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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

IN RE: Bard Implanted Port Catheter
Products Liability Litigation

MDL No. 3081

**JOINT MEMORANDUM RE
ISSUES TO BE ADDRESSED AT
THE MARCH 20, 2025 CASE
MANAGEMENT CONFERENCE**

(Applies to All Actions)

Pursuant to Case Management Order No. 31 (“CMO 31”), the Parties submit this Joint Memorandum in advance of the Case Management Conference (“CMC”) scheduled for March 20, 2025. *See* Doc. 2669, at 1.

I. Case Statistics

There are 1,246 cases pending in the MDL. 38 cases have been dismissed from the MDL.

II. State-Court Litigation

There are 78 cases pending in New Jersey. As the Court is already aware, on October 15, 2024, the New Jersey Supreme Court designated these actions as multicounty litigation (“MCL”), and the MCL was centralized before the

1 Honorable Gregg A. Padovano. No further proceedings have taken place in the
2 MCL.

3 There are 14 cases pending in the Superior Court of Maricopa County. As of
4 March 17, 2025, 13 of the pending cases have been consolidated before the
5 Honorable Timothy J. Ryan for purposes of case administration and discovery only.
6 One case was filed in early March and has not yet had an answer filed or been
7 consolidated. In addition, only one case, Vincent, has had a scheduling order
8 entered, although counsel are working to submit stipulated scheduling orders in 9
9 of the other cases. A non-party at fault motion to strike in the Vincent case has been
10 fully briefed, and the parties await a ruling.

11 **III. Plaintiffs' Expert Disclosures**

12 **A. Plaintiffs' Position**

13 Pursuant to Case Management Order No. 28 and Federal Rule of Civil
14 Procedure 26(a)(2)(B), Plaintiffs served their general expert reports on March 14,
15 2025. *See* Doc. 1891 at 2. In so doing, Plaintiffs disclosed a dozen general experts
16 who support Plaintiffs' claims in this litigation: Michael Beatrice, PhD; Bernard
17 Camins, MD; Ahmed El-Ghannam, PhD; Darren Hurst, MD; William Jarvis, MD,
18 Madris Kinard, MBA; Deborah Leckband PhD; Brian McVerry, PhD; Buddy
19 Ratner, PhD; Amir Sheikhi, PhD; Becky Smith, MD; and Jeffrey Weinstein, MD.

20 Defendants' expert disclosures are due on April 25, 2025. Doc. 1891 at 2.

21 Defendants below object to Dr. El-Ghannam's test report and attempt to
22 transform a case-specific issue (compliance with the preservation order in a
23 particular case) into a general-liability matter. Defendants also seek a remedy that
24 is disproportionate to the alleged violation—a premature bite at *Daubert* challenges
25 to Dr. El-Ghannam and other experts' reports, as well as an extension for responding
26 to all reports. In short, Defendants seek to capitalize on a simple, inadvertent
27 misunderstanding that does not prejudice Defendants' ability to respond to
28 Plaintiffs' expert reports, and they do so in order to unfairly sanction Plaintiffs, gain

1 additional time to complete their own expert reports, and unnecessarily delay the
2 MDL.

3 On Friday, March 14, Plaintiffs timely served general-liability expert reports
4 on Defendants. Plaintiffs first learned that Defendants had an issue related to expert
5 reports on Monday, March 17, after substantive briefing for the joint memo had
6 been completed.

7 The issue that Defendants raise is that one of Plaintiffs' experts, Dr. El-
8 Ghannam, conducted testing on an explanted, preserved catheter from a case that
9 Plaintiffs believed was unfiled, and Defendants were thus not notified pursuant to
10 CMO 20, which applies to filed cases. The testing on the catheter at issue consisted
11 of cutting off a small piece of the explanted catheter, leaving the rest intact, and
12 examining that piece under a Scanning Electron Microscope ("SEM"). The test
13 would take about a day, and the pieces that Dr. El-Ghannam examined still exist.

14 Notably, Dr. El-Ghannam also performed testing on one additional explanted
15 catheter and two exemplar catheters, none of which Defendants complained (or have
16 any basis to complain) about.

17 When Defendants raised the issue, Plaintiffs informed Defendants that Dr.
18 El-Ghannam had performed the SEM testing on a catheter preserved in an *unfiled*
19 case (*Engle*) belonging to co-lead counsel Adam Evans, meaning that the case was
20 not subject to CMO 20's preservation obligations: "If in any case *filed* in MDL
21 3081, either Party wishes to perform additional testing on the Materials in that case,
22 following the gross examination, the Parties agree that the procedures for additional
23 testing must be agreed to by the Parties" Doc. 529 at 7 (emphasis added); *id.*
24 at 10 ("This order shall apply to each member related case previously transferred to,
25 removed to, or filed in this district, as well as cases *filed* after the entry of this
26 CMO.") (emphasis added).

27 Defendants responded that the *Engle* case had, in fact, been filed. It turns
28 out that the case had been filed, unbeknownst to Mr. Evans, by another attorney. In

1 other words, the case was a dual representation. Monday, March 17, was the first
2 time Plaintiffs' co-lead counsel and the attorneys who had worked with Dr. El-
3 Ghannam learned of the dual representation. Attorney Adam Evans, who approved
4 the testing, was not aware of the dual representation; Ryan Cavanaugh, the attorney
5 who filed the case, was not aware of the dual representation or the testing by El-
6 Ghannam. Exs. A & B, Evans & Cavanaugh Decs. Mr. Cavanaugh, being unaware
7 of the testing, could not have notified Defendants; Mr. Evans, being unaware of the
8 dual representation, did not know of any obligation to notify Defendants of the
9 testing.

10 The dual representation caused a simple misunderstanding, and Defendants'
11 ability to timely respond to Dr. El-Ghannam's report (or any other report) has not
12 been prejudiced. Although Defendants characterize the testing as "destructive," any
13 protocol to which the parties ultimately agreed would necessitate cutting the catheter
14 to divide it. *See* Doc. 529 at 1 (contemplating "the collection, *division*, storage,
15 preservation, and production of biomaterials evidence"). The cutting took only a
16 small section of the catheter, leaving others untouched and untested, and the pieces
17 that Dr. El-Ghannam did examine still exist. Counter examination can occur
18 quickly and certainly before Defendants' responsive expert reports are due.
19 Moreover, the catheter was examined in an infection case (not a fracture case),
20 minimizing any alleged harm from cutting the catheter.

21 Defendants are attempting to use an isolated issue with Plaintiff Engle's
22 compliance with CMO 20 to buy more time to respond to 11 general-liability expert
23 reports that they complain "span 848 pages" and would take "almost a full business
24 week" to review. Showing their true motive, even before Defendants learned about
25 Dr. El-Ghannam's testing, they were asking the Court for a discovery extension. In
26 fact, Defendants initially "d[id] not believe a preservation order [was] necessary" at
27 all, noting that one was never entered in the *IVC Filter* MDL. *See* Doc. 23 at 10.

1 The truth is that Defendants are not prejudiced, and, while the misunderstanding is
2 regrettable, no remedy is warranted.

3 The stated intent of CMO 20 is that port catheters “be preserved in a manner
4 that permits the Parties equal access to and analysis of the Materials,” which is still
5 accomplished.

6 Defendants’ requested relief is unsupported by legal authority. To the extent
7 that the *Engle* issue implicates general-liability reports at all, it implicates a portion
8 of El-Ghannam’s report—not all 11 reports. To the extent an extension is an
9 appropriate sanction, which Plaintiffs dispute, Defendants should not be given
10 additional time to respond to all 11 reports, only El-Ghannam’s.

11 Moreover, Plaintiffs strongly oppose Defendants’ request to wholly “exclude
12 Dr. El-Ghannam and the experts who rely on his unauthorized testing.” This
13 sanction is not commensurate with the alleged violation of CMO 20. Defendants
14 should not be able to wholly exclude an expert at this early stage on these grounds;
15 the time for such challenges is in *Daubert* motion practice, and El-Ghannam’s
16 testing procedures go to weight not admissibility. As Plaintiffs have not had the
17 opportunity to fully brief the issue, to the extent that the Court is inclined to offer
18 Defendants relief, which they seek without citing to a CMO or Federal Rule,
19 Plaintiffs would request full opportunity for briefing.

20 **B. Plaintiffs’ Violation of Preservation Order and Defendants’**
21 **Resulting Request for Extension to Serve Expert Disclosures and**
22 **Other Deadlines**

23 On the evening of Friday, March 14, 2025, Plaintiffs served 11 expert
24 reports, with attachments totaling nearly 2,100 pages. The reports themselves span
25 848 pages and contain hundreds of references.

26 Critically, at least one report (submitted by Dr. El-Ghannam) consolidates
27 opinions from three different experts and relies upon extensive testing conducted
28 over a period exceeding five months. After reviewing that report and the information

1 about the ports tested, Defendants determined that at least one of the explanted ports
2 evaluated by Dr. El-Ghannam was that of a named Plaintiff in the MDL, and the
3 examination was done in direct violation of CMO 20, the Preservation Order (Doc.
4 529). That Order specifically provides that “Neither party shall have the right to
5 remove the Materials from Steelgate unilaterally,” and “Neither Party will perform
6 any inspection, review, analysis or testing on the Materials (defined as explanted
7 ports at issue in this litigation), or alter the Materials in any manner prior to reaching
8 a mutually agreeable protocol.” (Doc. 529 at page 7). Plaintiffs did both.

9 Until Friday night, Defendants had never been told that ports had been
10 unilaterally removed from Steelgate¹ or that a Plaintiff’s port had been tested. When
11 Defendants asked why Plaintiffs proceeded to perform testing (some of it
12 destructive) on an explanted catheter, Plaintiffs’ Leadership acknowledged the
13 requirement for a mutual protocol but denied that their expert tested a port from a
14 named Plaintiff. Yet, the chain of custody form for “Patient 2” in Dr. El-Ghannam’s
15 report is **identical** (except for the redacted name) to the chain of custody form
16 provided with the Profile Form of Plaintiff Jennifer Engle, 2:23-cv-02162, which
17 states that the port is at Steelgate and includes the chain of custody documents
18 required by CMO 20. Further, according to his report, Dr. El-Ghannam and others
19 at a laboratory in Massachusetts not only examined Ms. Engle’s port, they
20 conducted **destructive testing** by soaking the catheter in a solution and **cutting it**.
21 Plaintiffs’ Leadership has not offered an explanation for this blatant violation of
22 CMO 20. Defendants are at a loss to understand why Plaintiffs chose to violate the
23 Preservation Order and why they denied they did so.²

24
25 _____
26 ¹ The other explanted port tested was also sent from Steelgate.

27 ² Defendants reserve the right to seek appropriate sanctions for this blatant violation
28 of CMO 20, but need to examine the port at issue and consult with their experts.
Only then can Defendants determine the extent of the prejudice and what might be
an appropriate remedy.

1 Regardless of the explanation, Defendants have been irreparably prejudiced.
2 Because no notice was provided to Defendants and no protocol was proposed as
3 required by CMO 20, Defendants did not anticipate this testing (that apparently took
4 place over a five-month period). If Plaintiffs had complied with the Order,
5 Defendants would have had input into the protocol being utilized for testing.
6 Plaintiffs, however, did not comply with the Order. Now, in addition to reviewing
7 and responding to hundreds of pages of reports, to properly respond to this testing,
8 Defendants and their experts need to: (1) evaluate the protocol used by Plaintiffs'
9 expert; (2) assess whether the protocol is scientifically valid; (3) potentially
10 establish their own protocol; (4) obtain the ports tested by Plaintiffs' expert without
11 prior agreement of Defendants, as required; and (5) examine and test the ports
12 themselves. This simply cannot be done by the current deadline.

13 As such, through no fault of Defendants, there is good cause for an extension
14 of the deadline for Defendants to designate their experts and produce reports. While
15 Defendants are respectful of the Court's schedule, they did not create this situation
16 and submit that the only alternative that would not unfairly prejudice Defendants is
17 to exclude Dr. El-Ghannam and the experts who rely on his unauthorized testing.

18 **IV. Proposed Bellwether Case Management Order**

19 The Parties have reached agreement on a proposed bellwether case
20 management order, attached as Exhibit C.

21 **V. Discovery**

22 The parties provide the Court with updates on: (A) Defendants' production
23 of documents; (B) written discovery; (C) common-issue depositions; (D) case-
24 specific depositions; (E) Defendants' request for a discovery extension; and (F)
25 privilege and redaction issues.

26 **A. Defendants' Production of Documents**

27 **1. Plaintiffs' Position**

28 There are no issues that require the Court's attention at this time.

1 **2. Defendants' Position**

2 Defendants completed their document production, including the
3 supplemental productions discussed at the February Case Management Conference,
4 by the February 28, 2025, deadline to complete common-issue fact discovery.
5 Attached hereto as Exhibit D is a chart summarizing Defendants' productions which
6 includes over 14.9 million pages of materials. Additionally, Defendants have
7 commenced case specific discovery, producing documents responsive to Schedule
8 A as agreed to by the parties for the sales representative Plaintiffs seek to depose in
9 each Discovery Group 1 case.³ Attached hereto as Exhibit E is a chart summarizing
10 Defendants' Discovery Group productions. There are no productions issues to be
11 addressed with the Court.

12 **B. Written Discovery**

13 There are no issues to be addressed with the Court at this time.

14 **C. Common-Issue Depositions**

15 **1. Plaintiffs' Position**

16 Common issue depositions have been completed, with the exception of two
17 subpoenas served by Defendants. Although Plaintiffs could contest these late-
18 noticed depositions, they do not.

19
20 ³ Schedule A includes: 1) a copy of the sales representative's current resume or
21 LinkedIn profile if not already provided to Plaintiffs with the DFS. Documents
22 within the sales representative's available Custodial File data that are identified by
23 searching the names of the applicable plaintiff, implanting physician, and explanting
24 physician, if identified by plaintiff, that are determined to be responsive: 2)
25 paperwork relating to the Plaintiff's use of Defendants' IPC devices; 3)
26 correspondence to or from any physician or medical facility regarding Plaintiff's
27 use of Defendants' IPC devices; 4) documents evidencing visits or communications
28 with the Plaintiff's implanting physician relating to Defendants' IPC devices; 5)
documents evidencing visits or communications with Plaintiff's explanting
physician relating to Defendants' IPC devices; and 6) communications with the
implanting facility relating to Defendants' IPC devices identified by running the
implanting facility email domain across the to/from/cc/bcc fields of the applicable
sales representative's email.

1 **2. Defendants' Position**

2 As noted by Plaintiffs, common-issue depositions have been completed with
3 the exception of two subpoenas served by Defendants. Specifically, on February 11
4 and February 12, in advance of the deadline for common-issue discovery,
5 Defendants served non-party subpoenas for Rule 30(b)(6) depositions of
6 representatives of: (1) Dow, Inc., Dow Chemical Company, Inc., Dow Corning
7 Corp., and/or Dow Silicones Corporation ("Dow"); and (2) DuPont de Nemours,
8 Inc., and E.I. du Pont de Nemours & Co. ("DuPont"). On February 26, 2025, counsel
9 for Defendants received copies of motions to quash filed separately by Dow and
10 DuPont. DuPont's Motion to Quash was filed on February 25 in the U.S. District
11 Court for the District of Delaware (Case 1:25-mc-00100-UNA). Dow's Motion to
12 Quash was filed on February 26 in the U.S. District Court for the Eastern District of
13 Michigan, Northern Division (Case 1:25-mc-50209-TLL-PTM).

14 Defendants have sought F.R.C.P. 45(f) transfer of the Dow and DuPont
15 motions to this MDL for efficient disposition. Plaintiffs do not oppose transferring
16 the Dow and DuPont motions to the MDL. DuPont consented to transfer, and the
17 U.S. District Court of the District of Delaware entered an Order transferring the
18 DuPont Motion to Quash to the MDL. D. Del., Case 1:25-mc-00100-JLH-SRF, Doc.
19 8. Defendants served their opposition to DuPont's Motion to Quash on counsel for
20 DuPont and Plaintiffs on March 11, and filed their opposition in docket number
21 2:25-mc-00007-DGC, which is listed as a related case to the MDL, on March 12,
22 2025.

23 Dow did not agree to transfer and, therefore, on March 4, 2025, Defendants
24 filed a F.R.C.P. 45(f) Motion to Transfer. E.D. Mich., Case 1:25-mc-50209-TLL-
25 PTM, Doc. 2. Dow's response, if any, is due the same date as this Joint
26 Memorandum, March 18. Defendants will update the Court at the Case Management
27 Conference regarding any response filed by Dow. Defendants filed their opposition
28 to Dow's Motion to Quash on March 12, 2025.

D. Case-Specific Depositions

Anticipated case-specific depositions for Discovery Group 1 include: 16 plaintiffs; for each plaintiff, a loss-of-consortium plaintiff or a spouse or family member; 49 treating physicians (up to five per case); and 16 sales representatives. Each is discussed below.

1. Plaintiffs, Consortium Plaintiffs, & Spouse/Family Depositions

a. Plaintiffs' Position

All Plaintiff and friends/family depositions have been completed, with the exception of Plaintiff Reed, whose case has been replaced in case the deposition cannot proceed. At present, Mr. Reed remains unable to sit for deposition.

b. Defendants' Position

At the time of the exchange of the Joint Submission one plaintiff deposition has not taken place and one plaintiff deposition has not been completed:

1. The deposition of Auntron Reed was originally scheduled for February 20, 2025, but was postponed because Mr. Reed was admitted for inpatient treatment in early February and then subsequently enrolled in a 28-day residential treatment program on February 19, 2025.
2. The deposition of Robert Cook took place on February 25, 2025, but was not completed. During the deposition, Plaintiff Cook withdrew his previously asserted privilege claim for mental health records and agreed that the deposition would be reconvened after the records were produced and Defendants had an opportunity to review them. Defendants reviewed those records, determined that the deposition will need to be reconvened, and are coordinating with Plaintiff's counsel.

2. Treating Physician Depositions

a. Plaintiffs' Position

To date, Plaintiffs have been able to make contact with all but two of 49 treaters, both of whom treated in the James case. Defendants in their original joint

1 memo only complained about one of those doctors in the James case, the explanting
2 physician. The only other treating physician about whom Defendants complained
3 in their original joint memo is an oncologist in the Hawkins case; Plaintiffs notified
4 Defendants on February 17, over one month ago, they would no longer be
5 attempting to contact that physician. Defendants served that oncologist with a
6 placeholder subpoena on March 10, with a proposed depo date of March 31, which
7 Plaintiffs understand is not confirmed.

8 Defendants have had ample time, if they wanted to contact and depose these
9 physicians, to do so. In response to Defendants' stated concerns about scheduling,
10 on **January 28**, Plaintiffs' Leadership gave Defendants permission to reach out to
11 each individual firm representing a bellwether plaintiff to ask for permission to
12 assist with scheduling. Ex. F, Jan. 28 Email. To Leadership's knowledge,
13 Defendants never asked for permission to assist scheduling with treaters on the
14 James or Hawkins case (or any other case) until March 7, and Leadership was never
15 notified by Defendants of any refusal of permission. On March 6, having no further
16 avenues for contact left to explore, at Leadership's direction, Plaintiffs had
17 proactively reached out to Defendants to insist on assistance with the treater in
18 James. The parties are endeavoring to schedule these treaters.

19 All but three other treaters are scheduled, and Defendants did not raise
20 complaints about these in their original joint memo. Two have been contacted and
21 promised dates, but the other treater Plaintiffs have simply been unable to schedule,
22 despite best efforts. If issues between the parties arise with those treaters, the parties
23 will contact the Court.

