IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

IN RE: Bard Implanted Port Catheter Products Liability Litigation	MDL No. 3081 **CASE MANAGEMENT ORDER NO. 8** **PROFILE FORMS**

The Court enters this Case Management Order regarding the process for the use of Plaintiff Profile Forms and Defendants Profile Forms.

The parties have agreed upon the use of an abbreviated Plaintiff Profile Form ("PPF") (the PPF approved by the Court is Exhibit 1 attached to this Order) and an abbreviated Defendants Profile Form ("DPF") (the DPF approved by the Court is Exhibit 2 attached to this Order). Following the procedure below, the PPF and DPF shall be completed in each currently pending case and in all cases that become a part of this MDL by virtue of being filed in, removed to, or transferred to this Court on or after the date of this Order.

For any case filed in, removed to, or transferred to MDL 3081 on or before the date of this Order, the Plaintiff shall submit a completed PPF and all accompanying records to Defendants within 45 days of the date of this Order.

For any case filed in, removed to, or transferred to MDL 3081 after the date of this Order, the Plaintiff shall submit a completed PPF and all accompanying records to Defendants within 30 days of filing the Short-Form Complaint.

Plaintiffs and Defendants shall use the MDL Centrality online system accessible at www.mdlcentrality.com/BardPort to complete and serve PPFs and DPFs, as follows:

(a) Each Plaintiff shall, by counsel or as *pro se*, establish a secure online portal with the MDL Centrality online system and obtain authorized usernames and secure login passwords to permit use of MDL Centrality by such counsel or Plaintiff. Except as set forth herein, counsel for a Plaintiff or each *pro se* Plaintiff shall be permitted to view, search, and download on MDL Centrality only those materials submitted by that Plaintiff and by Defendants relating to that Plaintiff only, and not materials submitted by or relating to other Plaintiffs.

(b) Defendants shall establish a secure online portal with the MDL Centrality online system and obtain authorized usernames and secure login passwords to permit use of MDL Centrality by Defendants' counsel.

(c) Plaintiffs' Co-Lead Counsel and attorney designees in the Plaintiffs' Leadership Committee ("PLC"), as appointed by Plaintiffs' Co-Lead Counsel, shall have access to and be able to view, search, and download all materials submitted by all Plaintiffs and by all Defendants.

(d) Each Plaintiff and Defendants shall use MDL Centrality to obtain, complete, or upload data and serve the appropriate Profile Form online (including the upload of PDFs of documents required to be produced with the Profile Forms).

(f) Service of a completed Profile Form shall be deemed to occur when the submitting party has performed each of the steps required by MDL Centrality to execute the online submission of the materials and the submitting party has received confirmation on screen that the materials have been successfully submitted. Immediately upon submission of a PPF by a Plaintiff, MDL Centrality shall send notification of the submission to Defendants at portppf-pfs@nelsonmullins.com and portppf-pfs@mccarter.com. Immediately upon submission of a DPF by Defendants, MDL Centrality shall send notification of the submission to the Plaintiff's counsel of record at the email address(es) provided upon registration

for MDL Centrality, with a copy to the PLC by operation of an email distribution list provided to MDL Centrality by Plaintiffs' Co-Lead Counsel.

(g) If a party must amend a previously served Profile Form, all subsequent versions must be named accordingly ("First Amended Plaintiff Profile Form," "Second Amended Plaintiff Profile Form," etc.), and all iterations of a party's Profile Form must remain available and accessible to all parties to a case through trial, appeal (if any), or other resolution of the litigation. Immediately upon submission of an amended PPF, MDL Centrality shall send notification of the submission to Defendants at portppf-pfs@nelsonmullins.com and portppf-pfs@mccarter.com. Immediately upon submission of an amended DPF, MDL Centrality shall send notification of the submission to the Plaintiff's counsel of record at the email address(es) provided upon registration for MDL Centrality, with a copy to the PLC by operation of an email distribution list provided to MDL Centrality by Plaintiffs' Co-Lead Counsel.

(h) The Court may establish a secure online portal with the MDL Centrality online system and obtain an authorized username and secure login password to permit use of MDL Centrality by the Court.

