

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

**SHELLEY EVERS, CHRISTINA PATRAS, RITA
MELKONIAN, DEBORA CASTRO, and TRICIA
WILLARD,**

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:22-cv-11895 -ADB

**JULIE BLOCK, NERISSA BURKE, KAREN
ENSLEY, and DONNITA REIMAN,**

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:22-cv-12194-ADB

**DENICE CHAMBERS, CYNTHIA KRESCH,
JOYE RISHELL, KIMBERLY TAYLOR, and
KATY WHARTON,**

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-10260-ADB

**REBECCA SHIRKEY, ANN THALMAN, PAMELA
MAZZANTI, BETH DEUEL, and DIANE
ANDERSON,**

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-10579-ADB

TINA STINE, PAMELA GIBSON, DELLA DEBBAS, DIANE LYON, and JOANNA PEREZ,

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-10599 -ADB

NICOLE BAKER, CONNIE SANTILLANES, BETTINA SOPKE, and JEWEL OWEN,

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-10717-ADB

MICHELLE SLATER, GINA BRADFORD, SUSAN PARRINELLO, MICHELE STAFFORD, and HEATHER SMITH,

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-10888-ADB

MARIA RIVERA, MARY MUNNEY GRIFFITHS, MARTHA GOTTSCHALK, SHARON HICKS, and DELORES GOODSON,

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-11012-ADB

**LISA ENGLISH, RENEE LEONARD,
MONICA ZAPATA-BOLTON, DEANA
JACOBS, and RHONDA WILLIAMS,**

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-11512-ADB

**SUSIE PRICE, DANA WHITE, MIGDALIA
NEGRON, SUSAN MCCOY, and DOROTHY
LANEADER,**

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-12011-ADB

**SHIRLEY WEBB, NANCY BARKER, TWILA
ROBERTS, DENISE BURKS-SCOTT, and MARY
MCKNIGHT,**

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-11823-ADB

**TINA HEFFNER, CHERYL KING, SUE TRENT,
VIRGINIA HORGAN, and THERESE KICKBUSH,**

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-12278-ADB

**MELISSA BLANCHENAY, SHEILA BOISVERT,
KIM HORN, TARA PASH, and ROXANNE
SMITH,**

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-12458-ADB

**KIMBERLY AUSTIN, CORINNA ALANDT,
SANDRA ICKOVITS, KIMBERLY EVERETT, and
EVELYN RYAN,**

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-12651-ADB

**CYNTHIA SWAFFORD, JOYCE RANNOCHIO,
JENNY LOVAIN, KASSIE TRACY, PATTI
QUIGLEY,**

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-12687-ADB

**JANET BONVILLAIN, TINA CAINE, DELILAH
HORN, TERESA WALKER, TRACY SEGURA,**

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-12833-ADB

**MARGARET CIERS, JULIE BAUER, SELENA
FISHER, KAREN SELLARDS, SARAH FARLEY,**

Plaintiffs,

-vs.-

HOLOGIC, INC.,

Defendant.

Case No. 1:23-cv-13215-ADB

CASE MANAGEMENT ORDER
REGARDING NON-BELLWETHER CASES

Pursuant to the parties' Joint Motion, the Court previously entered an Order Regarding a Bellwether Plan for the above-captioned cases, all of which involve product liability litigation concerning the BioZorb Device, *see, e.g., Evers* [ECF No. 84](#) ("the Bellwether Order"). Among other things, the Bellwether Order (i) directed the parties to meet and confer in good faith regarding a Plaintiff Fact Sheet or standard form of written discovery, including an agreed set of authorizations for the collection of core medical records, for all tracks other than A and B; and (ii) ordered that discovery for Tracks C through F, and any other cases deemed related, otherwise be stayed until further Order of the Court.

As contemplated by the Bellwether Order, and in furtherance of the effective and efficient case management of these related actions, the Court accordingly ORDERS as follows:

I. Scope of Order

This Order shall apply to all Plaintiffs in Tracks C-F,¹ as well as any other pending or future cases filed in or transferred to this District that are related pursuant to Local Rule 40.1(g)(1).²

II. Initial Discovery

Each Plaintiff subject to this Order will complete the set of written discovery attached hereto as Exhibit A, which contains interrogatories and document requests. Plaintiffs must:

