

**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. 54A
Suggestion of Remand (Federal) No. 8**

The undersigned transferee district judge has, after issuing as Order No. 54 a "show cause" directive to the parties and after considering the responses to that Order, concluded that, under the Rules of Procedure of the Judicial Panel on Multidistrict Litigation ("JPMDL"), it is appropriate that certain transferred actions be remanded to the transferor district courts, and accordingly recommends that the actions listed in the Appendix to this Order be remanded to the indicated transferor courts. Certain conditions, specified in paragraph 2 below, will apply to such cases after remand.

1. If counsel believe that an error has been made in the Appendix, they are instructed to notify the court in writing within fourteen (14) days of the date of this order so that this court, if persuaded by the assertion of error, can so notify the JPMDL. The parties are also requested to send to this court a copy of any objections submitted to the JPMDL after the Panel's issuance of a Conditional Remand Order so that this court can advise the Panel of its views regarding such objections. The parties are reminded that, until a Remand Order from the Panel is received by this court, jurisdiction over the case remains in this court and that, accordingly, should the parties before that date settle a case, this court should be immediately provided with the appropriate papers so that the case can be dismissed before the case is remanded.

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

(d) 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.

(e) 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.

(f) 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).

(g) All claims against other defendants not described in paragraphs 2(a) through 2(f) above will, if listed in the appendix, be remanded to the indicated federal courts, or, if not listed in the appendix, will be dismissed.

(h) For some cases, the appendix indicates that the case is suggested for remand against indicated defendants only with respect to indicated plaintiffs. Where this is indicated, the claims of any other plaintiffs in the case, if not previously dismissed, will be severed and then dismissed and administratively closed, rather than remanded.

(i) 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 be admissible and usable to the same extent as other depositions taken on proper notice in these cases.

4. This order will be filed in Master File CV 92-P-10000-S and 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 28th day of September, 1999.

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

Serve: Plaintiffs' Liaison Counsel
Defendants' Liaison Counsel

Post also on website

Appendix to Order 54A

Cases suggested for remand to transferor courts

Transferor Ct.	ALN No.	Lead Plaintiff	Pltf Atty	Defendants
Against Whom Claims to be Pursued			Namecode	
CAS	3:95-03175	CV98-10926	WOOD	MCLEAN_K BAXTER
FLM	3:97-00864	CV97-11233	DONOVAN	INT'L; BAXTER HEALTHCARE ALFORD_W BAXTER
FLM	8:94-02034	CV95-10044	DOORACK	HEALTHCARE; BAXTER INT'L HUTTON_M POREX
FLM	8:97-02358	CV98-11985	OATLEY	TECH BOYDST_C BRISTOL-MYERS
FLM	8:97-02640	CV98-11766	PAULSON	MICHAEL_R BRISTOL-MYERS
FLS	0:94-06576	CV94-13718	SANDRA LEE SMITH	SEITEL_L BRISTOL-MYERS; MEC; MEC
FLS	0:97-07207	CV97-11872	VIDAURAZAGA	SUB. SCHRIE_L 3M; BAXTER HEALTHCARE; BAXTER INT'L
GAN	1:94-02436	CV94-14505	WYCOFF	MOORE_WN POREX
GAN	1:97-02134	CV97-11059	BAUGHMAN	TECH PARHAM_M BAXTER
KYE	6:98-00220	CV98-12166	LATHAM	HEALTHCARE; BAXTER INT'L MILLS_ME BAXTER
KYW	3:97-00778	CV98-11531	NEVITT	INT'L HANLE_MI BRISTOL-MYERS; COLE, NORMAN M.; MEC; MEC SUB.
LAW	5:94-01714	CV94-14514	GUTHRIE	CLAWSON_W BRISTOL-MYERS; MEC; MEC
LAW	5:98-00221	CV99-10094	WOMACK, ET AL.	SUB. KEENE_RA BRISTOL-MYERS; MEC
LAW	5:98-02271	CV99-10055	EDWARDS	KEENE_RA SURGITEK; BRISTOL-MYERS; MEC
MA	1:94-12567	CV95-10078	HOBART	DESIMO_M POREX
MD	1:97-03750	CV98-11327	RASNAKE	TECH HAMMER_J BAXTER
MIE	2:95-74005	CV96-10808	BARBER	HEALTHCARE; BAXTER INT'L MANNAU_R BAXTER
MIE	2:95-74134	CV96-10935	KOCH	HEALTHCARE; BAXTER INT'L MANNAU_R AESTHETECH; BRISTOL- MYERS; COOPER CO'S; COOPERSURGICAL; MEC; SIROD; WILSHIRE TECH
MIE	2:97-71165	CV97-10457	HANNAH BECKHAM	JANKS_GR POREX
MN	0:97-02724	CV98-10175	FARINHA	TECH. NEESE_MA MEC; BRISTOL-MYERS SQUIBB
NJ	2:95-03236	CV95-11035	STRANGIO	PAHIGI_P AMER PLASTIC SURGERY; POREX TECH; SCHER, CHARLES
NJ	2:95-03242	CV95-11041	NOVRIT	PAHIGI_P POREX
NJ	2:95-03246	CV95-11044	CAUDLE	TECH; SCHER, CHARLES LEVINS_W POREX
NJ	2:95-03570	CV95-11949	RAK	TECH PAHIGI_P AMER

