

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: COVIDIEN HERNIA MESH
PRODUCTS LIABILITY LITIGATION
NO. II,

This Document Relates To:

All Cases

MDL No. 1:22-md-03029-PBS

CASE MANAGEMENT ORDER NO. 6
(Dismissal of Certain Defendant Entities—Stipulated)

The parties met and conferred and, after extensive negotiation and the agreement of counsel, have proposed the following agreed plan to address issues relating to Defendants Covidien, Inc., Covidien Ltd., Covidien plc, Covidien Holding, Inc., Medtronic USA, Inc., Medtronic PL, Medtronic plc, Covidien, LLC, Tyco International Ltd., Tyco International Group, SA, Surgical Solutions Group, United States Surgical Group, United States Surgical Corp., and Sofradim Corp. The Court finds the agreed plan to be appropriate and, thus, hereby **ORDERS AS FOLLOWS:**

1.) For any cases currently pending in IN RE: COVIDIEN HERNIA MESH PRODUCTS LIABILITY LITIGATION NO. II, MDL No. 3029 (“MDL 3029”), Defendants Covidien, Inc., Covidien Ltd., Covidien plc, Covidien Holding, Inc., Medtronic USA, Inc., Medtronic PL, Medtronic plc, Covidien, LLC, Tyco International Ltd., Tyco International Group, SA, Surgical Solutions Group, United States Surgical Group, United States Surgical Corp., and Sofradim Corp. are hereby dismissed *without prejudice* (hereafter “Dismissed Defendants”). Defendants Covidien LP (“Covidien”) and Sofradim Production SAS (“Sofradim”) (collectively, “Remaining Defendants”) shall be named in the Master Complaint.

2.) For any cases filed in, removed to, or transferred into MDL 3029 after the date

of this Order, within 30 days of the filing, removal or transfer into MDL 3029, Plaintiffs shall voluntarily dismiss *without prejudice* any Dismissed Defendants named in the complaint using the form dismissal, attached hereto as Exhibit A.

3.) Dismissed Defendants shall preserve documents under the Federal Rules of Civil Procedure and applicable case law as if they remained party-defendants herein. In responding to Plaintiffs' discovery requests, and subject to other objections, Remaining Defendants shall include non-privileged documents and information in the possession or control of the Dismissed Defendants.

4.) Remaining Defendants shall not argue that Dismissed Defendants are at fault or in any manner a culpable, responsible or necessary party in place of or in conjunction with Remaining Defendants.

5.) Consistent with the Case Management Order Governing Initial Pleadings, Remaining Defendants' counsel shall accept service of complaints filed against Remaining Defendants via email at CovidienMeshMDL@us.dlapiper.com. By sending an e-mail to this address containing the ECF-conformed or stamped copy of the complaint, this will constitute good, valid and official service for these actions under FED. R. CIV. P. 4. Actions shall be considered served on the date and time of the transmittal of the e-mail containing the aforementioned items. Remaining Defendants shall accept service of process as to any witness currently employed by Dismissed Defendants or any of the Remaining Defendants at the time the process is served, without waiving any objections as to the substance of such process.

6.) Plaintiffs have the right to seek leave of the Court to re-join Dismissed Defendants to actions in MDL 3029. The Court shall grant such leave if justice so requires or with consent of Remaining Defendants.

7.) All defenses of Dismissed Defendants are preserved, including all defenses under Federal Rule of Civil Procedure 12. In the event the Court grants leave to re-join Dismissed Defendants to actions in MDL 3029, the claim(s) against Dismissed Defendants shall be deemed to relate back to the original filing of the individual complaint(s) in which Dismissed Defendants were joined for complaints filed before this Order. For complaints filed after this Order that do not join the Dismissed Defendants, the claim(s) against Dismissed Defendants shall be deemed to relate back to the original filing of the individual complaint.

8.) In the event of entry of any final judgment awarding damages against Covidien and/or Sofradim from which no appeal or further appeal can be taken, if Covidien or Sofradim cannot satisfy such judgment, Medtronic plc shall satisfy the judgment as if Medtronic plc were itself a party to such action without the need for commencement of any enforcement proceedings. This Court shall have jurisdiction to enforce this provision against Medtronic plc, and Medtronic plc submits to the jurisdiction of this Court for that specific purpose.

9.) Remaining Defendants agree not to object to the use at trial of the financial worth of a Dismissed Defendant on the basis that such entity is not a party to the action, but Remaining Defendants and the Dismissed Defendants reserve all other objections to the use and/or admissibility of such financial worth information.

10.) Subject to paragraphs 5 and 6 above, Plaintiffs are directed not to name the Dismissed Defendants in future actions that are either filed in MDL No. 2750 pursuant to the Direct Filing Order and those that are removed or transferred to this MDL. If Dismissed Defendants are named, Plaintiffs shall dismiss the Dismissed Defendants in accordance with paragraph 2 above.

SO ORDERED.

Patricia B. Jarvis 2/1/23
(without objection)

Exhibit A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: COVIDIEN HERNIA MESH
PRODUCTS LIABILITY LITIGATION
NO. II,

This Document Relates To:

MDL No. 1:22-md-03029-PBS

PLAINTIFF NAME

Civil Action No. _____

STIPULATION OF DISMISSAL WITHOUT PREJUDICE

IT IS HEREBY STIPULATED, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and the provisions of CMO No. 6 (Dismissal of Certain Defendant Entities), that the following named Defendants in the above-captioned action are voluntarily dismissed without prejudice, by Plaintiff PLAINTIFF NAME, against:

- | | |
|---|---|
| <input type="checkbox"/> Covidien, Inc. | <input type="checkbox"/> Tyco International Ltd. |
| <input type="checkbox"/> Covidien Ltd. | <input type="checkbox"/> Tyco International Group, SA |
| <input type="checkbox"/> Covidien plc | <input type="checkbox"/> Surgical Solutions Group |
| <input type="checkbox"/> Covidien Holding, Inc. | <input type="checkbox"/> United States Surgical Group |
| <input type="checkbox"/> Covidien, LLC | <input type="checkbox"/> United States Surgical Corp. |
| <input type="checkbox"/> Medtronic USA Inc. | <input type="checkbox"/> Sofradim Corp. |
| <input type="checkbox"/> Medtronic PL | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Medtronic plc | _____ |

Each party to bear its own costs.

IT IS SO STIPULATED.

FIRM NAME

DLA Piper LLP (US)

Attorney

FIRM NAME

Address

Telephone

E-Mail

Attorney for Plaintiff

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Attorneys for Defendants

CERTIFICATE SERVICE

I, Jessica C. Wilson, hereby certify that a true and correct copy of the foregoing document was served upon counsel of record via the Court's ECF System on ____.

Jessica C. Wilson