(i) MDL Centrality should not be viewed as an alternate or supplemental docket in this case. It shall be used for the collection and presentation of discovery material that would not normally be filed in the Court's docket, such as PPFs, DPFs, Plaintiff and Defendant fact sheets, privilege logs, and correspondence related to such discovery matters. Any item that would ordinarily be filed in the Court's docket should be so filed. The Court will not regularly review or monitor MDL Centrality. Doing so is the responsibility of defense counsel and Plaintiffs' leadership counsel.

The use of MDL Centrality by any party shall not alter or otherwise waive or affect any attorney-client privilege or work-product doctrine protection otherwise available. Any notations placed on materials, comments entered, or documents stored or uploaded to MDL

Centrality by a user shall be considered to be the work product of such user unless and until the material is served on or purposefully disclosed to the opposing party through the use of MDL Centrality or otherwise. Pursuant to Rule 502(d) of the Federal Rules of Evidence, this Order with respect to privilege and work-product doctrine protection applies to any other federal or state proceeding.

Each Plaintiff is required to provide Defendants with a PPF that is complete in all respects, answering every question in the PPF and producing all accompanying records, even if a Plaintiff can answer the question in good faith only by indicating "not applicable," "N/A," or "unknown." The PPF shall be signed by the Plaintiff under penalty of perjury. If a Plaintiff is suing in a representative capacity, the PPF shall be completed by the person with legal authority to represent the estate or the person under legal disability. A Plaintiff's spouse with a claim for loss of consortium shall also sign the PPF under penalty of perjury.

A completed PPF shall be considered interrogatory responses under Fed. R. Civ. P. 33 and responses to requests for production under Fed. R. Civ. P. 34 and will be governed by the standards applicable to written discovery under Federal Rules 26 and 37. The questions and requests for documents in the PPF shall be answered without objections. This section does not prevent a Plaintiff from redacting information in produced documents based on a recognized privilege. However, if such information is redacted or withheld on the basis of privilege, Plaintiff shall provide Defendants with a privilege log that complies with Fed. R. Civ. P. 26(b)(5) simultaneously with the submission of the PPF.

If a Plaintiff does not submit a PPF within the time specified in this Order, Defendants shall send a communication through MDL Centrality stating that Defendants may request dismissal during a regular case management conference if a PPF and the accompanying records are not received within 21 days. Immediately upon submission of the communication, MDL Centrality shall send notification of the submission to the Plaintiff's counsel of record at the email address(es) provided upon registration for MDL Centrality, with a copy to the PLC by operation of an email distribution list provided to MDL Centrality by Plaintiffs' Co-Lead Counsel. No further contact from Defendants is required.

If no PPF is received within 21 days of the date of the communication being sent and the Plaintiff fails to contact Defendants' counsel to explain why further time is needed to complete the PPF, Defendants may raise a request to dismiss during a regular case management conference. Absent a showing of good cause for the failure to timely submit a PPF, the Plaintiff's case will be dismissed. Defendants may apply for their reasonable attorneys' fees and expenses incurred in seeking dismissal. No Plaintiff shall receive more than one extension to provide a PPF, absent written consent from Defendants.

If a Plaintiff serves a PPF that is not complete (including accompanying records requested), Defendants shall have 15 days from service of the incomplete PPF to identify deficiencies. Defendants' counsel shall send a deficiency letter through MDL Centrality identifying the alleged deficiencies. Immediately upon submission of the letter, MDL Centrality shall send notification of the submission to the Plaintiff's counsel of record at the email address(es) provided upon registration for MDL Centrality, with a copy to the PLC by operation of an email distribution list provided to MDL Centrality by Plaintiffs' Co-Lead Counsel. The Plaintiff shall have 15 days from the date of the email to serve a complete PPF. No further contact from Defendants is required.

If the 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 case management conference. Defendants may apply for their reasonable attorneys' fees and expenses incurred in seeking to compel a fully complete PPF. No Plaintiff shall receive more than one extension to provide a fully completed PPF, absent written consent from Defendants.