- a. Answer all interrogatories to the best of their ability and/or recollection (where provided or appropriate, Plaintiffs may answer in good faith by indicating “not applicable,” “I do not know,” or “unknown”).
- b. Include a signed Verification for their interrogatory responses;
- c. Produce all responsive documents required to be produced or requested, to the extent such documents are in Plaintiffs’ possession, custody, or control, including but not limited to all medical records in Plaintiffs’ possession. Plaintiffs shall also provide a completed and signed medical record authorization in the form attached as Appendix A thereto corresponding to each of the medical providers identified in response to Interrogatory No. 6.³ Defendant may use the authorization to obtain

¹ The Track E and F cases are *Heffner*, No. 1:23-cv-12278; *Blanchenay*, No. 1:23-cv-12458; *Austin*, No. 1:23-cv-12651; *Swafford*, No. 1:23-cv-12687; *Bonvillain*, No. 1:23-cv-12833; and *Ciers*, No. 1:23-cv-13215.

² Plaintiffs in the Track C and D cases—*Baker*, No. 1:23-cv-10717; *Slater*, No. 1:23-cv-10888; *Rivera*, No. 1:23-cv-11012; *English*, No. 1:23-cv-11512; *Webb*, No. 1:23-cv-11823; and *Price*, No. 1:23-cv-12011—previously provided Defendant with written discovery responses, relevant medical records in their possession, and authorizations in accordance with the Court’s prior Orders.

³ Nothing in the authorizations attached as Appendix A shall be construed to expand Defendant’s ability to engage in ex parte communications with plaintiffs’ healthcare providers regarding the

records only from the specified providers (including their affiliated practice, facility, hospital, or health system) and must provide Plaintiffs a copy of any records obtained as a result of the authorizations.⁴

- d. In any case subject to this Order, no subpoenas shall be issued by the Defendant to any party without good cause shown or prior written agreement by the Plaintiffs. If Defendant obtains Plaintiffs' medical records via subpoena, Defendant must provide a copy of these records to Plaintiffs' counsel.

The completed discovery shall be served:

- a. for all cases in Tracks D-E, within 30 days of this Order
- b. for all cases in Track F and *Broeder*, within 60 days of this Order
- c. for all future cases filed in this District that are related pursuant to Local Rule 40.1(g)(1), within thirty (30) days of an Answer being filed.

The set of written discovery attached hereto as Exhibit A is without prejudice to any additional written discovery or additional authorizations Defendant may request and shall not count towards the discovery event limitations under Local Rule 26.1(c) in the event that any of the Plaintiffs subject to this Order are selected by either party for future case workup. Should any case subject to this Order be selected under the Bellwether protocol, the parties shall meet and confer

treatment they provided to such plaintiff beyond what would ordinarily be permitted under applicable state law.

⁴ The parties have jointly engaged a third-party vendor to collect and process records using Plaintiffs' signed authorizations. Defendant need not separately provide Plaintiffs with copies of records that are equally available to Plaintiffs through that third-party vendor. Both parties reserve their respective positions and rights regarding cost-sharing of records obtained from any such authorizations and will continue to meet and confer on this issue. Should the Defendant receive any biologics as a result of any authorization, they shall immediately notify counsel for Plaintiffs and perform no testing or analysis until such time as there is an agreed upon testing protocol.

regarding the scope and timing of additional discovery.

The parties shall meet and confer regarding the scope of additional discovery following the completion of the current Bellwether protocol.

The parties shall meet and confer regarding any dispute related to additional medical authorizations requested by Hologic.⁵

III. Deficiencies

The following process will apply to compliance with the Initial Discovery requirements set forth in Part I:

- a) Defendant shall provide written notice to Plaintiffs of any alleged deficiencies (“Deficiency Notices”)—including (i) failure to produce signed medical authorizations, lists of all healthcare providers, and all medical records in Plaintiffs’ possession; (ii) failure to respond to the requests in Exhibit A; or (iii) service after the deadline—within thirty (30) days of the date when the responses, production, or authorizations were served or due, whichever is later.
- b) The parties must make a reasonable effort to meet and confer in good faith regarding the deficiencies raised in a Deficiency Notice.
- c) Plaintiffs must respond to each Deficiency Notice within thirty (30) days of receipt by addressing the alleged deficiencies (including, to the extent necessary, serving amended interrogatory responses, producing additional records, or providing additional authorizations) or otherwise explaining in writing why they disagree

⁵ Both parties reserve their positions with respect to the relevance and discoverability of medical records reflecting mental health care, genetic testing, and HIV status. The parties agree that such records may be collected from the providers identified in response to Interrogatory No. 6, but that the parties will meet and confer before seeking any additional medical records from psychiatric or mental healthcare providers, genetic counselors, or HIV care providers.

with the deficiencies alleged by Defendants. The parties will then meet and confer in good faith to attempt to resolve any alleged deficiency dispute.