24 **b. Defendants' Position**

25 Defendants have accepted every date offered by Plaintiffs for treating
26 physician depositions; no depositions have been rescheduled at Defendants' request.
27 Defendants are aware of four treating doctor depositions that have not been
28 scheduled as of March 17, 2025, and one that has to be rescheduled due to a medical

1 emergency.⁴ The treating physicians Defendants requested to depose have been
2 scheduled with two important exceptions⁵:

- 3 1. In the *James* case, Defendants provided Plaintiff with the name of the
4 explanting doctor on January 10, 2025. As early as February 17, 2025 and
5 until March 7, Plaintiffs Leadership represented that the doctor had been
6 served with a subpoena for a February 21 deposition. On February 20,
7 however, Plaintiff's counsel stated that he had not heard from the doctor
8 and the deposition would not go forward on February 21. On March 6,
9 Plaintiff's counsel indicated that despite efforts he had not been able to
10 contact the doctor and, at the direction of Plaintiffs' Leadership,
11 requested Defendants' assistance. On March 7, after inquiry from
12 Defendants about service and contact, Plaintiffs provided a certificate of
13 **no service** of the subpoena for the doctor **dated February 5, 2025**.
14 Defendants located the doctor, determined that she did not practice at the
15 location where Plaintiff attempted to serve her, issued a new subpoena,
16 and the doctor was served on March 13. Defendants have been in contact
17 with her office and will work to coordinate this deposition.
- 18 2. In the *Hawkins* case, Plaintiff originally indicated that she intended to
19 depose her oncologist. Defendants also wanted to take that deposition but
20 did not take steps to schedule because Plaintiffs indicated that they were.
21 On February 17, Plaintiffs' Leadership informed Defendants that the
22 Plaintiff no longer intended to take the deposition of her oncologist.
23 Defendants inquired about Plaintiff's counsel's contact with the
24

25 ⁴ A deposition scheduled for March 17 will be rescheduled because of a family
26 medical emergency requiring Defendants' counsel to leave before the deposition
27 could be taken. Defendants flew in another attorney to cover a deposition on March
28 18.

⁵ There are three additional depositions that Plaintiffs indicated they intend to take
that have not been scheduled.

1 oncologist, and counsel indicated that she had neither made contact with
2 the doctor nor served a subpoena. Defendants located the doctor,
3 attempted service of a subpoena on February 27, 2025, and learned that
4 the doctor was out until March 10. Defendants issued another subpoena
5 and the doctor was served on March 12. Defendants have been in contact
6 with her office and are continuing to coordinate the scheduling of her
7 deposition.

8 **3. Sales Representative Depositions**

9 **a. Plaintiffs' Position**

10 There are issues for the Court to be aware of and to address with respect to
11 the depositions of sales representatives. Four out of 16 depositions remain to be
12 scheduled.

13 **First**, Plaintiffs have learned that Defendants' verified Defendant Fact
14 Sheets ("DFSs") misidentified one-third of sales representatives that Plaintiffs
15 requested to depose. Defendants cannot contest that they misidentified the
16 witnesses or that they verified the misidentification.

17 While Plaintiffs have been working diligently to deal with the critical mistake
18 and to complete discovery on time, in stark contrast to the parties' well-established
19 history of cooperating in good faith, Plaintiffs are finding great difficulty resolving
20 this and other issues related to sales representative depositions. The conduct of two
21 specific attorneys is unnecessarily frustrating progress. Plaintiffs hesitated to bring
22 the issue to the Court's attention, because the Court certainly has more pressing
23 matters than attorney discovery squabbles; but the issue is chronic, serious, and
24 Plaintiffs need help addressing it.

25 Plaintiffs seek two things as remedy to this first issue:

- 26 • To make the Court aware of the specific, chronic conduct, including in
27 other contexts, and that the Court remind all attorneys of their
28

1 obligations to work together in good faith and in a manner that is not
2 vexatious; and

- 3 • To the extent that, at the time of the hearing, Defendants have not yet
4 fully corrected their mis-verified DFSs and worked with Plaintiffs to
5 schedule depositions of sales representatives in those cases, Plaintiffs
6 request that the Court order Defendants to fully and quickly correct their
7 DFSs and to work cooperatively with Plaintiffs to schedule depositions
8 before bellwether selections are due.

9 To begin, specific Defendants' attorneys chronically resist meet and confer.
10 Outside the context of this MDL's monthly case status conferences, the parties
11 would be required by Local Rule 7.2(j) to engage in meet and confers and with
12 sincere effort before bringing any discovery issue to the Court—under penalty of
13 sanctions. Further, Paragraph 10 of the Deposition Protocol, CMO 21, requires
14 that "the Parties shall meet and confer in good faith to resolve all issues regarding
15 the scheduling and taking of depositions."

16 As the Court will remember, failure to meet and confer has already presented
17 problems in this case. The parties argued to the Court at the last hearing regarding
18 whether sales representative depositions should take place in person or remotely,
19 something about which Defendants' counsel, Ms. Brandee Kowalzyk in particular,
20 refused to meet and confer, despite Plaintiffs' offers.

21 On Friday, February 21, the day after the last case management conference,
22 Plaintiffs' counsel reached out to Defendants by email to request updates about
23 deposition scheduling, including Defendants' efforts to contact "all remaining
24 identified" sales representatives, current and former. Ex. G, Feb. 21-24 Emails.
25 Obviously, at some point, Plaintiffs need to subpoena if Defendants' efforts are
26 unsuccessful. Plaintiffs' counsel offered to meet and confer if there were any
27 issues. At that time, Defendants had only offered three dates out of 16 total.

1 On Saturday, February 22, Ms. Kowalzyk continued to push by email for
2 remote depositions and ignored Plaintiffs' requests for information and offers to
3 discuss any issues. *Id.* On Monday, February 24, Plaintiffs' Leadership, Ms.
4 Phillips, intervened, insisting on meet and confer, and Defendants did schedule a
5 meet and confer for Thursday, February 27, nearly one week after the request for
6 updates. *Id.* Given the impending deadlines, and given the parties' history of
7 finding time even on the same day to meet and confer about other issues, both the
8 need for intervention and the one-week delay was notable.

9 On Thursday, February 27, the day of the meet and confer, Ms. Kowalzyk
10 called to tell Plaintiffs' counsel she could no longer meet and confer; the conference
11 was however rescheduled for the next day, February 28. In an email memorializing
12 that call, Plaintiffs' counsel recorded that, "as part of meet and confer tomorrow,"
13 Defendants wanted Plaintiffs to consider hard stops on certain in-person
14 depositions and waiver of service of subpoenas, apparently in exchange for
15 agreement to attend in person. Ex. H, Feb. 27-Mar. 3 Emails.

16 On Friday, February 28, when the meet and confer regarding sales rep
17 depositions did take place, Defendants did not come prepared to address the
18 questions that Plaintiffs outlined in their February 21 email, most importantly,
19 Defendants' efforts to contact each witness and information about whether
20 Defendants represent each witness. *Id.* However, to remedy the fact that
21 Defendants were not prepared, Defendants agreed to meet again the following
22 Monday or Tuesday. *Id.* Plaintiffs memorialized the meet and confer in an email:

23 Plaintiffs asked Defendants if they could address the status of the
24 remaining 10 depositions that have yet to be scheduled- **specifically**
25 **as it relates to their representation of each of these individuals,**
26 **whether they will accept a subpoena for their depositions,** and
27 proposed dates for their depositions. Defendants indicated that they
28 would not be able to address those issues during this meet and confer
as they were under the impression we would only be discussing sales
representatives [in three cases]. **The parties agreed to meet and**

1 **confer about these remaining sales representatives on the**
 2 **following Monday or Tuesday.**

3 *Id.* Defendants' counsel Katherine Althoff responded the same day and withdrew
 4 Defendants' agreement to meet and confer regarding Plaintiffs questions:

5 While Plaintiffs requested to reconvene on Monday or Tuesday to
 6 discuss further scheduling issues, we believe it is premature to
 7 schedule a meet and confer call at this time. As we have demonstrated,
 8 we are providing dates on a rolling basis as we are able to (see
 9 Brandee's email regarding Ms. Peloquin from late this afternoon). As
 such, we are not aware of any impasse that has been reached and
 believe a further meet and confer is premature and
 unnecessary. We'll continue to provide you updates as we are able.

10 *Id.* Defendants only offered to address scheduling witnesses for whom they did
 11 have dates, which was obviously *not* Plaintiffs' only question. Defendants still had
 12 not provided information on efforts to contact each witness or whether they
 13 represented each witness. Further, Ms. Althoff perplexingly conditioned the need
 14 for meet and confer on "impasse."

15 On Monay, March 3, after learning of these attorneys' refusal to provide
 16 information, withdrawal of agreement to meet and confer, and apparent bargaining
 17 for in-person depositions with waiver of service and time restrictions, Co-Lead
 18 Phillips contacted both Mr. North and Mr. Fanning to discuss the conduct and that
 19 it was inconsistent with Ms. Phillips's experience with other of Defendants'
 20 counsel. Because Ms. Kowalzyk's conduct is not in isolation, Ms. Phillips raised
 21 the aforementioned issues with sales rep depositions, she raised another instance in
 22 which Ms. Kowalzyk similarly resisted meet and confer regarding case-specific
 23 treater depositions in which Leadership had to intervene,⁶ and she raised what she
 24 and several other questioning attorneys viewed as Ms. Kowalzyk's unnecessarily-

25
 26 ⁶ In the Cook case, certain treaters would not agree to seven-hour depositions, and
 27 Plaintiffs' counsel requested to discuss the limitations with Defendants. After many
 28 lengthy emails and requests for meet and confer, Plaintiffs' Leadership finally
 intervened to ask if Ms. Kowalzyk was going to deny the requests for meet and
 confer. It remedied the issue.

1 antagonistic behavior while defending depositions. Upon researching the issue
2 further, Ms. Phillips has learned that similar issues presented with other attorneys
3 during meet and confers regarding Defendant Fact Sheets. There is only one
4 common denominator in each instance.

5 On Monday, March 3, Plaintiffs again requested information by email, since
6 Defendants refused to meet and confer. *Id.* Plaintiffs specifically requested an
7 update on the remaining unscheduled depositions, including: 1) whether
8 Defendants have had contact with each sales representative to schedule; 2) whether
9 Defendants represent each sales representative; 3) if so, whether service is being
10 waived; and 4) if service is not waived, why not. Plaintiffs advised that they
11 remained available for meet and confer.

12 Later in the day on Monday, March 3, Defendants notified Plaintiffs that they
13 misidentified Plaintiffs' sales representative deponent in the Sorensen case. Ex. I,
14 March 3 Email. They did not respond to Plaintiffs' request for meet and confer.

15 On Wednesday, March 5, after hearing no response to the specific issues
16 raised in Plaintiffs' February 21, February 28, and March 3 emails, Plaintiffs again
17 requested meet and confer. Ex. J, Mar. 5-7 Email.

18 The same day, Ms. Althoff responded to say that Defendants were busy and
19 saw no need for meet and confer since they "do not see any impasse." *Id.*
20 Defendants still had not provided information as to whether Defendants have been
21 able to establish contact with all reps, whether Defendants represent each sales
22 representative, or waiver of service.

23 On Thursday, March 6, with no offer to meet and confer on the table,
24 Plaintiffs' counsel emailed, "[W]e have not yet received any cooperation regarding
25 the scheduling of a meet and confer, which is essential to resolving key issues
26 related to [sales rep] depositions." Ex. K, Mar. 6-10 Emails. The email outlined
27 the additional, new DFS issues and reiterated requests for meet and confer, offering
28 times on Thursday, Friday, and Monday. "If we do not hear from you, we will send

1 a Zoom link for the meet and confer scheduled on Monday, March 10, 2025, at
2 3:00 p.m. Eastern Time.” *Id.*

3 On Friday, March 7, Ms. Kowalzyk notified Plaintiffs that Defendants
4 misidentified sales representative Nordby in the Sorensen case, although the
5 information was verified. Ex. J, Mar. 5-7 Emails. At this time, Defendants did
6 finally offer dates for more depositions and agree to waive service for those
7 depositions. The email was silent on meet and confer. Defendants still had not
8 provided information as to whether Defendants have been able to establish contact
9 with all reps or whether Defendants represent each sales representative.

10 On Monday, March 10, the day Plaintiffs had set the meet and confer,
11 Defendants emailed at 7:30 AM CT to say that they have provided all the
12 information available, there was no further information to provide in meet and
13 confer, and that a meet and confer was not a good use of time. Ex. K, Mar. 6-10
14 Emails. Defendants still had not provided information as to the specific question
15 of whether Defendants have been able to establish contact with all reps and whether
16 Defendants represent each, nor were DFS issues resolved. At 9:51 AM CT
17 Plaintiffs responded to say that they disagree with Defendants’ position regarding
18 the need for meet and confer. *Id.* Ms. Althoff responded reiterating her position,
19 and Ms. Kowalzyk, who was, to be fair, dealing with a family emergency,
20 responded just before 2 CT to say that she agreed. Exs. H & I, Mar. 6-10 Emails
21 & Mar. 10 Emails.

22 At 3:00 CT on Monday, March 10, in a separate meet and confer on a
23 separate issue, case-specific scheduling, Ms. Phillips notified Mr. North and Mr.
24 Fanning that Plaintiffs would not support Defendants request for an extension of the
25 discovery period because Plaintiffs believe it is still possible for the parties to
26 complete discovery timely if they are cooperating and diligent. Plaintiffs also noted
27 that Defendants have a well-established history of not supporting Plaintiffs in their
28 reasonable requests for extension. Plaintiffs offered, however, to craft a case-

1 specific discovery schedule that would accommodate Defendants if the Court was
2 inclined to grant Defendants' requested extension. Mr. North was visibly not
3 pleased with Plaintiffs' response, stated that Defendants could, quote, "sling mud"
4 if that was Plaintiffs' preference, and stated that Defendants would be prepared to
5 brief the issue. Plaintiffs responded that they thought their position was, in fact, a
6 reasonable and accommodating compromise under the circumstances and that they
7 would also brief the issue.

8 Around 3:30 CT that same day, after being updated about the ongoing sales
9 representative scheduling issues, Ms. Phillips intervened to express frustration with
10 Defendants' continued refusal to meet and confer and to share information. Ex. L,
11 March 10 Emails. By contrast, since Defendants began requesting updates on
12 Plaintiffs' scheduling of around 75 plaintiffs/family/treaters, Plaintiffs have
13 consistently encouraged Defendants to stay in close communication regarding their
14 concerns about scheduling, and, once concerns were expressed, Plaintiffs worked
15 diligently to please Defendants' requests, including information about whether
16 contact was established. Plaintiffs provided Ms. Phillips's personal cell and
17 ultimately provided a three-times weekly, comprehensive update to avoid any
18 issues (even though Defendants were already in constant contact with scheduling
19 teams).

20 The next day, on March 11, Ms. Kowalzyk refused to offer dates for the
21 deposition of a former sales representative without service of a subpoena—despite
22 the fact that Defendants *do* represent that witness—and also refused to waive
23 service of the subpoena. Ex. M, Mar. 11 Emails.

24 Despite the asymmetry of cooperation and despite Leadership intervention,
25 which was observed by Mr. North and Mr. Fanning in emails, Defendants never
26 offered meet and confer. This chronic reluctance to meet and confer and related
27 resistance to sharing information has unnecessarily frustrated and hindered the
28 process of resolving issues related to sales representative depositions. Just one

1 example is that Plaintiffs learned late the process that Defendants *do not* represent
2 one sales representative and must subpoena; Plaintiffs have no idea when contact
3 was first attempted and established or whether they could have been working on
4 service sooner.

5 **Second**, relatedly, Defendants delayed until March 11 in notifying Plaintiffs
6 that, although they *do* represent one sales representative, they will not offer dates
7 without a subpoena, and they claim they do not have authority to waive service.
8 Also notably, Plaintiffs waived service in the case of every friend and family
9 member deposed. Plaintiffs have served a subpoena for April 2.

10 **Third**, Defendants did not make Plaintiffs aware that they *do not* represent
11 one sales representative, Mr. Tazwa Brown (Plaintiff Lattanzio), until March 6.
12 Plaintiffs were able to very quickly establish contact and have served a subpoena
13 for March 26.

14 **Fourth**, as of March 12, Plaintiffs still do not have supplemental Defendant
15 Fact Sheets, correcting Defendants verified misidentification of sales
16 representatives in the Sorensen and Faust cases. Defendants alerted Plaintiffs to
17 those misidentifications on March 3 and 4, respectively. Rather than provide full
18 supplement, which would show which sales representatives called on Plaintiffs'
19 implanting physician and for how long, Defendants have instead offered one sales
20 representative who they unilaterally identified as most relevant. Without complete
21 supplements, Plaintiffs cannot choose the appropriate sales representative to
22 depose. Defendants' consistent reluctance to meet and confer exacerbates this
23 issue. If the problems are not resolved and depositions conducted before bellwether
24 selection, Plaintiffs will be prejudiced by the lack of relevant testimony.

25 **Finally**, in their initial draft of the joint memo, Defendants said very little
26 about Plaintiffs counsel's conduct during the course of deposition scheduling.
27 Defendants did originally, vaguely state that Plaintiffs have become "hostile and
28 adversarial;" if Plaintiffs had to guess what they are referencing, Defendants are

likely (mis)characterizing Plaintiffs’ final, firm response to Defendants’ long, chronic refusal to cooperate and share information about the scheduling of sales representative depositions, which the Court can judge for itself. Exs. I & J, Emails. Plaintiffs are unclear about what Defendants are referencing in their equally vague statement that Plaintiffs have “insinuated that Defendants are intentionally withholding the identities of the two remaining sales representatives” Plaintiffs’ conduct is not the issue.

b. Defendants’ Position

At the time of this submission, Defendants have provided Plaintiffs with dates for the depositions in each of the 16 cases in Discovery Group 1. All but one of those depositions is currently scheduled and confirmed. The sole deposition remaining to be confirmed is that of a former sales representative who has been unresponsive to Defendants’ efforts to contact her. Defendants provided Plaintiffs with her last known contact information, and Plaintiffs intend to subpoena her. The Parties have agreed on a date for that deposition, subject, of course, to the response of the witness once subpoenaed.⁷

Getting to this point has been an arduous task. The 15 cases comprising Discovery Group 1 were identified by the parties on December 17, 2024. However, Plaintiffs waited seven weeks, until February 3, before requesting the depositions of sales representatives and identifying the ones they want to depose. Defendants immediately began the challenging process of confirming each identified sales representative’s relationship to the facility/time period at issue, locating, and connecting with the sales representatives to schedule the depositions. That process was complicated by the fact that the majority of the sales representatives identified are no longer employed by the company.

⁷ In this case, the *Sorensen* case, Defendants have located and offered deposition dates to Plaintiffs of two other sales representatives who covered the territory during the pertinent time, but Plaintiffs have opted to depose the former sales representative who has not agreed to cooperate in scheduling a deposition.

1 The process was further complicated by the discovery that, in a minority of
2 cases, the information identifying an assigned sales representative during a specific
3 time frame turned out to be inaccurate. When completing the Defense Fact Sheets,
4 Defendants' attorneys pored over sales rosters for the appropriate time period to
5 identify the sales representatives believed to have marketed products to the facilities
6 in question. Once Defendants' attorneys devised a draft list, they shared the list with
7 present sales employees in an effort to verify that information.

8 Unfortunately, however, there is no "master roster" that provides a
9 comprehensive summary of the sales representatives and the assigned territories
10 over the years. The rosters that are available provide only a "snapshot" in time.
11 Ascertaining the correct sales representatives from those documents is complicated
12 by the fact that the responsibility for the sales of implantable port products has
13 changed over time. Not only was the responsibility for ports transferred from one
14 division to another at one point, but the acquisition of Bard by Becton Dickinson in
15 2018 significantly impacted how territories were defined, referenced, and
16 organized.⁸ Even where the territory and time period appears to match a particular
17 sales representative, several sales representatives interviewed have denied
18 responsibility for selling port products in their territories.