Within 45 days of receipt of a complete PPF, including accompanying records, the Defendants shall submit a completed DPF to the Plaintiff. The completed DPF shall be sent via MDL Centrality. Immediately upon submission of the DPF, MDL Centrality shall send notification of the submission to the Plaintiff's counsel of record at the email address(es) provided upon registration for MDL Centrality, with a copy to the PLC by operation of an

email distribution list provided to MDL Centrality by Plaintiffs' Co-Lead Counsel. The parties agree that Defendants cannot comply with disclosure requirements of the DPF pertaining to manufacturing information and the Device History Record ("DHR") until the Plaintiff provides proof of the product code and lot number for the device at issue in the Plaintiff's case. The parties further agree that a Plaintiff shall not initiate the DPF deficiency processes described *infra* as to those required disclosures of the DPF until 45 days after such Plaintiff has provided Defendants with a completed PPF that sets forth the product code and lot number for the device at issue in such case.

A completed DPF shall be considered interrogatory responses under Fed. R. Civ. P. 33 and responses to requests for production under Fed. R. Civ. P. 34 and will be governed by the standards applicable to written discovery under Federal Rules 26 and 37. The questions and requests for documents in the DPF shall be answered without objections. This section does not prevent Defendants from redacting or withholding information based on a recognized privilege. However, if such information is redacted or withheld on the basis of privilege, Defendants shall provide the Plaintiff with a privilege log that complies with Fed. R. Civ. P. 26(b)(5) simultaneously with the submission of the DPF.

If Defendants do not submit a DPF within the time specified in this Order, the Plaintiff's counsel and/or Plaintiffs' Co-Lead Counsel shall send a communication through MDL Centrality stating that the Plaintiff may raise a request to compel if a substantially complete DPF is not received within 21 days. Immediately upon submission of the communication, MDL Centrality shall send notification of the submission to Defendants at portppf-pfs@nelsonmullins.com and portppf-pfs@mccarter.com. If no DPF is received within 21 days of the date of the email, the Plaintiff may raise a request to compel a DPF during a regular case management conference.

If Defendants serve a DPF that is not substantially complete, the Plaintiff shall have 15 days from service of the incomplete DPF to identify deficiencies. The Plaintiff's counsel and/or Plaintiffs' Co-Lead Counsel shall send a deficiency letter through MDL Centrality identifying the alleged deficiencies. Immediately upon submission of the letter, MDL

Centrality shall send notification of the submission to Defendants at portppf-pfs@nelsonmullins.com and portppf-pfs@mccarter.com. Defendants shall have 15 days from the date of the email to serve a substantially complete DPF. If Defendants fail to serve a substantially complete DPF within the time allowed or fail to contact the Plaintiff's counsel to explain why further time is needed to substantially complete the DPF, the Plaintiff may raise a request to compel a fully complete DPF during a regular case management conference.

Dated this 22nd day of November, 2023.

David G. Campbell
Senior United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

MDL No. 3081
In Re Bard Implanted Port Catheter Products Liability Litigation

---

In completing this **Plaintiff Profile Form**, you are under oath and must provide information that is true and correct to the best of your knowledge. The Plaintiff Profile Form shall be completed in accordance with the requirements set forth in the applicable Case Management Order.

1. CASE INFORMATION

Caption: _____ **Date:** _____

Docket No.: _____

Plaintiff's attorney name and contact information, including email:

_____

_____

_____

2. PLAINTIFF INFORMATION

Full legal name of Plaintiff/Decedent implanted with Bard Implanted Port Catheter Product ("Device"):

_____

Former name: _____

Address: _____

Date of birth: _____

Social security no. (last four digits only): _____

Occupation: _____

Spouse: _____

Is Spouse making a claim for loss of consortium?

☐ **Yes** ☐ **No**

Representative name, if applicable: _____

Representative relationship to Plaintiff/Decedent: _____

3. DEVICE INFORMATION

Name of Bard Implanted Port Catheter Product ("Device"): _____

_____

Model Number/Product Code: _____

Lot Number: _____

Date of implant: _____

Provide the medical record, your medical alert card, or other documentation showing your Device Product Code and Lot Number.

□ **Medical records attached**

□ **Medical alert card attached**

□ **Other documentation showing Product Code and Lot Number attached**

Please check all the reasons why you believe your Device was implanted:

□ **Blood draws**

□ **Blood transfusions**

□ **Chemotherapy delivery**

□ **Immunotherapy delivery**

□ **IV fluid delivery**

□ **IV antibiotics**

□ **Parenteral nutrition**

□ **Other – please describe below:**

_____

_____

Provide the name and address of the doctor who implanted the Device and the hospital/medical facility at which the Device was implanted:

Doctor: _____

Hospital/Medical Facility: _____

_____

Provide medical records for the implant of the Device.

