

**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. 54C

Remand to Transferor Courts

Pursuant to the remand order of the Judicial Panel on Multidistrict Litigation dated October 28, 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.

(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.

This the 2nd day of November, 1999.

/s/ Sam C. Pointer, Jr.

Chief Judge Sam C. Pointer, Jr.

Service: Plaintiffs' Liaison Counsel
Defendants' Liaison Counsel

Post on webpage

Appendix to Order 54C

Cases Remanded to Transferor Courts

Transferor Ct.	ALN No.	Lead Plaintiff	Pltf Atty	Defendants	
Against Whom	Claims to be Pursued		Namecode		
CAS	3:95-03175	CV98-10926	WOOD	MCLEAN_K INT'L; BAXTER HEALTHCARE	BAXTER
FLM	3:97-00864	CV97-11233	DONOVAN	ALFORD_W HEALTHCARE; BAXTER INT'L	BAXTER
FLM	8:94-02034	CV95-10044	DOORACK	HUTTON_M TECH	POREX
FLM	8:97-02358	CV98-11985	OATLEY	BOYDST_C BRISTOL-MYERS	
FLM	8:97-02640	CV98-11766	PAULSON	MICHAEL_R BRISTOL-MYERS	
FLS	0:94-06576	CV94-13718	SANDRA LEE SMITH	SEITEL_L BRISTOL-MYERS; MEC; MEC	
FLS	0:97-07207	CV97-11872	VIDAURAZAGA	SUB. SCHRIE_L BAXTER HEALTHCARE; BAXTER INT'L	3M;
GAN	1:94-02436	CV94-14505	WYCOFF	MOORE_WN TECH	POREX
GAN	1:97-02134	CV97-11059	BAUGHMAN	PARHAM_M HEALTHCARE; BAXTER INT'L	BAXTER
KYE	6:98-00220	CV98-12166	LATHAM	MILLS_ME INT'L	BAXTER
KYW	3:97-00778	CV98-11531	NEVITT	HANLE_MI BRISTOL-MYERS; COLE, NORMAN M.; MEC; MEC SUB.	
LAW	5:94-01714	CV94-14514	GUTHRIE	CLAWSO_W BRISTOL-MYERS; MEC; MEC	
LAW	5:98-00221	CV99-10094	WOMACK, ET AL.	SUB. KEENE_RA BRISTOL-MYERS; MEC	
LAW	5:98-02271	CV99-10055	EDWARDS	KEENE_RA SURGITEK; BRISTOL-MYERS;	
MA	1:94-12567	CV95-10078	HOBART	MEC DESIMO_M	POREX
MD	1:97-03750	CV98-11327	RASNAKE	TECH HAMMER_J HEALTHCARE; BAXTER INT'L	BAXTER
MIE	2:95-74005	CV96-10808	BARBER	MANNAU_R HEALTHCARE; BAXTER INT'L	BAXTER
MIE	2:95-74134	CV96-10935	KOCH	MANNAU_R AESTHETECH; BRISTOL- MYERS; COOPER CO'S; COOPERSURGICAL; MEC; SIROD; WILSHIRE TECH	
MIE	2:97-71165	CV97-10457	HANNAH BECKHAM	JANKS_GR TECH.	POREX
MN	0:97-02724	CV98-10175	FARINHA	NEESE_MA BRISTOL-MYERS SQUIBB	MEC;
NJ	2:95-03236	CV95-11035	STRANGIO	PAHIGI_P PLASTIC SURGERY; POREX TECH; SCHER, CHARLES	AMER
NJ	2:95-03242	CV95-11041	NOVRIT	PAHIGI_P TECH; SCHER, CHARLES	POREX
NJ	2:95-03246	CV95-11044	CAUDLE	LEVINS_W TECH	POREX
NJ	2:95-03570	CV95-11949	RAK	PAHIGI_P PLASTIC SURGERY; POREX TECH; SCHER,	AMER

NYE	1:94-00349	CV94-11015	HILLER	CHARLES PEDERS_M	POREX
NYS	1:94-02976	CV94-13496	GOODEN	TECH KNOWL_T_S	POREX
OHN	1:93-01995	CV93-13892	D'AURORA	TECH HUGO_MIC	BAXTER
OKN	4:94-01172	CV95-10088	LOERTCHER	HEALTHCARE; BAXTER INT'L HUTTON_M	POREX
OKW	5:95-00021	CV95-10052	COOPER	TECH MUSE_LAR	POREX
OR	3:94-00692	CV94-13876	ADAMS	TECH DAILEY_K	
				BRISTOL-MYERS; MEC; MEC	
				SUB. (CLAIMS ONLY OF PLAINTIFFS	
				STACEY VAUGHN AND CATHLEEN	
				LINDQUIST)	
OR	3:94-00784	CV94-13885	ENGLER	WILLI_MI	BAXTER
				HEALTHCARE; BAXTER INT'L (CLAIMS	
				ONLY OF PLTF LAURIE BOWMAN)	
PAE	2:93-06360	CV94-10197	CHASIN	CHASI_R*	BAXTER
				HEALTHCARE; BAXTER INT'L	
SC	3:98-02110	CV98-12316	GARMON	BRAITH_K	MCGHAN
				MEDICAL (POST '93 IMPLANT)	
TXE	2:94-00068	CV95-10752	SMITH	MANN_JAM	BAXTER
				HEALTHCARE; BAXTER INT'L; BRISTOL-	
				MYERS; MEC	
TXN	3:95-01619	CV95-14578	RITTMAN	CLARK_ST	SMITH,
				SYDNE	
TXS	3:94-00006	CV94-11312	ADAMS	MELANC_R	3M;
				AESTHETECH; APPLIED SILICONE;	
				BAXTER HEALTHCARE; BAXTER INT'L;	
				BRISTOL-MYERS; COOPER CO'S;	
				COOPERSURGICAL; MCGHAN NUSIL; MEC;	
				POREX TECH; UNION CARBIDE	
TXS	4:95-09401	CV95-16972	SIMONS	SIMON_D*	
				AESTHETECH; BRISTOL-	
				MYERS; COOPER CO'S; COOPERSURGICAL;	
				CRONIN, THOMAS; CV SUB 1987;	
				GALATI, VICKI; GEROW, FRANK; MEC	
VAW	1:97-00142	CV98-10230	MCCROSKEY	MCAFEE_C	BAXTER
				HEALTHCARE; BAXTER INT'; L	
VAW	2:96-00215	CV97-10046	GILLENWATER	MCAFEE_C	
				BRISTOL-MYERS; MEC; MEC	
				SUB.	
VAW	2:96-00244	CV97-10048	SPIVEY	MCAFEE_C	
				BRISTOL-MYERS; MEC; MEC	
				SUB.	
VAW	2:98-00100	CV98-12267	FLANARY	MCAFEE_C	
				BRISTOL-MYERS; MEC; MEC	
				SUB.	
VAW	2:98-00184	CV98-12362	NEGRON	MCAFEE_C	
				BRISTOL-MYERS; MEC; MEC	
				SUB.	