

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

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|----------------------------|---|---------------------------------------|
| In re: SILICONE GEL BREAST |) | Master File CV 92-P-10000-S |
| IMPLANT PRODUCTS LIABILITY |) | |
| LITIGATION (MDL-926) |) | (Applies to cases listed in Appendix) |

**ORDER No. 41A
(Remanding Listed Cases to State Court)**

Pursuant to Order No. 41, and after considering the responses of the parties, it is ORDERED as follows:

1. The cases listed in the appendix to this order will be remanded to the indicated state courts upon docketing and entry of orders previously signed in such cases and subject to the terms and conditions of this order.

2. The terms and conditions under which such remands are 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) are, to the extent not previously dismissed, hereby severed and not remanded. Such claims are, however, 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. are, to the extent not previously dismissed or transferred, hereby severed and transferred to the United States District Court for the Eastern District of Michigan, which will determine whether any of such claims should be remanded (or allowed to proceed in state court as a consequence of federal court abstention).

(c) As explained in Order No. 30 and Order No. 30G, all claims against the following companies have been dismissed with prejudice: Bioplasty, Inc.; Bio-Manufacturing, Inc.; Cabot Medical Corporation; Corning, Inc.; Foamex Products, Inc.; General Felt Industries, Inc.; Knoll International Holdings, Inc.; Recticel Foam Corporation; Scotfoam Corporation; Scott Paper Company; Surgitek, Inc.; '21' International Holdings, Inc; '21' Foam Company, Inc.; and Uroplasty, Inc.

(d) Any 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 General Electric Company have been dismissed with prejudice pursuant to Order No. 38.

(f) Any claims against Union Carbide Corporation based on its 1990-1992 ownership of McGhan NuSil Corporation will be remanded to the indicated state courts, but may be pursued in state court only (if challenged by the defendant for good cause) upon demonstration that the plaintiffs, if eligible, timely opted out of the original Global Settlement or the Revised Settlement Program provided by that defendant. 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., and Minnesota Mining and Manufacturing Co. ("3M"), and their subsidiaries will be remanded to the indicated state courts, but may be pursued in state court only (if challenged by the defendants for good cause) upon demonstration that the plaintiffs, if eligible, timely opted out of the original Global Settlement or the Revised Settlement Program provided by those defendants.

(h) All claims against Inamed Corp., and McGhan Medical Corp. will be remanded to the indicated state courts. Plaintiffs are, however, alerted to the possibility that this court may in the future enjoin the prosecution of such claims in conjunction with consideration of a request for a mandatory Rule 23(b)(1) class certification regarding such claims.

(i) All claims against Koken Co., Ltd., will be severed and dismissed. Any plaintiff objecting to this dismissal shall notify this court within 30 days from the date of this order.

(j) All claims against other defendants not described in paragraphs 2(a) through 2(i) above will be remanded to the indicated state courts.

(k) Further proceedings in state 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) To the extent not inconsistent with state law, the provisions of Order No. 30, Order No. 30F, and Order No. 30G will apply to such further proceedings, except that paragraph 8 of that Order No. 30 and Order No. 13, imposing an assessment on recoveries for "common benefit" services and expenses, will not apply to recoveries by plaintiffs who exercised their initial right to opt out of the *Lindsey* class and whose state-court case was removed to federal court solely under the "related to bankruptcy" jurisdiction.

(2) 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 in the state courts to the same extent as if taken before remand of the case to the state court.

(3) The temporary injunction against certain settlement discussions, previously entered by this court, was vacated effective September 1, 1997.

(4) Plaintiffs have previously been ordered to respond to questionnaires approved by this court. Remand courts should not permit plaintiffs to proceed further with the prosecution of claims until they have provided, upon request, defendants with responses to such questionnaires (or with the substantial equivalent through state-authorized discovery).

(5) This court has previously transmitted to most of the state courts to which cases are being remanded a copy of Order No. 30 and the various orders listed in Appendix A to Order

No. 30 with which the state courts should be made aware. The parties in the remanded cases are directed to ascertain from the state courts whether such courts have previously received such orders and, if not, to contact the Clerk of this court to obtain, for transmittal to the state courts, a "package" of such orders. Later orders of general interest would include Order No. 31* (National Science Panel), Order No. 36 (on-going studies), Order No. 37 (partial summary judgment for Union Carbide), Order No. 38 (summary judgment for General Electric). These orders, including the stipulation regarding objections to documents and the appendices to that stipulation, can also be obtained through the Internet at www.fjc.gov/BREIMLIT/mdl926.htm.