- d) If the parties cannot agree on a resolution of the alleged deficiencies within the time period set forth above, Defendant may file a motion to compel within thirty (30) days of the parties' meet-and-confer as set forth above; for all such motions, Plaintiffs' opposition must be filed within fourteen (14) days, and Defendant's reply must be filed within seven (7) days of Plaintiffs' opposition.

IT IS SO ORDERED.

Dated: 5/6/2024

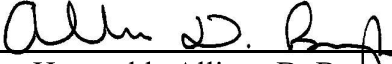

The Honorable Allison D. Burroughs
United States District Judge

EXHIBIT A

DEFENDANT HOLOGIC, INC.'S INTERROGATORIES

Defendant Hologic, Inc. (“Hologic”), through its undersigned counsel, and pursuant to Federal Rule of Civil Procedure 33, respectfully requests that Plaintiffs respond to these Interrogatories within 30 days or as otherwise directed by the applicable CMO.

DEFINITIONS

A. **Definitions:** As used herein, the words and phrases set out below shall have the meaning prescribed for them:

1. The term “document” is used in its broadest sense and shall include all writings or visible images of any kind, whether in final or draft form, now or at any time in Your possession, custody or control, and including all copies of each document if the copies contain any additional writing or are not identical copies of the original (e.g., because typed, handwritten, or “blind” notes appear on them or are attached to them). The term “document” includes, but is not limited to, letters, invoices, contracts, agreements, receipts, correspondence, electronic mail, text messages or any other messages transmitted by any application, posts on any social media application, memoranda, notes, photographs, diary and calendar entries, records of meetings, minutes or statistical compilations, statements, tape recordings, summaries or records of telephone calls, summaries or records of meetings or conferences, summaries or records of personal conversations or interviews, and records of other conversations or communications. The term “document” also includes records stored by any electronic or mechanical means and capable of translation into written form, including but not limited to voice mail or phone mail messages (whether deleted, undeleted, placed on backup tapes or archived), computer files in both machine-readable and hard copy form, magnetic tapes, and computer disks.

2. The terms “You” or “Your” shall mean the Plaintiffs, their representatives, agents, partners, or any other person acting for or purportedly acting on behalf of or in concert with the Plaintiffs, and the spouses of any of the foregoing. Specifically, this discovery calls for information in Your possession, custody or control, including documents and information in the possession, custody or control of Your attorneys and accountants.

3. “Action” refers to the above-captioned litigation.

4. “Complaint” shall mean the Complaint filed by the Plaintiffs in this Action, or any subsequent amended complaints this Action.

5. “Person” or “persons” shall mean any natural person or any business, legal or governmental entity or association.

6. “Communications” shall mean the transmittal of information in any form, whether oral, written, or electronic, and shall include without limitation facts, ideas, inquiries, statements, and correspondence.

7. “Defendant” shall refer to Hologic, Inc.

8. “BioZorb Device” or “Device” shall refer to any of the FDA-cleared line of BioZorb® 3D bioabsorbable marker devices, 510(k) Nos. K113202, K143484, K152070, K171467, and K192371.

9. The term “date” shall mean the exact day, month, and year, if known to Plaintiff, or, if the exact date is not known, the best available approximation.

10. The term “Healthcare Provider” shall mean any person or entity that provides health care services, including but not limited to, any attending physician, consulting physician, physician’s assistant, nurse, medical doctor, radiologist, chiropractor, practitioner of a healing art, health care facility, physician’s office, hospital, sanitarium, paramedic, psychiatrist, psychologist,

counselor, therapist, osteopath, chiropractor, hospital, clinic, pharmacy, pharmacist, physical therapist, medical personnel, or other provider of medical, mental, emotional, physical, psychiatric, psychological or counseling services, treatment, or advice.

11. The term “injury” or “injuries” shall refer to any physical, emotional, mental, psychological or theoretical pain and suffering.

12. “Concerning” shall mean, without limitation, containing, comprising, constituting, stating, setting forth, recording, describing, discussing, reflecting, interpreting, identifying, referring to, evidencing, confirming, supporting, contradicting, controverting, or in any way pertaining to, in whole or in part, that subject to which it refers or that contention to which it refers.

13. The term “relating to” shall mean, without limitation, containing, comprising, constituting, stating, setting forth, recording, describing, discussing, reflecting, interpreting, identifying, concerning, referring to, evidencing, confirming, supporting, contradicting, controverting, or in any way pertaining to, in whole or in part, that subject to which it refers or that contention to which it refers.

