

**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. 50A
Suggestion of Remand (Federal) No. 6**

The undersigned transferee district judge has, after issuing as Order No. 50 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 by any party against McGhan Medical Corp., INAMED Corp., CUI Corp., and their subsidiaries and principals will, to the extent not previously dismissed, be severed and administratively closed, without prejudice to the pursuit of such claims in a pending class settlement of such claims (and with the same rights under any such settlement as if they still had a pending lawsuit against such companies and individuals). Moreover, this court retains jurisdiction to vacate such closings and reopen such claims on request if that pending class settlement should be vacated.

(d) 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.; 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.

(e) 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.

(f) 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.

(g) 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).

(h) All claims against other defendants not described in paragraphs 2(a) through 1(g) above will, if listed in the appendix, be remanded to the indicated federal courts, or, if not listed in the appendix, will be dismissed.

(j) 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, when taken, be admissible and usable to the same extent as if taken before remand of the case.

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 3rd day of March, 1999.

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

Serve: Plaintiffs= Liaison Counsel
Defendants= Liaison Counsel

Post also on website

Cases suggested for remand to transferor courts

Transferor Ct. Claims to be Pursued	ALN No.	Lead Plaintiff	Pltf Atty Namecode	Defendants Against Whom
AZ	4:95-00515	CV95-18055	SCHIPKE	SCHIPK_M 3M; AESTHETECH; AESTHETIC SURG. OF TUSCON; BRISTOL-MYERS; COOPER CO'S; COOPERSURGICAL; CV SUB 1987; MEC; NATURAL Y; PIERCE, JOHN; SURGICAL CENTER
FLM	8-98-01301	CV98-12290	GRAVISH	BLACK_DA BRISTOL- MYERS; MEC
FLN	3:93-30192	CV93-12062	SCHOENBERGER	PAPANT_M BRISTOL- MYERS; MEC (CLAIMS BY PLAINTIFF MCMULLEN ONLY)
KS	2:97-02503	CV97-12212	NIFONG	CLOON_BR BRISTOL- MYERS; MEC; MEC SUB
KS	2:97-02505	CV97-11919	CHAYER	CLOON_BR BAXTER HEALTHCARE; BAXTER INT'L
KS	2:97-02540	CV97-11921	WHORTON	CLOON_BR BRISTOL- MYERS; MEC; MEC SUB
KS	2:97-02574	CV98-10103	COLANGELO	CLOON_BR BRISTOL- MYERS; MEC; MEC SUB
KS	2:97-02575	CV98-10104	GUNZENHAUSER	CLOON_BR BRISTOL- MYERS; MEC; MEC SUB
KS	2:97-02579	CV98-10108	VICKERY	CLOON_BR BRISTOL- MYERS; MEC; MEC SUB
KS	2:97-02626	CV98-11314	BAKER	CLOON_BR BRISTOL- MYERS; MEC; MEC SUB
KS	2:97-02635	CV98-11315	BURGER	CLOON_BR BRISTOL- MYERS; MEC; MEC SUB
KS	2:97-02638	CV98-11318	O'MEARA	CLOON_BR 3M
KS	2:98-02306	CV98-12257	WHITAKER	CLOON_BR BRISTOL- MYERS; MEC; MEC SUB
KYE	6:93-00044	CV93-11363	HENDERSON	CLARK_FR UNION CARBIDE
LAM	3:92-00373	CV92-10536	PEROT	HUNT_ERN BAXTER HEALTHCARE; BAXTER INT'L
LAW	5:93-00984	CV93-12733	EDDINGTON	THOMP_RO MEC
MOW	4:97-00410	CV97-10522	LANE	CLOON_BR BRISTOL- MYERS; MEC; MEC SUB
MOW	4:97-00895	CV97-10918	HOPKINS	CLOON_BR BRISTOL- MYERS; MEC; MEC SUB
MOW	4:97-01530	CV98-10180	RESCHKE	CLOON_BR BRISTOL- MYERS; MEC; MEC SUB
MOW	4:97-01531	CV98-10181	ARROW	CLOON_BR BRISTOL- MYERS; MEC; MEC SUB
MOW	4:97-01541	CV98-10182	CALVERT	CLOON_BR BAXTER HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS; MEC; MEC SUB

