

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: DAVOL, INC./C.R. BARD,
INC., POLYPROPYLENE HERNIA
MESH PRODUCTS LIABILITY
LITIGATION

Case No.: 2:18-md-2846

JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Kimberly A. Jolson

This document relates to:
ALL ACTIONS.

CASE MANAGEMENT ORDER NO. 57
(Qualified Protective Order)

Settling claimants that have been implanted with one or more Bard Hernia Repair Products,¹ and who have a pending lawsuit filed and served on Defendants in *In re: Davol/C.R. Bard Hernia Mesh Multi-Case Management*, PC-2018-9999 (R.I. Super. Ct.) (the “R.I. Coordinated Proceeding”), *In Re: Davol, Inc./C.R. Bard, Inc., Polypropylene Hernia Mesh Products Liability Litigation*, 2:18-md-2846 (S.D. Ohio) (the “Ohio MDL”), or any other court (*hereinafter* collectively the “Settling Claimants”), have asserted claims against Defendants in the above captioned action and resolved their claims pursuant to an agreement between Plaintiffs’ Lead Counsel and Bard. These individuals have retained counsel to represent them in relation to the above-captioned action. It is **ORDERED** that:

¹ “Hernia Repair Product(s)” means any hernia repair products designed, manufactured, marketed, distributed, and/or sold by Bard implanted in the body to provide support for soft tissue where weakness exists, *i.e.*, repair of hernias, as well as any variations of such products that may include positioning systems or other modifications, past or present, implanted as of the time Claimant executes his/her Release.

1. Plaintiffs' Lead Counsel will retain Archer, at Settling Claimants' expense, as the exclusive lien administrator ("Lien Administrator"), to ascertain and resolve the Medicare, Medicare Part C, TriCare, Veterans Affairs, and/or Medicaid liens or Medicare, Medicare Part C, and/or Medicaid subrogation interest obligations, or any other lien obligations, pursuant to the terms agreed to by Plaintiffs' Lead Counsel and Bard. The entry of this qualified protective order compliant with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") is necessary in this action in order to permit the potential lien holders to transmit lists of information, including protected health information and other related information regarding the Settling Claimants to Archer, rather than providing copies of individual HIPAA authorizations and information on a claimant-by-claimant basis, including any third party authorized by Archer or the Court to assist in the resolution of the potential lien holders' potential liens and reimbursement claims.
2. As such, it is hereby ordered:
 - a. This Qualified Protective Order shall apply to all "protected health information" and "individually identifiable health information," as defined by 45 CFR § 160.103, or information that is otherwise protected from disclosure by the Privacy Act, 5 U.S.C. § 551a, the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 42 CFR § 431 Subpart F, titled "Safeguarding Information on Applicants and Recipients" and other applicable state law, created, received or collected from plaintiffs and claimants by the potential lien holders, including, but not limited to: (a) names and addresses, dates of birth, social security numbers, identification numbers and other demographic information that identifies, or could be used to identify the Settling Claimants; (b) eligibility and entitlement

information for the Settling Claimants; (c) claims information relating to the past, present, or future health care of the Settling Claimants; (d) claims information relating to the provision of healthcare to the Settling Claimants; and (e) claims information relating to the past, present, or future payment for the provision of healthcare to the Settling Claimants.

- b. Each potential lien holder is hereby authorized and directed to transmit to Archer to assist in the resolution of potential liens or reimbursement claims, any information, including claims information and other protected health information, for those Settling Claimants against whom they may assert liens or reimbursement claims.
- c. Archer shall not use or disclose any protected health information or individually identifiable health information subject to this Qualified Protective Order for any purpose other than this litigation, including compliance with any applicable Court orders or other legal obligations. Similarly, the potential lien holders shall only use the information of the Settling Claimants for the specific purposes of transmitting to Archer any information, including claims information and other protected health information, for those Settling Claimants in the above-captioned matter against whom the potential lien holders have asserted liens or reimbursement claims, or in whose potential settlements the potential lien holders may have an interest. The potential lien holders shall only make the information for the Settling Claimants available to those within their respective entity or agency who need access to the information for the Settling Claimants for the specific purpose stated in this paragraph. If the potential lien holder utilizes outside vendors or companies to

perform part or all of their tort recovery practices, the outside vendors or companies shall be expressly bound by all terms and conditions of this Qualified Protective Order.

- d. Archer shall maintain any protected health information or individually identifiable health information subject to this Qualified Protective Order in a secure and safe area and shall exercise the same standard of due and proper care with respect to the storage, custody, use and/or dissemination of such protected health information as is exercised by Archer with respect to its own confidential proprietary information.

SO ORDERED this 16th day of December 2024.

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
United States District Judge