

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: ETHICON, INC.,
PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION

MDL No. 2327

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER # 29

**(Revised Short Form Complaint and Amended Short Form Complaint
re: Removal of Analytic Biosurgical Solutions (“ABISS”))**

Today I entered PTO # 15 in In re Coloplast Pelvic Support System Product Liability Litigation, MDL 2387, granting a motion to amend the Master Complaint in that MDL to dismiss defendant Analytic Biosurgical Solutions (“ABISS”). As a result, I attach a **revised** (1) Short Form Complaint (Exhibit A); and a **revised** (2) Amended Short Form Complaint (Exhibit B) for this MDL that reflect omission of ABISS from these documents.

It is **ORDERED** as follows:

(1) While PTO # 15 (New Direct filing Order; Master Complaint, Short Form Complaint, Amended Short Form Complaint and Master Responsive Pleadings) and PTO # 26 (**Revised** Short Form Complaint and Amended Short Form Complaint re: Addition of Coloplast, et al.; **Revised** Motion to Transfer MDL) remain in force and effect (except with respect to the inclusion of ABISS), parties filing Short Form Complaints in new cases or Amended Short Form Complaints in existing cases **must use the revised forms attached to this PTO and located on**

the court's website beginning January 10, 2013, rather than the Short Form and Amended Short Form Complaints attached to previous PTOs; and

(2) To the extent plaintiffs have named ABISS by Short Form or Amended Short Form Complaint, they are granted leave to file an Amended Short Form Complaint dropping ABISS on or before **February 8, 2013**. This practice is consistent with the practice outlined by this court in the PTO related to direct filing. By filing an Amended Short Form Complaint that drops ABISS, the Clerk is permitted to terminate ABISS. In the alternative, plaintiffs may file a pleading in compliance with Rule 41 of the Federal Rules of Civil Procedure should they wish to dismiss their directly filed action naming ABISS and name ABISS and any other party in the appropriate district where the action may be brought.

The court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-2327 and it shall apply to each member related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:13-cv-00182. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsd.uscourts.gov.

ENTER: January 8, 2013



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE

- ☐ C. Johnson & Johnson
- ☐ D. American Medical Systems, Inc. (“AMS”)
- ☐ E. American Medical Systems Holdings, Inc. (“AMS Holdings”)
- ☐ F. Endo Pharmaceuticals, Inc.
- ☐ G. Endo Health Solutions Inc. (f/k/a Endo Pharmaceuticals Holdings, Inc.)
- ☐ H. Boston Scientific Corporation
- ☐ I. C. R. Bard, Inc. (“Bard”)
- ☐ J. Sofradim Production SAS (“Sofradim”)
- ☐ K. Tissue Science Laboratories Limited (“TSL”)
- ☐ L. Mentor Worldwide LLC
- ☐ M. Coloplast A/S
- ☐ N. Coloplast Corp.
- ☐ O. Coloplast Manufacturing US, LLC
- ☐ P. Porges S.A.

7. Basis of Jurisdiction

- ☐ Diversity of Citizenship
- ☐ Other:

A. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

B. Other allegations of jurisdiction and venue:

8. Defendants' products implanted in Plaintiff (Check products implanted in Plaintiff)

- ☐ Prolift
- ☐ Prolift +M
- ☐ Gynemesh/Gynemesh PS
- ☐ Prosima
- ☐ TVT
- ☐ TVT-Oturator (TVT-O)
- ☐ TVT-SECUR (TVT-S)
- ☐ TVT-Exact
- ☐ TVT-Abbrevio
- ☐ Other

9. Defendants' Products about which Plaintiff is making a claim. (Check applicable products):

- ☐ Prolift
- ☐ Prolift +M
- ☐ Gynemesh/Gynemesh PS
- ☐ Prosima
- ☐ TVT

- ☐ TVT-Oturator (TVT-O)
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- ☐ Other