MOW	4:97-01632	CV98-11366	WHITEHEAD	CLOON_BR BRISTOL-MYERS; MEC; MEC SUB
MOW	4:97-01683	CV98-11540	CLEVINGER	CLOON_BR BRISTOL-MYERS; MEC; MEC SUB
MOW	4:98-00047	CV98-11546	GREEN	CLOON_BR BRISTOL-MYERS; MEC; MEC SUB
MOW	4:98-00048	CV98-11547	MORGAN	CLOON_BR BRISTOL-MYERS; MEC; MEC SUB
MOW	4:98-00049	CV98-11548	BICKLEY	CLOON_BR BRISTOL-MYERS; MEC; MEC SUB
MOW	4:98-00079	CV98-11648	WEST	CLOON_BR BRISTOL-MYERS; MEC; MEC SUB
MOW	4:98-00122	CV98-11649	MERCURIO	CLOON_BR 3M; BRISTOL-MYERS; MEC; MEC SUB
MOW	4:98-00434	CV98-12036	SHERVA-OLLERICH	CLOON_BR 3M
MOW	4:98-00436	CV98-12038	WALLINGFORD	CLOON_BR 3M
MSS	2:97-00334	CV97-11697	ALEXANDER	GRAHAM_B MULTI-PLAINTIFF, MULTI-DEFENDANT. PLAINTIFFS' MOTION TO REMAND TO STATE COURT PENDING.
NH	1:98-00008	CV98-11551	PYLES	HUGO_MIC BAXTER HEALTHCARE; BAXTER INT'L
NJ	3:92-04586	CV92-11223	MAILLOUX-RITCHINGS	LEWINS_B BRISTOL-MYERS; COOPER CO'S; COOPERSURGICAL; MEC
NYE	1:93-02283	CV93-12439	FORD	SEIDMA_L BAXTER HEALTHCARE; BAXTER INT'L
NYE	1:93-05698	CV94-10448	HEATH	GORDON_R 3M; BAXTER HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS; COOPER CO'S; COOPERSURGICAL; MEC
NYE	1:94-00013	CV94-11237	COOMBS	SEIDMA_L 3M
NYE	1:94-03286	CV94-14002	KEEGAN	BLAIR_NO BAXTER HEALTHCARE; BAXTER INT'L
NYE	1:94-04401	CV94-14548	SHARP	BLAIR_NO 3M; BAXTER HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS; COOPER CO'S; MEC
NYS	1:93-04630	CV93-12480	ENGLISH	PENNOC_P BAXTER HEALTHCARE; BAXTER INT'L
NYS	1:93-05547	CV93-13114	MARTIN	PENNOC_P 3M; BAXTER HEALTHCARE; BAXTER INT'L
NYS	1:95-04034	CV95-10243	BATES	RAM_CAND 3M; MCGHAN NUSIL; UNION CARBIDE
NYS	1:95-04049	CV95-10253	CITRON	RAM_CAND 3M; AESTHETECH; BRISTOL-MYERS; COOPER CO'S; MARKHAM MED INT'L; MCGHAN NUSIL; MEC; NATURAL Y; UNION CARBIDE
NYS	1:95-04167	CV95-10439	AWN	RAM_CAND BRISTOL-MYERS; MEC
NYS	1:95-04206	CV95-10270	PAPPIS	RAM_CAND BRISTOL-MYERS; MEC
NYS	1:95-04215	CV95-10277	SIMONIN	RAM_CAND
				AESTHETECH; APPLIED SILICONE; BRISTOL-MYERS; COOPER CO'S;

NYS	1:95-04244	CV95-10449	SINATRA	COOPERSURGICAL; MARKHAM MED INT'L; MEC; NATURAL Y RAM_CAND BRISTOL- MYERS; MEC
NYS	1:95-05924	CV95-14054	HAFFNER	PENNOC_P PALUMBO, STEVEN
NYS	1:95-06046	CV95-13519	PATTI	PENNOC_P WEINER, DANIEL
NYS	1:95-06049	CV95-13522	ROJAS	PENNOC_P BELLIN, HOWARD
NYS	1:95-06052	CV95-13525	ROSARIO	PENNOC_P BAXTER HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS; COOPER CO'S; MEC
NYS	1:95-06117	CV95-13559	SAVINO	WEITZ_PE ASSOC PLASTIC SURG; DUBOYS, ELLIOT B; KAREN, JOEL
NYS	1:95-06121	CV95-13563	SELAGE	WEITZ_PE LAPIDUS, STEVEN M
NYS	1:95-06170	CV95-14117	D'ALESSANDRO	PENNOC_P 3M
NYS	1:95-06173	CV95-14119	DEBELLIS	PENNOC_P GRAFF, ARTHUR; NSHORE PLASSURG
NYS	1:95-06273	CV95-14152	LABELLA	PENNOC_P VITOLO, ROBERT
NYS	1:95-06353	CV95-17643	FELDMAN	PENNOC_P 3M
NYS	1:95-06438	CV95-17682	GENOVESE	WEITZ_PE SUFFOLK CTR PLAS REC; TUREK, MILTON
NYS	1:95-06449	CV95-17693	GONZALEZ	WEITZ_PE 3M
NYS	1:95-06670	CV95-17769	QUATTROCCHI	WEITZ_PE HERMAN, STEVEN
NYS	1:95-06831	CV95-17821	SAHNI	WEITZ_PE TAUB, STANLEY
NYS	1:95-06841	CV95-17829	SCHELLACI	WEITZ_PE MARKS, FREDERICK
NYS	1:95-06912	CV95-17837	ARCHER	WEITZ_PE LOEB, THOMAS; NY PLASTIC SURGERY; PROFILES & CONTOURS
NYS	1:95-06991	CV96-12087	HEIFETZ	WEITZ_PE 3M
NYS	1:95-07015	CV95-17852	BARTILINI	WEITZ_PE ALAN KISNER MDPC
NYS	1:95-07237	CV96-10326	VON SEGGERINI	WEITZ_PE 3M; BRISTOL-MYERS; MEC; UNION CARBIDE
NYS	1:95-07266	CV95-19173	WANDREY	WEITZ_PE 3M; BRISTOL-MYERS SQUIBB; BAXTER HEALTHCARE; BAXTER INT'L; COOPER COMPANIES; MEC
NYS	1:95-07267	CV95-19174	WATSON	WEITZ_PE 3M; BAXTER HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS; COOPERSURGICAL; MEC
NYS	1:95-07271	CV95-17888	YABLON	PENNOC_P 3M
NYS	1:95-07285	CV95-18225	MERRING	PENNOC_P

