

**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. 50D**

Remand to Transferor Courts

Pursuant to the remand order of the Judicial Panel on Multidistrict Litigation dated August 11, 1999, the cases listed in the appendix to this order are hereby remanded to the Transferor Courts shown in the appendix subject to the following terms and conditions:

(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, 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, 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., Cox Uphoff and their subsidiaries and principals are, to the extent not previously dismissed, severed and administratively closed, without prejudice to the pursuit of such claims in the 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).

(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, are dismissed with prejudice.

(f) All listed claims against Union Carbide Corporation are, to the extent based on its 1990-1992 ownership of McGhan NuSil Corporation, 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 are, if listed in the appendix, 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, are 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 (a) through (g) above are, if listed in the appendix, remanded to the indicated federal courts, or, if not listed in the appendix, are dismissed.

(i) Further proceedings in the transferor courts after remand 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 be decided by the transferor court after remand.

(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 be admissible and usable to the same extent as if taken, with proper notice, in the remand court.

(5) This court has previously transmitted to many of the 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 courts should be made aware. The parties in the remanded cases are directed to ascertain from the 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 remand 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](http://www.fjc.gov/BREIMLIT/mdl926.htm).

(6) Any order or docket entry reflecting the designation of Plaintiffs' Liaison Counsel or

Defendants' Liaison Counsel as attorneys of record in any of these cases are hereby vacated.

(7) Any motion, stipulation, etc. to be filed in any of the remanded cases after this date should not be filed in this court but should be filed in the transferor court after it has received the file from the clerk of this court.

This order will be filed in Master File CV 92-P-10000-S and (with the applicable page of the appendix) in each of the cases listed in the appendix.

The court notes that two of the cases listed on the Panel's August 11, 1999 Remand Order are not included in this order because, prior to this court's receiving that Remand Order, the court had entered orders closing those cases. These two cases are: 2:98-11540 (MOW 4:97-1683), *Clevinger v. Baxter*, and 2:98-11648 (MOW 4:98-79), *West v. Bristol-Myers*.

This the 17th day of August, 1999.

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

Service: Plaintiffs= Liaison Counsel  
Defendants= Liaison Counsel

Post on webpage

## Cases Remanded to Transferor Courts

Transferor Ct.	ALN No.	Lead Plaintiff	Pltf Atty Namecode	Defendants Against Whom
KS	2:97-02503	CV97-12212	NIFONG	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
KS	2:97-02540	CV97-11921	WHORTON	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
KS	2:97-02574	CV98-10103	COLANGELO	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
KS	2:97-02575	CV98-10104	GUNZENHAUSER	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
KS	2:97-02579	CV98-10108	VICKERY	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
KS	2:97-02626	CV98-11314	BAKER	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
KS	2:97-02635	CV98-11315	BURGER	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
KS	2:98-02306	CV98-12257	WHITAKER	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
MOW	4:97-01530	CV98-10180	RESCHKE	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
MOW	4:97-01531	CV98-10181	ARROW	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
MOW	4:97-01632	CV98-11366	WHITEHEAD	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
MOW	4:98-00047	CV98-11546	GREEN	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
MOW	4:98-00048	CV98-11547	MORGAN	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
MOW	4:98-00049	CV98-11548	BICKLEY	CLOON_BR MYERS; MEC; MEC SUB BRISTOL-
MOW	4:98-00122	CV98-11649	MERCURIO	CLOON_BR MYERS; MEC; MEC SUB 3M; BRISTOL-
NYE	1:93-02283	CV93-12439	FORD	SEIDMA_L HEALTHCARE; BAXTER INT'L BAXTER
NYE	1:93-05698	CV94-10448	HEATH	PEDERS_M HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS; COOPER CO'S; COOPERSURGICAL; MEC 3M; BAXTER
NYE	1:94-00013	CV94-11237	COOMBS	SEIDMA_L 3M
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 MYERS; MEC BRISTOL-
NYS	1:95-04206	CV95-10270	PAPPIS	RAM_CAND MYERS; MEC BRISTOL-
NYS	1:95-04215	CV95-10277	SIMONIN	RAM_CAND AESTHETECH; APPLIED SILICONE; BRISTOL-MYERS; COOPER CO'S; COOPERSURGICAL; MARKHAM MED INT'L; MEC; NATURAL Y
NYS	1:95-04244	CV95-10449	SINATRA	RAM_CAND MYERS; MEC BRISTOL-
NYS	1:95-06046	CV95-13519	PATTI	PEDERS_M DANIEL WEINER,
NYS	1:95-06049	CV95-13522	ROJAS	PEDERS_M HOWARD BELLIN,
NYS	1:95-06052	CV95-13525	ROSARIO	PEDERS_M HEALTHCARE; BAXTER INT'L; BRISTOL-MYERS; COOPER CO'S; MEC BAXTER
NYS	1:95-06273	CV95-14152	LABELLA	PEDERS_M ROBERT VITOLO,
NYS	1:95-06438	CV95-17682	GENOVESE	PEDERS_M SUFFOLK CTR

NYS	1:95-06670	CV95-17769	QUATTROCCHI	PLAS REC; TUREK, MILTON	
				PEDERS_M	HERMAN,
				STEVEN	
NYS	1:95-06831	CV95-17821	SAHNI	PEDERS_M	TAUB, STANLEY
NYS	1:95-06841	CV95-17829	SCHELLACI	PEDERS_M	MARKS,
				FREDERICK	
NYS	1:95-06912	CV95-17837	ARCHER	PEDERS_M	LOEB, THOMAS;
				NY PLASTIC SURGERY; PROFILES	& CONTOURS
NYS	1:95-07015	CV95-17852	BARTILINI	PEDERS_M	ALAN KISNER
				MDPC	
NYS	1:95-07580	CV96-10243	SESSA	PEDERS_M	ACKER, GERALD
NYS	1:95-07587	CV96-10250	SIMPSON	PEDERS_M	VITOLO,
				ROBERT	
NYS	1:95-07622	CV96-10363	VOLTURO	PEDERS_M	MILCH, ELI L
NYS	1:95-07623	CV96-10364	WEGMAN	PEDERS_M	LEE, GENE