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15 ***Co-Lead Counsel for Plaintiffs***

16 **IN THE UNITED STATES DISTRICT COURT**  
17 **FOR THE DISTRICT OF ARIZONA**  
18

19 IN RE: Bard Implanted Port Catheter  
20 Products Liability Litigation

MDL No. 3081

21 **JOINT MEMORANDUM RE**  
22 **ISSUES TO BE ADDRESSED AT**  
23 **THE MAY 1, 2025 CASE**  
24 **MANAGEMENT CONFERENCE**

(Applies to All Actions)

25  
26 Pursuant to Case Management Order No. 32 (“CMO 32”), the Parties submit  
27 this Joint Memorandum in advance of the Case Management Conference (“CMC”)  
28 scheduled for May 1, 2025. *See* Doc. 2897, at 1.

1 **I. Case Statistics**

2 There are 1,480 cases pending in the MDL. 54 cases have been dismissed  
3 from the MDL.

4 **II. State-Court Litigation**

5 There are 85 cases pending in New Jersey MCL centralized before the  
6 Honorable Gregg A. Padovano. The Court has scheduled an initial Case  
7 Management Conference for May 19, 2025.

8 There are 15 cases pending in the Superior Court of Maricopa County.  
9 Thirteen of the pending cases have been consolidated before the Honorable Timothy  
10 J. Ryan for purposes of case administration and discovery only. Two of the cases  
11 were filed in early March and have not yet been consolidated. In addition, only one  
12 case, *Vincent*, has had a scheduling order entered, although counsel recently  
13 submitted joint reports and proposed scheduling orders in nine of the other cases.

14 **III. Bellwether Selection**

15 Pursuant to Case Management Order Nos. 10 and 32, the parties exchanged  
16 lists of proposed bellwether selections on April 17, 2025 and conducted a meet and  
17 confer on April 21, 2025 in an effort to reach agreement upon a group of six cases  
18 to constitute Bellwether Group 1. See *Doc. 2128*, at 7; *Doc. 2897*, at 2. The parties  
19 have reached agreement on the selection of one case, Wanda Miller, Case No. 2:24-  
20 cv-00612-DGC. The parties have had additional discussions regarding potential  
21 compromises on selection of the remaining five Bellwether Group 1 cases but have  
22 not reached an agreement. The parties will submit memoranda regarding their  
23 respective positions on selection of the remaining five cases on April 28, 2025, and  
24 any responses thereto will be submitted by May 5, 2025. *Id.*

25 **IV. Defendants' Expert Disclosures**

26 **A. Plaintiffs' Position**

27 Following the entry of Case Management Order No. 29, Plaintiffs  
28 coordinated with the specimen storage vendor, Steelgate, as well as Plaintiffs'

1 disclosed expert who had conducted testing in order to send the various test articles  
2 to Defendants for further analysis. The port which was explanted from Plaintiff  
3 Engle was delivered to counsel for Defendants on March 27, 2025. The port which  
4 was explanted from Plaintiff Pack was delivered to counsel for Defendants on  
5 March 31, 2025. The exemplar ports which were tested by Plaintiffs' expert as well  
6 as the portions of the Engle and Pack samples which were examined under scanning  
7 electron microscopy were delivered to counsel for Defendants on April 7, 2025.  
8 The portions of the explant samples which Plaintiffs' expert subjected to FTIR  
9 analysis ("FTIR samples") were delivered to counsel for Defendants on April 15,  
10 2025. Counsel for Defendants confirmed in a meet and confer that Defendants had  
11 elected to delay their experts' testing on any of the materials in their possession until  
12 after the FTIR samples had been delivered.

### 13 **B. Defendants' Position**

14 Pursuant to Case Management Order No. 29 (Doc. 1891), Defendants served  
15 their expert disclosures on April 25, 2025.

16 Due to concerns addressed by the Court during the March Case Management  
17 Conference regarding the physical testing Plaintiffs' experts performed on two  
18 MDL Plaintiffs' explanted catheters without complying with Case Management  
19 Order No. 20 (Doc. 529), Defendants' deadline to serve reports for Defendants'  
20 experts whose opinions rely on the testing was extended by 30 days, to May 23,  
21 2025, to allow Defendants' experts the opportunity to test the same catheters. *See*  
22 Doc. 2897, at 1-2. Thereafter, it took three weeks, until April 15, 2025, for Plaintiffs  
23 to provide Defendants with the explanted catheters from Plaintiffs' expert, Dr. El-  
24 Ghannam. Defendants' experts now have the catheters and are able to begin their  
25 evaluations of the same. Defendants will alert the Court if they anticipate needing  
26 additional time to complete any expert reports due to this three-week delay.

1 **V. Discovery**

2 The parties provide the Court with updates on: (A) Defendants' production  
3 of documents; (B) written discovery; (C) common-issue depositions; and (D) case-  
4 specific depositions.

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

6 **1. Plaintiffs' Position**

7 Common-issue discovery has concluded, and there are no production issues  
8 that require the Court's attention at this time.

9 **2. Defendants' Position**

10 As Plaintiffs report, common-issue discovery has concluded with no  
11 production issues that require the Court's attention. In addition, Defendants have  
12 completed their case-specific document production for Discovery Group 1.  
13 Attached hereto as Exhibit 1 is a chart summarizing Defendants' Discovery Group  
14 1 productions. There are no productions issues to be addressed with the Court.

15 **B. Written Discovery**

16 Common-issue discovery has concluded, and there are no issues that require  
17 the Court's attention at this time.

18 **C. Common-Issue Depositions**

19 **1. Plaintiffs' Position**

20 Common-issue discovery has concluded, Plaintiffs have completed  
21 scheduled common-issue depositions, and there are no issues that require the  
22 Court's attention at this time.