NYS	1:95-07292	CV95-18232	MITCHELL	GARCIA, ARIEL H	PENNOC_P 3M
NYS	1:95-07298	CV95-18237	MUSTILLO		PENNOC_P
				BELLIN, HOWARD	
NYS	1:95-07313	CV95-18242	POWERS		PENNOC_P 3M
NYS	1:95-07348	CV96-10056	KNOX		PENNOC_P 3M
NYS	1:95-07354	CV96-10062	KUPFERMAN		PENNOC_P 3M
NYS	1:95-07356	CV96-10064	LACOUR		PENNOC_P 3M
NYS	1:95-07399	CV96-10102	BECKER		WEITZ_PE 3M
NYS	1:95-07430	CV96-10130	BORDES		PENNOC_P 3M
NYS	1:95-07492	CV96-10183	ESPANA		WEITZ_PE
				BRISTOL-MYERS; MEC	
NYS	1:95-07531	CV96-10215	BAN		WEITZ_PE 3M
NYS	1:95-07580	CV96-10243	SESSA		PENNOC_P ACKER,
				GERALD	
NYS	1:95-07587	CV96-10250	SIMPSON		WEITZ_PE
				VITOLLO, ROBERT	
NYS	1:95-07622	CV96-10363	VOLTURO		PENNOC_P MILCH,
				ELI L	
NYS	1:95-07623	CV96-10364	WEGMAN		PENNOC_P LEE,
				GENE	
NYS	1:95-07957	CV96-12130	CLIFFORD		PENNOC_P RISH,
				BENITO	
NYS	1:95-08504	CV96-10372	NUNES		WEITZ_PE 3M;
				BRISTOL-MYERS; MEC; BAXTER	
				HEALTHCARE; BAXTER INT'L	
NYS	1:95-08516	CV96-10384	RIZZUTO		WEITZ_PE 3M;
				BAXTER HEALTHCARE; BAXTER	
				INT'L; BRISTOL-MYERS; MEC;	
				COOPER COMPANIES	
NYS	1:95-08642	CV96-10431	BALDWIN		PENNOC_P GRAFF,
				ARTHUR; N SHORE PLAS SURG	
NYS	1:95-08813	CV96-10277	BROWN		WEITZ_PE 3M;
				BAXTER HEALTHCARE; BAXTER	
				INT'L; BRISTOL-MYERS SQUIBB;	
				MEC	
NYS	1:95-08814	CV96-10278	BROWN		WEITZ_PE 3M;
				BRISTOL-MYERS	
NYS	1:95-08903	CV96-10482	DERAFFELE		WEITZ_PE HORNE,
				JAMES	
NYS	1:95-08970	CV96-10499	HAUSMANN		WEITZ_PE 3M
OHN	1:97-02152	CV98-11431	MAY		BRODHE_P
				BRISTOL-MYERS	
OHN	1:97-02153	CV98-11432	SIMMONS		BRODHE_P
				BRISTOL-MYERS	
OHN	1:97-02154	CV98-11433	SKELLY		BRODHE_P
				BRISTOL-MYERS	
OHN	1:97-02171	CV98-11434	BROUMAN		BRODHE_P