(6) This court's file for most of these cases will not include pleadings, motions, etc. that were filed in state court before removal or in the federal transferor court before transfer to this court. The parties in the remanded cases should make arrangements with the Clerk of the federal transferor court for transmission of documents from those court's files that may be needed to complete the state court file.

3. This order will be filed in Master File CV 92-P-10000-S and will be filed (without the appendix) in each of the listed cases.

This the 14th day of April, 1998.

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

Serve: Plaintiffs' Liaison Counsel
Defendants' Liaison Counsel

Post also on website

APPENDIX TO ORDER No. 41A
(listed in order of remand court and case number)

| ALN CaseNo Remanded | Transferor | Court Lead Plaintiff No. | State Court Court | to which to be Location | State |
|-----------------------------|------------|--------------------------------|----------------------|----------------------------|-------|
| CV94-14504 DADE CO. | FLS | 1:94-01424 FL WINSON | 93-09858 | 11TH CIR.CT | |
| CV96-10846 WAYNE CO. | MIE | 2:95-74043 MI LABEAU | 93-311501NP | CIR.CT. | |
| CV95-13922 MIDDLESEX CO. | NJ | 2:95-04035 NJ SHEDLER | L-9934-92 | SUP.CT | |
| CV95-10418 MIDDLESEX CO. | NJ | 2:95-02710 NJ DORSEY | L-1566-94 | SUP.CT. | |
| CV95-13764 MIDDLESEX CO. | NJ | 1:95-04218 NJ FOGLIO | L-3293-93 | SUP.CT. | |
| CV95-13930 MIDDLESEX CO. | NJ | 2:95-04055 NJ SUTKUS | L-6095-94 | SUP.CT. | |
| CV95-13921 MIDDLESEX CO. | NJ | 2:95-04034 NJ SCHAWA | L-658-94 | SUP.CT. | |
| CV95-13033 MIDDLESEX CO. | NJ | 3:95-03890 NJ CHRONAKIS | L-6745-93 | SUP.CT. | |
| CV95-17722 NEW YORK CO. | NYS | 1:95-06605 NY HUDAK | 117543-94 | SUP.CT. | |
| CV95-17805 NEW YORK CO. | NYS | 1:95-06766 NY GOLDICH | 120038-93 | SUP.CT. | |
| CV95-10247 NEW YORK CO. | NYS | 1:95-04040 NY CUTSURAS | 121437/93 | SUP.CT. | |
| CV96-10375 NEW YORK CO. | NYS | 1:95-08507 NY PABONE | 121438-93 | SUP.CT. | |
| CV95-18169 NEW YORK CO. | NYS | 1:95-06929 NY ZIELENSKI | 32285-92 | SUP.CT. | |
| CV95-10511 MULTNOMAH CO. | OR | 3:95-00808 OR MILLER | 9312-08354 | CIR.CT. | |
| CV95-10505 MULTNOMAH CO. | OR | 3:95-00802 OR KIRKWOOD | 9401-00132 | CIR.CT. | |
| CV95-17957 MULTNOMAH CO. | OR | 3:95-01413 OR KORMAN | 9401-00144 | CIR.CT. | |
| CV95-17976 MULTNOMAH CO. | OR | 3:95-01432 OR PHILLIPS | 9401-00146 | CIR.CT. | |
| CV95-17990 MULTNOMAH CO. | OR | 3:95-01446 OR YOUNG | 9401-00155 | CIR.CT. | |
| CV95-11208 MULTNOMAH CO. | OR | 3:95-00785 OR DIXON | 9401-00166 | CIR.CT. | |
| CV95-17988 MULTNOMAH CO. | OR | 3:95-01444 OR WOODALL | 9403-01725 | CIR.CT. | |