19
20
21 ⁸ As just one example, Defendants' counsel had an almost impossible time tracking
22 the history of the sales territory that would have included the University of
23 Tennessee Medical Center in Knoxville, Tennessee. After countless calls, counsel
24 learned that the territory was handled by one sales representative in 2017. In 2018,
25 however, territories were realigned and responsibility for that facility shifted to
26 another representative. The next year, it appears that responsibility for implantable
27 ports was shifted from the vascular sales force to the oncology sales force.
28 Ironically, the vascular sales representative who had covered the facility in 2017
had transferred to the oncology sales force and took back responsibility for the
hospital at that time. The facility was then shifted to another territory in 2021, and
that territory was "open" by the end of that year. Thereafter, a new representative
was hired for that territory in early 2022.

1 The effort has required interviewing several dozen current and former
2 associates and chasing down the many leads that were provided. Defendants, in
3 addition to their attorneys, have had several people engaged in those activities and
4 have devoted an enormous amount of time and resources. Throughout this process,
5 Defendants made every effort possible to ascertain the correct representative for the
6 time periods in question.⁹

7 Despite Defendants' efforts to be forthcoming throughout this process,
8 Plaintiffs' attorneys have become hostile and adversarial (as evidenced by their
9 submission). They have insinuated that Defendants were intentionally withholding
10 the identities of some sales representatives, when nothing could be further from the
11 truth. They argue that Defendants refused to meet and confer when Defendants'
12 counsel sent them more than 50 emails during this period of time, updating them on
13 the progress being made and noting those instances where Defendants were still
14 trying to determine the correct representative. Plaintiffs' counsel have also insisted
15 that Fact Sheets be supplemented immediately to identify the correct representatives
16 (in those cases where the initial disclosure was erroneous), even when Defendants
17 had not yet determined that information. Defendants have repeatedly told Plaintiffs
18 they would supplement the Fact Sheets once the information was ascertained, and
19 Defendants did just that.

20 To summarize, during the past six weeks, Defendants have overcome a
21 number of complicated challenges. They have succeeded in confirming the identity
22 of the sales representatives in question. They have scheduled depositions of 14 of
23 the 16 individuals who would cooperate, for dates prior to the April 4 deadline.¹⁰

24 ⁹ It should be noted that Defendants were required in the Fact Sheets to identify the
25 sales representatives at three different points in time.

26 ¹⁰ As referenced in Plaintiffs' statement on the issue, one former sales representative
27 asked Defendants to represent him but initially would not agree to provide a date
28 voluntarily or to appear for deposition without a subpoena. After learning on March
17 that the last known contact information Defendants had previously provided to

1 They succeeded in that effort despite the fact that many of the representatives
 2 no longer work for the company. Because of those efforts, sales representative
 3 discovery will proceed precisely as Plaintiffs requested. Against that background,
 4 the rhetoric of Plaintiffs' counsel is unnecessary.¹¹

5 **E. Defendants' Request for a 14-Day Extension of Discovery Group 1**
 6 **Discovery Period and Time for Designation of Cases for Bellwether**
 7 **Selection Pursuant to Second Amended CMO 10**

8 **a. Plaintiffs' Position**

9 Plaintiffs believe that, if the parties are cooperating in good faith and working
 10 diligently, it is still possible for the parties to complete discovery timely and/or to
 11 request that certain depositions be taken as quickly as possible after the close of
 12 discovery. Plaintiffs have, however, crafted a case-specific discovery schedule that
 13 would accommodate Defendants if the Court is inclined to grant the Defendants'
 14 requested extension.

15 **b. Defendants' Position**

16 Defendants respectfully request a brief, 14-day extension of the Discovery
 17 Group 1 discovery period and the deadline exchange proposed bellwether selections
 18 to allow the parties to complete the necessary discovery and analysis to evaluate the
 19 cases for bellwether selection. Defendants ask that the discovery period be extended
 20 from April 4 to April 18 and the exchange of proposed bellwether plaintiffs and
 21 order of trials be extended from April 7 to April 21. Good cause exists for this short
 22

23 Plaintiffs was not current, Defendants had additional discussions with the former
 24 sales representative and were able to provide the update to Plaintiffs that he will
 25 now agree to be deposed on April 4. The Parties are in agreement that the deposition
 26 shall be conducted on that date, subject to the Court's approval, given CMO 29
 27 requires that all such depositions be completed prior to April 4.

28 ¹¹ Also unnecessary are the attacks on individual lawyers. Because those attacks are
 not germane to the issues before the court, Defendants will forego any response.
 However, Defendants' counsel will be happy to address any questions the Court
 may have.

1 extension and there is no prejudice to Plaintiffs. As stated above, and through no
2 fault of Defendants, there are depositions that are not yet scheduled and one that
3 may need to be reconvened. *Reed* is a defense pick, and despite Plaintiffs' offer to
4 allow Defendants to take depositions in another case, Defendants prefer to have the
5 *Reed* case included in the bellwether selection pool and to depose Mr. Reed once he
6 completes his program.

7 Certain plaintiffs identified additional medical treatment and providers in
8 their depositions that were not included in their Plaintiff Fact Sheets. Further,
9 Defendants are also waiting on additional important information that may impact
10 the evaluation of the cases including outstanding, and just received, medical records.
11 Two notable examples are below:

12 In *Davilman*, Defendants requested the medical records of the Plaintiff's
13 primary care provider in August 2024. Despite diligent follow up with the provider,
14 those records were not produced until Monday, March 10, 2024, when the Marker
15 Group received 14,623 pages of records. Those records are subject to a seven-day
16 review period under CMO 10. On March 10, Defendants requested that Plaintiff's
17 counsel, who is also Plaintiffs' Leadership, waive the review period so that
18 Defendants can begin review of the voluminous records, but Plaintiff's counsel has
19 not responded. As a result, Defendants cannot begin review of the almost 15,000
20 pages of records until after March 17, 2025.

21 In the *Hicks* case, over 3,700 pages of medical records were received from
22 the Plaintiff's primary care provider on February 24, 2025, but Plaintiff did not
23 finish the review and redaction until March 11, and Defendants just received the
24 heavily redacted medical records. Defendants are waiting for Plaintiffs to review
25 another 1700 pages received from a provider on March 3. Plaintiffs have indicated
26 that they will need until March 17 to review and redact the records.

27 Further, in addition to the depositions identified above that need to be set,
28 there are 17 depositions of treating physicians (in 10 of the cases) scheduled after

1 March 24, 2025. Many are in person, requiring the taking lawyers to travel all
2 around the county. Defendants will not have reports or transcripts of these
3 depositions until very close to the time to propose bellwether selections.

4 While the parties have worked to accomplish a tremendous amount of
5 discovery in a short time, there remains important information that Defendants do
6 not have and, in some instances, may not have before the close of discovery. A short
7 extension will allow the parties to complete the discovery allowed in Second
8 Amended CMO 10 and provide Defendants the opportunity to review and evaluate
9 the information for bellwether selection.

10 **F. Privilege & Redaction Issues**

11 There are no issues to be addressed with the Court at this time.

12 **VI. Plaintiff Profile Forms**

13 **A. Plaintiffs' Position**

14 On January 21, 2025, the Court Entered Second Amended CMO 8 (Doc.
15 2369), which required all Plaintiffs with incomplete PPFs to supplement and
16 provide complete, amended PPFs on or before February 28, 2025, or to explain why
17 they could not comply. Defendants were ordered to provide Plaintiffs' leadership
18 with its list of incomplete PPFs. Plaintiffs' Leadership was ordered to monitor the
19 service of amended PPFs and provide Defendants with a list of all amended PPFs
20 served that are complete and a list of those that remain incomplete.

21 On February 5, Defendants provided Plaintiffs' Leadership with a list of
22 Plaintiffs for whom Defendants showed incomplete PPFs, but the list consisted only
23 of the subject plaintiffs' names and lacked any information regarding the nature of
24 the alleged deficiency or any amendments that had been submitted which
25 Defendants still deemed deficient. Thereupon, Plaintiffs' Leadership set about to
26 alert plaintiffs' counsel about the alleged deficiencies and requested from the
27 Defendants a list of allegedly deficient PPFs which set forth Defendant's position
28 on the nature of the alleged deficiencies in order to assist the various plaintiffs'

counsel to cure any *bona fide* deficiencies. Defendants provided the requested list on February 13, 2025, and Plaintiffs' Leadership continued to coordinate with plaintiffs' counsel to cure any deficiencies. On March 12, Plaintiffs' Leadership provider Defendants with a chart setting forth the status of the PPFs on Defendants' list. Of the 170 cases which Defendants identified, Plaintiffs were able to inform Defendants that 94 had cured the deficiencies. Plaintiffs further updated Defendants via the chart that 55 of the remaining plaintiffs had pending medical records requests. These plaintiffs will serve their respective amendments as records are received. Of the plaintiffs which Defendants identify as having not responded to deficiency letters, the chart provided to Defendants contained the following status information:

Plaintiff	Civil Action No.	Status Provided to Defendants
Brinser, Amos	2:24-cv-02636-DGC	Medical records are pending.
Chasse, Cynthia	2:24-cv-02948-DGC	Medical records are pending.
Crochet, Rebekah	2:24-CV-1077-DGC	Product Identification outstanding
Fortune, Kelli	2:24-cv-01988-DGC	Medical records are pending.
Gomez, Constance	2:24-cv-01918-DGC	Medical Records Produced
Haynes, Patricia	2:24-cv-01131-DGC	Medical records are pending.
Hough-Edwards, Christy	2:24-cv-02482-DGC	Uncured
Long, Ashley	24-cv-02940-DGC	Medical records are pending.

1	Mayo, Dionne	2:24-cv-02048-DGC	Product Identification
2			Outstanding
3	Nordskog, Marnie	2:24-cv-02635-DGC	Medical records are pending.
4	Pence, John	2:24-cv-03072-DGC	Medical records are pending.
5	Phillips, Marilyn	2:24-cv-01128-DGC	Uncured
6	Pruitt, Robert	2:24-cv-02939-DGC	Medical records are pending.
7	Sanchez, Loretta	2:24-cv-02516-DGC	Medical records are pending.
8	Sheets, Penny	2:24-cv-02764-DGC	Medical records are pending.
9	Simmons, Julie	2:24-cv-01505-DGC	Invalid Lot Number

10 **B. Defendants' Position Regarding Second Amended CMO 8**

11 On January 21, 2025, the Court Entered Second Amended CMO 8 (Doc.
12 2369), which required all Plaintiffs with incomplete PPFs to supplement and
13 provide complete, amended PPFs on or before February 28, 2025, or to explain why
14 they could not comply. On February 5, Defendants provided Plaintiffs' Leadership
15 with the list of Plaintiffs for whom Defendants showed incomplete PPFs.
16 Defendants provided an updated list on February 13. Plaintiffs' Leadership was
17 required to monitor the service of amended PPFs and to provide Defendants with a
18 list of PPFs that are complete and a list that remain incomplete. (See, Doc. 2369 at
19 page 7). On March 5, 2025, Defendants requested that list from Plaintiffs'
20 Leadership, and it was promised "ASAP." Defendants requested it again on March
21 11, 2025. The overwhelming majority of the entries on the list Defendants received
22 from Plaintiffs on March 12, 2025, state "Medical records are pending," meaning
23 no supplement was made. Based on Defendants' review of the list, the parties need
24 to meet and confer on certain of the PPFs that Plaintiffs show as "cured" or still
25 pending but Defendants believe are still not in compliance with CMO 8 and Second
26 Amended CMO 8. So that Defendants have time to fully review the list, compare it
27 to the information provided, and so that the parties may meaningfully meet and
28

confer, Defendants request an extension to the next case management conference to address any remaining deficiencies in the PPFs required to be supplemented by February 28, 2025.

Second Amended CMO 8 specifically requires that each Plaintiff on the list “shall serve an amended and complete PPF on or before February 28, 2025, that fully complies with this Order, or if that is not possible, an explanation as to why.” Plaintiffs’ list provided to Defendants on March 12 does not indicate which Plaintiffs failed to respond as required by that CMO (for the plaintiffs in the chart below the list either says “medical records are pending,” “not cured,” “not sure if cured,” or “plaintiff did not respond”), but Defendants were able to query the MDL Centrality depository (and double check by checking each Plaintiff’s entries). Defendants determined that the following Plaintiffs’ PPFs are not complete, are on the list provided to Plaintiffs’ Leadership on February 5, but failed to serve a supplemental PPF or any response indicating why they cannot comply with the PPF requirements pursuant to Second Amended CMO 8:

Plaintiff	Civil Action No.	Last Response from Plaintiff
Brinser, Amos	2:24-cv-02636-DGC	12/11/2024
Chasse, Cynthia	2:24-cv-02948-DGC	1/16/2025
Crochet, Rebekah	2:24-CV-1077-DGC	8/6/2024
Fortune, Kelli	2:24-cv-01988-DGC	9/23/2024
Gomez, Constance	2:24-cv-01918-DGC	9/12/2024
Haynes, Patricia	2:24-cv-01131-DGC	5/31/2024
Hough-Edwards, Christy	2:24-cv-02482-DGC	10/17/2024
Long, Ashley	24-cv-02940-DGC	12/23/2024
Mayo, Dionne	2:24-cv-02048-DGC	10/23/2024

1	Nordskog, Marnie	2:24-cv-02635-DGC	12/5/2024
2	Pence, John	2:24-cv-03072-DGC	1/10/2025
3	Phillips, Marilyn	2:24-cv-01128-DGC	8/7/2024
4	Pruitt, Robert	2:24-cv-02939-DGC	12/23/2024
5	Sanchez, Loretta	2:24-cv-02516-DGC	12/4/2024
6	Sheets, Penny	2:24-cv-02764-DGC	1/24/2025
7	Simmons, Julie	2:24-cv-01505-DGC	11/7/2024

8 Pursuant to Second Amended CMO 8, which states,” Any plaintiff who fails
9 to comply with this Order by the March case management conference shall be
10 required to show cause as to why his/her complaint should not be dismissed or
11 he/she should not face other sanctions,” Defendants request an Order to Show Cause
12 for each of these Plaintiffs as to why their complaints should not be dismissed for
13 failure to comply with CMO 8 and Second Amended CMO 8.

14 **C. Defendants’ Position Regarding New Deficiencies**

15 **a. Plaintiffs Who Failed to Serve a PPF**

16 There are two (2) plaintiffs who failed to serve a PPF within the time
17 prescribed in CMO 8 (Doc. 113). CMO 8 provides that absent a showing of good
18 cause for failure to timely submit a PPF, a Plaintiff’s case will be dismissed. (Doc.
19 113 at 5).

20 Plaintiff Peggy Younger-Smith, 2:24-cv-03724-DGC, filed her complaint on
21 December 30, 2024. Pursuant to CMO 8, her PPF was due to be served on January
22 29, 2025. (*See* Doc. 113 at 1). Defendants sent the letter attached as Exhibit N on
23 February 10, 2025. Plaintiff’s response was due on March 3, 2025. To date, Plaintiff
24 Peggy Younger-Smith has not served a PPF. Defendants seek an order to show
25 cause as why the Complaint filed by Plaintiff Peggy Younger-Smith should not be
26 dismissed. (*See* Doc. 113 at 5).

27 Plaintiff Robert Taylor, 2:25-cv-00080-DGC, filed his complaint on January
28 10, 2025. Pursuant to CMO 8, his PPF was due to be served on February 10, 2025.

(*See* Doc. 113 at 1). Defendants sent the letter attached as Exhibit O on February 17, 2025. Plaintiff's response was due on March 10, 2025. To date, Plaintiff Robert Taylor has not served a PPF. Defendants seek an order to show cause as why the Complaint filed by Plaintiff Robert Taylor should not be dismissed. (*See* Doc. 113 at 5).

There are eight (8) additional plaintiffs who failed to serve a PPF within the time required by CMO 8 but are within the twenty-one (21) day cure period until March 20, 2025. Defendants will address these plaintiffs in the April joint submission if they have not served a PPF. The eight (8) plaintiffs are as follows: Carolyn Wimberly Tatum (3/20/25); Karlene Lewis (3/20/25); Michael Anthony Wren (3/20/25); Stephanie Crist (3/20/25); Delores Jackson (3/20/25); Keoshia Jackson-Green (3/20/25); Theodore Dombrowski (3/20/25); and Rachael Lynn Poppell (3/20/25).

b. Deficient PPFs

The plaintiffs in the chart below served incomplete PPFs and did not respond to Defendants' deficiency letters. Some plaintiffs requested extensions (which were granted) but then did not respond, and others simply did not respond at all. The chart below identifies the plaintiff, case number, and date the letter identifying the deficiencies was sent. Pursuant to CMO 8, Defendants seek an order compelling each of the plaintiffs to respond to the deficiency letter and fully comply with CMO 8 by April 3, 2025. *See* Doc 2369 at 5 ("If Plaintiff fails to resolve the deficiencies and serve a complete PPF within the time allowed or fails to contact Defendants' counsel to explain why further time is needed to complete the PPF, Defendants may raise a request to compel a fully complete PPF during a regular CMC. Defendants may apply for their reasonable attorneys' fees and expenses incurred in seeking to compel a fully complete PPF.").

Plaintiff	Civil Action No.	Deficiency Letter
Barrios, Victor	2:24-cv-03073-DGC	02/13/2025
Blevins, Michael	2:24-cv-03272-DGC	02/13/2025
Heister, Jody L	2:24-cv-03349-DGC	02/18/2025
Snipes, Kimberly Lynn	2:24-cv-03737-DGC	02/23/2025
Wilkinson, Michael	2:25-cv-00116-DGC	02/23/2025
Foust, Larry	2:25-cv-00132-DGC	02/27/2025
Aguilar, Martha	2:24-cv-03316-DGC	03/04/2025
Menchan, Hilton L.	2:25-cv-00077-DGC	03/04/2025
Cochran, Danielle Marie	2:25-cv-00188-DGC	03/04/2025
Yard, Amber	2:24-cv-03569-DGC	02/05/2025

There are an additional two (2) plaintiffs who served incomplete PPFs, but the cure period for these plaintiffs expires after March 20, 2025. Defendants will address any of these plaintiffs who have not cured the deficiency in the April joint submission. The two (2) plaintiffs are as follows: Erin Danielle Richter (03/09/25) and Roy Mazuchowski (03/09/25).

VII. Plaintiff Fact Sheets and Plaintiff Profile Forms for Discovery Group 1

A. Defendants' Position

Defendants request that all Plaintiffs in Discovery Group 1 who identified additional information (i.e., medical providers, medical treatment, photographs and videos, and claims in the lawsuit) during their depositions that should have been and was not included in their PFS and/or PPF be required to serve supplemental verified PFS and/or PPF on or before April 4, 2025.

B. Plaintiffs' Position

Plaintiffs' Leadership will coordinate with counsel for Discovery Group 1 to make required supplements to their respective PPFs and PFSs. Plaintiffs do not take the position that all materials referenced in plaintiffs' depositions are relevant or

discoverable in this action, but the parties can meet and confer with respect to particular materials.

VIII. Defendant Profile Forms

A. Plaintiffs' Position

In CMO No. 31, the Court ordered Defendants to produce Complaint Files in response to Section V(2) of the Defendant Profile Form (DPF) for the 18 plaintiffs listed in the parties' last Joint Status Report. Dkt. 2669; 2638. Of those 18, Defendants failed to produce Complaint Files for three (3) plaintiffs until March 14, 2025, after the parties initially exchanged Joint Status Report drafts on March 13, 2025. Those plaintiffs were Daniel Crane (Case No. 2:24-cv-03344), Linda Konitzer (Case No. 2:24-cv-03058), and Dawn Littlejohn (Case No. 2:24-cv-02742).