□ **Medical Records attached**

***NOTE: If you are alleging injuries related to more than one Device, complete Sections 3-8 for each Device and attach additional pages as needed.**

4. FAILURE MODE ALLEGED

Please check all failure mode(s) that you allege apply to the Device and attach medical records that show the failure mode:

☐ **Catheter-related infection**

Type of infection: _____

☐ **Thrombosis in or around catheter**

☐ **Occlusion of the catheter**

☐ **Fracture of catheter without migration of a fragment**

☐ **Fracture of catheter with migration of a fragment to _____ (state location in your body)**

☐ **Other – state in detail:** _____

_____

For each complication identified above, state the date you were first diagnosed with such complication and state the name of the medical provider who diagnosed and/or treated the complication:

_____

_____

For each complication identified above, provide medical records relating to the first diagnosis of each complication.

☐ **Medical records attached**

5. REMOVAL INFORMATION

*** This Section is limited to removal of the Device as a whole. Information regarding fractures and removal of fracture remnants should be provided in Section 7.**

Has your Device identified in Section 3 been removed?

☐ **Yes** ☐ **No**

If yes, provide the name(s) and address(es) of the doctor(s) who removed your Device and the hospital/medical facility where the removal/attempted removal occurred:

Doctor: _____

_____

Hospital/Medical Facility: _____

_____

Date of removal: _____

Provide medical records for the removal/attempted removal and the procedure involved.

□ **Medical records attached**

Was the Device identified in Section 3 preserved after removal?

☐ **Yes** ☐ **No**

If yes, state the name and address of the person or institution in possession of the Device: _____

Do you have photographs and/or video of the removed Device or of the removal procedure?

☐ **Yes photographs. If yes, produce color copies of the photos.**

☐ **Photographs attached**

☐ **Yes video. If yes, retain the video.**

☐ **No**

6. SUBSEQUENT DEVICE

If your Device identified in Section 3 was removed, was a subsequent device implanted?

☐ **No**

☐ **Yes. State date of implant of replacement device: _____**

Was it replaced with a Bard Port Catheter Device? If yes, provide:

Product Name: _____

Product Code: _____ Lot Number: _____

If no, provide the name of replacement device:_____

7. CATHETER FRAGMENTS

Do you claim that the catheter of your Device fractured?

☐ **Yes**

☐ **No**

If you answered YES, answer the below questions in this Section.

If you answered NO, skip the rest of Section 7 and go below to Section 8 - "Outcome Attributed to Device."

Are any catheter fragments retained in your body?

☐ **Yes**

☐ **No**

☐ **Unknown**

If yes, identify the location(s) within your body of each retained catheter fragment.

_____

_____

Have any catheter fragments been removed from your body?

☐ **Yes**

☐ **No**

☐ **Unknown**

If any catheter fragment has been removed (or a doctor has attempted to remove it), please check all that apply regarding the removal procedure(s):

☐ Removed percutaneously

☐ Removed via open-chest procedure

☐ Removed via alternative open procedure

☐ Attempted but unsuccessful removal percutaneously

☐ Attempted but unsuccessful removal via open-chest procedure

☐ Attempted but unsuccessful removal via alternative open procedure

If any catheter fragment has been removed or if there has been an attempt to remove, state the following for each removal/attempt:

Doctor: _____

Hospital/Medical Facility: _____

Date: _____

Doctor: _____

Hospital/Medical Facility: _____

Date: _____

Doctor: _____

Hospital/Medical Facility: _____

Date: _____

Provide medical records that provide the date(s) of removal (or attempted removal), the location (in your body) of the fractured fragments, and the procedure(s) performed to remove (or attempt to remove) the fragments.

□ Medical records attached

Do you have photographs and/or video of the removed Device or fragments or of the removal procedure?

☐ Yes photographs. If yes, produce color copies of the photos.

☐ Photographs attached

☐ Yes video. If yes, retain the video.