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|---------------|-----|------------------------|------------|-------------|
| CV96-10528 | OR | 3:95-01174 | 9404-02678 | CIR.CT. |
| MULTNOMAH CO. | OR | JORGENSON | | |
| CV96-10529 | OR | 3:95-01175 | 9404-02716 | CIR.CT. |
| MULTNOMAH CO. | OR | SMART | | |
| CV96-10535 | OR | 3:95-01182 | 9406-04380 | CIR.CT. |
| MULTNOMAH CO. | OR | NIELSEN | | |
| CV95-10481 | OR | 3:95-00740 | 9407-04610 | CIR.CT. |
| MULTNOMAH CO. | OR | HEATH; LARSON; JENNING | | |
| CV95-18264 | OR | 3:95-01170 | 9407-04653 | CIR.CT. |
| MULTNOMAH CO. | OR | DIAL | | |
| CV96-10534 | OR | 3:95-01181 | 9411-07665 | CIR.CT. |
| MULTNOMAH CO. | OR | FEINBERG | | |
| CV96-11766 | TNW | 2:96-02071 | 46153-8 TD | CIR.CT. |
| SHELBY CO. | TN | CANTRELL | | |
| CV95-10585 | TXN | 3:95-01171 | 93-11302-E | 101ST DIST. |
| DALLAS CO. | TX | LIEBER | | |
| CV95-10578 | TXN | 3:95-01155 | 91-12230 | 116TH DIST. |
| DALLAS CO. | TX | ANDREWS | | |
| CV95-10582 | TXN | 3:95-01165 | 93-4374-E | 116TH DIST. |
| DALLAS CO. | TX | ZIMMERMAN | | |
| CV95-13195 | TXN | 3:95-01109 | 93-9030-F | 116TH DIST. |
| DALLAS CO. | TX | FAIRES | | |
| CV95-10545 | TXN | 3:95-01079 | 93-9255 | 116TH DIST. |
| DALLAS CO. | TX | LONGINO | | |
| CV95-10550 | TXN | 3:95-01087 | 93-12405 | 134TH DIST. |
| DALLAS CO. | TX | HALL | | |
| CV95-10574 | TXN | 3:95-01149 | 93-9277-G | 134TH DIST. |
| DALLAS CO. | TX | BUTLER | | |
| CV95-10572 | TXN | 3:95-01147 | 92-5374-A | 14TH DIST. |
| DALLAS CO. | TX | HAMILTON | | |
| CV95-10540 | TXN | 3:95-01074 | 95-00141-A | 14TH DIST. |
| DALLAS CO. | TX | KEMPF | | |
| CV95-13194 | TXN | 3:95-01090 | 94-00711-H | 160TH DIST. |
| DALLAS CO. | TX | ARMSTRONG | | |
| CV95-10552 | TXN | 3:95-01091 | 94-4966-H | 160TH DIST. |
| DALLAS CO. | TX | AUMAN | | |
| CV95-10581 | TXN | 3:95-01162 | 92-7581-I | 162ND DIST. |
| DALLAS CO. | TX | HOFFMAN | | |
| CV95-10584 | TXN | 3:95-01170 | 93-04629-I | 162ND DIST. |
| DALLAS CO. | TX | BALLARD | | |
| CV95-13200 | TXN | 3:95-01127 | 93-11906-I | 162ND DIST. |
| DALLAS CO. | TX | ALLEN | | |
| CV95-10579 | TXN | 3:95-01156 | 92-5602-J | 191ST DIST. |
| DALLAS CO. | TX | BALLEW | | |
| CV95-13190 | TXN | 3:95-01071 | 94-7274-J | 191ST DIST. |
| DALLAS CO. | TX | ALLEN | | |
| CV95-13199 | TXN | 3:95-01124 | 93-9275-M | 298TH DIST. |