Plaintiffs maintain that Defendants are fully capable of producing Complaint Files in response to Section V(2) of the DPF within 60 days of them initially being due with the DPF production. While Plaintiffs prefer the DPFs are produced timely at the same time the DPF is first due whenever possible, the 60-day period is more than adequate for Defendants to supplement this information given what Defendants have described for their internal Field Assurance Team process to date in past Joint Status Reports and at past CMCs.

Plaintiffs further maintain they are prejudiced by Defendants failing to timely produce or supplement this information as the information as requested in Section V(2) of the DPF is important to Plaintiffs being able to adequately assess cases, both the individual case and for all plaintiffs in the MDL. Section V(2) indicates that Defendants shall produce the complaint file for each plaintiff, which includes, but is not limited to, "any MedWatch, MAUDE Adverse Event Reports ("AER"), Alternative Summary Reporting ("ASR"), and any other documents submitted by Defendants to the FDA". DPF, Sec. V(2). If Defendants have submitted any information or received any information regarding a complaint for a particular plaintiff or communicated any information to the FDA, this is key information to

that plaintiff and everyone in the MDL to know the substance of the complaint. This goes directly to the allegations of the port catheter devices being defective and why. Further, while Defendants have produced Complaint Files for all of the 15 Discovery Group 1 plaintiffs, this discoverable information received on other cases reflects upon and influences plaintiff leadership going into treating physician depositions and plaintiff depositions for that group.

Plaintiffs have identified the following additional cases where Defendants have failed to produce a Complaint File in response to Section V(2) where 60 days have passed from the original deadline for them being due with the initial DPF production:

Plaintiff Name	Case Number	Original Date Due
1. Aswell, Angela	2:24-cv-02434	11/27/2024
2. Brown-Bowick, Shalona	2:24-cv-02968	01/03/2025
3. Bush, Datra	2:24-cv-02435	11/27/2024
4. Cartwright, James	2:24-cv-02436	11/27/2024
5. Coleman-Moreno, Angela	2:24-cv-02966	01/16/2025
6. Cyr, Tammy	2:24-cv-02929	01/15/2025
7. Driver, Julia	2:24-cv-02998	01/16/2025
8. Eyermann, Joshua	2:24-cv-02835	01/03/2025
9. Kind, Richard	2:24-cv-02953	01/15/2025
10. Laro, Debra	2:24-cv-02498	01/03/2025
11. Nelson, Patsy	2:24-cv-02390	11/22/2024
12. Smith, LaFeion	2:24-cv-02438	11/26/2024
13. Toranzo, Giny	2:24-cv-00577	06/03/2024
14. Whalen, Amy	2:24-cv-02928-	01/15/2025
15. Williams-Scott, Maggie	2:24-cv-02440	11/27/2024

1 Plaintiffs request that the Court order Defendants to produce the Complaint
2 Files and responsive information within 30 days, or by the time of the next CMC,
3 whichever is sooner.

4 Plaintiffs will continue to bring this matter to the Court's attention if such
5 supplementation is not provided within a reasonable timeframe in other cases going
6 forward..

7 **B. Defendants' Position**

8 Defendants continue to produce complaint files to Plaintiffs on a rolling
9 basis. Since the February 20 case management conference, Defendants have
10 produced 55 completed complaint files, including the files for the 18 cases specified
11 in Case Management Order No. 31 (Doc. 2669).

12 However, as Defendants have repeatedly explained, there is a backlog of
13 complaint files to be investigated, given the volume of new filings in this MDL. For
14 example, there have been more than 250 new cases filed since the beginning of this
15 year. Each case requires Defendants to launch an investigation, create a file, and
16 complete the detailed document that is part of the complaint handling process. It is
17 simply not possible for Defendants to keep pace with the number of new cases being
18 filed (which far exceed the typical rate of complaints managed by Defendants), at
19 least with current staffing levels.

20 Importantly, there has been no demonstrable prejudice to Plaintiffs. Indeed,
21 Defendants have taken steps to ensure that Plaintiffs are not prejudiced by the
22 backlog experienced by Defendants. For one, Defendants prioritized the completion
23 of the complaint files for the 48 cases that comprise the fact sheet group (from which
24 the Discovery Group of 15 cases was selected). Plaintiffs were provided those
25 complaint files in a timely manner to ensure they had all available information for
26 making their selection of cases for the Discovery Group.

27 Moreover, the circumstances giving rise to the sought-after complaint files
28 belies any notion that they would provide useful information needed by the parties.

1 That is because Defendants' first notice of virtually all of these alleged adverse
2 events did not occur until receipt of each short form complaint. As a result,
3 Defendants' knowledge about the incident is limited to a recitation of what is in the
4 plaintiff's filing and the plaintiff's profile form. These files typically describe the
5 event in very general language, for example: "It was reported through litigation
6 process that sometime post port placement procedure, the port allegedly developed
7 with catheter fracture." Had these events been reported in the normal course – for
8 example, by a treating physician or member of hospital staff – the complaint reports
9 would reflect information provided by the hospital, as well as BD's investigation
10 into the event. Here, however, such an investigation is necessarily confined by the
11 information provided in each plaintiff's complaint.

12 For all of these reasons, the remedy sought by Plaintiffs is unnecessary and
13 unduly burdensome to Defendants. It would require Defendants to hire additional
14 personnel at a significant cost, with little to no meaningful impact on Plaintiffs'
15 ability to assess their clients' cases. Absent a showing of actual prejudice – which
16 Plaintiffs have not and cannot demonstrate here – Defendants should not be forced
17 to augment their established processes and incur the associated expense.

18 **IX. Defendant Fact Sheets**

19 **A. Plaintiffs' Position**

20 Save the sales representative identification issues identified above in the
21 section regarding case-specific depositions, there are no issues for the Court to
22 resolve at this time.

23 **B. Defendants' Position**

24 Defendants believe that the parties have resolved all disputes regarding
25 Defendant Fact Sheets (DFS). After the last Case Management Conference, the
26 parties met and conferred twice regarding DFS: first on February 27, 2025; and
27 again on March 3, 2025. After the second meet-and-confer call on March 3,
28 Plaintiffs' counsel sent an email identifying five follow-up points and requesting, as

1 the parties agreed in the meet-and-confer call, that Defendants address those five
2 points by the end of the week of March 3.

3 On Friday, March 7, Defendants addressed the five follow-up points
4 identified in Plaintiffs' email as agreed and stated: "I believe this resolves the
5 remaining disputes but please let me know if you disagree." Plaintiffs have neither
6 responded to that email nor indicated that any disputes remain as to the DFS issues.

7 **X. Claims Regarding Central Venous Catheter**

8 **A. Plaintiffs' Position**

9 Plaintiffs are working to resolve this issue and will update the Court at the
10 hearing.

11 **B. Defendants' Position**

12 On November 20, 2024, Plaintiff Richard Bonvillain filed his Master Short-
13 Form Complaint and Jury Demand in which he alleges that the two devices that
14 caused his injury were both Groshong Single Lumen Catheters with Sure Cuff. Case
15 No. 2:24-cv-03245, Doc. 1, ¶11. However, the present MDL is limited to certain
16 allegations pertaining to Defendants' implantable port catheter devices. See
17 Transfer Order, Doc. 65 at 1; Transfer Order, Doc. 135 at 1. Central venous catheters
18 ("CVC") are an entirely different product line from and are unrelated to the
19 implantable port catheter devices at issue in this litigation. Thus, Mr. Bonvillain's
20 Complaint pertaining to CVCs has been improperly filed into this MDL and should
21 be dismissed. On March 4, 2025, Defendants' counsel raised this concern to
22 Plaintiff's counsel, Roman Balaban of Roman Balaban and Associates, LLC, and
23 requested that the case be dismissed. On March 17, 2025, Plaintiff's counsel
24 requested confirmation that the devices at issue are not implantable ports.
25 Defendants' counsel will discuss with Plaintiff's counsel, but if this issue cannot be
26 resolved prior to the conference, Defendants request that this case be dismissed.

1
2 Dated: March 18, 2025

Respectfully submitted,

3
4 /s/Adam M. Evans

5 Adam M. Evans (MO #60895)
6 (Admitted Pro Hac Vice)
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24 ***Co-Lead Counsel for Plaintiffs***

Attorneys for Defendants

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE: Bard Implanted Port Catheter
Products Liability Litigation

MDL No. 3081

**DECLARATION OF
ADAM M. EVANS**

I, Adam M. Evans, hereby state as follows:

1. I am competent to make the statements contained herein, and if called upon to testify I would state the same.

2. I am a citizen of the state of Missouri.

3. Plaintiff Jennifer Engle, Case No. AZ-2:23-cv-02162-DGC; MCL No. 3081, signed a retainer agreement with my firm on June 9, 2023. My office started the preservation process for Jennifer Engle's explanted port on June 23, 2023, when she informed us that her port was being explanted. At the time my office began the preservation process, we were unaware that Ms. Engle had also retained Constant Legal Group.

4. On August 19, 2024, I directed my office to provide a list of the firm's clients who (1) had undergone a port removal procedure in which the explanted specimen was retrieved and sent to storage vendor, Steelgate, and (2) had a case which was still under investigation and had not been filed. Upon reviewing the case list provided by staff and confirming that the firm had not filed a complaint for either client, my office directed

1 Steelgate to send two preserved specimens (one of which belonged to Jennifer Engle) to Dr.
2 El-Ghannam for examination and analysis. At the time my office directed Steelgate to send
3 the specimen to Dr. Ahmed El-Ghannam, I was unaware of the dual representation and of
4 the fact that a complaint had been filed on Ms. Engle's behalf.
5

6 5. After the results of that analysis were disclosed to Defendants in the form of
7 the Rule 26(a)(2)(B) report of Dr. El-Ghannam, Defendants contacted Plaintiffs' Co-Lead
8 Counsel regarding the report, inquiring about Plaintiffs' position as to whether El-
9 Ghannam's testing of the catheters violated CMO No. 20. As Plaintiffs' Co-Lead Counsel
10 and attorney for the two individuals whose explant specimens were tested, I replied that the
11 testing did not implicate CMO No. 20 by virtue of the fact that the tested specimens did not
12 belong to plaintiffs in the MDL or any other related action. Defendants then provided a
13 copy of the Plaintiff Profile Form executed by Jennifer Engle after her case was filed by
14 Constant Legal Group on January 5, 2024.
15
16

17 6. Despite the fact that I believed the Engle case to be unfiled, I nonetheless
18 directed all individuals involved to adhere to all aspects of Case Management Order #20
19 with respect to collection and preservation of the specimen.
20

21 7. All of the statements contained herein are true and correct to the best of my
22 knowledge and are submitted subject to penalty of perjury in this Court and in the state in
23 which the statements were made.
24
25

26 Executed this 18th day of March 2025 in Kansas City, Missouri.
27
28

Respectfully submitted,

By: /s/ Adam M. Evans

Adam M. Evans (admitted *pro hac vice*)

MO Bar # 60895

DICKERSON OXTON, LLC

1100 Main St., Suite 2550

Kansas City, MO 64105

T: (816) 268-1960

F: (816) 268-1960

aevens@dickersonoxton.com

Attorney for Plaintiff Engle

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE: Bard Implanted Port Catheter
Products Liability Litigation

MDL No. 3081

**DECLARATION OF RYAN
CAVANAUGH**

I, Ryan Cavanaugh, hereby states as follows:

1. I am counsel of record for Plaintiff Jennifer Engle in filed case no. AZ-2:23-cv-02162-DGC; MCL No. 3081. I am competent to make the statements contained herein, and if called upon to testify I would state the same.

2. I am a citizen of the state of Ohio.

3. I and my office first learned of the dual representation of Plaintiff Engle on March 17, 2025.

4. I and my office first learned of any testing performed on Ms. Engle's explanted port catheter on March 17, 2025.

5. All of the statements contained herein are true and correct to the best of my knowledge and are submitted subject to penalty of perjury in this Court and in the state in which the statements were made.

1 Executed this 18th day of March 2025 in Springfield, Ohio.
2
3

4 Respectfully submitted,
5

A handwritten signature in black ink, appearing to read 'Ryan Cavanaugh', is written over a horizontal line.

6 Ryan Cavanaugh, Esq.
7 Constant Legal Group
8 737 Bolivar Road, Suite 400
9 Cleveland, OH 44115

10 *Attorney for Plaintiff Engle*
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EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE: Bard Implanted Port Catheter
Products Liability Litigation

MDL NO. 3081

**CASE MANAGEMENT ORDER
NO. ____**

**(Bellwether Discovery and
Scheduling Order)**

Pursuant to Amended Case Management Order No. 10 [Doc. 2128] and Case Management Order No. 31 [Doc. 2669], the Court enters this Case Management Order No. ____ regarding discovery to be conducted specific to the cases in Bellwether Group 1.

I. DEPOSITION PROTOCOLS GENERALLY

- A. Case Management Order No. 21 shall apply to Bellwether Group 1.
- B. The additional protocols of this Case Management Order shall also apply to Bellwether Group 1 as provided herein.

II. FACT WITNESS DEPOSITIONS PERMITTED

- A. Commencing three (3) days after the Court's selection of the Bellwether Group 1 cases, the Parties may each take not more than five depositions of case relevant fact (non-expert) witnesses in each case that is part of Bellwether Group 1. These depositions may include Bard present or former employees or Plaintiffs' friends and family only if the depositions will likely produce probative evidence that could not reasonably have been obtained, during general discovery or during the discovery conducted for Discovery

1 Group 1. Before proceeding with a deposition of those categories of
2 witnesses, the parties should meet and confer about whether the deposition is
3 appropriate under this provision. If no agreement is reached, the parties will
4 raise the issue with the Court for resolution.

5 B. The parties may exceed this number by mutual agreement or Order of the
6 Court.

7 C. The parties shall make a good faith effort to identify the relevant fact
8 witnesses they intend to depose in each case in accordance with Section II.A.,
9 above, and exchange lists of those witnesses by June 2, 2025.

10 D. Thereafter, the parties shall make a good faith effort, on a rolling basis, and
11 in accordance with Section II.A., above, to identify any additional relevant
12 witnesses they intend to depose, as soon as those witnesses become known to
13 them or they determine the need to depose the witness.

14 E. Should either party object to the taking of a deposition proposed by the other
15 party, including objecting that one or more of the identified case specific
16 depositions are disproportionate to the needs of the case (even if the
17 requesting party has not exceeded the numerical limitation set forth in Section
18 II.A., above), the parties will meet and confer on that issue, and failing
19 resolution, shall notify the Court of their need for a ruling on the propriety of
20 deposing such witness(es).

21 F. Examination of treating physicians.

22 1. By no later than five (5) days following the Court's selection of
23 Bellwether Group 1, Plaintiffs shall supplement the list they provided
24 pursuant to Amended CMO 10 of physicians whom they have a good
25 faith belief they would call as witnesses in their case in chief for each
26 Bellwether Group 1 case. By no later than ten (10) days thereafter,
27 Defendants shall supplement the list they provided pursuant to
28 Amended CMO 10 of physicians not identified by Plaintiffs whom

1 Defendants have a good faith belief they would call in their case in
2 chief for each Bellwether Group 1 case.

3 2. For any physician deposed in Bellwether Group 1:

4 a. Plaintiffs' counsel shall be the first examiner for any physician
5 Plaintiffs identified in response to Paragraph II.B.1 of Amended
6 CMO 10, or they have identified timely under Para. II.B.1 to
7 this Order; and

8 b. Defendants' counsel shall be the first examiner for any
9 physician Defendants identified in response to Paragraph II.B.1
10 of Amended CMO 10 or they have identified timely under
11 Paragraph II.B.1 to this Order, when that physician has not
12 already been identified by Plaintiffs pursuant to the same.

13 **III. PROTOCOLS RELATING TO TREATING PHYSICIANS**

14 **A. Ex Parte Communications with Treating Physicians**

15 1. Defendants are prohibited from communicating *ex parte* with
16 Plaintiffs' treating physicians, except that staff members and
17 paralegals of the law firms representing Defendants may contact the
18 physicians' offices for the sole purpose of scheduling those depositions
19 in which they are the first examiner, pursuant to paragraph II.F.2.b.,
20 above, or where the parties agree that Defendants may contact the
21 physicians' offices for the purpose of scheduling.

22 2. Plaintiffs' counsel may communicate *ex parte* with treating
23 physicians.

24 **B. Disclosure of Documents Prior to Depositions of Treating Physicians**

25 1. If Plaintiffs' counsel has communicated *ex parte* with a treating
26 physician who will be deposed, Plaintiffs' counsel shall identify by
27 production bates number (or by providing a copy if no such bates
28 numbers exist) to opposing counsel all documents provided, shown,

1 read from, or otherwise specifically described to the witness, other
2 than the physician's records of treatment, at least five (5) days prior to
3 the deposition, those five days to include and count weekends and
4 holidays.

5 2. For *ex parte* meetings with a physician that take place less than five
6 (5) days prior to the deposition:

7 a. at least 24 hours prior to the meeting, counting weekends and
8 holidays, Plaintiffs' counsel shall identify by production bates
9 number (or by providing a copy if no such bates numbers exist)
10 to opposing counsel all documents they intend to provide, show,
11 read from, or otherwise specifically describe to the witness,
12 other than the physician's records of treatment;

13 b. as soon as practicable after the meeting, Plaintiffs' counsel shall
14 disclose to opposing counsel all documents that were actually
15 provided, shown, read from, or otherwise specifically described
16 to the witness, other than the physician's records of treatment.

17 3. At least five (5) days, counting weekends and holidays, prior to a
18 physician deposition, all examining counsel shall provide to opposing
19 counsel and deponent's counsel copies of documents that may be
20 shown to the witness during the deposition or about which counsel
21 expects to examine a deponent, other than the physician's records of
22 treatment. The obligations of this section include the good faith
23 representations of counsel to identify only those documents actually
24 intended to be utilized during the deposition, not to exceed 40 in
25 number.

26 **IV. EXPERT WITNESS DEPOSITIONS**

27 A. The parties may take the depositions of all case specific expert witnesses
28 disclosed for Bellwether Group 1 cases, limited to their case specific opinions

if those witnesses are also experts previously disclosed as general MDL experts.

V. SCHEDULE

Action	Date/deadline
Plaintiffs' case-specific expert disclosures	June 20, 2025
Defendants' case-specific expert disclosures	July 18, 2025
Case-specific rebuttal expert disclosures for Bellwether Group 1	August 8, 2025
Case-specific expert depositions begin	August 11, 2025
Deadline for completion of case-specific fact witness depositions for Bellwether Group 1	September 5, 2025
Case-specific expert depositions end	September 19, 2025
Motions to exclude case-specific experts and for case-specific Summary Judgment	October 14, 2025
Responses to case-specific Motions	November 11, 2025
Replies to case-specific Motions	November 25, 2025

VI. TRIAL DEPOSITIONS

A. For good cause shown, and either by stipulation of the Parties or order of the Court, trial preservation testimony of previously deposed witnesses will be permitted.

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Dated this ____ day of _____, 2025.

