

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

ORDER No. 18D

MIRENA IUD PRODUCTS LIABILITY LITIGATION

13-MD-2434 (CS)

13-MC-2434 (CS)

This Document Relates To All Actions
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Seibel, J.

This Order modifies Case Management Order No. 18 (13-MC-2434 Doc. 63; 13-MD-2434 Doc. 883) (“CMO 18”) governing the Initial Disposition Pool.

I. Voluntary Dismissal of Initial Disposition Pool Cases

1. This section replaces Section II of CMO 18.
2. After a case is selected for inclusion in the Initial Disposition Pool, the case may not be voluntarily dismissed without prejudice without a showing of good cause.
3. If a case in the Initial Disposition Pool is voluntarily dismissed by Plaintiffs, then:
 - a. If the case is dismissed by January 16, 2015 or within thirty days after selection to the Initial Disposition Pool (whichever is later), Defendants shall identify a replacement case to the Court within fourteen days of the dismissal order.¹
 - b. If the case is dismissed after January 16, 2015 or more than thirty days after selection to the Initial Disposition Pool (whichever is later), Defendants shall, within fourteen days of the dismissal order, either (i) identify up to two replacement cases, or (ii) identify a case selected by Plaintiffs to remove from the Initial Disposition Pool. In the event that Defendants choose option (ii), neither the dismissed case nor the removed case shall be replaced. If a

¹ For purposes of this Order, the date of a “dismissal order” means the date of entry on the docket of an Order entered by the Court pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, including the Court’s approval of a Notice of Voluntary Dismissal, its approval of a proposed Stipulation and Order of Dismissal, or an Order granting a motion for voluntary dismissal.

voluntary dismissal and subsequent removal of a case from the Initial Disposition Pool pursuant to option (ii) would cause the number of cases in the Initial Disposition Pool to fall under six total cases, then Defendants must choose option (i).

4. If an Initial Disposition Pool case is dismissed due to resolution, Plaintiffs shall identify a replacement case to the Court within fourteen days of the dismissal order.

II. Venue Waiver in Replacement Initial Disposition Pool Cases

5. By 5 p.m. Eastern on January 7, 2015, the parties will inform the Court and opposing counsel by email whether they agree to waive any venue objections in the following Initial Disposition Pool replacement cases and to consent to trial in the Southern District of New York:

Cooke v. Bayer HealthCare Pharmaceuticals et al., No. 7:13-cv-07323-CS
Hayes v. Bayer HealthCare Pharmaceuticals et al., No. 7:14-cv-00288-CS
Hermosillo v. Bayer HealthCare Pharmaceuticals et al., No. 7:13-cv-07354-CS
Wofford v. Bayer HealthCare Pharmaceuticals et al., No. 7:14-cv-01979-CS

Plaintiffs will submit waivers signed by the client to that effect for those cases in which the client does waive venue objections. If a party declines to waive its venue objection, the party shall identify the district in which it believes that venue is proper.

6. For replacement cases selected to the Initial Disposition Pool after the date of entry of this Order, the parties will, within twenty-one days of their selection to the Initial Disposition Pool, inform the Court and opposing counsel by email whether they agree to waive any venue objections. Plaintiffs will submit waivers signed by the client to that effect for those cases in which the client does waive venue objections. If a party declines to waive its venue objection, the party shall identify the district in which it believes that venue is proper.

SO ORDERED.

Dated: December 19, 2014
White Plains, New York



CATHY SEIBEL, U.S.D.J.

