

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

In re:)
SILICONE GEL BREAST IMPLANT) Master File No. CV 92-P-10000-S
PRODUCTS LIABILITY LITIGATION)
(MDL 926))

ORDER No. 31F
(Appointment of Special Counsel to National Science Panel)

This order is being entered to confirm that, after conferring with the parties, and in the exercise of its inherent powers and its powers under Fed. R. Civ.P. 16(c)(8, 12, and 16), the court has appointed, effective December 1, 1996, John M. Kobayashi of Denver, Colorado, to act as special, independent, and private counsel to the members of the National Science Panel with respect to their service on that Panel pursuant to Orders No. 31, 31A, 31B, 31C, 31D, and 31E.

1. Mr. Kobayashi shall represent and provide legal assistance, advice, and counsel to members of the National Science Panel with respect to the performance of their responsibilities on that Panel. Mr. Kobayashi may utilize other attorneys and legal assistants from his firm (The Kobayashi Law Firm) as is customary in the private representation of clients.

2. Communications between members of the National Science Panel and Mr. Kobayashi shall be subject to the attorney-client privilege.

3. As provided in Order No. 31D, litigants and implant recipients, their counsel, and their potential lay or expert witnesses have been enjoined from directly communicating with any of the members of the National Science Panel regarding issues in breast-implant litigation, whether by letter, telephone, E-mail, or other means. Except as the court may otherwise specifically authorize, any such communications should be made only through Mr. Kobayashi. To the extent necessary or desirable in performing his responsibilities on behalf of the Panel, Mr. Kobayashi is authorized to contact parties, their counsel, and the court, singly or in combination, mindful, however, of the obligation not to engage in communications that might be viewed as inappropriate ex parte communications involving substantive matters.

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4. Mr. Kobayashi and other attorneys and legal assistants from his firm shall be compensated for their time and expenses reasonably incurred in such representation. They shall be compensated at their customary hourly rates, not to exceed \$200.00 per hour—Mr. Kobayashi, at the court's request, having agreed to reduce his usual hourly rate to that amount. One-half of such fees and expenses shall be borne and paid by the plaintiffs through charges against the Common Litigation Fund. One-half of such fees and expenses shall be borne and paid by the defendants by their making additional payments of such

amounts into the Common Litigation Fund.

This the 13th day of January, 1997.

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