23 **2. Defendants' Position**

24 As reported during the March Case Management Conference, common-issue  
25 depositions have been completed with the exception of two subpoenas served by  
26 Defendants. Specifically, on February 11 and February 12, in advance of the  
27 deadline for common-issue discovery, Defendants served non-party subpoenas for  
28 Rule 30(b)(6) depositions of representatives of: (1) Dow, Inc., Dow Chemical

1 Company, Inc., Dow Corning Corp., and/or Dow Silicones Corporation (“Dow”);  
2 and (2) DuPont de Nemours, Inc., and E.I. du Pont de Nemours & Co. (“DuPont”).  
3 On February 26, 2025, Dow filed a Motion to Quash in the U.S. District Court for  
4 the Eastern District of Michigan, Northern Division (Case 1:25-mc-50209-TLL-  
5 PTM) and DuPont filed a Motion to Quash in the U.S. District Court for the District  
6 of Delaware (Case 1:25-mc-00100-UNA).

7 Defendants sought F.R.C.P. 45(f) transfer of the Dow and DuPont motions  
8 to this MDL for efficient disposition. With DuPont’s consent, the DuPont Motion  
9 to Quash was transferred to docket number 2:25-mc-00007-DGC, which is listed as  
10 a related case to the MDL. The DuPont Motion to Quash is fully briefed before this  
11 Court.

12 Dow did not agree to transfer and, therefore, Defendants filed a F.R.C.P.  
13 45(f) Motion to Transfer. Defendants’ Motion to Transfer, as well as the substantive  
14 Motion to Quash, are fully briefed in the Eastern District of Michigan.

#### 15 **D. Case-Specific Depositions**

##### 16 **1. Plaintiffs, Consortium Plaintiffs, & Spouse/Family Depositions**

17 Discovery Group 1 discovery has concluded, Defendants have completed  
18 scheduled Plaintiff and friends/family depositions, and there are no issues for the  
19 Court to resolve at this time.

##### 20 **2. Treating Physician Depositions**

21 Discovery Group 1 discovery has concluded, the parties have completed  
22 almost all anticipated treating physician depositions, and there are no issues for the  
23 Court to resolve at this time. In the James case, both parties have had the ability to  
24 schedule the depositions of three physicians and have made sincere efforts to no  
25 avail. In the Hawkins case, Defendants have made efforts to schedule one  
26 physician’s deposition to no avail. To the extent either of these cases continues to  
27 move forward as a bellwether, the parties will continue their efforts to depose these  
28

physicians according to the case-specific discovery schedule for bellwether selections.

### 3. Sales Representative Depositions

Discovery Group 1 discovery has concluded, Plaintiffs have completed the scheduled sales representative depositions, and there are no issues for the Court to resolve at this time.

## VI. Plaintiff Profile Forms

### A. Plaintiffs' Position

On January 21, 2025, the Court entered the Second Amended CMO 8 (Doc. 2369), which required all Plaintiffs with incomplete PPFs to supplement and serve complete, amended PPFs by February 28, 2025 or to explain why they could not comply. Defendants were ordered to provide Plaintiffs' Leadership with a list of incomplete PPFs. Plaintiffs' Leadership was directed to monitor the service of amended PPFs and to provide Defendants with a list of all complete amended PPFs, as well as a list of those that remain incomplete.

On April 16, 2025 and April 22, 2025, Plaintiffs provided Defendants' Leadership with a chart setting forth the status of the PPFs identified on Defendants' list. Of the 169 cases listed, Plaintiffs informed Defendants that 128 had cured the deficiencies. Plaintiffs further advised that, according to the chart, the remaining 41 Plaintiffs had pending medical records requests. These Plaintiffs will serve their respective amendments as the records are received.

The chart below identifies the Plaintiffs whose PPFs are considered incomplete and outlines the efforts made to comply with the Second Amended CMO 8:

Plaintiff Name	Civil Action No.	Last Response from Plaintiff
Bogan, Tracey	2:24-cv-01236-DGC	02/28/2025- Plaintiff requested an extension via MDL-C and indicated that medical records are still pending.

1	Crochet, Rebekah	2:24-cv-01077-DGC	04/11/2025- Plaintiff filed her Response to the Court's Show Cause Order, indicating that medical records pertaining to the model and lot number are still pending and will be supplemented upon receipt.
2			
3			
4			
5	Davis, Jr., Harold	2:24-cv-03354-DGC	On 04/21/2025, Plaintiff served the missing medical records and a letter via MDL-C, indicating that they are awaiting Plaintiff's verification of the PPF.
6	William		
7			
8			
9	Davis, Roslyn	2:24-cv-03644-DGC	On 04/21/2025, Plaintiff served a letter indicating that they provided implant records and have requested removal records. Plaintiff further indicated that once the removal records are received, they will be supplemented accordingly.
10			
11			
12			
13			
14	Difilippantonio, Carrie Renee	2:23-md-03081-DGC	On 04/22/2025, Plaintiff uploaded partial product identification and is working on verifying the First Amended Plaintiff Profile Form.
15			
16			
17			
18	Dore, Micheal (Theresa)	2:24-cv-03013-DGC	On 04/24/2025, Plaintiff filed a Stipulation of Dismissal.
19			
20			
21			
22	Edwards, Angeline	2:24-cv-01054-DGC	On 04/21/2025, Plaintiff served a letter via MDL-C indicating that removal records are still pending and will be supplemented upon receipt.
23			
24			
25	Espinosa, Stacy	2:24-cv-02735-DGC	On 04/22/2025, Plaintiff served a letter via MDL-C indicating that medical records are still pending and will be supplemented upon receipt.
26			
27			
28			