14. When used with reference to a person, “Identify” shall mean to state the full name, occupation, employer, last known business and residence address, and telephone number of such person.

15. When used with reference to a pharmacy, hospital, medical clinic, weight loss clinic, or other medical institution, “Identify” shall mean to state the full name and address of the institution, and the name of each agent of the entity with whom Plaintiff dealt.

16. When used with reference to a document, “Identify” shall mean to state the date the document bears, its author(s), addressee(s), other recipient(s), location, and a brief description of

its form (e.g., memorandum, letter, note, x-ray, advertisement, etc.) and contents, and to identify all persons having possession, custody, or control over the document.

17. When used with reference to any book, article, published report, publication, or document, “Identify” shall mean to provide the title of the book, article, published report, publication, or document, the name of the author(s) and publisher, the issue number, volume number, edition number, and date.

18. When used in reference to an act or communication, “Identify” shall mean to state the participants in each such act or communication, the witnesses thereto, and the date of its occurrence; to describe the act or state the substance of the communication; to state whether such act was recorded or described in a document and, if so, to identify all persons having possession, custody, or control over the document.

19. The words “and” and “or” shall be construed conjunctively or disjunctively rather than exclusively. The word “including” shall be construed without limitation.

20. The use of the past tense shall include the present tense and the use of the present tense shall include past tense so as to make the Interrogatory inclusive rather than exclusive.

21. The singular includes the plural and vice versa.

B. Instructions.

Defendant requests that the documents and information responsive to these Interrogatories be produced and provided in accord with the following instructions:

1. All productions should conform to any stipulations entered into relating to discovery in the above-captioned matter, including any ESI protocol and stipulated protective order to be negotiated or entered by the court.

2. The Interrogatories are continuing. Thus, if at any time prior to the trial of this action, You obtain or identify additional documents or information responsive to these Interrogatories, You shall promptly produce such additional responsive documents and information.

3. Documents produced in response to these Interrogatories shall be Bates labeled.

4. In Your responses to the Interrogatories, each document, book, article, published report, and publication referenced, if any, shall be identified as set forth in Definitions, Paragraphs 16 and 17 and by the Bates label it bears, if any.

INTERROGATORIES

INTERROGATORY NO. 1: State Your full name and all names by which You have ever been known, including maiden names, married names, and nicknames; date and place of birth; and social security number.

RESPONSE:

INTERROGATORY NO. 2: State the names and addresses of all persons that You believe have knowledge of any material facts relating to this Action and specify the subject matter about which each person has knowledge.

RESPONSE:

INTERROGATORY NO. 3: Describe the injuries that You allege were caused by the BioZorb Device and for which You seek recovery from Defendant, describing the injury, the date of the injury, and the nature of each such injury.

RESPONSE:

INTERROGATORY NO. 4: For each of the injuries identified in response to Interrogatory No. 3, identify each element of damages claimed by You, including past medical expenses, future medical expenses, pain and suffering, lost wages, special damages, punitive damages, and any other element of damages claimed.

RESPONSE:

INTERROGATORY NO. 5: Identify each of Your claims for monetary relief in this action, including the nature and amount of relief You seek, the basis for such relief.

RESPONSE:

INTERROGATORY NO. 6: Identify each and every Healthcare Provider that has provided consultation, examination, or treatment to You in the period beginning two (2) years prior to Your implantation with the BioZorb Device or your first diagnosis of cancer, whichever is earlier, and continuing to the present.

RESPONSE:

INTERROGATORY NO. 7: For each Healthcare Provider identified in response to the preceding interrogatory, identify the services provided by that Healthcare Provider by stating the date(s) on which You were treated, the condition(s) and symptom(s) for which You sought treatment, and a description of the diagnosis and treatment received.

RESPONSE:

INTERROGATORY NO. 8: Identify each and every pharmacy, drugstore, and the like from which You have ever filled any prescription medication to control the condition(s) for which You were implanted with the BioZorb Device, You had the BioZorb Device explanted or removed, and/or the condition(s) You allege were caused by the BioZorb Device.

RESPONSE:

INTERROGATORY NO. 9: State the following information regarding your breast cancer diagnosis: (a) the diagnosis (i.e., type and stage of breast cancer); (b) date of the diagnosis; (c) diagnosing physician/facility; (d) location of diagnosis (left/right breast); (e) whether your cancer is currently in remission; and (f) the dates and type(s) of treatment sought for any cancer recurrence.

