

**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. 28
(Twelfth Case Management Conference)
(Applies to All Actions)

The Court held a Twelfth Case Management Conference with the parties on December 3, 2024. *See* Doc. 1890. This order reflects matters discussed and decided during the conference.

1. The Court will hold a Thirteenth Case Management Conference on **January 16, 2025, at 1:00 p.m.** Arizona time. The conference will be held by Zoom. By close of business on **January 14, 2025**, the parties shall file a joint memorandum.

2. The Court addressed Plaintiffs' request to extend the common-issue fact discovery deadline of January 31, 2025 established in Case Management Order ("CMO") No. 9 (Doc. 114). After discussion with the parties, the Court decided to extend the fact discovery and related case management deadlines by approximately 30 days. All other terms of CMO 9, including the requirements for expert disclosures, remain in effect. The new schedule is as follows:¹

¹ The dates and deadlines for profile forms, fact sheets, and the bellwether selection process remain unchanged. *See* CMO 10 (Doc. 115).

Event	Current Deadline	New Deadline
Common-Issue Fact Discovery	January 31, 2025	February 28, 2025
Plaintiffs' Expert Disclosures	February 14, 2025	March 14, 2025
Defendants' Expert Disclosures	March 31, 2025	April 25, 2025
Plaintiffs' Rebuttal Expert Disclosures	April 30, 2025	May 23, 2025
Expert Depositions	June 30, 2025	July 25, 2025
Motions to Exclude Common-Issue Experts and for Summary Judgment	July 21, 2025	August 22, 2025
Responses to Motions	August 25, 2025	September 26, 2025
Replies to Motions	September 8, 2025	October 10, 2025

The Court concludes that this modest extension is needed to ensure all fact discovery is completed before expert discovery proceeds. The Court believes this revised schedule can be met without further modifications.

3. By the close of business on **December 3, 2024**, defense counsel shall provide Plaintiffs' counsel with Defendants' objections to Plaintiffs' Rule 30(b)(6) deposition notice. The parties shall confer about the objections and seek to resolve their

1 disagreements. The Court will hold a telephone hearing on **December 12, 2024, at 9:30**
2 **a.m.** to discuss any unresolved Rule 30(b)(6) issues. The parties shall submit a joint filing
3 that identifies their disagreements by the close of business on **December 10, 2024**.

4 4. The parties have resolved the privilege issues raised at the last case
5 management conference. *See* Doc. 1885 at 9-10.

6 5. The Court will issue an order to show cause why the claims of Plaintiff
7 Tamekia Franklin, Case No. 24-cv-02415, should not be dismissed for failure to comply
8 with CMO 8 (Doc. 113). Doc. 1885 at 11. Defense counsel requested in the joint
9 memorandum that the Court order seven additional Plaintiffs to comply with CMO 8. *Id.*
10 at 12. During the conference, however, defense counsel stated that the issues related to
11 these Plaintiffs have been resolved.

12 6. The parties and the Court discussed the fact that Plaintiff Scott Johnson has
13 passed away and his counsel has failed to produce a death certificate or any information
14 related to his estate's continuation of this lawsuit. *See id.* at 13. By **December 6, 2024**,
15 counsel for Plaintiff Scott Johnson shall either (a) provide a death certificate to defense
16 counsel along with any other documents in counsel's possession related to the estate's
17 continuation of Mr. Johnson's claim in this case, or (b) inform defense counsel and
18 Plaintiffs' leadership counsel that Mr. Johnson's claim will not be pursued, in which event
19 counsel for Mr. Johnson shall promptly stipulate with defense counsel to dismiss Mr.
20 Johnson's claims.

21 7. The Court discussed alleged deficiencies in Defendants' profile forms. *See*
22 *id.* at 14-18. By the close of business on **December 3, 2024**, Plaintiffs' counsel shall
23 identify any Plaintiffs in the current bellwether pool who assert that Defendants' profile
24 forms are insufficient. By the close of business on **December 9, 2024**, defense counsel
25 shall produce documents in Defendants' complaint files related to the identified Plaintiffs.

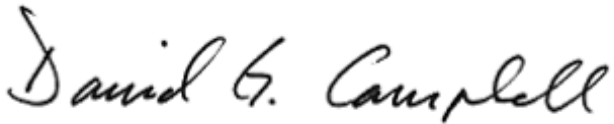
26 8. The Court addressed Plaintiffs' allegation that some of Defendants' fact
27 sheets are deficient. *See id.* at 18-20. Defendants have produced a supplemental fact sheet
28 with respect to Plaintiff Linda Miller. By the close of business on **December 3, 2024**,

1 Plaintiffs' counsel shall respond to the Miller supplementation and identify any alleged
2 continuing deficiencies in the fact sheets. The parties shall then promptly confer to resolve
3 any remaining issues.

4 9. The Court discussed the parties' proposed amendments to CMO 7, the
5 Master Complaint, and the Short Form Complaint. *See* Docs. 1886, 1887. Plaintiffs have
6 now filed the revised Second Amended Master Complaint, containing the single change in
7 the first sentence identified by the Court at today's conference. *See* Doc. 1889. Defendant
8 shall file their Second Amended Master Answer by **December 17, 2024**. The Court will
9 then enter the Third Amended CMO 7 and a separate order attaching the new Short Form
10 Complaint.

11 10. The Court is troubled by the unresponsiveness of counsel for Plaintiff
12 Brittney Isidore, Case No. 24-cv-01501. The Court asked that counsel for Ms. Isidore,
13 Ben C. Martin, participate in today's conference. This request was made by email on
14 December 2, 2024. Mr. Martin did not respond to the email or participate in the conference.
15 In addition, the timeline provided in Mr. Martin's response to an Order to Show Cause
16 (Doc. 1737) suggests that Mr. Martin took no steps to comply with the Court's order
17 requiring a completed fact sheet by October 16, 2024 (CMO 26, Doc. 1348). Defense
18 counsel shall, in the joint filing before the next case management conference, identify the
19 amount of attorneys' fees expended in seeking to obtain full compliance by Ms. Isidore
20 and her counsel. The Court likely will impose sanctions requiring Mr. Martin to pay for
21 these unnecessary defense fees.

22 Dated this 3rd day of December, 2024.

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25 David G. Campbell
26 Senior United States District Judge
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