1	Forren, Vivien	2:24-cv-02555-DGC	On 04/21/2025, Plaintiff served a letter via MDL-C outlining their efforts to obtain additional injury records and noted that the records are still pending. Additionally, Plaintiff indicated that the missing records will be supplemented upon receipt.
2			
3			
4			
5			
6	Foutch, Alexa	2:24-cv-02504-DGC	On 02/28/2025, Plaintiff served a letter via MDL-C outlining the efforts made to obtain the implant operative report and stated that the records are still missing. Additionally, Plaintiff indicated that the missing records will be supplemented upon receipt.
7			
8			
9			
10			
11			
12	Garrett, Amanda	2:24-cv-02508-DGC	On 02/28/2025, Plaintiff served a letter via MDL-C outlining the efforts made to obtain the lot number and stated that the records are still missing. Additionally, Plaintiff indicated that the missing records will be supplemented upon receipt.
13			
14			
15			
16			
17	Gartley, Beverly	2:24-cv-03597- DGC	On 02/28/2025, Plaintiff served a letter via MDL-C outlining the efforts made to obtain the removal operative report and stated that the records are still missing. Additionally, Plaintiff indicated that the missing records will be supplemented upon receipt.
18			
19			
20			
21			
22			
23	Garza, Amber	2:24-cv-00700-DGC	On 04/21/2025, Plaintiff served removal records via MDL-C.
24	Graham, Janice	2:24-cv-00696-DGC	On 04/21/2025, Plaintiff served removal records via MDL-C.
25			
26	Hall, Sonya R.	2:24-cv-03260	On 04/21/2025, Plaintiff served a letter via MDL-C indicating that removal records are still pending and will be supplemented upon receipt.
27			
28			



1	Haynes, Robert	2:24-cv-00733-DGC	Motion to Dismiss forthcoming.
2	Howell, Susan	2:24-cv-03145-DGC	On 04/21/2025, Plaintiff served
3	Barbara		a letter via MDL-C indicating
4			that they previously produced
5			records identifying the port at
6			issue as a Bard port, but full
7			product identification is still
8			pending and will be
9			supplemented upon receipt.
10	Hudson, Tammie	2:23-md-03081-DGC	On 04/21/2025, Plaintiff served
11			a letter via MDL-C indicating
12			that removal records are still
13			pending and will be
14			supplemented upon receipt.
15	Jackson, Brittany	2:24-cv-02768-DGC	On 04/21/2025, Plaintiff served
16			a letter via MDL-C indicating
17			that the removal took place on
18			03/21/2025 and that they are in
19			the process of requesting those
20			records.
21	Johnson, Portia	2:24-cv-02547-DGC	On 04/21/2025, Plaintiff served
22			a letter via MDL-C indicating
23			that records pertaining to
24			product identification are still
25			pending.
26	Jordan, Jason	2:24-cv-01021-DG2:24-	On 04/22/2025, Plaintiff served
27	Ramero	cv-02547-DGCC	a letter via MDL-C indicating
28			that medical records are still
			pending and will be
			supplemented upon receipt.
	Laurella, Jodie	2:24-cv-03276-DGC	On 04/21/2025, Plaintiff served
			a letter via MDL-C indicating
			that the facility does not have a
			record of the lot number, but
			they have requested billing
			records as a final effort to
			obtain the lot number.
	Leatherwood,	2:24-cv-03507-DGC	On 04/22/2025, Plaintiff served
	Clayton Dale		a letter via MDL-C indicating
			that medical records are still
			pending and will be
			supplemented upon receipt.

1	McKay, Janet L	2:24-cv-03360-DGC	On 04/22/2025, Plaintiff served a letter via MDL-C indicating that medical records are still pending and will be supplemented upon receipt.
2			
3			
4	Moody, Konecca	2:24-cv-01216-DGC	On 04/21/2025, Plaintiff served a letter via MDL-C indicating that the missing records are still pending.
5			
6			
7	Mullins, Lelia	2:24-cv-01502-DGC	On 03/07/2025, Plaintiff served some of the missing records and served a Second Amended Plaintiff Profile Form- Device 2.
8			
9			
10	Nixon, Arlene	2:24-cv-02920-DGC	On 04/22/2025, Plaintiff served a letter via MDL-C indicating that medical records are still pending and will be supplemented upon receipt.
11	Celestine (rep. Jovan)		
12			
13	ONeal, Katherine	2:24-cv-00949-DGC	On 02/28/2025, Plaintiff served a letter and addendum via MDL-C outlining the efforts made to obtain the removal operative report and stated that the records are still pending. Additionally, Plaintiff indicated that the missing records will be supplemented upon receipt.
14	L.		
15			
16			
17			
18			
19	Oquendo, Tania	2:24-cv-02863-DGC	On 04/22/2025, Plaintiff served a letter via MDL-C indicating that medical records are still pending and will be supplemented upon receipt.
20			
21			
22	Pruitt, Jr., Robert	2:24-cv-02939-DGC	On 04/22/2025, Counsel for Plaintiff served a letter via MDL-C indicating that they recently learned of Plaintiff's death and filed a Notice and Suggestion of Death on 04/03/2025.
23	L.		
24			
25			
26			
27			
28			

1	Sandel, April	2:24-cv-01503- DGC	On 02/28/2025, Plaintiff served a letter via MDL-C indicating that records pertaining to the model and lot number are still pending and will be supplemented upon receipt.
2			
3			
4			
5	Selvey, Kimberly	2:24-cv-03351-DGC	On 04/22/2025, Plaintiff served a letter via MDL-C indicating that medical records are still pending and will be supplemented upon receipt.
6			
7			
8	Sherman, Rachel	2:24-cv-02873-DGC	On 04/22/2025, Plaintiff served a letter via MDL-C indicating that medical records are still pending and will be supplemented upon receipt.
9	Denise		
10			
11	Ward, Rachel L	2:24-cv-03352-DGC	On 04/21/2025, Plaintiff served a letter via MDL-C indicating that the missing records are still pending.
12			
13			
14	Ware, Harrietta	2:24-cv-03153-DGC	On 04/22/2025, Plaintiff served a letter via MDL-C outlining their efforts to obtain additional product identification and produced several "no records" responses. Additionally, Plaintiff indicated that they continue to search for the missing records and, if successful, will supplement the missing records upon receipt.
15			
16			
17			
18			
19			
20			
21	Webb, Michael	2:24-cv-03567-DGC	On 04/21/2025, Plaintiff served a letter via MDL-C indicating that they will be filing a Motion to Dismiss as Plaintiff does not have a qualifying port.
22			
23			
24	Williams, Ellen	2:24-cv-03703	On 04/21/2025, Plaintiff served a letter via MDL-C indicating that the missing records are pending and will be supplemented accordingly.
25	Cecilia		
26			
27			
28			