RESPONSE:

INTERROGATORY NO. 10: State the following information regarding any treatment received for your breast cancer: (1) the dates and type(s) of any chemotherapy that you received in connection with your breast cancer treatment; and (2) the dates and type(s) of any radiation treatment that you received in connection with your breast cancer treatment.

RESPONSE:

INTERROGATORY NO. 11: State the following information regarding any surgery in which you had the BioZorb implanted: (a) name of the implanting surgeon; (b) name and address of the hospital or clinic where the surgery was performed; (c) date of the implant; and (d) number of BioZorb Devices implanted.

RESPONSE:

INTERROGATORY NO. 12: State the following information regarding any surgery in which you had the BioZorb explanted: (a) name of the explanting surgeon; (b) name and address of the hospital or clinic where the surgery was performed; and (c) date of the explant.

RESPONSE:

INTERROGATORY NO. 13: If you have not had the BioZorb explanted but you intend to have the BioZorb explanted in the future, state the following information: (a) whether any doctor has advised that you have the BioZorb removal; (b) the name and address of the doctor advising removal of the BioZorb; (b) the doctor's stated reason for recommending that the BioZorb be explanted; (c) the date you were so advised; (d) whether you intend to have the BioZorb explanted; and (e) your reason for having/not having the BioZorb explanted.

RESPONSE:

INTERROGATORY NO. 14: Identify any oral or written statements by Defendant, including any statements on Defendant's website, concerning the BioZorb Device that were seen, heard, read, or relied on by You or, to Your knowledge, Your implanting physician.

RESPONSE:

INTERROGATORY NO. 15: Describe and identify any and all conversations or communications that You had with any Healthcare Provider(s) regarding the BioZorb Device and Your implantation with or explantation/removal of the BioZorb Device. For each such

conversation or communication, state (1) the identity of the Healthcare Provider; (2) the date on which it occurred; and (3) the content of the conversation or communication.

RESPONSE:

INTERROGATORY NO. 16: If You have had communications with any Healthcare Provider regarding whether any of Your alleged injuries or symptoms are related to the BioZorb Device, state the name and address of the Healthcare Provider with whom You had these communications, the dates and content of the communications, and Your treatment (if any) for Your alleged injuries and/or symptoms.

RESPONSE:

INTERROGATORY NO. 17: State whether You, or anyone acting on Your behalf, has filed a lawsuit or made a claim other than the Action, including but not limited to any workers' compensation, social security, or other disability claim, relating to any bodily, mental, or emotional injury; and for each such lawsuit or claim, state the date the lawsuit was filed or the claim was made, where the lawsuit was filed or claim was made, the name and address of the relevant employer (if applicable), the claim/docket number (if applicable), the nature of the lawsuit or claim, and the resolution of the lawsuit or claim, if any.

RESPONSE:

INTERROGATORY NO. 18: If You have ever been charged with, entered a plea regarding, or been convicted of a crime (other than any juvenile adjudication) which was punishable by death or imprisonment in excess of one (1) year, or that involved dishonesty or a false statement

regardless of the punishment, state as to each the specific crime and the date and place of charge, plea, or conviction.

RESPONSE:

INTERROGATORY NO. 19: State the date on which you first contacted legal counsel and, if different, the date on which you first retained legal counsel in connection with the claims or matters involved in the above-captioned case.

RESPONSE:

**DEFENDANT HOLOGIC, INC.’S
REQUESTS FOR PRODUCTION OF DOCUMENTS**

Defendant Hologic, Inc. (“Hologic”), through its undersigned counsel, and pursuant to [Federal Rule of Civil Procedure 34](#), respectfully requests that Plaintiffs respond to these discovery requests within 30 days or as otherwise directed by the applicable CMO.

DEFINITIONS

A. **Definitions:** As used herein, the words and phrases set out below shall have the meaning prescribed for them:

1. The term “document” is used in its broadest sense and shall include all writings or visible images of any kind, whether in final or draft form, now or at any time in Your possession, custody or control, and including all copies of each document if the copies contain any additional writing or are not identical copies of the original (e.g., because typed, handwritten, or “blind” notes appear on them or are attached to them). The term “document” includes, but is not limited to, letters, invoices, contracts, agreements, receipts, correspondence, electronic mail, text messages or any other messages transmitted by any application, posts on any social media application, memoranda, notes, photographs, diary and calendar entries, records of meetings, minutes or statistical compilations, statements, tape recordings, summaries or records of telephone calls, summaries or records of meetings or conferences, summaries or records of personal conversations or interviews, and records of other conversations or communications. The term “document” also includes records stored by any electronic or mechanical means and capable of translation into written form, including but not limited to voice mail or phone mail messages (whether deleted, undeleted, placed on backup tapes or archived), computer files in both machine-readable and hard copy form, magnetic tapes, and computer disks.