10. Date of Implantation as to Each Product:

11. Hospital(s) where Plaintiff was implanted (including City and State):

12. Implanting Surgeon(s):

13. Counts in the Master Complaint brought by Plaintiff(s):

- ☐ Count I – Negligence
- ☐ Count II – Strict Liability – Manufacturing Defect
- ☐ Count III – Strict Liability – Failure to Warn
- ☐ Count IV – Strict Liability – Defective Product

- ☐ Count V – Strict Liability – Design Defect
- ☐ Count VI – Common Law Fraud
- ☐ Count VII – Fraudulent Concealment
- ☐ Count VIII – Constructive Fraud
- ☐ Count IX – Negligent Misrepresentation
- ☐ Count X – Negligent Infliction of Emotional Distress
- ☐ Count XI – Breach of Express Warranty
- ☐ Count XII – Breach of Implied Warranty
- ☐ Count XIII – Violation of Consumer Protection Laws
- ☐ Count XIV – Gross Negligence
- ☐ Count XV – Unjust Enrichment
- ☐ Count XVI – Loss of Consortium
- ☐ Count XVII – Punitive Damages
- ☐ Count XVIII – Discovery Rule and Tolling
- ☐ Other Count(s) (Please state factual and legal basis for other claims below):



Attorneys for Plaintiff

Exhibit B

***In Re: Ethicon Inc., Pelvic Repair System Products Liability Litigation
MDL No. 2327***

Civil Action No.

Come now the Plaintiff(s) named below, and for Complaint against the Defendants named below, incorporate The First Amended Master Complaint in MDL No. 2327 by reference.

1. Female Plaintiff

2. Plaintiff's Spouse (if applicable)

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator)

- #### 4. State of Residence

5. District Court and Division in which venue would be proper absent direct filing.

6. Defendants (Check Defendants against whom Complaint is made):

- ☐ A. Ethicon, Inc.
- ☐ B. Ethicon, LLC

- ☐ C. Johnson & Johnson
- ☐ D. American Medical Systems, Inc. (“AMS”)
- ☐ E. American Medical Systems Holdings, Inc. (“AMS Holdings”)
- ☐ F. Endo Pharmaceuticals, Inc.
- ☐ G. Endo Health Solutions Inc. (f/k/a Endo Pharmaceuticals Holdings, Inc.)
- ☐ H. Boston Scientific Corporation
- ☐ I. C. R. Bard, Inc. (“Bard”)
- ☐ J. Sofradim Production SAS (“Sofradim”)
- ☐ K. Tissue Science Laboratories Limited (“TSL”)
- ☐ L. Mentor Worldwide LLC
- ☐ M. Coloplast A/S
- ☐ N. Coloplast Corp.
- ☐ O. Coloplast Manufacturing US, LLC
- ☐ P. Porges S.A.

7. Basis of Jurisdiction

- ☐ Diversity of Citizenship
- ☐ Other:

A. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

In Re: Ethicon Inc., Pelvic Repair System Products Liability Litigation
MDL No. 2327

Civil Action No. _____

AMENDED SHORT FORM COMPLAINT

Come now the Plaintiff(s) named below, and for Complaint against the Defendants named below, incorporate The First Amended Master Complaint in MDL No. 2327 by reference.

Plaintiff(s) further show the court as follows:

1. Female Plaintiff

2. Plaintiff's Spouse (if applicable)

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator)

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- ☐ I. C. R. Bard, Inc. (“Bard”)
- ☐ J. Sofradim Production SAS (“Sofradim”)
- ☐ K. Tissue Science Laboratories Limited (“TSL”)
- ☐ L. Analytic Biosurgical Solutions (“ABISS”)
- ☐ M. Mentor Worldwide LLC
- ☐ N. Coloplast A/S
- ☐ O. Coloplast Corp.
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- ☐ Count XVII – Punitive Damages
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- ☐ Other Count(s) (Please state factual and legal basis for other claims below):



Attorneys for Plaintiff