Williams, Sharese Vanessa	2:24-cv-02641-DGC	On 04/22/2025, Plaintiff served a letter via MDL-C indicating that medical records are still pending and will be supplemented upon receipt.
Wilson, Steven	2:24-cv-03568-DGC	On 04/21/2025, Plaintiff served a letter via MDL-C indicating that the missing records are pending and will be supplemented accordingly.
Ybarra, Diana	2:24-cv-03301-DGC	On 02/28/2025, Plaintiff produced billing records via MDL-C.
Zirhut, Ashley	2:24-cv-02707-DGC	On 04/22/2025, Plaintiff served a letter via MDL-C indicating that medical records are still pending and will be supplemented upon receipt.

Furthermore, below is the chart identifying the 126 Plaintiffs who have complied with the Second Amended CMO 8. These Plaintiffs have either cured the alleged deficiencies or have provided Defendants with notice that the missing records are unavailable—either because they have been purged or are otherwise unobtainable, as indicated by the facility.

Plaintiff Name	Case Number
Allen, Carrie Faye	2:24-cv-02325-DGC
Anderson, Jennifer	2:24-cv-00940-DGC
Assaf, Amjad	2:24-cv-02604-DGC
Baum, Marisa Danielle (rep. Marcia)	2:24-cv-02413-DGC
Blake, Karen (deceased)(rep. Carl Pettry)	2:24-cv-01254-DGC
Brinser, Amos W.	2:24-cv-02636-DGC
Broussard-Johnson, Loretta	2:24-cv-02857-DGC
Brown-Jones, Patricia Ann	2:24-cv-01891-DGC
Bybee, Monique Yolanda	2:24-cv-02400-DGC
Cantu, Raul (deceased) (rep. Mary)	2:24-cv-02124-DGC
Chancellor, Joe Lee (rep. Debra)	2:24-cv-02903-DGC
Chasse, Cynthia L	2:24-cv-02948-DGC
Claussen, Kelly	2:24-cv-03179-DGC
Cohill, Veronica	2:24-cv-03608-DGC

1	Coleman-Moreno, Angela	2:24-cv-02966-DGC
	Colley, Loretta	2:24-cv-01504-DGC
2	Collier, Sally Marie	2:24-cv-02624-DGC
	Collins, Teresa Rene	2:24-cv-02122-DGC
3	Crawford, Monica	2:24-cv-02623-DGC
4	Curto, Janet (rep. Lisa Pecora)	2:24-cv-03428-DGC
	Davis, Jennifer	2:24-cv-01599-DGC
5	Davis, Myron Chris	2:24-cv-03347-DGC
6	Davis, Nathan	2:24-cv-03348-DGC
7	Davis, Takesha	2:24-cv-03623-DGC
	Defelliccia, Dawn E.	2:24-cv-03123-DGC
8	Demott, Gina	2:24-cv-00741-DGC
9	Dickson, Ruby	2:24-cv-03639-DGC
	Dixon, Keila Williams	2:24-cv-03455-DGC
10	Douglas, Herica Deon	2:24-cv-02927-DGC
11	Ducassoux, Renee	2:24-cv-02496-DGC
	Easterwood, Alexis R.	2:24-cv-03523-DGC
12	Edwards, Adron M.	2:24-cv-01908-DGC
13	Evans, Robert L.	2:24-cv-03275-DGC
	Fontenot, Jude	2:24-cv-02913-DGC
14	Forsythe, Heather Ann	2:24-cv-03353-DGC
15	Fortune, Kelli Lynn	2:24-cv-01988-DGC
	Foster, Tracy	2:24-cv-02383-DGC
16	Garcia, Jr., Salvadore Camargo	2:24-cv-01914-DGC
17	Garriss, Herbert Lee (deceased) (rep. Angela)	2:24-cv-02154-DGC
18	Gipson, Jami	2:24-cv-03468-DGC
19	Golightly III, Sara Catherine	2:24-cv-01420-DGC
	Gomez, Constance	2:24-cv-01918-DGC
20	Goodin, Michael	2:24-cv-03649-DGC
21	Gourley, J.G. (a minor- by Kimberly)	2:24-cv-03647-DGC
22	Gracia, Angelica Maria	2:24-cv-00753-DGC
23	Griffin, Shirley	2:24-cv-03291-DGC
	Hall, Mamie Jean	2:24-cv-03624-DGC
24	Hammond, Kess Erica	2:24-cv-03687-DGC
25	Hargrave, Michele P.	2:24-cv-02506-DGC
	Haynes, Patricia	2:24-cv-01131-DGC
26	Hayter, Janele Grace	2:24-cv-03350-DGC
27	Hazelton, Emma	2:24-cv-03651-DGC
28	Hicks, Keith	2:24-cv-01111-DGC