2. The terms “You” or “Your” shall mean the Plaintiffs, their representatives, agents, partners, or any other person acting for or purportedly acting on behalf of or in concert with the Plaintiffs, and the spouses of any of the foregoing. Specifically, this discovery calls for information in Your possession, custody or control, including documents and information in the possession, custody or control of Your attorneys and accountants.

3. “Action” refers to the above-captioned litigation.

4. “Complaint” shall mean the Complaint filed by the Plaintiffs in this Action, or any subsequent amended complaints this Action.

5. “Person” or “persons” shall mean any natural person or any business, legal or governmental entity or association.

6. “Communications” shall mean the transmittal of information in any form, whether oral, written, or electronic, and shall include without limitation facts, ideas, inquiries, statements, and correspondence.

7. “Defendant” shall refer to Hologic, Inc.

8. “BioZorb Device” or “Device” shall refer to any of the FDA-cleared line of BioZorb® 3D bioabsorbable marker devices, 510(k) Nos. K113202, K143484, K152070, K171467, and K192371.

9. The term “date” shall mean the exact day, month, and year, if known to Plaintiff, or, if the exact date is not known, the best available approximation.

10. The term “Healthcare Provider” shall mean any person or entity that provides health care services, including but not limited to, any attending physician, consulting physician, physician’s assistant, nurse, medical doctor, radiologist, chiropractor, practitioner of a healing art, health care facility, physician’s office, hospital, sanitarium, paramedic, psychiatrist, psychologist,

counselor, therapist, osteopath, chiropractor, hospital, clinic, pharmacy, pharmacist, physical therapist, medical personnel, or other provider of medical, mental, emotional, physical, psychiatric, psychological or counseling services, treatment, or advice.

11. The term “injury” or “injuries” shall refer to any physical, emotional, mental, psychological or theoretical pain and suffering.

12. “Concerning” shall mean, without limitation, containing, comprising, constituting, stating, setting forth, recording, describing, discussing, reflecting, interpreting, identifying, referring to, evidencing, confirming, supporting, contradicting, controverting, or in any way relating to, in whole or in part, that subject to which it refers or that contention to which it refers.

13. The term “relating to” shall mean, without limitation, containing, comprising, constituting, stating, setting forth, recording, describing, discussing, reflecting, interpreting, identifying, concerning, referring to, evidencing, confirming, supporting, contradicting, controverting, or in any way pertaining to, in whole or in part, that subject to which it refers or that contention to which it refers.

14. The words “and” and “or” shall be construed conjunctively or disjunctively rather than exclusively. The word “including” shall be construed without limitation.

15. The use of the past tense shall include the present tense and the use of the present tense shall include past tense so as to make the Request inclusive rather than exclusive.

16. The singular includes the plural and vice versa.

B. Instructions.

Defendant requests that the documents and information responsive to the Request be produced in accord with the following instructions:

1. All productions should conform to any stipulations entered into relating to discovery in the above-captioned matter, including any ESI protocol and stipulated protective order to be negotiated or entered by the court.

2. The Requests for Production are continuing. Thus, if at any time prior to the trial of this action, You obtain or identify additional documents or information responsive to these Requests for Production, You shall promptly produce such additional responsive documents and information.

3. Documents produced shall be Bates labeled.

4. In Your responses to the Requests for Production, each of the documents responsive to each of the Requests below shall be identified as such by the Bates label it bears.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce any and all documents and communications relating to any consultation, examination, or treatment of You by a Healthcare Provider, conducted for the period of time beginning two (2) years prior to Your implantation with the BioZorb Device or your first diagnosis of cancer, whichever is earlier, and continuing to the present, including without limitation all billing records, correspondence, medical records, mental health or psychological records, lab and culture reports, reports, surgical records, x-rays or other medical scans, and all medical prescriptions, therapies including physical therapies, or treatments related thereto.

RESPONSE:

2. Produce any and all documents concerning Your implantation or explantation/removal of the BioZorb Device, including without limitation a complete set of medical records from every Healthcare Provider (1) who recommended implanting or

recommended explanting or removing the BioZorb Device; (2) who implanted or explanted/removed the BioZorb Device; and/or (3) who provided You with medical or mental health care, services, or treatment of any kind which you contend relates to the implantation of the BioZorb Device.

