

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: DAVOL, INC./C.R. BARD,
INC., POLYPROPYLENE HERNIA
MESH PRODUCTS LIABILITY
LITIGATION**

Case No.: 2:18-md-2846

**JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Kimberly A. Jolson**

**This document relates to:
ALL ACTIONS.**

**CASE MANAGEMENT ORDER NO. 58
(Mechanism and Timing of Payments into MDL Common Benefit Accounts)**

On December 11, 2018, the Court entered Case Management Order No. 11, which created and addressed the common benefit fund that would be established from funds paid and/or held back by Defendants from cases tried and judgments satisfied or cases settled [ECF No. 70]. One provision therein, Section III(B)(4), requires a subsequent order to address Defendants' withholding and/or payment as required under CMO No. 11, including the mechanism and timing by which the payments are made into the MDL Common Benefit Fund Accounts established by CMO No. 31. The Plaintiffs' Steering Committee (the "PSC") and Defendants have conferred, and propose the following procedure, which the Court adopts by this Order. This Order is a supplementation of CMO No. 11 and does not alter the substantive rights of the parties or otherwise modify CMO No. 11 or CMO No. 11-A.

It is hereby **ORDERED**:

Defendants' Payments of the Assessments

I. For any settlement payments made after June 5, 2025 pursuant to the terms agreed to by Plaintiffs' Lead Settlement Counsel and Bard, Defendants are to pay the entire agreed gross

amount for any given payment under the agreed payment schedule into the Qualified Settlement Fund established by this Court in CMO No. 56 (*i.e.*, Bard 2024 HM Global QSF). Payments to the Qualified Settlement Fund that are specifically being withheld as potential common benefit assessment amounts are to be segregated into a separate sub account within the Qualified Settlement Fund.

- A. Administering Counsel shall perform an initial accounting, as well as quarterly accounting thereafter, and shall oversee timely distribution into the appropriate established common benefit accounts. Before any distribution is made from the Qualified Settlement Fund to any common benefit fund account, Administering Counsel must provide Defendants and the Special Masters appointed pursuant to CMO No. 55 with a list identifying the individual common benefit fund assessment percentages and amounts that are being withheld and deposited into the common benefit fund accounts for each Claimant for which a payment is being made.
- B. No distribution of funds shall be made from the Qualified Settlement Fund into common benefit fund accounts without written approval or authorization from Defendants and the Special Masters.
- C. Once paid in accordance with this Order, Defendants shall have no liability to Claimants or their counsel, any future claimants and their respective counsel, or any other person in connection with a common benefit fund payment, and shall have no further responsibility for the payment or transfer of any additional common benefit fund assessment.

II. For any settlement payments made before June 5, 2025, and for all other settlements that Defendants (i) have entered into relating to Hernia Repair Products manufactured, distributed, and/or designed by Bard for which Defendants have withheld 10% pursuant to CMO No. 11 and

the guidelines previously provided by Plaintiffs' Co-Lead Counsel, or (ii) will enter into relating to Hernia Repair Products manufactured, distributed, and/or designed by Bard, including through the Intensive Settlement Process implemented by this Court through CMO No. 55, Defendants shall:

- Notify Plaintiffs' Co-Lead Counsel in writing of the name of the individual plaintiff and plaintiff's attorney involved in the settlement(s) (without disclosing the amount of the settlement), and
- Consult with Plaintiffs' Co-Lead Counsel, who, in conjunction with the Plaintiffs' Steering Committee appointed by the court in the coordinated proceeding styled as *In re: Davol/C.R. Bard Hernia Mesh Multi-Case Management*, with case number PC-2018-9999 (Superior Court for Providence County, Rhode Island), will determine the appropriate distribution of these funds, including the account(s) to which such funds should be deposited.

A. For any prior or future withholdings and/or payments of common benefit funds, Defendants were/are entitled to rely on the representations and directions of Plaintiffs' Co-Lead Counsel based upon their authority under CMO 11 and this Order.

B. Once paid in accordance with this Order, Defendants shall have no liability to Claimants or their counsel, any future claimants and their respective counsel, or any other person in connection with a common benefit fund payment, and shall have no further responsibility for the payment or transfer of any additional common benefit fund assessment.

III. On a quarterly basis, as part of its quarterly accounting process referenced in Paragraph I.A., Administering Counsel will create and deliver a report to the Special Masters and Defendants, setting forth the names and docket numbers of the cases for which a common benefit

fund assessment has been paid. The Defendants will then have the opportunity to review the report and include the names and docket numbers of any additional cases that resolved and should be included in the report. The Special Masters are to maintain these reports in confidence. The details of any individual settlement agreement, individual settlement amount, and individual amounts deposited into escrow are confidential and shall not be disclosed unless the Court requests that it receive that information.

IV. Nothing herein precludes a party from seeking to seal any Court submission pursuant to this Case Management Order by following the procedures set out in Fed. R. Civ. P. 5.2, Local Rule 5.2.1, and this Court's Case Management Orders in this MDL proceeding.

V. Any disputes related to any payments or withholdings made pursuant to this Order will be adjudicated by the Special Masters, with the Court's guidance, as needed.

SO ORDERED this 31st day of October 2025.

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
United States District Judge