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| DALLAS CO. | TX | ALLEN | | |
| CV95-13201 | TXN | 3:95-01132 | 93-9275-M | 298TH DIST. |
| DALLAS CO. | TX | ALLEN | | |
| CV95-13191 | TXN | 3:95-01073 | 93-09132-B | 44TH DIST. |
| DALLAS CO. | TX | ACKERMANS | | |
| CV95-10573 | TXN | 3:95-01148 | 93-10917 | 44TH DIST. |
| DALLAS CO. | TX | BROWN | | |
| CV95-10546 | TXN | 3:95-01080 | 93-4372-B | 44TH DIST. |
| DALLAS CO. | TX | CROW | | |
| CV95-13198 | TXN | 3:95-01113 | 93-5218-D | 95TH DIST. |
| DALLAS CO. | TX | BANKER | | |
| CV97-10109 | TXS | 4:96-04246 | 92-268 | 268TH DIST. |
| FT. BEND CO. | TX | EASON | | |
| CV95-11231 | TXS | 4:95-02423 | 92-056823 | 334TH DIST. |
| HARRIS CO. | TX | ADAMS | | |
| CV95-11576 | TXS | 4:95-02899 | 92-08778 | 334TH DIST. |
| HARRIS CO. | TX | RHODES | | |
| CV95-11587 | TXS | 4:95-02910 | 92-08778 | 334TH DIST. |
| HARRIS CO. | TX | SANTOPOLO | | |
| CV95-11531 | TXS | 4:95-02853 | 92-08778FU | 334TH DIST. |
| HARRIS CO. | TX | SHUMWAY | | |
| CV95-11009 | TXS | 4:95-02200 | 92-08778PB | 334TH DIST. |
| HARRIS CO. | TX | SHEPARD | | |
| CV95-10917 | TXS | 4:95-02097 | 92-08778PC | 334TH DIST. |
| HARRIS CO. | TX | PAYNE | | |
| CV95-11066 | TXS | 4:95-02215 | 92-08778PF | 334TH DIST. |
| HARRIS CO. | TX | MCDANIEL | | |
| CV95-11475 | TXS | 4:95-02792 | 92-18837 | 334TH DIST. |
| HARRIS CO. | TX | MAYFIELD | | |
| CV95-10916 | TXS | 4:95-02096 | 92-18846XE | 334TH DIST. |
| HARRIS CO. | TX | LYERLY | | |
| CV95-16562 | TXS | 4:95-08964 | 92-18846XK | 334TH DIST. |
| HARRIS CO. | TX | WALES | | |
| CV95-10974 | TXS | 4:95-02159 | 92-18846XL | 334TH DIST. |
| HARRIS CO. | TX | WISE | | |
| CV95-15980 | TXS | 4:95-08275 | 92-25173CF | 334TH DIST. |
| HARRIS CO. | TX | MCPAHON | | |
| CV95-11080 | TXS | 4:95-02249 | 92-25394 | 334TH DIST. |
| HARRIS CO. | TX | SUAREZ | | |
| CV95-11099 | TXS | 4:95-02275 | 92-25394EG | 334TH DIST. |
| HARRIS CO. | TX | MIRELES | | |
| CV95-11087 | TXS | 4:95-02257 | 92-25394EN | 334TH DIST. |
| HARRIS CO. | TX | WOODALL | | |
| CV95-10700 | TXS | 4:95-01908 | 92-42486 | 334TH DIST. |
| HARRIS CO. | TX | COLPITTS | | |
| CV95-11083 | TXS | 4:95-02253 | 92-58773 | 334TH DIST. |
| HARRIS CO. | TX | LESLIE | | |