RESPONSE:

3. Produce any and all documents concerning any medical services rendered to You by any Healthcare Provider for the injuries that You allege in Your Complaint and/or any injuries that You believe were caused by or are related to the implantation or explantation/removal of the BioZorb Device.

RESPONSE:

4. Produce any and all documents concerning any diagnosis, treatment, medication, therapy, or other recommendation made by a Healthcare Provider related to each and every medical, physical, mental health, emotional, or psychological condition from which You currently suffer or did suffer for the period of time beginning two (2) years prior to Your implantation with the BioZorb Device or your first diagnosis of cancer, whichever is earlier, and continuing to the present.

RESPONSE:

5. Produce any and all communications between You and any Healthcare Provider that relate to the BioZorb Device or any of the injuries or damages alleged in Your Complaint.

RESPONSE:

6. Produce any and all documents and communications that pertain to the BioZorb Device implanted in You.

RESPONSE:

7. Produce any and all documents that You have received, reviewed, read, or otherwise consulted regarding the BioZorb Device.

RESPONSE:

8. Produce any and all documents relating to any warning, advertisement, promotion, label and/or packaging for the BioZorb Device that You were exposed to prior to Your implantation of the BioZorb Device.

RESPONSE:

9. Produce any and all documents and communications that relate to any injuries or damages that You claim to have sustained, whether physical, psychological, emotional, mental, or financial as a result of Your implantation with or explantation/removal of the BioZorb Device.

RESPONSE:

10. Produce any and all documents, communications, and tangible items that refer or relate to any special damages You seek to recover in connection with Your implantation with or explantation/removal of the BioZorb Device, including without limitation all medical expenses, past and/or future lost wages, hospital bills, physician bills, medical bills, or insurance or other benefits of any kind, including worker's compensation coverage, occupational accident benefits, underemployment benefits, social security benefits, or any other available disability payment, income or expense supplement or support of any kind.

RESPONSE:

11. Produce any and all photographs, digital pictures, audio recordings and/or audiovisual recordings in Your possession regarding the injuries and/or damages that You allege in Your Complaint.

RESPONSE:

12. Produce any and all documents concerning any accident, health, disability, or workers compensation claim that You or anyone else has filed on Your behalf with any governmental agency, insurance company, employer, or corporation, for the period of time beginning five (5) years prior to Your implantation with the BioZorb Device or your first diagnosis of cancer, whichever is earlier, and continuing to the present, as a result of any accident, illness, disability or injury.

RESPONSE:

13. Produce any and all insurance policies, explanations of benefits, and related documents for any health insurance provided to You for the period of time beginning two (2) years prior to Your implantation with the BioZorb Device or your first diagnosis of cancer, whichever is earlier, and continuing to the present, either individually or as a member of an insured family.

RESPONSE:

14. Produce any and all documents relating to health insurance payments (such as billing records), temporary disability payments, unemployment payments, or any other payments made to You as a result of Your implantation with or explantation/removal of the BioZorb Device.

RESPONSE:

15. Produce any and all documents sufficient to show any lost earnings You seek to recover in this Action (such as wage statements or tax returns) and/or disability records.

RESPONSE:

16. Produce any and all documents relating to any bankruptcy proceedings that were pending on or filed after Your implantation with the BioZorb Device continuing through the present.

RESPONSE:

17. If you are seeking lost wages, produce any and all employment or self-employment records for Your employment or self-employment for the period of time beginning two (2) years prior to Your implantation with the BioZorb Device or your first diagnosis of cancer, whichever

is earlier; including, but not limited to the following: (a) information concerning salaries or wages paid, (b) W2 or 1099 forms, (c) any information concerning probation, and/or termination of employment or self-employment, (d) each and every health questionnaire and/or the results of any medical examinations or treatments in any such employment or self-employment file.

RESPONSE:

18. If You have ever been charged with, entered a plea regarding, or been convicted of a crime (other than any juvenile adjudication) which was punishable by death or imprisonment in excess of one (1) year, that involved dishonesty or a false statement regardless of the punishment, produce any and all documents and communications relating to any arrest(s), charge(s), plea(s) or conviction(s).

RESPONSE:

19. Produce any and all communications between You and Defendant.

RESPONSE:

20. Produce any and all documents comprising or containing communications between You and any other person, other than those protected by attorney client privilege that pertain to (1) the BioZorb Device, including the BioZorb Device implanted in You; or (2) the cause of any of the injuries that You allege in Your Complaint.

