

**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)	
(MDL 926))	

**ORDER No. 56
Stipulation to Avoid JPMDL Transfer**

The undersigned, as transferee judge in MDL 926, has concluded that the time has come that, if the parties in a case not yet transferred by the Judicial Panel on Multidistrict Litigation to this court under 28 U.S.C. § 1407 enter into an appropriate stipulation, the case should not be so transferred to this court but should remain in the putative transferor court for further proceedings and resolution. This action will eliminate the potential delay and additional costs incurred in the process of transferring and then remanding the case, while imposing on the parties the rights and obligations of the MDL 926 proceedings as if such transfer and remand had occurred.

Accordingly, the undersigned recommends that hereafter the Judicial Panel on Multidistrict Litigation not transfer to this court any additional cases under MDL 926 upon a showing that the parties have entered into a stipulation in substantially the same format as attached as Exhibit A to this order.

This the 16th day of December, 1999.

/s/ Sam C. Pointer, Jr.
U. S. District Judge

Serve: Plaintiffs' Liaison Counsel (for redistribution as appropriate)
Defendants' Liaison Counsel (for redistribution as appropriate)
Clerk, Judicial Panel on Multidistrict Litigation

Post also on website

(Caption of case)

Stipulation

The undersigned, attorneys for the parties herein, hereby stipulate and agree not to request, petition, move or otherwise seek to have the Judicial Panel on Multidistrict Litigation transfer this action to the United States District Court for the Northern District of Alabama (the "MDL court") pursuant to 28 U.S.C. § 1407, subject to the following terms and conditions (which are the same terms and conditions that would apply if the case had been transferred to the MDL Court and subsequently remanded by the JPMDL):

1. Dismissal/restriction of claims.

(a) All claims against Dow Corning Corporation, Dow Corning Wright, The Dow Chemical Company, Inc., and Dow Holdings Inc. are dismissed without prejudice to plaintiffs' right to pursue such claims, if any, against these entities in accordance with procedures established by the United States District and Bankruptcy Courts for the Eastern District of Michigan.

(b) All claims against McGhan Medical Corp., INAMED Corp., CUI Corp., Cox Uphoff and their subsidiaries and principals are dismissed without prejudice to plaintiffs' rights, if any, as participants in the class settlement in *Altrichter v. INAMED*, CV 97-P-11441-S.

(c) All claims against the following companies are dismissed with prejudice: 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.

(d) All 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, are dismissed with prejudice.

(e) All claims against Union Carbide Corporation, except those based on its 1990-1992 ownership of McGhan NuSil Corporation, are dismissed with prejudice as to any plaintiff who failed to timely opt out of the Revised Settlement Program, though without prejudice to plaintiffs' rights, if any, as participants in the class settlement in *Lindsey v. Dow Corning*, CV 94-P-11558-S. All claims against Union Carbide Chemicals and Plastics Company, Inc., are dismissed with prejudice.

(f) All claims against Bristol-Myers Squibb Co., Medical Engineering Corp., MEC Subsidiary (formerly d/b/a Surgitek), Baxter Healthcare Corp., Baxter International Inc., Minnesota Mining and Manufacturing Co. ("3M"), and their subsidiaries are hereby voluntarily dismissed with prejudice as to any plaintiff who failed to timely opt out of the Revised Settlement Program, though without prejudice to plaintiffs' rights, if any, as participants in the class settlement in *Lindsey v. Dow Corning*, CV 94-P-11558-S.

2. Further proceedings in this case will be governed, in general and to the extent applicable, by the orders previously entered in Master File No. CV 92-P-10000-S in the MDL court as if this case had been transferred by the JPMDL to the MDL court and thereafter ordered by the JPMDL to be remanded to this court on the same terms and conditions as have been imposed with respect to recent remands of such cases. In particular—

(a) Plaintiff shall serve upon the defendants a completed questionnaire in the form prescribed by the MDL Court within 60 days after being served by the defendants with a copy of such questionnaire.

(b) The provisions of Order No. 30, Order No. 30F, and Order No. 30G will apply to this action, including paragraph 8 of Order No. 30, which imposes an assessment on recoveries for "common benefit" services and expenses. (See, however, Order 13A, reducing that assessment to 4% of the gross monetary recovery.)

(c) The deposition testimony of the members of the National Science Panel, appointed under Orders No 31 and 31D, are admissible and usable to the same extent as if taken in this action.

(d) The parties assent to the stipulations entered in the MDL Court with respect to the authenticity and admissibility of documents addressed by the MDL Court.

(e) Copies of these and other orders of the MDL Court will be supplied to the Court on request. Copies of the orders of the MDL Court may also be obtained through the Internet at www.fjc.gov/BREIMLIT/mdl926.htm.

This the ___ day of _____, _____.

(Signature blocks for counsel)