				PLASTIC SURGERY; POREX TECH; SCHER, CHARLES
NYE	1:94-00349	CV94-11015	HILLER	PEDERS_M POREX
NYS	1:94-02976	CV94-13496	GOODEN	TECH KNOWLT_S POREX
OHN	1:93-01995	CV93-13892	D'AURORA	TECH HUGO_MIC BAXTER
OKN	4:94-01172	CV95-10088	LOERTCHER	HEALTHCARE; BAXTER INT'L
OKW	5:95-00021	CV95-10052	COOPER	HUTTON_M POREX
OR	3:94-00692	CV94-13876	ADAMS	TECH MUSE_LAR POREX
				TECH DAILEY_K
				BRISTOL-MYERS; MEC; MEC
				SUB. (CLAIMS ONLY OF PLAINTIFFS
				STACEY VAUGHN AND CATHLEEN
				LINDQUIST)
OR	3:94-00784	CV94-13885	ENGLER	WILLI_MI BAXTER
				HEALTHCARE; BAXTER INT'L (CLAIMS
				ONLY OF PLTF LAURIE BOWMAN)
PAE	2:93-06360	CV94-10197	CHASIN	CHASI_R* BAXTER
SC	3:98-02110	CV98-12316	GARMON	HEALTHCARE; BAXTER INT'L
TXE	2:94-00068	CV95-10752	SMITH	BRAITH_K MCGHAN
				MEDICAL (POST '93 IMPLANT)
				MANN_JAM BAXTER
				HEALTHCARE; BAXTER INT'L; BRISTOL-
				MYERS; MEC
TXN	3:95-01619	CV95-14578	RITTMAN	CLARK_ST SMITH,
TXS	3:94-00006	CV94-11312	ADAMS	SYDNEE MELANC_R 3M;
				AESTHETECH; APPLIED SILICONE;
				BAXTER HEALTHCARE; BAXTER INT'L;
				BRISTOL-MYERS; COOPER CO'S;
				COOPERSURGICAL; MCGHAN NUSIL; MEC;
				POREX TECH; UNION CARBIDE
TXS	4:95-09401	CV95-16972	SIMONS	SIMON_D*
				AESTHETECH; BRISTOL-
				MYERS; COOPER CO'S; COOPERSURGICAL;
				CRONIN, THOMAS; CV SUB 1987;
				GALATI, VICKI; GEROW, FRANK; MEC
VAW	1:97-00142	CV98-10230	MCCROSKEY	MCAFEE_C BAXTER
VAW	2:96-00215	CV97-10046	GILLENWATER	HEALTHCARE; BAXTER INT'L
				MCAFEE_C
				BRISTOL-MYERS; MEC; MEC
				SUB.
VAW	2:96-00244	CV97-10048	SPIVEY	MCAFEE_C
				BRISTOL-MYERS; MEC; MEC
				SUB.
VAW	2:98-00100	CV98-12267	FLANARY	MCAFEE_C
				BRISTOL-MYERS; MEC; MEC
				SUB.
VAW	2:98-00184	CV98-12362	NEGRON	MCAFEE_C
				BRISTOL-MYERS; MEC; MEC
				SUB.