1	Holloway, Nancy (deceased) (rep. Harlan)	2:24-cv-03124-DGC
2	Hollis, Rilwan	2:24-cv-03355-DGC
3	Hough-Edwards, Christy A.	2:24-cv-02482-DGC
4	Isidore, Brittney	2:24-cv-01501-DGC
5	Jobe, Lisa C.	2:24-cv-02494-DGC
6	Johnson, Jr., Jackie	2:24-cv-02569-DGC
7	Johnson, Roland	2:24-cv-01456-DGC
8	Jones, Brenda L	2:24-cv-02437-DGC
9	Jones, Melinda Rhee	2:24-cv-03409-DGC
10	Kimery, Lynn Kandee	2:24-cv-02489-DGC
11	Kind, Richard H (deceased) (rep. Sharon)	2:24-cv-02953-DGC
12	Larson, Mary	2:24-cv-02226-DGC
13	Linton, Margaret	2:24-cv-03530-DGC
14	Lira, Jovanna	2:24-cv-02781-DGC
15	Little, Lisa	2:24-cv-03607-DGC
16	Littlejohn, Dawn Dequita	2:24-cv-02742-DGC
17	Lockridge, Angela Cochran	2:24-cv-03262-DGC
18	Long, Ashley M	2:24-cv-02940-DGC
19	Long, Christina Lynn	2:24-cv-01570-DGC
20	Lowe, William	2:24-cv-02464-DGC
21	Marshall, Nathan	2:24-cv-03278-DGC
22	Mayo, Dionne D	2:24-cv-02048-DGC
23	Meyer, Henry Edward	2:24-cv-03713-DGC
24	Mickler, Susan	2:24-cv-02490-DGC
25	Mozingo, Leah	2:24-cv-01619-DGC
26	Murphy, Meghan K.	2:24-cv-02972-DGC
27	Nelson, Patsy J	2:24-cv-02390-DGC
28	Nordskog, Marnie (rep. Schelli)	2:24-cv-02635-DGC
	Norwood, Candyce	2:24-cv-02218-DGC
	Odom, Erin Kaye	2:24-cv-02323-DGC
	Oliver, Juanita	2:24-cv-02877-DGC
	O'Loughlin, Catherine Irene (deceased) (rep. Donald)	2:24-cv-02269-DGC
	Palmer-Essex, Linda Lou	2:24-cv-03660-DGC
	Paschel, Penelope	2:24-cv-02879-DGC
	Paterno, Anais	2:24-cv-02192-DGC
	Pearson, Sharon Ruth (rep. Charles)	2:24-cv-03274-DGC
	Pence, John	2:24-cv-03072-DGC
	Phillips, Marilyn	2:24-cv-01128-DGC

1	Phillips, Tammy M. McDonald	2:24-cv-01276-DGC
	Plattenberger, Sarah E.	2:24-cv-03525-DGC
2	Purcell, Patricia Ann	2:24-cv-03596-DGC
3	Rager, Julie Ann	2:24-cv-03429-DGC
	Ray, Sarah	2:24-cv-03655-DGC
4	Rock, Lisa J.	2:24-cv-02491-DGC
5	Rodriguez, Amy Jo	2:24-cv-03246-DGC
	Rodriguez, Jonathan	2:24-cv-02621-DGC
6	Rodriguez, Luz	2:24-cv-02270-DGC
7	Russell, Christina Marie	2:24-cv-03550-DGC
	Sanchez, Loretta J. (rep. Edwin)	2:24-cv-02516-DGC
8	Sanders, Latisha Amanda	2:24-cv-03587-DGC
9	Sanders-Nevels, Sabrina	2:24-cv-03606-DGC
	Sawyers, Elise Jean (rep. Kenneth)	2:24-cv-01237-DGC
10	Scarborough, Christopher	2:24-cv-02022-DGC
11	Schultz, Amy	2:24-cv-02588-DGC
	Shaw, Deborah L	2:24-cv-03718-DGC
12	Sheets, Penny Sue	2:24-cv-02764-DGC
13	Shopland, Michele Analisa	2:24-cv-02517-DGC
	Simmons, Julie	2:24-cv-01505-DGC
14	Smith, Julie M.	2:24-cv-03264-DGC
15	Smith, LaFeion Daniel	2:24-cv-02438-DGC
	Smith, Melanie	2:24-cv-03478-DGC
16	Smith, Tony	2:24-cv-03466-DGC
17	Sommer, Heather	2:24-cv-01158-DGC
	Stauch, Gerald Lee	2:24-cv-02954-DGC
18	Stout, Jane	2:24-cv-02819-DGC
19	Swan, Angelia	2:24-cv-01752-DGC
	Todd, Jed D.	2:24-cv-03603-DGC
20	Triplett, Glenn D. (rep. Pratt)	2:24-cv-02758-DGC
21	(deceased)	
	Tucker, Anita Lee	2:24-cv-02559-DGC
22	Vann, Rebecca J.	2:24-cv-03150-DGC
23	Walters, Dean	2:24-cv-03151-DGC
	Ward, Alecia	2:24-cv-03638-DGC
24	Wolfe, Robin Babette	2:24-cv-03247-DGC
25	Woodard, Corrine (rep by Brigelle Joiner)	2:24-cv-03322-DGC
26	Yard, Amber	2:24-cv-03569-DGC



As to the other PPFs that Defendants now claim are deficient, Plaintiffs' response for each is contained in the following chart:

Civil Action	Plaintiff	Last Response from Plaintiff
2:24-cv-02912-DGC	Colon, Renee	On 01/17/2025, Plaintiff filed an Amended PPF and served medical records.
2:24-cv-03281-DGC	Minor, Lillian Beatrice	On 02/07/2025, Plaintiff served a letter via MDL-C indicating that, after several attempts, the facility does not have the lot number and Plaintiff will not be able to obtain it.
2:25-cv-00423-DGC	Malenkovich, Tayana	No additional documents have been uploaded following the most recent Deficiency Notice from Defendants. It is unknown whether an extension was sought and/or granted.
2:25-cv-00345-DGC	Bowman, Sarah	No additional documents have been uploaded following the most recent Deficiency Notice from Defendants. It is unknown whether an extension was sought and/or granted.
2:25-cv-00474-DGC	Barrett, Donald	No additional documents have been uploaded following the most recent Deficiency Notice from Defendants. It is unknown whether an extension was sought and/or granted.
2:25-cv-00109-DGC	Dombrowski, Theodore	On 04/24/2025, Plaintiff served an Amended PPF and served medical records.