David G. Campbell
United States District Judge

EXHIBIT D

Defendants' Production of Documents

PRODUCTION	DATE	DESCRIPTION	DOCS	PAGES
BARD_IPC_MDL_001	12/26/2023	<i>Cruz</i> Production	6,290	91,035
BARD_IPC_MDL_002a	1/5/2024	Prior Patent Litig. Production (I of IV)	211,955	993,418
BARD_IPC_MDL_003	1/5/2024	Prior Port Litig. Deposition Transcripts	48	1,794
BARD_IPC_MDL_002b	1/11/2024	Prior Patent Litig. Production (II of IV)	200,966	1,396,347
BARD_IPC_MDL_004	1/12/2024	CV of Information Infrastructure Rule 30(b)(6) Deponent & Related standard operating procedures ("SOPs")	18	241
BARD_IPC_MDL_005	1/17/2024	SOPs and corporate org document related to Information Infrastructure Deposition	4	50
BARD_IPC_MDL_006	1/19/2024	Information Infrastructure Document	1	9
BARD_IPC_MDL_002c	1/19/2024	Prior Patent Litig. Production (III of IV)	97,634	449,900
BARD_IPC_MDL_002d	1/24/2024	Prior Patent Litig. Production (IV of IV)	137,420	814,251
BARD_IPC_MDL_007	1/26/2024	510(k) submissions related to the Product Codes	19	4,599
BARD_IPC_MDL_008	2/2/2024	510(k) submissions and related docs for the Product Codes	498	15,508
BARD_IPC_MDL_009	2/9/2024	Corrective and Preventative Actions (CAPAs), Remedial Action Plans (RAPs), Situational Analyses (SAs), Health Hazard Evaluations (HHEs) / Health Risk Assessments (HRAs), and Failure Investigation reporting documentation associated with the Product Codes	293	8,583
BARD_IPC_MDL_010	2/16/2024	Marketing documents, SOPs, supplement of three 510(k)s	2,168	20,057
BARD_IPC_MDL_011	2/23/2024	Marketing team documents	4,316	24,239
BARD_IPC_MDL_012	2/29/2024	Design History Files, Instructions for Use, Patient Guides, and CAPAs	6,650	120,589
BARD_IPC_MDL_013	3/8/2024	Marketing shared drives, R&D shared drives, and Notes to File regarding various 510(k)'s	16,588	150,676
BARD_IPC_MDL_014	3/15/2024	Documents from Design History Files and SOPs collected from Master Control	394	3,471

BARD_IPC_MDL_015	3/15/2024	Marketing shared drives and R&D shared drives	16,030	114,792
BARD_IPC_MDL_016	3/22/2024	Marketing shared drives and R&D shared drives	11,907	238,458
BARD_IPC_MDL_017	3/30/2024	R&D, Regulatory, Clinical Affairs, and Marketing departmental shared drives	14,220	111,010
BARD_IPC_MDL_018	4/5/2024	Marketing, R&D, Regulatory, & Medical Affairs departmental shared drives	12,613	69,351
BARD_IPC_MDL_019	4/12/2024	Marketing & R&D departmental shared drives	14,982	60,484
BARD_IPC_MDL_020	4/20/2024	Documents from Master Control Archive	19,918	105,149
BARD_IPC_MDL_021	4/23/2024	R&D, Marketing, Regulatory, & Clinical Affairs departmental shared areas, and an export from WorkDay	6,927	64,542
BARD_IPC_MDL_022	4/26/2024	Documents from first 30 Custodial Files & Volume 1 of Defendants' Privilege Log	42,300	168,088
BARD_IPC_MDL_023	5/3/2024	Regulatory departmental shared drive documents	3,328	25,384
BARD_IPC_MDL_024	5/3/2024	Documents from Master Control Archive	26,254	125,322
BARD_IPC_MDL_025	5/10/2024	Documents from Master Control	18,336	373,712
BARD_IPC_MDL_026	5/10/2024	Documents from Custodial Files of first 30 Custodians	31,161	125,288
BARD_IPC_MDL_027	5/17/2024	Documents from Master Control Archive	7,719	31,555
BARD_IPC_MDL_028	5/17/2024	Documents from Custodial Files of first 30 Custodians	35,125	128,206
BARD_IPC_MDL_029	5/24/2024	Supplement of org charts and documents from R&D departmental shared drives	12,426	523,650
BARD_IPC_MDL_030	5/24/2024	Documents from Custodial Files of first 30 Custodians	42,128	150,536
BARD_IPC_MDL_031	5/31/2024	Documents from Master Control and Master Control Archive	14,502	283,356
BARD_IPC_MDL_032	5/31/2024	Documents from Custodial Files of the first thirty Custodians and R&D shared drives	41,432	172,221
BARD_IPC_MDL_033	6/7/2024	Documents from Custodial Files of first 30 Custodians	19,159	97,415
BARD_IPC_MDL_034	6/7/2024	Documents from Master Control and Master Control Archive	2,895	48,425

BARD_IPC_MDL_035	6/14/24	Documents from Custodial Files of first 30 Custodians	45,328	168,846
BARD_IPC_MDL_036	6/14/24	Documents from Master Control	1,408	20,619
BARD_IPC_MDL_037	6/14/24	Exports of port related adverse event reporting information from the TrackWise and Easy Track systems as well as documents from various R&D, Manufacturing and Regulatory shared drives	1,975	33,026
BARD_IPC_MDL_038	6/22/24	Documents from the Custodial Files of several of the first 30 Custodians	68,214	935,018
BARD_IPC_MDL_039	6/22/24	hard copy documents as well as documents from various corporate, R&D, Regulatory, Medical and Clinical Affairs, Marketing and Sales, and Quality departmental shared areas, as well as supplement of Notes to File relating to various 510(k)'s	16,007	100,316
BARD_IPC_MDL_040	6/26/24	hard copy documents as well as documents from various corporate, R&D, Regulatory, Medical and Clinical Affairs, Marketing, Sales, and Quality departmental shared areas	18,169	322,804
BARD_IPC_MDL_041	6/26/24	Supplement of documents from Master Control	11	277
BARD_IPC_MDL_042	6/28/24	Documents from the Custodial Files of the first 30 Custodians	148,260	714,545
BARD_IPC_MDL_043	6/28/24	hard copy documents as well as documents from various corporate, R&D, Regulatory, Medical and Clinical Affairs, Marketing, and Quality departmental shared areas	2,188	17,388
BARD_IPC_MDL_044	6/30/2024	Documents from the Custodial Files of the first 30 Custodians	80,580	386,022
BARD_IPC_MDL_045	7/2/2024	Documents from the Custodial Files of the first 30 Custodians	164,819	1,072,257
BARD_IPC_MDL_046	7/2/2024	Documents from the Custodial Files of the first 30 Custodians, Veeva Vault Clinical, and documents from various corporate, R&D, Regulatory, Medical and Clinical Affairs,	96,345	526,075

		Sales, Marketing, and Quality departmental shared areas		
BARD_IPC_MDL_047	7/22/2024	Supplement of documents from Master Control	115	3,309
BARD_IPC_MDL_048	7/22/2024	Supplement of documents from Custodial files of the first thirty Custodians, SharePoint and shared drives; documents from recently identified shared areas; Technology Team Review (TTR) minutes and related documents from Patricia Braun's file	2,940	17,398
BARD_IPC_MDL_049	7/22/2024	Family members of documents originally produced in Production 042 that were mistakenly excluded due to tagging error	3,465	17,551
BARD_IPC_MDL_050	7/22/2024	Supplement of documents from Custodial files of the first thirty Custodians, SharePoint and shared drives; documents from recently identified shared areas and Non-Custodial Source Planview	19,753	123,299
BARD_IPC_MDL_051	7/22/2024	Replacement production for 1,559 documents, majority mistakenly produced as non-responsive slipsheets; fifteen documents originally withheld or redacted for privilege now produced in full	1,559	3,031
BARD_IPC_MDL_052	7/22/2024	Slipsheets or redacted versions of inadvertently produced privileged documents	46	274
BARD_IPC_MDL_053	7/26/2024	Redacted audio files	3	3
BARD_IPC_MDL_054	7/26/2024	Production of documents from the Custodial Files of the second 30 Custodians	50,834	204,402
BARD_IPC_MDL_055	8/1/2024	Replacement production for inadvertently produced privileged document	1	1
BARD_IPC_MDL_056	8/1/2024	Documents from DocuShare and hard copy documents relating to 1999 PICC recall	10,589	234,056
BARD_IPC_MDL_DEP CV_001	8/1/2024	CVs of Chad Modra and Andrew Sheffield	2	2
BARD_IPC_MDL_057	8/6/2024	Documents Defendants are releasing from their privilege	11	17

		log and producing in full or with redactions		
BARD_IPC_MDL_058	8/9/2024	Documents from the Custodial Files of the second 30 Custodians	118,644	407,269
BARD_IPC_MDL_059	8/9/2024	Final, approved marketing materials from Veeva Vault and Veeva ZINC archive	306	2,846
BARD_IPC_MDL_060	8/9/2024	Supplement of documents from Custodial Files of the first 30 Custodians, Docushare, and various shared areas	871	37,430
BARD_IPC_MDL_061	8/9/2024	Supplement of documents from Custodial Files of the first 30 Custodians, including family members of documents previously produced without family members due to technical error during extraction	1,308	5,352
BARD_IPC_MDL_062	8/9/2024	Supplement of documents from Master Control	787	18,779
BARD_IPC_MDL_063	8/9/2024	Documents from the Custodial Files of the second 30 Custodians	146,566	611,002
BARD_IPC_MDL_DEP CV_002	8/9/2024	CV of James Freasier	1	1
BARD_IPC_MDL_064	8/15/2024	Documents from the Custodial Files of the second 30 Custodians	159,050	811,284
BARD_IPC_MDL_065	8/15/2024	Custodial files, Docushare, and various Regulatory, Quality, Medical Affairs, Research and Development, and Marketing and Sales shared areas relating to the Apheresis PowerFlow port	16,642	105,067
BARD_IPC_MDL_066	8/15/2024	Re-production in full (redacted or priv slipsheets) of apheresis documents previously produced as NR slipsheets	54	453
BARD_IPC_MDL_067	8/15/2024	Master Control supplemental production	183	18,144
BARD_IPC_MDL_068	8/19/2024	Replacement production for inadvertently produced privileged document	1	5
BARD_IPC_MDL_069	8/23/2024	Documents from the Custodial Files of the second 30 Custodians	1,981	13,873
BARD_IPC_MDL_070	8/23/2024	Documents from James Davis PST files that experienced a	4,820	25,046

		processing error during collection		
BARD_IPC_MDL_071	8/30/2024	Documents from identified files on Kelly Powers' laptop that did not properly process; final, approved port-related materials from ZINC; and U.S. port sales data from the MFG Pro and Global Sales Data Warehouse systems	1,904	10,246
BARD_IPC_MDL_072	8/30/2024	Documents originally produced as privilege slipsheets that are being released from the privilege log	13	50
BARD_IPC_MDL_073	8/30/2024	Veeva Clinical, iCertis Contracts and documents identified for privilege downgrade that were released from the privilege log	98	1,246
BARD_IPC_MDL_074	8/30/2024	Replacement production for inadvertently produced privileged documents	13	77
BARD_IPC_MDL_075	9/6/2024	Custodial production of ProofPoint and laptop data; Veeva Clinical CSV metadata	10,676	36,988
BARD_IPC_MDL_076	9/6/2024	Document being reproduced with modified redactions	1	161
BARD_IPC_MDL_077	9/11/2024	Documents previously withheld as privileged that were released from the privilege log in full or with redactions	15	33
BARD_IPC_MDL_078	9/11/2024	Replacement production for inadvertently produced privileged documents	79	1,021
BARD_IPC_MDL_079	9/11/2024	Slipsheets or redacted versions of inadvertently produced privileged documents	142	3,872
BARD_IPC_MDL_DEP CV_003	9/11/2024	CVs of Guillermo Altonaga, Sean Worthen, Ian Thomas, Cassie Singleton, and Andrea Acuna	7	21
BARD_IPC_MDL_080	9/13/2024	Documents being reproduced with modified redactions	33	33
BARD_IPC_MDL_081	9/13/2024	Documents from the identified Custodial Proofpoint sources, and documents from Powers and Burgmeier hard drives that did not properly process during initial collection	19,386	69,455

BARD_IPC_MDL_082	9/23/2024	Additional documents from Beasley's hard drive that did not properly process, documents from the recently identified Custodial Proofpoint sources, and documents from Custodial PSTs that experienced processing errors during collection	27,563	126,589
BARD_IPC_MDL_083	9/26/2024	Replacement images and related files for documents previously produced that had imaging errors	34	628
BARD_IPC_MDL_083 SUPP	9/26/2024	Replacement images and related files for documents previously produced that had imaging errors	77	662
BARD_IPC_MDL_084	9/26/2024	Documents from volume 078 being reproduced with redactions	21	677
BARD_IPC_MDL_085	9/24/2024	Documents from Vendor Material Information shared drive relating to IPC catheter materials	5	51
BARD_IPC_MDL_DEP CV_004	9/24/2024	CVs of Caron Lee Gleason, Susan Scott, and Matt Trebella	3	6
BARD_IPC_MDL_086	9/26/2024	Additional documents from Beasley's hard drive that did not properly process, documents from the recently identified Custodial Proofpoint sources, and documents from Custodial PSTs that experienced processing errors during collection	47,376	141,423
BARD_IPC_MDL_087	9/26/2024	Supplement of Master Control documents	93	2,028
BARD_IPC_MDL_088	9/27/2024	Documents from Beasley's hard drive that did not properly process, documents from the recently identified Custodial Proofpoint sources, and documents from Custodial PSTs that experienced processing errors during collection	58,221	293,968
BARD_IPC_MDL_089	10/2/2024	Documents reproduced with modified privilege redactions or with privilege redactions removed	9	25

BARD_IPC_MDL_090	10/4/2024	Documents from Custodial Files subject to the October 15th deadline; cleanup production of documents from Beasley's hard drive that did not properly process, documents from the recently identified Custodial Proofpoint and PSTs that experienced processing errors during collection	5,095	22,765
BARD_IPC_MDL_091	10/10/2024	Supplemental cleanup production of Custodial documents and family members of previously produced documents that experienced processing error during extraction	840	3,760
BARD_IPC_MDL_092	10/11/2024	Documents reproduced with privilege redactions modified or removed, and two documents determined not to be privileged	42	72
BARD_IPC_MDL_093	10/14/2024	Bard's Annual Reports for 2013 – 2016, BD's Annual Reports for 2017 – 2023, and supplement of two SOPs	13	1,227
BARD_IPC_MDL_094	10/14/2024	Documents from the Custodial Files subject to the October 15th deadline	8,469	54,143
BARD_IPC_MDL_095	10/15/2024	Clean up production of Custodial File documents	9	40
BARD_IPC_MDL_096	10/18/2024	Documents from embedded hyperlinks requested in Mr. Roberts' October 7th correspondence	310	2,357
BARD_IPC_MDL_DEP CV_005	10/18/2024	CVs of Kelly Christian, David Cise, Michael Curtis, Jocelyn Housley, and Ling Zou	5	13
BARD_IPC_MDL_DEP CA_001	10/18/2024	Kelly Christian's Consulting Agreement	1	4
BARD_IPC_MDL_DEP CV_006	10/28/2024	CVs of Annemarie Boswell, John Evans, Corey Neureuther, and Nitin Patil	4	10
BARD_IPC_MDL_DEP CA_002	10/28/2024	Annemarie Boswell, David Cise, John Evans, and Matt Trebella's Consulting Agreements	4	16
BARD_IPC_MDL_097	11/5/2024	Supplement of documents from Master Control	7	219

BARD_IPC_MDL_098	11/6/2024	Documents previously produced natively reproduced with redactions	3	27
BARD_IPC_MDL_099	11/8/2024	MedComp Port deposition materials previously produced in Angio Port litigation	602	32,211
BARD_IPC_MDL_100	11/8/2024	Angio Port deposition materials previously produced in MedComp litigation	545	24,309
BARD_IPC_MDL_101	11/13/2024	Privilege downgrades in response to Plaintiffs' Exhibit 11 challenge	101	475
BARD_IPC_MDL_102	11/13/2024	Documents previously produced as privileged slipsheets reproduced in full or with redactions	25	187
BARD_IPC_MDL_103	11/15/2024	Documents that experienced processing error during extraction, including some family members of previously produced documents	771	10,766
BARD_IPC_MDL_DEP CV_007	11/15/2024	CVs of Matt Draper, Shelly Gilbert, Bret Hamatake, Brian Nishimoto, Jeff Patterson, Ben Raehl and Stephanie Schuffels	8	14
BARD_IPC_MDL_DEP CA_003	11/15/2024	Consulting Agreements with former employees Ed Burnside, Bret Hamatake, Jeff Peterson and Kelly Powers	4	16
BARD_IPC_MDL_105	12/2/2024	Documents (unrelated to Ex 11 challenges) previously produced as privileged slipsheets or redacted documents reproduced in full or with redactions	33	228
BARD_IPC_MDL_106	12/2/2024	Documents (unrelated to Ex 11 challenges) previously withheld as privileged that Defendants released from the privilege log in full or with redactions	29	159
BARD_IPC_MDL_107	12/2/2024	Replacement production for inadvertently produced privileged documents	26	229
BARD_IPC_MDL_108	12/11/2024	Supplement of documents that experienced processing error during extraction, including some family members of previously produced documents	178	1,201
BARD_IPC_MDL_109	12/11/2024	Documents Defendants are releasing from their privilege	44	433

		log in full or with redactions pursuant to our evaluation of the 135 documents identified on Plaintiffs' Exhibit 12 privilege challenge. This volume also contains family members of those documents		
BARD_IPC_MDL_DEP CA_004	12/11/2024	Consulting Agreements with former employees Alex Kraemer, Todd McFarland, Bryan Nishimoto, Gidon Ofek, and Kevin Sheetz	5	20
BARD_IPC_MDL_DEP CV_008	12/11/2024	CVs of Christian Andersen, Alex Kraemer, Todd McFarland, Jay Muse, Gideon Ofek, Kevin Sheetz, and Spencer Thomas	8	26
BARD_IPC_MDL_110	12/18/2024	Small supplement of documents from Master Control	7	350
BARD_IPC_MDL_111	12/18/2024	Small supplemental production and an update of Defendants' Regulatory submissions to the FDA and related correspondence	321	4,995
BARD_IPC_MDL_112	12/18/2024	Reproduction of two documents that experienced imaging errors when initially produced	2	20
BARD_IPC_MDL_113	12/18/2024	Replacement production for two documents Defendants are clawing back and reproducing with redactions as they contain protected privacy information that was inadvertently produced	2	8
BARD_IPC_MDL_114	1/11/2025	Privilege downgrades in response to Plaintiffs' Exhibit 13 and 14 privilege challenges and one additional document from Plaintiffs' Exhibit 12 challenge. This volume also contains family members of these documents.	173	1,560
BARD_IPC_MDL_115	1/11/2025	Privilege downgrades relating to Plaintiffs' Exhibit 12 and 13 challenges previously produced as privileged slipsheets now reproduced in full or with redactions.	7	17
BARD_IPC_MDL_116	1/31/2025	Supplement of documents from Master Control	14	62