☐ No

8. OUTCOME ATTRIBUTED TO DEVICE

Do you claim that you suffered or that you are currently suffering from any bodily injuries, including psychological injuries related to the Device identified in Section 3:

□ **Yes**

□ **No**

If your answer is "Yes," please list all symptoms and injuries you claim to have suffered and describe the medical treatment received to address them:

_____

_____

_____

_____

Of the injuries/symptoms you listed above, which do you claim to be suffering from at the current time:

_____

_____

_____

_____

***

Plaintiff reserves the right to supplement any and all responses upon the receipt of additional information.

I declare under penalty of perjury that the information in this Plaintiff Profile Form is correct:

_____	_____
Date	Signature of Plaintiff
_____	_____
Date	Signature of Plaintiff's Spouse (signature necessary only if loss of consortium is alleged)

THIS PROFILE FORM AND THE RECORDS SHOULD BE UPLOADED TO WWW.MDLCENTRALITY.COM/BARDPORT PURSUANT TO CMO NO. 8.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

MDL No. 3081
In Re Bard Implanted Port Catheter Products Liability Litigation

---

DEFENDANTS PROFILE FORM

For each case, Becton, Dickinson and Company; C.R. Bard, Inc.; Bard Access Systems, Inc.; and Bard Peripheral Vascular, Inc. (collectively, "Defendants") must complete this Defendants Profile Form ("DPF") in accordance with the requirements set forth in Case Management Order No. 11. In completing this DPF, you must answer every question. The requests for information and documents require Defendants to, at a minimum, conduct a reasonable and diligent search.

I. CASE INFORMATION

This DPF pertains to the following case:

Case caption: _____

Civil action number: _____

Court in which action was originally filed: _____

II. CONTACTS WITH HEALTHCARE PROVIDERS

In each Plaintiff Profile Form served on Defendants, Plaintiff has identified each doctor and hospital/medical facility (collectively, "Healthcare Providers") who implanted, removed, and/or attempted to remove Defendants' Bard Implanted Port Catheter Product ("Device") that is subject to claims in this lawsuit. With respect to each of those Healthcare Providers, provide the following information:

A. CONSULTATION AGREEMENT

1. State whether Defendants have any consulting agreement(s) with the Healthcare Providers relating to Bard IPCs (as defined in the Master Complaint):

   _____
   _____
   _____

B. SALES REPRESENTATIVE AND OTHER RELATED CONTACTS

As to each sales representative, territory manager, and district manager who were assigned to the territory where the Healthcare Providers are located in the two-year period up to and including the date(s) of implant, set forth the name; the dates of employment; and if no

longer employed by Defendants, the last known personal address and telephone number. Please attach additional pages if necessary.

1. Territory Manager:

   Name: _____

   Employment Dates: _____

   If not currently employed, last known personal address:

   _____

   If not currently employed, last known personal phone number:

   _____

2. District Manager:

   Name: _____

   Employment Dates: _____

   If not currently employed, last known personal address:

   _____

   If not currently employed, last known personal phone number:

   _____

III. COMMUNICATION WITH PLAINTIFF

1. Identify any direct contact, either written or oral, between Plaintiff and/or Plaintiff's representative(s) and any employee and/or representative of Defendants, including but not limited to pre-implant inquiries and post-implant complaints. This request specifically includes, but is not limited to, calls to any hotline or Field Assurance Department affiliated with Defendants.

   _____

   _____

   _____

   _____

IV. MANUFACTURING INFORMATION

1. Identify the model number/product code/reference number for the Device(s) implanted in Plaintiff:

   _____

2. Identify the lot number for the Device(s) implanted in Plaintiff:

   _____

3. Identify the location and date of manufacture for the Device(s) listed in responses to A and B above:

   _____

   _____

V. DOCUMENTS AND OTHER PRODUCTION

Please produce the following:

1. The Device History Record ("DHR") for the Device(s) at issue, or, if already produced, provide the Bates numbers for the DHR.
2. The complaint file relating to Plaintiff, including but not limited any MedWatch, MAUDE Adverse Event Reports ("AER"), Alternative Summary Reporting ("ASR"), and any other documents submitted by Defendants to the FDA, or, if already produced, provide the Bates numbers.
3. Any consulting agreements and M. S. & S. data relating to Plaintiff's Healthcare Providers.
4. Any non-privileged document which refers to Plaintiff.
5. If the Device(s) has ever been in Defendants' possession, custody, or control after the explant procedure, Defendants shall produce the chain of custody for the Device(s).

_____ _____

Date Counsel for the Defendants

_____