1	2:24-cv-03656-DGC	Hall, Julie	No additional documents have been uploaded following the most recent Deficiency Notice from Defendants. It is unknown whether an extension was sought and/or granted.
2			
3			
4			
5	2:25-cv-00585-DGC	Irizarry, Mesha	No additional documents have been uploaded following the most recent Deficiency Notice from Defendants. It is unknown whether an extension was sought and/or granted.
6			
7			
8			
9			
10	2:25-cv-00525-DGC	Welch, Catherine	No additional documents have been uploaded following the most recent Deficiency Notice from Defendants. It is unknown whether an extension was sought and/or granted.
11			
12			
13			
14			
15	2:25-cv-00276-DGC	Delph, Shannon	On 04/21/2025, Plaintiff served a letter via MDL-C indicating that medical records are still pending and will be supplemented upon receipt.
16			
17			
18			
19	2:25-cv-00394-DGC	Friedman, Pamela	On 04/22/2025, Plaintiff served a PPF for Device 2 and a letter indicating she is pursuing injuries associated with Device 2.
20			
21			
22	2:25-cv-00682-DGC	Chorak, Chong Su	Plaintiff is still within the 15-day cure period.
23	2:25-cv-00634-DGC	Dye-Sharpe, Cornelia	Plaintiff is still within the 15-day cure period.
24			
25	2:25-cv-00632-DGC	Garcia, Angela Lynn	Plaintiff is still within the 15-day cure period.
26	2:25-cv-00683-DGC	Dieckmann, Toni Massey	Plaintiff is still within the 15-day cure period.
27			
28			

2:25-cv-00214-DGC	Golden, Lisa	Plaintiff is still within the 15-day cure period.
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## **B. Defendants' Position**

### **1. Order to Show Cause (Doc. 2922)**

On March 21, 2025, the Court issued an Order to Show Cause for failing to comply with Second Amended CMO 8, instructing each of the nine Plaintiffs identified therein to file a memorandum explaining why his or her complaint should not be dismissed for failure to comply with Second Amended CMO 8. *See* Doc. 2922. Two of the Plaintiffs dismissed their cases,<sup>1</sup> and the other seven Plaintiffs filed responses to the Court's Order. *See* Doc. 2974 (Pruitt Response); Doc. 2975 (Chasse Response); Doc. 2977 (Mayo Response); Doc. 2979 (Long Response); Doc. 2978 (Sanchez Response); Doc. 2976 (Hough-Edwards Response); Doc. 2980 (Crochet Response). Defendants filed a Reply on April 11, 2025. *See* Doc. 3162.

### **2. Order Compelling Response to Deficiency Letters by April 4, 2025 (Doc. 2923)**

On March 21, 2025, the Court issued an Order instructing three Plaintiffs to respond to deficiency letters and fully comply with Second Amended CMO 8 by April 4, 2025. *See* Doc. 2923. Plaintiff Martha Aguilar, CV-24-03316, did not respond to the Order or supplement her deficient PPF. Because Plaintiff Aguilar has failed to comply with multiple orders of this Court, Defendants request an order to show cause as to why her Complaint should not be dismissed.

### **3. Delinquent PPFs**

There is one Plaintiff who failed to serve a PPF within the time prescribed in Second Amended CMO 8. *See* Doc. 2369 (Second Amended CMO 8); Doc. 113 (CMO 8). Second Amended CMO 8 provides that absent a showing of good cause for failure to timely submit a PPF, the plaintiff's case will be dismissed. Doc. 2369 at 6; Doc. 113 at 5. To date, the Yates, Courtney Nicole (rep. Matthew), 2:25-cv-

<sup>1</sup> *See* Doc. 3070 (Order Dismissing Gomez); Doc. 3069 (Order Dismissing Pence).

00305-DGC, has not served a PPF. Yates' PPF was due on March 3, 2025 and a Delinquency letter was sent on March 23, 2025; the deadline to respond to the delinquency letter was April 14, 2025. Defendants seek an order to show cause as why the Complaint filed by this Plaintiff should not be dismissed. *See* Doc. 2369 at 6; Doc. 113 at 5.

There are two (2) additional Plaintiffs who failed to serve a PPF within the time required by Second Amended CMO 8 but who are within the twenty-one (21) day cure period as of April 30, 2025. Defendants will address these Plaintiffs in the May joint submission if they have not served a PPF. The two (2) plaintiffs are as follows: Parker, Virginia (5/7/25); Arkansas, Terrence (5/7/25).

#### 4. 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 Second Amended CMO 8, Defendants seek an order compelling each of the Plaintiffs to respond to the deficiency letter and fully comply with Second Amended CMO 8 by May 16, 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.").