BARD_IPC_MDL_117	1/31/2025	Small supplement of clean up documents	33	434
BARD_IPC_MDL_118	1/31/2025	Reproduction of documents that experienced imaging errors when initially produced	34	947
BARD_IPC_MDL_119	1/31/2025	CMO 30 production of logged attachments to privileged documents not provided elsewhere in production	162	2,035
BARD_IPC_MDL_120	2/13/2025	Supplement of port adverse event reporting from Legacy TrackWise.	1	1
BARD_IPC_MDL_121	2/15/2025	Supplemental production consisting primarily of additional revisions of SOPs from Master Control	31	809
BARD_IPC_MDL_122	2/15/2025	Reproduction of Quality management reviews previously produced with slipsheets now being reproduced with redactions and a limited number of documents that experienced imaging errors when initially produced	146	6,547
BARD_IPC_MDL_123	2/15/2025	Supplemental production consisting primarily of additional revisions of SOPs	156	2,088
BARD_IPC_MDL_124	2/20/2025	Supplement from Master Control	30	540
BARD_IPC_MDL_125	2/20/2025	Supplement including Reynosa port packaging-related CAPAs and Exhibit 15 privilege challenges produced in full or with redactions	230	2,591
BARD_IPC_MDL_126	2/20/2025	Exhibit 15 Privilege challenge release and one document that experienced imaging errors when initially produced	2	370
BARD_IPC_MDL_DEP CV_009	2/20/2025	CVs of Murtaza Amin, Eh Bai, Jim Beasley, Thomas Beggs, David Blaber, Attilio DiFiore, Brenda Newton, Kristen Ortiz Ericka Prechtel and Joshua Smale	10	26
BARD_IPC_MDL_DEP CA_005	2/20/2025	Consulting Agreements with former employees Brenda Newton and Joshua Smale	2	9
BARD_IPC_MDL_127	2/25/2025	Replacement production of three documents with additional	3	495

		protected privacy redactions or with redactions removed		
BARD_IPC_MDL_128	2/25/2025	Supplement of contracts as well as FDA EIR and MDSAP reports not involving ports	28	451
BARD_IPC_MDL_129	2/26/2025	Reproduction of twelve documents that experienced imaging errors when initially produced	12	39
BARD_IPC_MDL_130	2/28/2025	One Quality management review previously produced with a slipsheet reproduced with protected voluntary reporter and PII information redacted	1	47
Total			2,445,816	14,926,742

EXHIBIT E

Defendants' Production of Case-Specific Documents

PRODUCTION	DATE	DESCRIPTION	DOCS	PAGES
BARD_IPC_MDLDG_001	3/12/2025	Documents from Mikka Nordby's custodial file that are responsive to Plaintiffs' Schedule A document requests and relate to Defendants' implanted port catheter devices	720	4,358
BARD_IPC_MDLDG_002	3/13/2025	Documents from Anna Bord's custodial file that are responsive to Plaintiffs' Schedule A document requests and relate to Defendants' implanted port catheter devices	3	6
BARD_IPC_MDLDG_003	3/14/2025	Additional document from Mikka Nordby's custodial file that are responsive to Plaintiffs' Schedule A document requests and relate to Defendants' implanted port catheter devices	1	3
BARD_IPC_MDLDG_004	3/17/2025	Documents from Brent Bubela's custodial file that are responsive to Plaintiffs' Schedule A document requests and relate to Defendants' implanted port catheter devices	260	660
Total			984	5,027

EXHIBIT F

Rebecca L. Phillips

From: Rebecca L. Phillips
Sent: Tuesday, January 28, 2025 5:35 PM
To: 'kate.helm@nelsonmullins.com'; 'brandee.kowalzyk@nelsonmullins.com';
'Richard.north@nelsonmullins.com'
Cc: Katy Krottinger; Diane K. Watkins; Michael A. Sacchet; Adam Evans; Fanning, Edward J.;
Maria Turner; Kaplan, Stefanie; Cat C. Swartz; Megan L. Odom
Subject: IPC Update on Treater Deposition Scheduling
Attachments: 01.28.25 IPC Treater Deposition Scheduling .xlsx

Green

Yellow

Red

ex parte



Rebecca L Phillips
Mass Torts Director

p: 713-659-5200

10940 West Sam Houston Pkwy N, Suite 100

Houston • Texas • 77064

www.LanierLawFirm.com

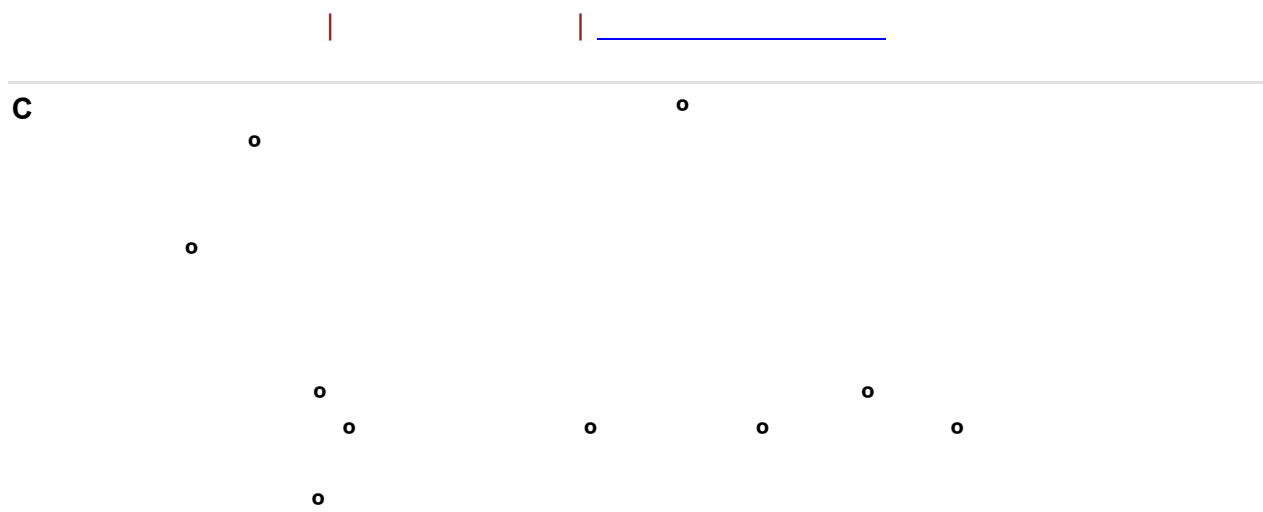
EXHIBIT G

Rebecca L. Phillips

From: Danielle Rogers danielle@lelaw.com
Sent: Monday, February 2 , 2025 11:31 AM
To: randee Kowalzyk
Cc: Rebecca L. Phillips; Diane K. Watkins; Katy Krottinger; mas@ciresiconlin.com; Adam Evans; Chelsea Dickerson; Edward J. Fanning; Wilfred Coronato; adellarocco@mccarter.com; E T Makenzie Windfelder; skaplan@mccarter.com; Richard irth; Kate elm; Matthew Lerner; Maria Turner; Katherine Althoff; ryan@constantllp.com; Mark O'Connor
Subject: RE: ard MDL 3081 Sales Representative Depositions

Danielle Rogers

Danielle Rogers



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The diagram consists of several horizontal lines of varying lengths and positions. Small circles are placed at specific points along these lines, suggesting nodes or components in a network. The circles are located at the top of some lines, the bottom of others, and in the middle of one. The lines are arranged in a way that suggests a flow or connection between the points marked by the circles.

Good afternoon, Brandee.

We still intend to proceed with taking the depositions of Jon Colby Miller, Lauren Peloquin, and Cliff Hein in-person. Are the dates you previously proposed still available for these depositions? If so, we will accept those dates and notice those depositions at a site close to the addresses provided in the DFS for each deponent. If not, please propose additional dates of availability and the location for these sales representatives.

Can you confirm that you will contact all remaining identified sales representatives, including those no longer employed by Defendants, to secure dates of availability for in-person depositions? Can you provide an update on your efforts to contact and secure dates for these deponents? Finally, for the sales representatives that are still employed by Defendants, can you provide locations where the depositions will be held as the only address we've been provided for current employees is Nelson and Mullins in Atlanta, GA. If the depositions will take place at your office in Atlanta, please let us know that.

As discussed in court yesterday, time is of the essence to get these depositions scheduled. If you would like to discuss any of the information or requests above, I would be happy to do so.

Kindest regards,

Danielle Rogers

Panel C shows a network diagram with horizontal lines and nodes. The lines are arranged in a hierarchical, branching structure. Nodes are represented by small circles. The diagram is labeled 'C' in the top left corner.

[illegible]

Rebecca L Phillips - Mass Torts Director p: 713-659-5200 w: www.LanierLawFirm.com

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Brandee,

We are agreeable to taking Jon “Colby” Miller's deposition in the Divilbliss case and are also agreeable to the proposed dates for each of the sales representatives listed below. Please confirm that you are waiving the 40-day notice for the documents that have been simultaneously requested with each notice of deposition.

Please note that we intend to take these depositions and the depositions for all other sales representatives in person. Once the current location for each sales representative has been provided, we will send you the location for each deposition.

Kindest regards,

Danielle Rogers

<u>Plaintiff</u>	<u>Case No.</u>	<u>Sales Representative</u>
Kimberly Divelbliss	2:23-cv-01627-DGC	<p>Chris Young</p> <p>We have determined that Chris Young was mis-identified, and we will supplement the DPF and DFS in this case. He did not cover the territory at issue during any timeframe.</p> <p>However, we have determined that the correct TM is Jon “Colby” Miller, DOE 4/1/2011-1/03-2023. If you would like to depose Mr. Miller, he is available March 24th for a virtual deposition.</p>
Kriston Kelley	2:23-cv-01631-DGC	<p>Lauren Peloquin</p> <p>Ms. Peloquin is available March 14 for a virtual deposition.</p>

	2:23-cv-01627-DGC	
Tiffany Hawkins	2:23-cv-01735-DGC	Brent Bubela
May Lattanzio	2:24-cv-00680-DGC	Tazwa Brown
Jeanette Cunningham	2:24-cv-00664-DGC	Anna Bord
Lloyd Sorensen	2:23-cv-02557-DGC	James Dennison
Karen Stant (obo Genevieve Davilman)	2:24-cv-00211	Geary (Daniel) Sayers
Judy Hicks	2:23-cv-01703	Michael Montpetit
Auntron Reed	2:23-cv-02695	Charles Herrin
Kriston Kelley	2:23-cv-01631-DGC	Lauren Peloquin
Wanda Miller	2:24-cv-00612-DGC	Cliff Hein
Jay Sours	2:23-cv-01706-DGC	Michael Auger

ADDITIONALLY, PLEASE TAKE NOTICE that pursuant to the applicable Federal Rules of Civil Procedure, Plaintiffs request that the individuals identified above produce all documents identified in the attached SCHEDULE A that are within their possession, custody, or control.

SCHEDULE A

1. A copy of your current resume or curriculum vitae.
2. Any and all paperwork in your possession relating to the Plaintiff.
3. All correspondence to or from any physician or medical facility regarding the Plaintiff.
4. Any and all documents evidencing visits or communications with the Plaintiff's implanting physician.

5. Any and all documents evidencing visits or communications with Plaintiff's explanting physician.
6. Any and all documents evidencing visits or communications with the implanting facility.

* Documents/communications/correspondence include all marketing/promotional brochures and materials; training materials; internal emails; Dear doctor letters; information for use updates; safety communications.

As to any documents that have been previously produced in this action, in lieu of production in response to the above-stated requests, the documents may be identified by specific Bates numbers and those Bates numbers furnished to Plaintiffs' counsel.

Please provide us with at least 2 dates of availability for each deponent. Plaintiffs will send an updated notice after the date, time and location have been confirmed.

Kindest regards,

Danielle R. Rogers

Confidentiality Notice

EXHIBIT H

Rebecca L. Phillips

From: randee Kowalzyk randee.Kowalzyk@nelsonmullins.com
Sent: Monday, March 3, 2025 : 1 PM
To: Danielle Rogers
Cc: ryan@constantllp.com; moconnor@bomlawgroup.com; Rebecca L. Phillips; Richard North; Edward J. Fanning; Katherine Althoff; Maria Turner
Subject: Re: Call tomorrow

From: Althoff, Katherine <kalthoff@mccarter.com>
Sent: Monday, March 3, 2025 6:13 PM
To: Danielle Rogers <danielle@lelaw.com>
Cc: Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>; ryan@constantllp.com; moconnor@bomlawgroup.com; Rebecca L. Phillips <rebecca.phillips@lanierlawfirm.com>; Kate Helm <Kate.Helm@nelsonmullins.com>; Richard North <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>
Subject: RE: Call tomorrow?

Danielle: Thank you for your response on the dates for Messr. Montpetit and Auger.

As to the "lunch"-for-pickup, I am confused as to how that could work. Are you suggesting that the deponent pick the children up from school, take them home, leave them home with no parent there and return to the in-person deposition? If that is not your position, please clarify.

As to additional scheduling, we are providing you updates as we have them.

Best/Katherine

From: Danielle Rogers <danielle@lelaw.com>
Sent: Monday, March 3, 2025 4:52 PM
To: Althoff, Katherine <kalthoff@mccarter.com>
Cc: 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>; ryan@constantllp.com; moconnor@bomlawgroup.com; Rebecca L. Phillips <rebecca.phillips@lanierlawfirm.com>; Kate Helm <Kate.Helm@nelsonmullins.com>; Richard North <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>
Subject: RE: Call tomorrow?

Brandee and Katherine,

Hope this email finds you both well. After our meeting on Friday, we spoke with the Defendants today to address some remaining issues and concerns regarding the sales representatives' depositions. However, the Defendants have indicated that they intend meeting with Plaintiffs tomorrow. Plaintiffs are sending them a list of the issues addressed and possibly resolved. Plaintiffs have updated the status of unscheduled depositions.

In an effort to solve the after-school pick-up issues discussed in our meeting on Friday, February 28th for Miller (Divebliss), Peloqui (Kelley), Hei (Miller) and Hei (Miller) today, Judge Sours would propose starting the deposition around 10:30am so we can take a lunch break. At that time, the deponent would need to leave to pick the children from school and then we are convene afterward. Please let us know if an agreeable compromise.

Please provide an update to the remaining unscheduled depositions by Tuesday, March 4th. For each sales representative, Plaintiffs would like to know the following:

- Whether you have had contact with the sales representative;
- The identity of the sales representative you are representing;
- The identity of the sales representative you are not representing;
- The identity of the sales representative for whom you have waived service of the subpoena for the deposition;
- The identity of the sales representative for whom you cannot waive service of the subpoena for the deposition and the reasons preventing acceptance;
- If this waiver is conditioned on the child care issues previously raised by Defendants, Plaintiffs believe this issue should be resolved based on Plaintiffs' suggestion above. However, this remains an issue we will need to address in one way or another with the Court.

Finally, Plaintiffs are available to (Plaintiff Hicks) Mike Montpetit on March 21, 2025, in Eureka, MO, and (Plaintiff Sours) Mike Auger on March 25, 2025, in Lockport, IL.

Additionally, we have identified areas that need to be corrected below.

Sales Representative Beloqui (Plaintiff Kelley), Miller (Plaintiff Divebliss), Hei (Plaintiff Miller):
 Defendants inform Plaintiffs that these individuals are school-aged children and attending in-person deposition may impact their ability to pick them from school. Defense counsel

confirm that the extent of the personal family obligation that tends to make the deposition extremely inconvenient and perhaps impossible to describe in Defense's email from February 1st Defendant's request that back these depositions, Plaintiff is proceeding with in-person depositions that Plaintiff agreed to hard-stop at 6:00pm to accommodate picking up their children from school. Incorrectly, actually, it was discussed regardless of whether the case is in-person or discussed the witnesses likely have a large window of availability that they do not have to travel in for the deposition. Plaintiff have considered this request to attempt to pursue these depositions in-person without the Defense's proposed limitation.

When asked Defendants confirm that they represent all these (3) sales representatives. They further confirm that they have requested remote depositions that are fully authorized [at this time] to accept the service subpoenas for their respective depositions at this time. Because Defense counsel stated in February 27th email that they cannot commit the Reloquin, Miller, and Hein will agree to in-person deposition without requiring service subpoenas, Plaintiff asked Defendants ability to accept service subpoenas for each of these individuals was conditioned on Plaintiff's willingness to agree to a shortened deposition window agreement for remote depositions, and Defendants denied that in this situation. As set forth in paragraph above, Plaintiff agreed to discuss with the counsel representing Plaintiff these issues whether it would be reasonable to accommodate the child care issues of the former employees and DepoTrack (which job have just now done) to ensure correct, anticipate your responses based on the information and on the Brande already provided in-person data for Reloquin after further discussion with this afternoon (See Brande's email, which crossed simultaneously with yours.)

Defendants inform Plaintiff that they were not agreeable to remote deposition of Ms. Reloquin, the previously provided deposition date of March 14th is no longer available. Incorrect We advise that this issue was not related to the early March date being no longer available for other reasons, including time-consuming process of collection and production. Brande stated during our all call on given Brande's address to Ms. Reloquin separately.

Plaintiff made clear that they are concerned about Defendants' recent disclosure about their inability to accept service subpoenas for their clients. To be precise, MO'Conne declared it "unethical. We were not aware of this statement and on was provided for to have such authority, would like to see. MO'Conne stated it was inappropriate for Defendants' condition acceptance of service subpoenas for their clients. Plaintiff's willingness to agree with Defendants' proposed limitation on the sales representatives' depositions.

Plaintiff asked Defendants if they could address the status of the remaining 6 depositions that have yet to be scheduled - specifically, relate to the representation of each of these individuals, whether they will accept subpoenas for their depositions, and proposed dates for their depositions. Defendants indicated that they would like to address these issues during this meet and confer as they were and their impression would only be discussing sales representative Reloquin, Miller, and Hein. The parties agreed to meet and confer about these remaining sales representatives on the following Monday/Tuesday. Plaintiff are available Monday, March 3rd at 2:00pm Mountain and Tuesday, March 4th at 9:00am Mountain. While Plaintiff request to convene Monday/Tuesday to discuss further scheduling issues, we believe premature to schedule meet and confer at this time. We have demonstrated we are providing dates on polling as is available to Brande's email regarding Ms. Reloquin for that afternoon. As such, we were aware of my pass that has been reached and believe further meet and confer premature and unnecessary. We do not intend to provide you updates as available. The conclusion of the meet and confer Defendants agreed to meet on Monday, March 3rd and Tuesday, March 4th to address Plaintiff's request for updates on the remaining unscheduled depositions as this issue was addressed.

Danielle Rogers
Partner

LANGDON & EMISON | D: 660.259.1933 | danielle@lelaw.com

From: Althoff, Katherine <kalthoff@mccarter.com>
Sent: Friday, February 28, 2025 4:48 PM
To: Danielle Rogers <danielle@lelaw.com>
Cc: 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>; ryan@constantllp.com; moconnor@bomlawgroup.com; Rebecca L. Phillips <rebecca.phillips@lanierlawfirm.com>; Kate Helm <Kate.Helm@nelsonmullins.com>; Richard North <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>
Subject: FW: Call tomorrow?

Danielle: I attended and, unfortunately, this is not correct in several respects. I am noting some of the inaccuracies below in blue. We will update you on the status of various additional representatives early next week and determine whether a further meet and confer is necessary if impasse has been reached. Have a good weekend. Katherine

From: Danielle Rogers <danielle@lelaw.com>
Sent: Friday, February 28, 2025 5:00 PM
To: 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>
Cc: 'ryan@constantllp.com' <ryan@constantllp.com>; 'moconnor@bomlawgroup.com' <moconnor@bomlawgroup.com>; 'Rebecca L. Phillips' <rebecca.phillips@lanierlawfirm.com>; 'Kate Helm' <Kate.Helm@nelsonmullins.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>; Althoff, Katherine <kalthoff@mccarter.com>
Subject: RE: Call tomorrow?

Danielle Rogers
Partner

LANGDON & EMISON | D: 660.259.1933 | danielle@lelaw.com

From: Danielle Rogers
Sent: Friday, February 28, 2025 8:43 AM
To: Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>
Cc: ryan@constantllp.com; moconnor@bomlawgroup.com; Rebecca L. Phillips <rebecca.phillips@lanierlawfirm.com>; Kate Helm <Kate.Helm@nelsonmullins.com>; Richard North <richard.north@nelsonmullins.com>; Edward J. Fanning <efanning@mccarter.com>; Althoff, Katherine <kalthoff@mccarter.com>
Subject: RE: Call tomorrow?