RESPONSE:

21. Produce any and all documents that were either prepared by You or on Your behalf or that You received or viewed concerning the allegations in the Complaint, the Action, the BioZorb Device, Your implantation with the BioZorb Device, Your explantation/removal of the BioZorb Device, the alleged effects of the BioZorb Device, Your alleged injuries and/or damages, or Hologic.

RESPONSE:

22. Produce any and all written and/or recorded statement of any individual having any knowledge or information regarding the allegations in Your Complaint.

RESPONSE:

23. Produce any and all documents obtained or received from any third party or non-party to this Action concerning the BioZorb Device or the allegations in Your Complaint, including but not limited to documents received in response to any Freedom of Information Act (“FOIA”) request or similar request to any federal or state agency or in response to any third-party subpoena.

RESPONSE:

24. Produce a completed and signed authorization for release of medical records in the form attached as Appendix A corresponding to each of the medical providers identified in Hologic’s separately served Interrogatory No. 6.

RESPONSE:

APPENDIX A
AUTHORIZATION FOR RELEASE OF MEDICAL RECORDS
PURSUANT TO 45 CFR 164.508

Patient Name: _____

Other names used by Patient: _____

DOB: _____

SSN: _____

Provider Name: _____

Provider Address: _____

I hereby authorize the above Provider to disclose or release to, and/or discuss with, any attorney or legal assistant in the law firm of **Arnold & Porter Kaye Scholer LLP, 601 Massachusetts Ave. NW, Washington D.C. 20001** and **Donnelly, Conroy & Gelhaar, LLP, 260 Franklin Street, Suite 1600, Boston, MA 02110** and/or their designated medical record vendor all protected medical and mental health information regarding the above Patient, including but not limited to, the following:

- All medical records, including inpatient, outpatient and emergency room treatment, all clinical charts, reports, consultations, documents, correspondence, memoranda, test results, statements, questionnaires/histories, office and doctor's handwritten or electronic notes, and records received by other physicians.
- All laboratory, histology, cytology, pathology, radiology, CT scans, MRIs, x-rays, echocardiogram, and cardiac catheterization reports.
- All radiology films, sonograms, mammograms, myelograms, CT scans, photographs, bone scans, pathology/cytology/histology/autopsy/immunology/chemistry specimens, cardiac catheterization, videos, CDs, films, reels, pathology blocks, pathology slides, and echocardiogram videos.
- All pharmacy/prescription records including NDC numbers and drug information handouts/monograms.
- All psychotherapy notes, including inpatient, outpatient, and emergency room treatment, and all other documents related to mental health treatment.
- All billing records including all statements, itemized bills, and insurance records.
- Any and all viewable, audible, or tangible things, including every piece of paper therein.
- Any and all oral and electronic communications between the Provider and the Patient.

I understand that my records are confidential and cannot be disclosed without my written authorization except when otherwise permitted by law. I understand that the specified information to be released may include, but is not limited to: history, diagnosis, and/or treatment of drug or

alcohol abuse, mental illness, or communicable disease, including Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) (45 CFR § 164.508(c)(2)(iii)).

I understand that my refusal to sign this authorization would not affect my ability to obtain health-care treatment or payment or my eligibility for health-care benefits.

Electronic Medium/Digital

I understand that all documents may be provided by digital or electronic medium if possible.

Charges for copies of all records furnished shall be billed to the law firm of **Arnold & Porter Kaye Scholer LLP, 601 Massachusetts Ave. NW, Washington D.C. 20001**. A photocopy or facsimile of the signed original of this Authorization for Release of Medical Records shall be sufficient and acceptable to all persons and entities from whom my records are requested.

The purpose for the requested disclosure is REVIEW, ANALYSIS, EVALUATION AND EVIDENCE IN DEFENSE OF CAUSE: _____, Case No. _____. I understand that the information disclosed pursuant to this authorization may be subject to re-disclosure by the recipient and may no longer be protected by Federal law. I understand that the covered entity to which this authorization is directed cannot make me sign this authorization as a condition to receiving treatment, payment, enrollment, or eligibility benefits. I further understand that I may revoke this authorization by sending written notice to the Covered Entity at any time, but if I do it will not have any effect on any prior disclosures made in reliance on my Authorization. A copy of this authorization is considered as valid as the original.

This authorization shall expire at the completion of the lawsuit, _____, Case No. _____, whether such completion occurs by settlement or after final judgment and expiration of all applicable appeals or deadlines for appeal unless it is revoked as referenced above.

Signature: _____

Date: _____

Relationship to the person who is the subject of the records:

Self: ____ Other (describe authority):