Civil Action	Plaintiff	Deficiency Sent
2:25-cv-00423-DGC	Malenkovich, Tayana	03/07/2025
2:25-cv-00345-DGC	Bowman, Sarah	03/21/2025

Civil Action	Plaintiff	Deficiency Sent
2:25-cv-00474-DGC	Barrett, Donald	03/26/2025
2:24-cv-03656-DGC	Hall, Julie	03/31/2025
2:25-cv-00585-DGC	Irizarry, Mesha	03/31/2025
2:25-cv-00525-DGC	Welch, Catherine	03/31/2025
2:25-cv-00682-DGC	Chorak, Chong Su	04/11/2025
2:25-cv-00632-DGC	Garcia, Angela Lynn	04/11/2025
2:25-cv-00214-DGC	Golden, Lisa	04/15/2025

### 5. Plaintiffs who failed to comply with Second Amended CMO 8

Many of the PPFs subject to Second Amended CMO 8 remain incomplete, but Defendants agree that most of the Plaintiffs subject to it complied with the Order (albeit many not until April). Defendants, however, disagree with Plaintiffs' characterization of the status of the following cases from their charts above:

Plaintiff Name	Case Number	Status
Bogan, Tracey	2:24-cv-01236-DGC	DISMISSED
Davis, Jennifer	2:24-CV-01599-DGC	Plaintiff did not provide additional information regarding missing records in response to Second Amended CMO 8 as required. Plaintiff simply resent the same letter with a new date.
Dore, Micheal (Theresa)	2:24-cv-03013-DGC	DISMISSED
Gomez, Constance	2:24-cv-01918-DGC	DISMISSED
Haynes, Patricia	2:24-cv-01131-DGC	DISMISSED
Mayo, Dionne D	2:24-cv-02048-DGC	Plaintiff is subject to Order to Show Cause for failure to respond.
Pence, John	2:24-cv-03072-DGC	DISMISSED

Defendants request an Order requiring the following Plaintiffs who did not comply with Second Amended CMO 8 be compelled to do so by May 16, 2025:

Plaintiff Name	Case Number	Status
Brown-Jones, Patricia Ann	2:24-cv-01891-DGC	Plaintiff did not address deficiencies still pending in response to Second Amended CMO 8 as required.
Colley, Loretta	2:24-cv-01504-DGC	Plaintiff did not address missing information in response to Second Amended CMO 8 as required.
Stout, Jane	2:24-cv-02819-DGC	Plaintiff did not address deficiencies still pending in response to Second Amended CMO 8 as required. Plaintiff has not indicated whether she intends to correct her PPF or obtain missing records.

Second Amended CMO 8 addressed incomplete PPFs as of January 21, 2025. Defendants remain concerned about the number of incomplete PPFs that continue to be served as it remains at approximately 30% and the number of incomplete PPFs continues to grow. Many Plaintiffs respond to the deficiency letters required under CMO 8 by stating that they “will supplement” or “have produced all records,” but do neither without further follow-up despite the fact that CMO 8 does not require any additional follow up by Defendants and requires plaintiffs to attempt to retain the records and supplement consistent with the Federal Rules. Defendants will continue to meet and confer with Plaintiffs’ Leadership about the incomplete information so that they may follow up with those plaintiffs.

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

### **A. Plaintiffs’ Position**

Plaintiffs’ Leadership coordinated with counsel for Discovery Group 1 to ensure that the required supplements were made to their respective PPFs and PFSs.

All Plaintiffs identified by Defendants' Leadership have filed a supplemented PPF and/or PFS and have made any necessary changes.

### **B. Defendants' Position**

Defendants have no issues regarding Plaintiff Fact Sheets to address with the Court at this time.

## **VIII. Defendant Profile Forms**

### **A. Plaintiffs' Position**

Defendants have continued to miss their deadline to produce Complaint Files and responsive information to Defendant Profile Form ("DPF") Section V(2)—and in some cases Defendants' production is at least 60 days late from the original DPF due date.

Since the last CMC, Plaintiffs have identified the following additional cases where Defendants have failed to produce a Complaint File and 60 days have passed from the original deadline for DPF production:

<b>Plaintiff Name</b>	<b>Case Number</b>	<b>Original Date Due</b>
1. Davis, Myron	2:24-cv-03347	02/06/2025
2. Echevarria, Tracy	2:24-cv-03361	02/06/2025
3. Epes, Waverly	2:24-cv-03128	01/23/2025
4. Epps, Lawana	2:24-cv-03499	02/24/2025
5. Foster, Evelyn	2:24-cv-03236	01/31/2025
6. Gonzalez, Mary	2:24-cv-03193	01/30/2025
7. Hook, Patricia	2:24-cv-03128	01/23/2025
8. Kelly, Samantha	2:24-cv-03122	01/23/2025
9. Lachapelle, Cheryl	2:24-cv-03169	01/24/2025

1	10. McKay, Janet	2:24-cv-03360	02/06/2025
2	11. Minor, Lillian	2:24-cv-03281	02/13/2025
3	12. Pearson, Sharon	2:24-cv-03274	02/10/2025
4	13. Phillips, William	2:24-cv-03446	02/21/2025
5	14. Rider, Tina	2:24-cv-03199	01/27/2025
6	15. Rodriguez, Jonathan	2:24-cv-02621	2/21/2025
7	16. Selvey, Kimberly	2:24-cv-03351	02/07/2025
8	17. Swartz, Shane	2:24-cv-03270	02/06/2025

12 Plaintiffs request that the Court order Defendants to produce the Complaint  
13 Files and responsive information to DPF Section V(2) within 30 days or by the time  
14 of the next CMC, whichever is sooner.

15 Defendants are fully capable of producing Complaint Files in response to  
16 Section V(2) of the DPF by their deadline—and *certainly* within 60 days of that  
17 deadline. While Plaintiffs prefer the DPFs are produced timely, the 60-day period is  
18 more than adequate for Defendants to supplement this information given the internal  
19 process followed by Defendants’ Field Assurance Team, which Defendants have  
20 previously described to the Court. Plaintiffs are prejudiced by Defendants failing  
21 to timely produce or supplement this information as the information requested in  
22 Section V(2) of the DPF is important to Plaintiffs being able to adequately assess  
23 cases, both the individual case and for all plaintiffs in the MDL.<sup>2</sup> If Defendants  
24 have submitted or received any information regarding a complaint for a particular  
25 plaintiff or communicated any information to the FDA, this is key information to

26 <sup>2</sup> Section V(2) provides that Defendants shall produce the complaint file for each  
27 plaintiff, which includes, but is not limited to, “any MedWatch, MAUDE Adverse  
28 Event Reports (‘AER’), Alternative Summary Reporting (‘ASR’), and any other  
documents submitted by Defendants to the FDA.” DPF, Sec. V(2).

