

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

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IN RE: COOK MEDICAL, INC. IVC FILTERS  
MARKETING, SALES PRACTICES AND  
PRODUCTS LIABILITY LITIGATION

Case No. 1:14-ml-2570-RLY-TAB  
MDL No. 2570

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This Document Relates to All Actions

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**JOINT MOTION REQUESTING BRIEFING AND HEARING ON THE BELLWETHER  
TRIAL SELECTION PROCESS FOR MDL 2570**

Plaintiffs, by co-lead counsel, and Cook Defendants, by lead counsel, respectfully file this Joint Motion Requesting Briefing and Hearing on the Bellwether Trial Selection Process (the “Joint Motion”). In support of their Joint Motion, the Parties state as follows:

1. On December 3, 2015, the Court entered Case Management Order #12 (Fourth Amendment to Case Management Plan) [Docket No. 875] (“CMO #12”), which contained necessary amendments to the Case Management Plan entered by the Court on November 25, 2014 [Docket No. 51] and amended on April 17, 2015 [Docket No. 355] and July 10, 2015 [Docket No. 519].

2. As with all previously entered Case Management Plans, CMO #12 addresses Bellwether Trials as follows:

The Parties shall make presentations to the Court in mid-April 2016, on a date to be established by the Court, as to which Discovery Pool cases they propose be Bellwether cases for trial. The plaintiffs shall select a total of two (2) cases to be Bellwether cases and the defendant(s) shall select a total of two (2) cases to be Bellwether cases. *The parties will make proposals as to how the Bellwether selections will be handled prior to the presentations.* The Court shall inform the parties as to which cases and the order of the trials will be tried within twenty-one (21) days of the presentations.

CMO # 12 at Section III.L (emphasis added).

3. The Parties met and conferred regarding how best to select Bellwether Trials in this matter, but were unable to come to an agreement as to a joint proposal to submit to the Court.

4. The Parties agree that this issue should be resolved, with the Court's assistance, as soon as possible in light of upcoming MDL deadlines.

5. Therefore, the Parties respectfully request that the Court enter an Order directing the Parties to submit Memoranda outlining their respective proposals regarding the Bellwether Trial selection process on or before March 17, 2016.

6. The Parties further request that the Court hold a hearing on the Bellwether Trial selection process following the conclusion of Science Day, which is currently scheduled for 9:00 a.m. to noon on March 22, 2016.

7. In addition, the Parties respectfully request that the Court advise the Parties of its decision as to the Bellwether Trial selection process for MDL 2570 following the hearing, or as expeditiously as possible thereafter, so that the Parties can continue to efficiently litigate the MDL and adhere to the current deadlines in CMO # 12 as much as possible.

WHEREFORE, the Parties respectfully request that the Court grant their Joint Motion Requesting Briefing and Hearing on the Bellwether Trial Selection Process by entering an Order directing the Parties to submit their Memoranda outlining their respective proposals on or before March 17, 2016, and setting a hearing for March 22, 2016, following Science Day presentations.

Respectfully Submitted,

/s/ Ben C. Martin (with consent)

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 4, 2016, a copy of the foregoing was served electronically, and notice of the service of this document will be sent to all parties by operation of the Court's electronic filing system to CM/ECF participants registered to receive service in this matter. Parties may access this filing through the Court's system. All non-registered counsel of record will be served by Plaintiffs' Lead Counsel.

*/s/ Douglas B. King*  
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**ORDER ON THE PARTIES' JOINT MOTION REQUESTING BRIEFING AND  
HEARING ON THE BELLWETHER TRIAL SELECTION PROCESS FOR MDL 2570**

This cause having come before the Court on the Parties' Joint Motion Requesting Briefing and Hearing on the Bellwether Trial Selection Process, the Court, being duly advised in the premises, now finds that the Joint Motion should be granted.

IT THEREFORE IS ORDERED, ADJUDGED, AND DECREED that the Parties shall submit Memoranda outlining their respective proposals regarding the Bellwether Trial selection process on or before March 17, 2016. A hearing on the Parties' proposals will occur following the conclusion of Science Day on March 22, 2016

IT SO IS ORDERED this \_\_\_\_ day of March, 2016.

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Judge, United States District Court for the  
Southern District of Indiana

Distribution to:

All counsel of record via the Court's CM/ECF system

All non-registered counsel of record will be served by Plaintiffs' Lead Counsel.