

**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. 60
Suggestion of Remand (Federal) No. 11**

The undersigned transferee district judge has, after issuing Orders No. 57 and 58, after considering the responses to those Orders, and after considering other formal and informal requests for remand, 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. (Please note that under Order 13A the amount of the assessment has been reduced to 4% of the gross amount recovered.)

(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 1st day of April, 2000.

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

Serve: Plaintiffs' Liaison Counsel
Defendants' Liaison Counsel
Clerk, Judicial Panel on Multidistrict Litigation

Post also on website

Cases suggested for remand to transferor courts

Transferor Ct.	ALN No.	Lead Plaintiff	Pltf Atty Namecode	Defendants Against Whom Claims to be Pursued
CAS	3:95-02488	CV98-10303	MACKAY	PEDERS_M 3M; BRISTOL-MYERS; MEC—BMS SAYS NOT IN CASE—ALN DOCKET SHEET DOES NOT SHOW THESE DEFTS
MSS	2:95-00201	CV96-10023	NELSON	BOLAN_MI HOWELL, G E II
NYE	1:97-00159	CV97-10225	MORENO	PEDERS_M 3M
NYE	1:97-01657	CV97-11122	LEVOW-ALTMAN	PEDERS_M 3M
NYE	1:97-02370	CV97-10654	ROSS	PEDERS_M 3M; BRISTOL-MYERS; COOPER CO'S; MEC
NYE	1:97-02371	CV97-10788	PETERSON	PEDERS_M 3M; BRISTOL-MYERS; COOPER CO'S; MEC
NYE	1:97-02373	CV97-10655	MILLIAN	PEDERS_M 3M; BRISTOL-MYERS; COOPER CO'S; MEC
NYE	1:97-02640	CV97-10792	TRIFFON	PEDERS_M 3M
NYE	1:97-06028	CV98-11413	CARLISLE	PEDERS_M BAXTER HEALTHCARE; BAXTER INT'L (CLAIMS OF PLTF'S DEE CARLISLE, DYANN ENGLAND, AND TWANDA ROSS)
NYE	1:97-06029	CV98-11573	HAAG	PEDERS_M 3M—PLTF IS DECEASED—PLTF'S ATTY TRYING TO PRESENT OFFER TO HEIRS/ESTATE.
NYE	1:97-06512	CV98-11576	STOCKSTILL	PEDERS_M 3M—PER 3M 1/31/00 HAS BEEN SETTLED—PLTF CANNOT BE LOCATED
NYE	1:98-04427	CV98-12263	PARRACK	PEDERS_M BAXTER HEALTHCARE; BAXTER INT'L
PAM	1:99-01391	CV99-10139	TAYLOR	REIHAR_D BRISTOL-MYERS, MEC, MEC SUB. (CLAIMS OF PLAINTIFFS STINE, STINE, METHERELL, METHERELL, MILLER, MILLER AND TEAL)