1 that plaintiff and everyone in the MDL to know the substance of the problem with  
2 that device. The information goes directly to Plaintiffs' allegations that the port  
3 catheter devices are defective and why. This discoverable information received on  
4 other cases influences plaintiff leadership in preparing Bellwether cases for trial and  
5 working with experts.

6 Plaintiffs will continue to request such supplementation within the same time  
7 going forward on additional cases.

#### 8 **B. Defendants' Position**

9 For the last several months, the Plaintiffs have repeatedly complained about  
10 the production of complaint files with the defense profile forms and the delay  
11 occasioned by the volume of new filings in this MDL. In response, Defendants have  
12 prioritized the production of complaint files for the cases identified by Plaintiffs in  
13 the Joint Submissions submitted by the parties. Contrary to Plaintiffs' suggestion,  
14 Defendants have also complied with every deadline prescribed by the Court for the  
15 production of complaint files pertaining to those individual plaintiffs identified in  
16 the Joint Submission. For example, in Case Management Order No. 32 (Doc. 2897),  
17 the Court listed 15 cases and instructed Defendants to produce the complaint files  
18 for those individuals within 30 days of the date of the order (March 21<sup>st</sup>). Defendants  
19 complied with that Order and produced the final file on April 17.

20 That same Case Management Order, "urged Defendants to accelerate the  
21 pace of producing complaint files." Defendants have exercised their best efforts to  
22 do so. Between February 20, 2025 and March 20, 2025, Defendants produced 81  
23 complaint files. By contrast, between March 21, 2025 and April 23, 2025,  
24 Defendants produced more than twice that many (191 files). Moreover, Defendants  
25 have taken steps to accelerate the pace even further in the future. At considerable  
26 expense, Defendants have hired/assigned additional personnel to complete  
27 complaint files. Those professionals must complete training, given the intricate  
28 complaint investigation requirements prescribed by federal regulation. But as soon



1 as that training is complete, the additional personnel should enable Defendants to  
2 accelerate the production of the files even further and to eventually eliminate the  
3 present backlog. Defendants expect that they will be able to timely produce  
4 completed complaint files by the end of the summer, if not sooner.

5       Notwithstanding Defendants' concerted efforts to address the influx of  
6 litigation-related complaints, Plaintiffs have offered no evidence whatsoever of any  
7 prejudice occasioned by a delay in producing complaint files in cases that are not  
8 under consideration to become bellwethers. Nor have they offered any explanation  
9 of how the information in these files (which principally recite the skeletal  
10 information received from the short form complaint) somehow "influences plaintiff  
11 leadership." Indeed, Defendants produced complaint files for all 48 bellwether pool  
12 cases months ago. Perhaps the clearest indication of the lack of real prejudice is the  
13 fact that, as of noon on the day this submission was to be filed, Plaintiffs had yet to  
14 identify a single individual case where they claimed they needed the complaint file  
15 immediately.

16       Regardless of the lack of actual prejudice to Plaintiffs, Defendants have made  
17 a considerable investment to accelerate the process. Defendants pledge to continue  
18 doing so.

1  
2 Dated: April 28, 2025

Respectfully submitted,

3  
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***Attorneys for Defendants***

# EXHIBIT 1

**Defendants' Production of Case-Specific Documents**

<b>PRODUCTION</b>	<b>DATE</b>	<b>DESCRIPTION</b>	<b>DOCS</b>	<b>PAGES</b>
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
BARD_IPC_MDLDG_005	3/18/2025	Documents from Michael Auger's custodial file that are responsive to Plaintiffs' Schedule A document requests and relate to Defendants' implanted port catheter devices	23	50
BARD_IPC_MDLDG_006	3/19/2025	Documents from Anna Bord's custodial file that are responsive to Plaintiffs' Schedule A document requests and relate to Defendants' implanted port catheter devices	426	1,200
BARD_IPC_MDLDG_007	3/19/2025	Documents from Geary (Daniel) Sayers and Tazwa Brown's custodial files that are responsive to Plaintiffs' Schedule A document requests and relate to Defendants' implanted port catheter devices	17	29
BARD_IPC_MDLDG_008	3/19/2025	Documents from Tazwa Brown, Michael Montpetit, and Michael Auger's custodial files that are responsive to Plaintiffs' Schedule A document requests	113	236

		and relate to Defendants' implanted port catheter devices		
BARD_IPC_MDLDG_009	3/19/2025	Documents from David Charles, Michael Auger, and Clifford Hein's custodial files that are responsive to Plaintiffs' Schedule A document requests and relate to Defendants' implanted port catheter devices	32	48
BARD_IPC_MDLDG_010	3/25/2025	Documents from Bradley Archer's custodial file that are responsive to Plaintiffs' Schedule A document requests and relate to Defendants' implanted port catheter devices	158	675
BARD_IPC_MDLDG_DEPCV_001	3/25/2025	CVs of Anna Bord and Michael Auger	2	3
BARD_IPC_MDLDG_011	3/26/2025	Documents from Lauren Wooley and Lauren Peloquin's custodial files that are responsive to Plaintiffs' Schedule A document requests and relate to Defendants' implanted port catheter devices	373	859
BARD_IPC_MDLDG_012	3/28/2025	Documents from Anthony Davis's custodial file that are responsive to Plaintiffs' Schedule A document requests and relate to Defendants' implanted port catheter devices	487	1,322
BARD_IPC_MDLDG_013	4/1/2025	Documents from Ashley Donna's custodial file that are responsive to Plaintiffs' Schedule A document requests and relate to Defendants' implanted port catheter devices	2	4
<b>Total</b>			<b>2,617</b>	<b>9,453</b>