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| CV95-11582 | TXS | 4:95-02905 | 92-58773 | 334TH DIST. |
| HARRIS CO. | TX | NOLLE | | |
| CV95-11518 | TXS | 4:95-02839 | 92-58873 | 334TH DIST. |
| HARRIS CO. | TX | LEWIS | | |
| CV95-11592 | TXS | 4:95-02916 | 92-58873 | 334TH DIST. |
| HARRIS CO. | TX | LEVI | | |
| CV95-15256 | TXS | 4:95-07450 | 92-60358EC | 334TH DIST. |
| HARRIS CO. | TX | COOPER | | |
| CV95-11513 | TXS | 4:95-02832 | 92-60458 | 334TH DIST. |
| HARRIS CO. | TX | LIVINGSTON | | |
| CV95-18772 | TXS | 4:95-10391 | 92-61145 | 334TH DIST. |
| HARRIS CO. | TX | WILSON | | |
| CV95-11092 | TXS | 4:95-02265 | 92-61148 | 334TH DIST. |
| HARRIS CO. | TX | PARKIN | | |
| CV95-11536 | TXS | 4:95-02858 | 92-61149 | 334TH DIST. |
| HARRIS CO. | TX | TUCKER | | |
| CV95-11594 | TXS | 4:95-02919 | 92-61167 | 334TH DIST. |
| HARRIS CO. | TX | WILLIAMS | | |
| CV95-11447 | TXS | 4:95-02755 | 92-61169 | 334TH DIST. |
| HARRIS CO. | TX | TERRANOVA | | |
| CV95-11538 | TXS | 4:95-02860 | 92-6173 | 334TH DIST. |
| HARRIS CO. | TX | TREVINO | | |
| CV95-14986 | TXS | 4:95-07128 | 93-031101EI | 334TH DIST. |
| HARRIS CO. | TX | BAILEY | | |
| CV95-11179 | TXS | 4:95-02367 | 93-03624 | 334TH DIST. |
| HARRIS CO. | TX | DAISS | | |
| CV95-11183 | TXS | 4:95-02371 | 93-036424 | 334TH DIST. |
| HARRIS CO. | TX | BRONSON | | |
| CV95-11411 | TXS | 4:95-02696 | 93-58449 | 334TH DIST. |
| HARRIS CO. | TX | STEPHENS | | |
| CV95-14878 | TXS | 4:95-07012 | 94-003122EA | 334TH DIST. |
| HARRIS CO. | TX | KAMRUD | | |
| CV95-11005 | TXS | 4:95-02195 | 94-07746EA | 334TH DIST. |
| HARRIS CO. | TX | PORTER | | |
| CV95-11015 | TXS | 4:95-02218 | 94-14857 | 334TH DIST. |
| HARRIS CO. | TX | MCCUBBIN | | |
| CV95-10978 | TXS | 4:95-02163 | 94-15031ED | 334TH DIST. |
| HARRIS CO. | TX | MCPAHAN | | |
| CV95-10532 | TXN | 3:95-01059 | 254-93 | 18TH DIST. |
| JOHNSON CO. | TX | JOHNSON | | |
| CV95-12034 | TXS | 4:95-02400 | 93-08-02550 | 2ND/9TH DIST. |
| MONTGOMERY CO. | TX | CATLETT | | |
| CV95-18963 | WAW | 2:95-01530 | 93-2-23716-2 | SUP.CT. |
| KIING CO. | WA | MARQUARDT | | |
| CV95-18956 | WAW | 2:95-01522 | 92-2-01207-7 | SUP.CT. |
| KING CO. | WA | GIBSON | | |
| CV95-18952 | WAW | 2:95-01518 | 92-2-02343-7 | SUP.CT. |

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| KING CO. | WA | DELEPINE | | |
| CV95-18958 | WAW | 2:95-01524 | 92-2-08950-5 | SUP.CT. |
| KING CO. | WA | KNOEPPPEL | | |
| CV95-18954 | WAW | 2:95-01520 | 92-2-15442-1 | SUP.CT. |
| KING CO. | WA | SNYDER | | |
| CV95-18967 | WAW | 2:95-01535 | 92-2-16172 | SUP.CT. |
| KING CO. | WA | COLE | | |
| CV95-18961 | WAW | 2:95-01528 | 92-2-29004-9 | SUP.CT. |
| KING CO. | WA | KEMPER | | |
| CV95-18965 | WAW | 2:95-01533 | 93-2-03056-8 | SUP.CT. |
| KING CO. | WA | BEAUMONT | | |
| CV95-18951 | WAW | 2:95-01517 | 93-2-09887-1 | SUP.CT. |
| KING CO. | WA | KEENE | | |
| CV95-18966 | WAW | 2:95-01534 | 93-2-30426-9 | SUP.CT. |
| KING CO. | WA | WILSON | | |
| CV95-18962 | WAW | 2:95-01529 | 93-2-332120-1 | SUP.CT. |
| KING CO. | WA | HOWE | | |
| CV95-18959 | WAW | 2:95-01525 | 94-2-00275-9 | SUP.CT. |
| KING CO. | WA | HUMBERT | | |
| CV95-18960 | WAW | 2:95-01527 | 94-2-01123-7 | SUP.CT. |
| KING CO. | WA | ZORN | | |
| CV95-18964 | WAW | 2:95-01532 | 94-2-06679-0 | SUP.CT. |
| KING CO. | WA | GIBSON | | |
| CV95-18955 | WAW | 2:95-01521 | 94-2-08484-4 | SUP.CT. |
| KING CO. | WA | GOLDENBERG | | |
| CV95-18950 | WAW | 2:95-01516 | 94-2-4496-1 | SUP.CT. |
| KING CO. | WA | CHRISTENSEN | | |
| CV95-18953 | WAW | 2:95-01519 | 93-2-12217-4 | SUP.CT. |
| PIERCE CO. | WA | SUTCLIFFE | | |
| CV96-10541 | WAE | 2:95-00542 | 94-2-01856-1 | SUP.CT. |
| SPOKANE CO. | WA | ANDERS | | |