Danielle Rogers
Partner

LANGDON & EMISON | D: 660.259.1933 | danielle@lelaw.com

From: Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>
Sent: Thursday, February 27, 2025 6:47 PM
To: Danielle Rogers <danielle@lelaw.com>
Cc: ryan@constantllp.com; moconnor@bomlawgroup.com; Rebecca L. Phillips <rebecca.phillips@lanierlawfirm.com>; Kate Helm <Kate.Helm@nelsonmullins.com>; Richard North <richard.north@nelsonmullins.com>; Edward J. Fanning <efanning@mccarter.com>; Althoff, Katherine <kalthoff@mccarter.com>
Subject: RE: Call tomorrow?

From: Danielle Rogers <danielle@lelaw.com>
Sent: Thursday, February 27, 2025 7:19 PM
To: Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>
Cc: ryan@constantllp.com; Mark O'Connor <moconnor@bomlawgroup.com>;
rebecca.phillips@lanierlawfirm.com
Subject: RE: Call tomorrow?

Danielle Rogers
Partner

LANGDON & EMISON | D: 660.259.1933 | danielle@lelaw.com

From: Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>
Sent: Thursday, February 27, 2025 4:33 PM
To: Danielle Rogers <danielle@lelaw.com>
Subject: Call tomorrow?

CONFIDENTIALITY NOTICE: This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

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EXHIBIT I

Rebecca L. Phillips

From: Danielle Rogers danielle@lelaw.com
Sent: Wednesday, March 12, 2025 2:22 PM
To: Rebecca L. Phillips
Subject: FW: Sales Rep depos ordby

Danielle Rogers

| | [\[redacted\]](#)

C o

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C o

o o o

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Confidentiality Notice

EXHIBIT J

Rebecca L. Phillips

From: Danielle Rogers <danielle@lelaw.com>
Sent: Friday, March 7, 2025 10:55 AM
To: randee Kowalzyk
Cc: 'ryan@constantllp.com'; 'Mark O'Connor'; Rebecca L. Phillips; 'Adam Evans'; Richard North; Fanning, Edward J.; Althoff, Katherine; Maria Turner
Subject: RE: Bard MDL Sales Rep Depos - Update and request for M&C

Danielle Rogers

C Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>
Friday, March 7, 2025 8:58 AM
Danielle Rogers <danielle@lelaw.com>
'ryan@constantllp.com' <ryan@constantllp.com>; 'Mark O'Connor' <moconnor@bomlawgroup.com>;
'rebecca.phillips@lanierlawfirm.com' <Rebecca.Phillips@LanierLawFirm.com>; 'Adam Evans'
<aevans@dickersonoxton.com>; Richard North <richard.north@nelsonmullins.com>; Fanning, Edward J.
<EFanning@McCarter.com>; Althoff, Katherine <kalthoff@mccarter.com>; Maria Turner
<maria.turner@nelsonmullins.com>
RE: Bard MDL Sales Rep Depos - Update and request for M&C

C Althoff, Katherine <kalthoff@mccarter.com>

Thursday, March 6, 2025 7:16 PM

Danielle Rogers <danielle@lelaw.com>; Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>
'ryan@constantllp.com' <ryan@constantllp.com>; 'Mark O'Connor' <moconnor@bomlawgroup.com>;
'rebecca.phillips@lanierlawfirm.com' <Rebecca.Phillips@LanierLawFirm.com>; 'Adam Evans'
<aevans@dickersonoxton.com>; Richard North <richard.north@nelsonmullins.com>; Fanning, Edward J.
<EFanning@McCarter.com>

RE: Bard MDL Sales Rep Depos - Update and request for M&C

Danielle: Please be advised that at this time we do not represent Mr. Tazwa Brown (Plaintiff Lattanzio). We provide his last known contact information below. Best regards, Katherine

Tazwa Brown
2902 Montilla Dr
Jacksonville, FL 32246
904-477-9243



McCarter & English, LLP
10 E. Main Street, Suite 200 | Carmel, IN 46032

kalthoff@mccarter.com | www.mccarter.com | V-Card
T [317.810.5493](tel:317.810.5493) M [317.508.3043](tel:317.508.3043)

Boston | East Brunswick | Hartford | Indianapolis | Miami | Newark | New York
Philadelphia | Stamford | Trenton | Washington, DC | Wilmington

C Danielle Rogers <danielle@lelaw.com>

Thursday, March 6, 2025 10:34 AM

Althoff, Katherine <kalthoff@mccarter.com>; 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>

'ryan@constantllp.com' <ryan@constantllp.com>; 'Mark O'Connor' <moconnor@bomlawgroup.com>; 'rebecca.phillips@lanierlawfirm.com' <Rebecca.Phillips@LanierLawFirm.com>; 'Adam Evans' <aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>

RE: Bard MDL Sales Rep Depos - Update and request for M&C

NA MA

Danielle Rogers

C Danielle Rogers

Wednesday, March 5, 2025 6:02 PM

Althoff, Katherine <kalthoff@mccarter.com>; 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com> <ryan@constantllp.com>; Mark O'Connor <moconnor@bomlawgroup.com>; rebecca.phillips@lanierlawfirm.com; Adam Evans <aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>

RE: Bard MDL Sales Rep Depos - Update and request for M&C

Danielle Rogers

C Althoff, Katherine <kalthoff@mccarter.com>

Wednesday, March 5, 2025 5:33 PM

Danielle Rogers <danielle@lelaw.com>; 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>
<ryan@constantllp.com>; Mark O'Connor <moconnor@bomlawgroup.com>; rebecca.phillips@lanierlawfirm.com;
Adam Evans <aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J.
<EFanning@McCarter.com>

RE: Bard MDL Sales Rep Depos - Update and request for M&C

Danielle: Thank you for your email.

Your chart details below comport with ours.

We have an additional deposition to offer. Charles Herrin (Plaintiff Reed) is available April 1 in Nashville, TN. Please let us know if you accept this one.

I am in depositions tomorrow and Friday, and Brandee has unavailability as well. To the extent a M&C is still needed Monday, I would suggest 3 or 4 pm Eastern. However, given the continued progress, again, I do not see any impasse here.

As to Plaintiff James, I am unclear what additional information you are seeking. I provided you with the information that we have: i.e. the two possible representatives whose tenure comprise the 2 years prior to the implant. Please advise which representative you would like to pursue. If it is Charles, I have given you a deposition date to which I have received no response. If it is Wagner, we are not in contact with him and will have to provide a last known address. If you disagree that the Brooklyn VA is the relevant implant facility, please advise.

As to "at or near the closest major airport," we cannot agree. These individuals are taking time from their own schedules in most instances to attend, and their personal and/or childcare necessitates that these be as close to home as feasible. Again, we have offered to present these individuals remotely. You have rejected that proposal, except in the instance of a high risk pregnancy. We are working on accommodations and will advise when we have them. We would expect that the default start time will be 9 am local time unless the representative has specified otherwise.

I look forward to continuing to work with you on these items.

Katherine

C Danielle Rogers <danielle@lelaw.com>

Wednesday, March 5, 2025 5:11 PM

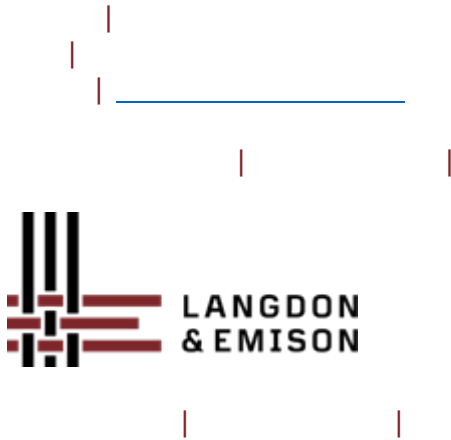
'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>; Althoff, Katherine <kalthoff@mccarter.com>
<ryan@constantllp.com>; Mark O'Connor <moconnor@bomlawgroup.com>; rebecca.phillips@lanierlawfirm.com;
Adam Evans <aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J.
<EFanning@McCarter.com>

Bard MDL Sales Rep Depos - Update and request for M&C

NA MA

<u>Plaintiff</u>	<u>Sales Rep for Depo</u>	<u>Change by Defense</u>	<u>Date of Depo</u>	<u>Start time</u>
Lisa anders	Dave atto	Lauren elo uin	3-Apr	
Robert Coe	Maria Marie Nordby		19-Mar	9:00am central
Kimberly Divelbliss	Chris Young	Don Colby Miller	25-Mar	
Tiffany Adams	Robert Tubela		24-Mar	
Deanne Cunningham	Anna Ford		22-Mar	
Robert Tant	Deanne Daniel			
Robert Davilman	Robert Ayers		26-Mar	
Robert S	Michael Montpetit		21-Mar	
Robert Elley	Lauren elo uin		3-Apr	
Deanne Miller	Cliff ein		31-Mar	8:30am eastern
Robert S	Michael Auger		25-Mar	

Danielle R. Rogers



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Confidentiality Notice

EXHIBIT K

Rebecca L. Phillips

From: Althoff, Katherine <kalthoff@mccarter.com>
Sent: Monday, March 10, 2025 10:0 AM
To: Danielle Rogers; 'Brandee Kowalzyk'
Cc: 'ryan@constantllp.com'; 'Mark O'Connor'; Rebecca L. Phillips; 'Adam Evans'; 'Richard North'; Fanning, Edward J.
Subject: RE: Bard MDL Sales Rep Depos - Update and request for M&C

Danielle: We are providing you whatever updates we have, when we have them. If we get further updates on Sorenson or Faust today, we will let you know. Otherwise, our meet and confer would be to advise that we have no further updates at this time. As to Archer, I must have missed an email. Can you re-forward any correspondence asking for new/different dates. Best/Katherine

C Danielle Rogers <danielle@lelaw.com>
Monday, March 10, 2025 10:51 AM
Althoff, Katherine <kalthoff@mccarter.com>; 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>
'ryan@constantllp.com' <ryan@constantllp.com>; 'Mark O'Connor' <moconnor@bomlawgroup.com>;
'rebecca.phillips@lanierlawfirm.com' <Rebecca.Phillips@LanierLawFirm.com>; 'Adam Evans'
<aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J.
<EFanning@McCarter.com>
RE: Bard MDL Sales Rep Depos - Update and request for M&C

EXTERNAL EMAIL | STOP | VERIFY | REPORT

Katherine,

Thank you for your email. Respectfully, we disagree with your position regarding today's meeting as there are outstanding issues that must be addressed at the M&C scheduled for today. Those issues include, but are not limited to the following:

- sales rep identified in Plaintiff Sorensen's case;
- sales rep identified in Plaintiff Faust's case;
- alternative dates for Bradley Archer's deposition.

Kindest regards,

Partner

LANGDON & EMISON D: 660.259.1933 danielle@lelaw.com

C Althoff, Katherine <kalthoff@mccarter.com>
Monday, March 10, 2025 7:37 AM
Danielle Rogers <danielle@lelaw.com>; 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>

'ryan@constantllp.com' <ryan@constantllp.com>; 'Mark O'Connor' <moconnor@bomlawgroup.com>; 'rebecca.phillips@lanierlawfirm.com' <Rebecca.Phillips@LanierLawFirm.com>; 'Adam Evans' <aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>

RE: Bard MDL Sales Rep Depos - Update and request for M&C

Danielle: I believe we have provided our current updates on each of the outstanding cases. Accordingly, there is no further information to provide on a meet and confer. If I have missed something, please let us know. Otherwise, we not see the need for another call and do not see it as the best use of this group's time. Katherine

C Danielle Rogers <danielle@lelaw.com>

Thursday, March 6, 2025 1:46 PM

Althoff, Katherine <kalthoff@mccarter.com>; 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>

'ryan@constantllp.com' <ryan@constantllp.com>; 'Mark O'Connor' <moconnor@bomlawgroup.com>;

'rebecca.phillips@lanierlawfirm.com' <Rebecca.Phillips@LanierLawFirm.com>; 'Adam Evans'

<aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J.

<EFanning@McCarter.com>

RE: Bard MDL Sales Rep Depos - Update and request for M&C

EXTERNAL EMAIL | STOP | VERIFY | REPORT

Counsel:

We have not yet received any cooperation regarding the scheduling of a meet and confer, which is essential to resolving key issues related to territory manager depositions. For example, in the Peter James case, we are unable to determine which sales representative to depose with the lack of information you have provided. In this case, we would like to know, at the very least, the following:

- Have you been able to obtain more information on Mr. Wagner?

Specifically, we would like confirmation that he covered the Brooklyn VA and the span of time for which he was responsible for that facility.

Was he responsible for promoting and selling medical devices to this facility during the time of implant (9/20/2017) and the time preceding?

How long was he covering this territory after the implant date?

A meet and confer must take place either today or tomorrow, Friday, March 7, 2025. If you are unavailable during these times, we will proceed to schedule the meet and confer for Monday, March 10, 2025, at 3:00 p.m. Eastern Time.

Before the meet and confer, we expect Defendants to supplement their Fact Sheets with complete and accurate information, including details on the appropriate territory manager to be deposed. Specifically, we require updated and accurate defense fact sheets for Plaintiffs Faust, James, Sorenson, and Sanders. These updated fact sheets must be provided to us no later than **Friday, March 7, 2025, by 5:00 p.m. Eastern Time.**

It is critical that we resolve these outstanding issues promptly. We have a deadline to complete the territory manager depositions by April 4, 2025, and it is essential for Plaintiffs to conduct these depositions in order to evaluate and determine bellwether candidates.

Additionally, we need confirmation **today** regarding whether you will be accepting service of subpoenas for the depositions of the territory managers you have already disclosed.

Please confirm your availability for a meet and confer today or tomorrow. If we do not hear from you, we will send a Zoom link for the meet and confer scheduled on **Monday, March 10, 2025, at 3:00 p.m. Eastern Time.**

We look forward to your prompt response.

Kindest regards,

Partner

LANGDON & EMISON D: 660.259.1933 danielle@lelaw.com

C Danielle Rogers
Thursday, March 6, 2025 11:01 AM
'Althoff, Katherine' <kalthoff@mccarter.com>; 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>
'ryan@constantllp.com' <ryan@constantllp.com>; 'Mark O'Connor' <moconnor@bomlawgroup.com>;
'rebecca.phillips@lanierlawfirm.com' <Rebecca.Phillips@LanierLawFirm.com>; 'Adam Evans'
<aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; 'Fanning, Edward J.'
<EFanning@McCarter.com>
RE: Bard MDL Sales Rep Depos - Update and request for M&C

Counsel:

We are requesting dates of availability for the deposition of sales representative Bradley Archer (Plaintiff Reaves) case.

Kindest regards,

Partner

LANGDON & EMISON D: 660.259.1933 danielle@lelaw.com

C Danielle Rogers
Thursday, March 6, 2025 9:34 AM
'Althoff, Katherine' <kalthoff@mccarter.com>; 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>
'ryan@constantllp.com' <ryan@constantllp.com>; 'Mark O'Connor' <moconnor@bomlawgroup.com>;
'rebecca.phillips@lanierlawfirm.com' <Rebecca.Phillips@LanierLawFirm.com>; 'Adam Evans'
<aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; 'Fanning, Edward J.'
<EFanning@McCarter.com>
RE: Bard MDL Sales Rep Depos - Update and request for M&C

Counsel:

Will you please confirm that Nordby is the appropriate sales representative for Lloyd Sorensen and attach all responsive documents that are required to be produced with the DFS?

Additionally, we still have not received any dates of availability for sales representative Tazwa Brown (Plaintiff Lattanzio).

We need this information by 5:00 pm Arizona time tomorrow so we can finalize travel plans.

Kindest regards,

Partner

LANGDON & EMISON D: 660.259.1933 danielle@lelaw.com

C Danielle Rogers

Wednesday, March 5, 2025 6:02 PM

Althoff, Katherine <kalthoff@mccarter.com>; 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>
ryan@constantllp.com; Mark O'Connor <moconnor@bomlawgroup.com>; rebecca.phillips@lanierlawfirm.com;
Adam Evans <aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J.
<EFanning@McCarter.com>

RE: Bard MDL Sales Rep Depos - Update and request for M&C

Katherine,

While we are considering your response, we ask that you provide the dates Defendants served Plaintiffs with supplemental responses and attachments to the DFSs correcting the identities for the sale representatives originally "misidentified" in the DFSs for Plaintiffs James, Faust, and Sanders.

Kindest regards,

Partner

LANGDON & EMISON D: 660.259.1933 danielle@lelaw.com

C Althoff, Katherine <kalthoff@mccarter.com>

Wednesday, March 5, 2025 5:33 PM

Danielle Rogers <danielle@lelaw.com>; 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>
ryan@constantllp.com; Mark O'Connor <moconnor@bomlawgroup.com>; rebecca.phillips@lanierlawfirm.com;
Adam Evans <aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J.
<EFanning@McCarter.com>

RE: Bard MDL Sales Rep Depos - Update and request for M&C

Danielle: Thank you for your email.

1. Your chart details below comport with ours.
2. We have an additional deposition to offer. Charles Herrin (Plaintiff Reed) is available April 1 in Nashville, TN. Please let us know if you accept this one.
3. I am in depositions tomorrow and Friday, and Brandee has unavailability as well. To the extent a M&C is still needed Monday, I would suggest 3 or 4 pm Eastern. However, given the continued progress, again, I do not see any impasse here.
4. As to Plaintiff James, I am unclear what additional information you are seeking. I provided you with the information that we have: i.e. the two possible representatives whose tenure comprise the 2 years prior to the implant. Please advise which representative you would like to pursue. If it is Charles, I have given you a deposition date to which I have received no response. If it is Wagner, we are not in contact with him and will have to provide a last known address. If you disagree that the Brooklyn VA is the relevant implant facility, please advise.
5. As to "at or near the closest major airport," we cannot agree. These individuals are taking time from their own schedules in most instances to attend, and their personal and/or childcare necessitates that these be as close to home as feasible. Again, we have offered to present these individuals remotely. You have rejected that proposal, except in the instance of a high risk pregnancy. We are working on accommodations and will advise when we have them. We would expect that the default start time will be 9 am local time unless the representative has specified otherwise.

I look forward to continuing to work with you on these items.

Katherine

C Danielle Rogers <danielle@lelaw.com>

Wednesday, March 5, 2025 5:11 PM

'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>; Althoff, Katherine <kalthoff@mccarter.com>
ryan@constantllp.com; Mark O'Connor <moconnor@bomlawgroup.com>; rebecca.phillips@lanierlawfirm.com;
 Adam Evans <aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J.
 <EFanning@McCarter.com>

Bard MDL Sales Rep Depos - Update and request for M&C

EXTERNAL EMAIL | STOP | VERIFY | REPORT

Dear Counsel,

Please find below the chart listing the confirmed sales representative depositions. Kindly review it and let us know if you notice any inaccuracies.

<u>Plaintiff</u>	<u>Sales Rep for Depo</u>	<u>Change by Defense</u>	<u>Date of Depo</u>	<u>Start time</u>
Lisa Sanders	Dave Gatto	Lauren Peloquin	3-Apr	

Robert Cook	Mikka Marie Nordby		19-Mar	9:00am central
Kimberly Divelbliss	Chris Young	Jon Colby Miller	25-Mar	
Tiffany Hawkins	Brent Bubela		24-Mar	
Jeanette Cunningham	Anna Bord		22-Mar	
Karen Stant (obo Genevieve Davilman)	Geary (Daniel) Sayers		26-Mar	
Judy Hicks	Michael Montpetit		21-Mar	
Kriston Kelley	Lauren Peloquin		3-Apr	
Wanda Miller	Cliff Hein		31-Mar	8:30am eastern
Jay Sours	Michael Auger		25-Mar	

We would like to request a meeting tomorrow to discuss the sales representative depositions for Plaintiffs Faust and James. We have dedicated significant time reviewing each Plaintiff's SFC, PFS, DFS, and attachments to identify which sales representative would likely have the most relevant information for each case. It is concerning and frustrating to only now learn that Defendants have "misidentified" the sales representatives previously listed in their verified DFSs. We are requesting this meeting as we still lack complete information regarding the newly identified sales representatives, and time is of the essence.

