

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

DIRECT FILING ORDER

I. SCOPE OF THE ORDER

This stipulated Order shall govern the direct filing of actions in *In re Covidien Hernia Mesh Products Liability Litigation No. II*, MDL No. 3029, in the District of Massachusetts and applies only to personal injury claims brought by Plaintiffs based on use of a Covidien hernia mesh device.

II. DIRECT FILING OF CASES INTO MDL NO. 3029.

1. To eliminate delays associated with the transfer to this Court of cases filed in or removed to other federal district courts and to promote judicial efficiency, any Plaintiff whose case would be subject to transfer to MDL No. 3029 may file his or her complaint against Defendants directly in MDL No. 3029 in the United States District Court for the District of Massachusetts.

2. Any complaint that is filed directly in the District of Massachusetts pursuant to this Order shall be deemed directly filed in MDL No. 3029 and filed as a new civil action through the Court's electronic filing system.

3. With the exception of any complaints that include plaintiffs who solely assert derivative claims, no multi-plaintiff complaints may be directly filed in MDL No. 3029.

4. Each case filed directly in MDL No. 3029 that emanates from a district outside the District of Massachusetts will be filed in MDL No. 3029 for pretrial proceedings only, consistent with the Judicial Panel on Multidistrict Litigation's June 6, 2022, Transfer Order.

5. In any complaint directly filed in the District of Massachusetts pursuant to this Order, Plaintiff shall (1) include a statement indicating that the complaint is being filed in accordance with this Order and (2) designate the federal district in which the action otherwise would have been filed absent the direct filing procedure.

6. For any case filed in the District of Massachusetts before entry of this order, to be considered a direct-filed case pursuant to this Order, Plaintiff(s) must file within 45 days of the entry of this order a notice of direct filed action pursuant to this Order, which must include a designation of venue.

7. Upon completion of all pretrial proceedings applicable to a case directly filed in this Court, pursuant to 28 U.S.C. § 1404(a), this Court will transfer each case to the designated federal district unless the parties advise the Court that a case should be transferred to another district in which venue is proper and based upon good cause shown. Nothing contained in this Order shall preclude the parties from agreeing, at a future date, to try cases filed pursuant to this Order in the District of Massachusetts.

8. Defendants stipulate and agree that they will not assert any objection of improper venue pursuant to Fed. R. Civ. P. 12(b) as to any Covidien hernia mesh-related cases filed directly in the District of Massachusetts that emanate from districts outside the District of Massachusetts and that are filed in this multidistrict litigation for pretrial proceedings.

9. The inclusion of any action in this MDL No. 3029, whether such action was or will be filed originally or directly in the District of Massachusetts, shall not constitute a determination

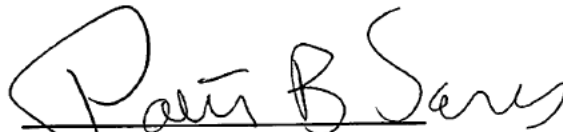
by this Court that venue is proper in this district. Likewise, nothing in this Order shall be construed as a waiver of personal jurisdiction by any named Defendant, served or unserved.

10. Filing an action directly into MDL No. 3029 shall not constitute, for any party, a waiver pursuant to *Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998).

11. All parties stipulate and agree that a case that was filed directly in MDL No. 3029 pursuant to this Order will have no impact on choice of law that otherwise would apply to an individual case had it been originally filed in another district court and transferred to this Court pursuant to 28 U.S.C. § 1407. Any choice of law principles will be decided at a later date.

12. Defendants stipulate and agree that the filing of a complaint directly in MDL No. 3029 pursuant to this Order shall stop the running of any statute of limitations or prescriptive or preemptive period as if the complaint had been filed in an appropriate venue.

SO ORDERED.


Hon. Patti B. Saris
United States District Judge