

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

CHARLESTON DIVISION

IN RE: ETHICON, INC.
PELVIC REPAIR SYSTEMS
PRODUCT LIABILITY LITIGATION

MDL No. 2327

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER #99
(Emergency Motion for Protective Order)

Pending before the court is the Emergency Motion for Protective Order filed by nonparties, Daniel J. Christensen and MedStar Funding, LC (“Movants”). (ECF No. 1051). Movants seek a protective order staying the deposition of Christensen until resolution by a Texas court of an alleged conflict of interest involving counsel for American Medical Systems, Inc. (“AMS”).¹ Movants argue that Christensen will be inconvenienced if required to sit for more than one deposition, which is likely to occur if Ethicon, Inc. is permitted to schedule Christensen’s deposition before the Texas court has ruled on the conflict of interest. Ethicon, Inc. filed a response in opposition to the proposed stay. (ECF No. 1053). On January 29, 2014, the court heard oral argument on the motion.

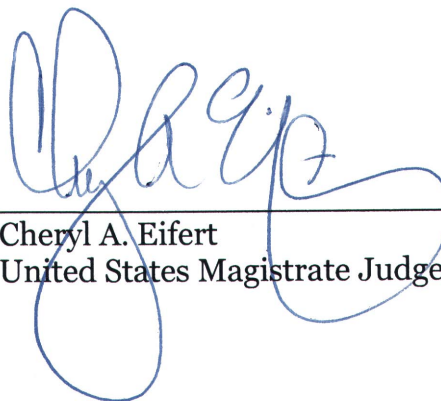
Defendant Ethicon, Inc. represented to the court that it was not involved in the conflict of interest and did not receive confidential information from counsel for AMS. Ethicon, Inc. argued that given current docket control orders, it wished to promptly proceed with Christensen’s deposition. Therefore, Ethicon, Inc. asked the court to deny the motion for protective order.

¹ Mr. Christensen’s deposition was scheduled and cross-noticed by defendants in five multidistrict litigations (“MDL”) involving pelvic mesh products, including AMS, Bard, Boston Scientific Corp., Ethicon, Inc., and Coloplast, Corp. The alleged conflict of interest involves only counsel in the AMS MDL.

Having considered the matter, and noting that Movants supplied no evidence or argument indicating that Ethicon, Inc. has received confidential information, and further noting that the deposition of Christensen has been pending for several months, the court **DENIES** the Emergency Motion for Protective Order. Counsel for Ethicon, Inc. is **ORDERED** to work with Movants and counsel for C. R. Bard, Inc., Boston Scientific Corp., and Coloplast Corp. (Mentor) to select a convenient date and time in the near future for the deposition of Daniel J. Christensen.

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 2:14-cv-5558. 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 <http://www.wvsc.uscourts.gov>.

ENTERED: January 30, 2014



Cheryl A. Eifert
United States Magistrate Judge