Additionally, we would like to address the remaining three sales representatives whose depositions have not yet been scheduled and discuss the locations and start times for all sales representative depositions. Due to the compressed schedule for these depositions, we would request that they take place at or near the closest major airport.

We also need to confirm whether you will be accepting or waiving service of the subpoena for these depositions.

We are available to meet at any time tomorrow, except between 11:30 AM and 12:30 PM Central.

Thank you for your attention to this matter. We look forward to your response.

Kindest regards,

Partner

Direct 660.259.1933

Fax 660.259.4571

Email danielle@lelaw.com

911 Main Street P.O. Box 220 Lexington, MO 64067



LEXINGTON KANSAS CITY ST. LOUIS | CHICAGO

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EXHIBIT L

Rebecca L. Phillips

From: Rebecca L. Phillips
Sent: Monday, March 10, 2025 3:11 PM
To: 'Brandee Kowalzyk'; Ryan Cavanaugh
Cc: Althoff, Katherine; Danielle Rogers; Mark O'Connor; Adam Evans; Richard North;
Fanning, Edward J.; Maria Turner
Subject: RE: Bard MDL Sales Rep Depos - Update and request for MFC

From: Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>
Sent: Monday, March 10, 2025 5:35 PM
To: Rebecca L. Phillips <Rebecca.Phillips@LanierLawFirm.com>; Ryan Cavanaugh <ryan@constantllp.com>
Cc: Althoff, Katherine <kalthoff@mccarter.com>; Danielle Rogers <danielle@lelaw.com>; Mark O'Connor <moconnor@bomlawgroup.com>; Adam Evans <aevans@dickersonoxton.com>; Richard North <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@mccarter.com>; Maria Turner <maria.turner@nelsonmullins.com>
Subject: RE: Bard MDL Sales Rep Depos - Update and request for MFC

Rebecca,

As we have mentioned several times, we do not have anything further to report at this time (albeit not for want of effort). Inflamed rhetoric and implicit threats do not change that fact.

We have faced considerable challenges in identifying some of the sales representatives responsible for several of the facilities at certain points. The effort is complicated by the fact that the responsibility for the sales of implantable port products has shifted over time. Not only was the responsibility for ports transferred from one division to another at one point, but the acquisition of Bard by Becton Dickinson in 2018 significantly impacted how territories were defined, referenced and organized. The effort has required interviewing countless people and chasing down all of the leads we are provided. We have already interviewed multiple people regarding the facilities at issue in the Faust and Sorenson cases. We continue to chase down leads.

As a result, we still do not have a definitive answer to give you. We are happy to supplement the Defense Fact Sheets, if that is what you want, but as of now, the supplement would merely note that the investigation is ongoing, and despite the defendants' best efforts, the defendants have been unable to identify the representatives at certain points in time for the Faust and Sorenson cases. Similarly, even if we convened a further conference call, there would be nothing to "confer" about at this juncture. We have no answers to give, and, as previously reiterated, we know of no impasse.

All we can do is to continue reaching out to every lead we obtain, and you can be assured we will continue to do so. Numerous people are involved in this effort. We are hopeful that we can provide you more concrete information as soon as practicable this week. In the meantime, we have previously offered dates of deposition for Mikka Nordby in the Sorensen case and Grant Hammann in the Faust case. We've not heard back from Plaintiffs on those. If Plaintiffs have decided that you do NOT want to depose either Ms. Nordby in the Sorensen case or Grant Hammann in the Faust case, please let us know.

Thanks,

Brandee

From: Rebecca L. Phillips <Rebecca.Phillips@LanierLawFirm.com>

Sent: Monday, March 10, 2025 3:30 PM

To: Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>; Ryan Cavanaugh <ryan@constantllp.com>

Cc: Althoff, Katherine <kalthoff@mccarter.com>; Danielle Rogers <danielle@lelaw.com>; Mark O'Connor <moconnor@bomlawgroup.com>; Adam Evans <aevans@dickersonoxton.com>; Richard North <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@mccarter.com>; Maria Turner <maria.turner@nelsonmullins.com>

Subject: RE: Bard MDL Sales Rep Depos - update and request for MFC

Importance: High

Rebecca L Phillips - Mass Torts Director p: 713-659-5200 w: www.LanierLawFirm.com

From: Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>

Sent: Monday, March 10, 2025 1:54 PM

To: Ryan Cavanaugh <ryan@constantllp.com>

Cc: Althoff, Katherine <kalthoff@mccarter.com>; Danielle Rogers <danielle@lelaw.com>; Mark O'Connor <moconnor@bomlawgroup.com>; Rebecca L. Phillips <Rebecca.Phillips@LanierLawFirm.com>; Adam Evans <aevans@dickersonoxton.com>; Richard North <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@mccarter.com>; Maria Turner <maria.turner@nelsonmullins.com>

Subject: RE: Bard MDL Sales Rep Depos - pdate and re uest for M C

From: Ryan Cavanaugh <ryan@constantllp.com>

Sent: Monday, March 10, 2025 2:35 PM

To: Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>

Cc: Althoff, Katherine <kalthoff@mccarter.com>; Danielle Rogers <danielle@lelaw.com>; Mark O'Connor <moconnor@bomlawgroup.com>; Rebecca.Phillips@lanierlawfirm.com; Adam Evans <aevans@dickersonoxton.com>; Richard North <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@mccarter.com>; Maria Turner <maria.turner@nelsonmullins.com>

Subject: Re: Bard MDL Sales Rep Depos - pdate and re uest for M C

From: Althoff, Katherine <kalthoff@mccarter.com>
Sent: Monday, March 10, 2025 11:19 AM
To: Ryan Cavanaugh <ryan@constantllp.com>; Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>
Cc: Danielle Rogers <danielle@lelaw.com>; Mark O'Connor <moconnor@bomlawgroup.com>;
Rebecca.Phillips@lanierlawfirm.com; Adam Evans <aevans@dickersonoxton.com>; Richard North
<richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>; Maria Turner
<maria.turner@nelsonmullins.com>
Subject: RE: Bard MDL Sales Rep Depos - pdate and re uest for M C

Ryan: We will reach out to Mr. Archer and see if he has any flexibility on these dates. Katherine

From: Ryan Cavanaugh <ryan@constantllp.com>
Sent: Monday, March 10, 2025 11:16 AM
To: Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>
Cc: Danielle Rogers <danielle@lelaw.com>; Althoff, Katherine <kalthoff@mccarter.com>; Mark O'Connor
<moconnor@bomlawgroup.com>; Rebecca.Phillips@lanierlawfirm.com; Adam Evans <aevans@dickersonoxton.com>;
Richard North <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>; Maria Turner
<maria.turner@nelsonmullins.com>
Subject: Re: Bard MDL Sales Rep Depos - pdate and re uest for M C

Danielle Rogers

Partner

LANGDON & EMISON | D: 660.259.1933 | danielle@lelaw.com

From: Danielle Rogers

Sent: Thursday, March 6, 2025 9:34 AM

To: 'Althoff, Katherine' <kalthoff@mccarter.com>; 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>

Cc: 'ryan@constantllp.com' <ryan@constantllp.com>; 'Mark O'Connor' <moconnor@bomlawgroup.com>; 'rebecca.phillips@lanierlawfirm.com' <Rebecca.Phillips@LanierLawFirm.com>; 'Adam Evans' <aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; 'Fanning, Edward J.' <EFanning@McCarter.com>

Subject: RE: Bard MDL Sales Rep Depos - pdate and re uest for M C

Danielle Rogers

Partner

LANGDON & EMISON | D: 660.259.1933 | danielle@lelaw.com

From: Danielle Rogers

Sent: Wednesday, March 5, 2025 6:02 PM

To: Althoff, Katherine <kalthoff@mccarter.com>; 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>

Cc: ryan@constantllp.com; Mark O'Connor <moconnor@bomlawgroup.com>; rebecca.phillips@lanierlawfirm.com; Adam Evans <aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>

Subject: RE: Bard MDL Sales Rep Depos - pdate and re uest for M C

Danielle Rogers

Partner

LANGDON & EMISON | D: 660.259.1933 | danielle@lelaw.com

From: Althoff, Katherine <kalthoff@mccarter.com>
Sent: Wednesday, March 5, 2025 5:33 PM
To: Danielle Rogers <danielle@lelaw.com>; 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>
Cc: ryan@constantllp.com; Mark O'Connor <moconnor@bomlawgroup.com>; rebecca.phillips@lanierlawfirm.com; Adam Evans <aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>
Subject: RE: Bard MDL Sales Rep Depos - pdate and re uest for M C

Danielle: Thank you for your email.

our chart details below comport with ours.

We have an additional deposition to offer. Charles Herrin (Plaintiff Reed) is available April 1 in Nashville, TN. Please let us know if you accept this one.

I am in depositions tomorrow and Friday, and Brandee has unavailability as well. To the extent a M C is still needed Monday, I would suggest 3 or 4 pm Eastern. However, given the continued progress, again, I do not see any impasse here.

As to Plaintiff James, I am unclear what additional information you are seeking. I provided you with the information that we have: i.e. the two possible representatives whose tenure comprise the 2 years prior to the implant. Please advise which representative you would like to pursue. If it is Charles, I have given you a deposition date to which I have received no response. If it is Wagner, we are not in contact with him and will have to provide a last known address. If you disagree that the Brooklyn A is the relevant implant facility, please advise.

As to “at or near the closest ma or airport,” we cannot agree. These individuals are taking time from their own schedules in most instances to attend, and their personal and/or childcare necessitates that these be as close to home as feasible. Again, we have offered to present these individuals remotely. ou have re ected that proposal, except in the instance of a high risk pregnancy. We are working on accommodations and will advise when we have them. We would expect that the default start time will be 9 am local time unless the representative has specified otherwise.

I look forward to continuing to work with you on these items.

Katherine

From: Danielle Rogers <danielle@lelaw.com>
Sent: Wednesday, March 5, 2025 5:11 PM
To: 'Brandee Kowalzyk' <Brandee.Kowalzyk@nelsonmullins.com>; Althoff, Katherine <kalthoff@mccarter.com>
Cc: ryan@constantllp.com; Mark O'Connor <moconnor@bomlawgroup.com>; rebecca.phillips@lanierlawfirm.com; Adam Evans <aevans@dickersonoxton.com>; 'Richard North' <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>
Subject: Bard MDL Sales Rep Depos - pdate and re uest for M C

[illegible]

Danielle R. Rogers

Partner

Direct | 660.259.1933

Fax | 660.259.4571

Email | danielle@lelaw.com

911 Main Street | P.O. Box 220 | Lexington, MO 64067



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737 Bolivar Road, Suite 400
Cleveland, OH 44115
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EXHIBIT M

Rebecca L. Phillips

From: Rebecca L. Phillips
Sent: Wednesday, March 12, 2025 8:1 AM
To: Richard North; randee Kowalzyk; ryan@constantllp.com; Danielle Rogers; moconnor@bomlawgroup.com
Cc: Fanning, Edward J.; Althoff, Katherine; Maria Turner; Kate Helm
Subject: RE: Sanders - update regarding TM prior to Pelouin

Here's what I understand: Your attorney has now bargained twice by using refusal to waive service. And that's on top of a mountain of other issues that I've brought to your and Ed's attention with this particular attorney being overzealous in her advocacy.

Your choice to ignore this chronic problem is not in line with the dictates of our profession. But I'll make that case to the judge.

----- Original message -----

From: Richard North <richard.north@nelsonmullins.com>
Date: 3/12/25 7:10 AM (GMT-06:00)
To: "Rebecca L. Phillips" <Rebecca.Phillips@LanierLawFirm.com>, Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>, ryan@constantllp.com, Danielle Rogers <danielle@lelaw.com>, moconnor@bomlawgroup.com
Cc: "Fanning, Edward J." <EFanning@McCarter.com>, "Althoff, Katherine" <kalthoff@mccarter.com>, Maria Turner <maria.turner@nelsonmullins.com>, Kate Helm <Kate.Helm@nelsonmullins.com>
Subject: RE: Sanders - update regarding TM prior to Pelouin

Rebecca:

With all due respect, your email ignores the dictates of our profession. If an individual (regardless whether a client or not) refuses to authorize us to accept service of a subpoena on his/her behalf, we have no choice but to abide by that decision. We cannot force our will on people who are no longer employees of our clients.

Surely you can understand that.

Regards,

Richard



RICHARD B. NORTH, JR. **PARTNER**

richard.north@nelsonmullins.com

ATLANTIC STATION | SUITE 1700

201 17TH STREET NW | ATLANTA, GA 30363

T 404.322.6155 F 404.322.6050

NELSONMULLINS.COM VCARD VIEW BIO

From: Rebecca L. Phillips <Rebecca.Phillips@LanierLawFirm.com>
Sent: Tuesday, March 11, 2025 7:33 PM
To: Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>; ryan@constantllp.com; Danielle Rogers <danielle@lelaw.com>; moconnor@bomlawgroup.com
Cc: Richard North <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>; Althoff, Katherine <kalthoff@mccarter.com>; Maria Turner <maria.turner@nelsonmullins.com>; Kate Helm <Kate.Helm@nelsonmullins.com>
Subject: RE: Sanders - update regarding TM prior to Peloquin

If we have to serve, we're picking a day that suits us and you'll have to quash. Is that really how we're going to play this – after Plaintiffs cooperated on all friends/family depositions?

Rebecca L. Phillips - Mass Torts Director p: 713-659-5200 w: www.LanierLawFirm.com

From: Brandee Kowalzyk <Brandee.Kowalzyk@nelsonmullins.com>
Sent: Tuesday, March 11, 2025 6:07 PM
To: ryan@constantllp.com; Danielle Rogers <danielle@lelaw.com>; moconnor@bomlawgroup.com; Rebecca L. Phillips <Rebecca.Phillips@LanierLawFirm.com>
Cc: Richard North <richard.north@nelsonmullins.com>; Fanning, Edward J. <EFanning@McCarter.com>; Althoff, Katherine <kalthoff@mccarter.com>; Maria Turner <maria.turner@nelsonmullins.com>; Kate Helm <Kate.Helm@nelsonmullins.com>
Subject: Sanders - update regarding TM prior to Peloquin

Counsel,

We provide the following update in the Sanders case. Lauren Peloquin had the territory including the implant facility at the time of implant in July 2019. Our information is that she took over that responsibility in the fall of 2018. The TM that had that responsibility prior to Ms. Peloquin was former employee Anthony Davis, whose last known contact information is provided below. While we have been asked to represent Mr. Davis, he is not willing to provide a deposition date at this time, nor are we authorized to accept a subpoena on his behalf. Once you have had an opportunity to discuss and make a decision, please let us know whether you opt to depose Mr. Davis instead of Ms. Peloquin in the Sanders case. If you opt to depose Mr. Davis, you will need to have him served with a subpoena. We are serving a supplemental DFS later today.

Here is Anthony Davis's last known contact information:

4614 NE 90th Terr
Kansas City, MO 64156

Thanks,

Brandee

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately either by phone (800-237-2000) or reply to this e-mail and delete all copies of this message.

EXHIBIT N



Elizabeth A. Falconer
T: 404.322.6265
elizabeth.falconer@nelsonmullins.com

NELSON MULLINS RILEY & SCARBOROUGH LLP
ATTORNEYS AND COUNSELORS AT LAW

201 17th Street NW, Suite 1700
Atlanta, GA 30363
T: 404.322.6000 F: 404.322.6050
nelsonmullins.com

February 10, 2025

VIA EMAIL

Napoli Shkolnik, PLLC
6731 W. 12th Street, Suite 201
Overland Park, KS 66209
CSchnieders@NapoliLaw.com

RE: Delinquent Plaintiff Profile Form, *In re Bard Implanted Port Catheter Products Liability Litigation*, 2:23-md-03081-DGC, MDL No. 3081

Dear Counsel:

Under Case Management Order (“CMO”) No. 8, entered on November 22, 2023 (Doc.113), Plaintiff Peggy Younger-Smith was required to serve a Plaintiff Profile Form (“PPF”) via MDL Centrality by January 29, 2025. See Exhibit A (CMO 8). To date, we have not received a PPF from plaintiff, and it also appears that you have not registered with MDL Centrality. As a result, we are sending this delinquency notice via email and not through MDL Centrality.

Pursuant to CMO 8, plaintiff has twenty-one (21) days from the date of this letter to submit a completed PPF and all accompanying records via MDL Centrality. As is provided for in CMO 8, we reserve the right to move to dismiss plaintiff’s claims should plaintiff fail to comply with this deadline. See Exhibit A, CMO 8 at 4 (“If a Plaintiff does not submit a PPF within the time specific in this Order, Defendants shall send a communication through MDL Centrality stating that Defendants may request dismissal during a regular case management conference if a PPF and the accompany records are not received within 21 days.”).

February 10, 2025
Page 2

We look forward to hearing from you.

Very truly yours,

A handwritten signature in blue ink that reads "Elizabeth A. Falconer". The signature is written in a cursive, flowing style.

Elizabeth A. Falconer

EF
CC: Plaintiffs' Leadership Committee
portppf-pfs@nelsonmullins.com

EXHIBIT O



Elizabeth A. Falconer
T: 404.322.6265
elizabeth.falconer@nelsonmullins.com

NELSON MULLINS RILEY & SCARBOROUGH LLP
ATTORNEYS AND COUNSELORS AT LAW

201 17th Street NW, Suite 1700
Atlanta, GA 30363
T: 404.322.6000 F: 404.322.6050
nelsonmullins.com

February 27, 2025

VIA EMAIL

Michael D. Pugliese Jr
Seeger Weiss LLP
55 Challenger Rd, 6th Floor
Ridgefield Park, NJ 07660
mpugliese@seegerweiss.com

RE: Delinquent Plaintiff Profile Form, *In re Bard Implanted Port Catheter Products Liability Litigation*, 2:23-md-03081-DGC, MDL No. 3081

Dear Counsel:

Under Case Management Order (“CMO”) No. 8, entered on November 22, 2023 (Doc.113), Plaintiff Robert Taylor was required to serve a Plaintiff Profile Form (“PPF”) via MDL Centrality by February 10, 2025. See Exhibit A (CMO 8). To date, we have not received a PPF from plaintiff, and it also appears that you have not registered with MDL Centrality. As a result, we are sending this delinquency notice via email and not through MDL Centrality.

Pursuant to CMO 8, plaintiff has twenty-one (21) days from the date of this letter to submit a completed PPF and all accompanying records via MDL Centrality. As is provided for in CMO 8, we reserve the right to move to dismiss plaintiff’s claims should plaintiff fail to comply with this deadline. See Exhibit A, CMO 8 at 4 (“If a Plaintiff does not submit a PPF within the time specific in this Order, Defendants shall send a communication through MDL Centrality stating that Defendants may request dismissal during a regular case management conference if a PPF and the accompany records are not received within 21 days.”).

We look forward to hearing from you.

February 27, 2025
Page 2

Very truly yours,

A handwritten signature in blue ink that reads "Elizabeth A. Falconer". The signature is written in a cursive, slightly stylized font.

Elizabeth A. Falconer

EF
CC: Plaintiffs' Leadership Committee
portppf-pfs@nelsonmullins.com