PE
				3M; BRISTOL-MYERS SQUIBB; BAXTER HEALTHCARE; BAXTER INT'L; COOPER COMPANIES; MEC
NYS	1:95-07267	CV95-19174	WATSON	WEITZ_PE
				3M; BAXTER HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS;

NYS	1:95-07271	CV95-17888	YABLON	COOPERSURGICAL; MEC PENNOG_P 3M
NYS	1:95-07285	CV95-18225	MERRING	PENNOG_P GARCIA, ARIEL H
NYS	1:95-07292	CV95-18232	MITCHELL	PENNOG_P 3M
NYS	1:95-07298	CV95-18237	MUSTILLO	PENNOG_P BELLIN, HOWARD
NYS	1:95-07313	CV95-18242	POWERS	PENNOG_P 3M
NYS	1:95-07348	CV96-10056	KNOX	PENNOG_P 3M
NYS	1:95-07354	CV96-10062	KUPFERMAN	PENNOG_P 3M
NYS	1:95-07356	CV96-10064	LACOUR	PENNOG_P 3M
NYS	1:95-07399	CV96-10102	BECKER	WEITZ_PE 3M
NYS	1:95-07430	CV96-10130	BORDES	PENNOG_P 3M
NYS	1:95-07492	CV96-10183	ESPANA	WEITZ_PE BRISTOL-MYERS; MEC
NYS	1:95-07531	CV96-10215	BAN	WEITZ_PE 3M
NYS	1:95-07580	CV96-10243	SESSA	PENNOG_P ACKER, GERALD
NYS	1:95-07587	CV96-10250	SIMPSON	WEITZ_PE VITOLO, ROBERT
NYS	1:95-07622	CV96-10363	VOLTURO	PENNOG_P MILCH, ELI L
NYS	1:95-07623	CV96-10364	WEGMAN	PENNOG_P LEE, GENE
NYS	1:95-07957	CV96-12130	CLIFFORD	PENNOG_P RISH, BENITO
NYS	1:95-08504	CV96-10372	NUNES	WEITZ_PE 3M; BRISTOL-MYERS; MEC;
NYS	1:95-08516	CV96-10384	RIZZUTO	BAXTER HEALTHCARE; BAXTER INT'L WEITZ_PE 3M; BAXTER HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS; MEC; COOPER COMPANIES
NYS	1:95-08642	CV96-10431	BALDWIN	PENNOG_P GRAFF, ARTHUR; N SHORE PLAS SURG
NYS	1:95-08813	CV96-10277	BROWN	WEITZ_PE 3M; BAXTER HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS SQUIBB; MEC
NYS	1:95-08814	CV96-10278	BROWN	WEITZ_PE 3M; BAXTER HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS
NYS	1:95-08903	CV96-10482	DERAFFELE	WEITZ_PE HORNE, JAMES
NYS	1:95-08970	CV96-10499	HAUSMANN	WEITZ_PE 3M
OHN	1:97-02152	CV98-11431	MAY	BRODHE_P BRISTOL-MYERS
OHN	1:97-02153	CV98-11432	SIMMONS	BRODHE_P BRISTOL-MYERS
OHN	1:97-02154	CV98-11433	SKELLY	BRODHE_P BRISTOL-MYERS
OHN	1:97-02171	CV98-11434	BROUMAN	BRODHE_P BRISTOL-MYERS
OHN	1:97-02180	CV98-11435	GORDON	BRODHE_P BRISTOL-MYERS
OHN	3:97-07587	CV98-11436	KROHN	BRODHE_P