OHN	1:97-02180	CV98-11435	GORDON	BRISTOL-MYERS BRODHE_P
OHN	3:97-07587	CV98-11436	KROHN	BRISTOL-MYERS BRODHE_P
OHN	4:97-02125	CV98-11437	BROCIOUS	BRISTOL-MYERS BRODHE_P
OHN	4:97-02126	CV98-11438	CARANO	BRISTOL-MYERS BRODHE_P
OHN	4:97-02127	CV98-11697	HIXENBAUGH	BRISTOL-MYERS BRODHE_P BAXTER HEALTHCARE CORP; BAXTER INT'L
OHN	4:97-02128	CV98-11439	HUSTON	BRODHE_P
OHN	4:97-02130	CV98-11440	MARKOVSKY	BRISTOL-MYERS BRODHE_P
OHN	4:97-02131	CV98-11441	MCQUISTON	BRISTOL-MYERS BRODHE_P
OHN	4:97-02132	CV98-11442	NOEL	BRISTOL-MYERS BRODHE_P
OHN	4:97-02133	CV98-11443	POPOVEC	BRISTOL-MYERS BRODHE_P
OHN	4:97-02134	CV98-11444	PURDY	BRISTOL-MYERS BRODHE_P
OHN	4:97-02135	CV98-11445	RHODAN	BRISTOL-MYERS BRODHE_P
OHN	4:97-02151	CV98-11446	KING	BRISTOL-MYERS BRODHE_P
OHN	4:97-02155	CV98-11447	SMITH	BRISTOL-MYERS BRODHE_P
OHN	4:97-02156	CV98-11698	SNIPES	BRISTOL-MYERS BRODHE_P
OHN	4:97-02157	CV98-11448	TAYLOR	BRISTOL-MYERS BRODHE_P
OHN	4:97-02158	CV97-11704	TAYLOR	BRISTOL-MYERS BRODHE_P
OHN	4:97-02178	CV98-11449	GIMMA	BRISTOL-MYERS BRODHE_P
				BRISTOL-MYERS

OHN	4:97-02181	CV98-11450	HAYEK	BRODHE_P
OHN	4:97-02185	CV98-11451	KEENER	BRISTOL-MYERS BRODHE_P
OHN	4:97-02186	CV98-11452	JONES	BRISTOL-MYERS BRODHE_P
OHN	4:97-02187	CV98-11453	HUMENANSKY	BRISTOL-MYERS BRODHE_P
OHN	4:97-02188	CV98-11454	HENDRICK	BRISTOL-MYERS BRODHE_P
TXE	2:93-00209	CV94-12632	KILLGORE	BRISTOL-MYERS MULLIG_P
TXS	3:95-00508	CV95-13663	HARRIS	BRISTOL-MYERS; MEC MULLIG_P
TXS	4:95-02882	CV95-11560	PICKETT	AESTHETECH; BRISTOL-MYERS; COOPER CO'S; MEC (CLAIMS BY PLAINTIFF SANDY NGUYEN) GALLAG_M
TXS	4:95-07160	CV95-15014	BAUTCH	AESTHETECH; BRISTOL-MYERS; CBI MEDICAL; COOPERSURGICAL; COOPERVISION; CV SUB 1987; MEC; MEC SUBSIDIARY; NATURAL Y; SIROD CORP; WILSHIRE FOAM PROD MULLIG_P BAXTER HEALTHCARE; BRISTOL-MYERS; CRONIN, THOMAS; GALATI, VIKI; MEC (AS TO CLAIMS BY PLAINTIFF LESLEY FERGUSON)
TXS	4:95-07566	CV95-15359	DREHER	MULLIG_P BRISTOL-MYERS; CRONIN, THOMAS; GEROW, FRANK; MEC (AS TO CLAIMS BY VIRGIE DREHER)
TXS	4:95-10056	CV95-18437	FORKNER	MULLIG_P 3M; CAROTHERS, NILES; ESTATE OF THOMAS CRONIN; ESTATE OF FRANK GEROW; DR. HERNHAM
TXS	4:95-10316	CV95-18697	SNOWDEN	MULLIG_P 3M; CAROTHERS, NILE; CRONIN, THOMAS; FITZGERALD, JIM; GEROW, FRANK; JOHNSON, GERALD; JOHNSON, TERRI; MCGHAN NUSIL; PFARDRESHER, SUZY; SANDERS, THOMAS; SOUTHER, HAL (AS TO CLAIMS BY PLAINTIFFS RACHEL BATEMAN, INA RAE MAYO,

PATRICIA SNOWDEN, AND DAISY
MCC

TXS 4:96-01352 CV96-12215 PATE
UT 1:98-00079 CV98-12228 CLAY
VAW 3:97-00127 CV98-11475 SENEDIK

HOUSSE_C 3M;
BAXTER HEALTHCARE; BAXTER
INT'L; BRISTOL-MYERS; MEC
(CLAIMS BY PLAINTIFFS
SHAREEN KETCHUM, GENEVA
MILLAN, AND DONNA RUTH PATE)
HUGO_MIC BAXTER
HEALTHCARE; BAXTER INT'L
MCGETR_M

BRISTOL-MYERS; MEC; MEC
SUBSIDIARY CORP.