OHN	4:97-02125	CV98-11437	BROCIOUS	BRISTOL-MYERS BRODHE_P
OHN	4:97-02126	CV98-11438	CARANO	BRISTOL-MYERS BRODHE_P
OHN	4:97-02127	CV98-11697	HIKENBAUGH	BRISTOL-MYERS BRODHE_P BAXTER HEALTHCARE CORP;
OHN	4:97-02128	CV98-11439	HUSTON	BAXTER INT'L BRODHE_P
OHN	4:97-02130	CV98-11440	MARKOVSKY	BRISTOL-MYERS BRODHE_P
OHN	4:97-02131	CV98-11441	MCQUISTON	BRISTOL-MYERS BRODHE_P
OHN	4:97-02132	CV98-11442	NOEL	BRISTOL-MYERS BRODHE_P
OHN	4:97-02133	CV98-11443	POPOVEC	BRISTOL-MYERS BRODHE_P
OHN	4:97-02134	CV98-11444	PURDY	BRISTOL-MYERS BRODHE_P
OHN	4:97-02135	CV98-11445	RHODAN	BRISTOL-MYERS BRODHE_P
OHN	4:97-02151	CV98-11446	KING	BRISTOL-MYERS BRODHE_P
OHN	4:97-02155	CV98-11447	SMITH	BRISTOL-MYERS BRODHE_P
OHN	4:97-02156	CV98-11698	SNIPES	BRISTOL-MYERS BRODHE_P
OHN	4:97-02157	CV98-11448	TAYLOR	BRISTOL-MYERS BRODHE_P
OHN	4:97-02158	CV97-11704	TAYLOR	BRISTOL-MYERS BRODHE_P
OHN	4:97-02178	CV98-11449	GIMMA	BRISTOL-MYERS BRODHE_P
OHN	4:97-02181	CV98-11450	HAYEK	BRISTOL-MYERS BRODHE_P
OHN	4:97-02185	CV98-11451	KEENER	BRISTOL-MYERS BRODHE_P
OHN	4:97-02186	CV98-11452	JONES	BRISTOL-MYERS BRODHE_P
OHN	4:97-02187	CV98-11453	HUMENANSKY	BRISTOL-MYERS BRODHE_P
OHN	4:97-02188	CV98-11454	HENDRICK	BRISTOL-MYERS BRODHE_P
TXE	2:93-00209	CV94-12632	KILLGORE	BRISTOL-MYERS MULLIG_P
TXS	3:95-00508	CV95-13663	HARRIS	BRISTOL-MYERS; MEC MULLIG_P
TXS	4:95-02882	CV95-11560	PICKETT	AESTHETECH; BRISTOL-MYERS; COOPER CO'S; MEC (CLAIMS BY PLAINTIFF SANDY NGUYEN) GALLAG M
TXS	4:95-07160	CV95-15014	BAUTCH	AESTHETECH; BRISTOL-MYERS; CBI MEDICAL; COOPERSURGICAL; COOPERVISION; CV SUB 1987; MEC; MEC SUBSIDIARY; NATURAL Y; SIROD CORP; WILSHIRE FOAM PROD MULLIG_P
TXS	4:95-07566	CV95-15359	DREHER	BAXTER HEALTHCARE; BRISTOL-MYERS; CRONIN, THOMAS; GALATI, VIKI; MEC (AS TO CLAIMS BY PLAINTIFF LESLEY FERGUSON)
TXS	4:95-10056	CV95-18437	FORKNER	MULLIG_P BRISTOL-MYERS; CRONIN, THOMAS; GEROW, FRANK; MEC (AS TO CLAIMS BY VIRGIE DREHER) MULLIG_P



TXS 4:95-10316 CV95-18697 SNOWDEN

3M; CARUTHERS, NILES;  
ESTATE OF THOMAS CRONIN; ESTATE OF  
FRANK GEROW; DR. HERNHAM  
MULLIG\_P

TXS 4:96-01352 CV96-12215 PATE

3M; CARROTHERS, NILE;  
CRONIN, THOMAS; FITZGERALD, JIM;  
GEROW, FRANK; JOHNSON, GERALD;  
JOHNSON, TERRI; MCGHAN NUSIL;  
PFARDRESHER, SUZY; SANDERS, THOMAS;  
SOUTHER, HAL (AS TO CLAIMS BY  
PLAINTIFFS RACHEL BATEMAN, INA RAE  
MAYO, PATRICIA SNOWDEN, AND DAISY  
MCCLURE)

VAW 3:97-00127 CV98-11475 SENEDIK

HOUSSE\_C  
3M; BAXTER HEALTHCARE;  
BAXTER INT'L; BRISTOL-MYERS; MEC  
(CLAIMS BY PLAINTIFFS SHAREEN  
KETCHUM, GENEVA MILLAN, AND DONNA  
RUTH PATE)  
MCGETR\_M  
BRISTOL-MYERS; MEC; MEC  
SUBSIDIARY CORP.