

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

**In Re: Atrium Medical Corp. C-Qur Mesh
Products Liability Litigation (MDL No. 2753)**

**MDL Docket No. 16-md-2753-LM
ALL CASES**

**FIFTH AMENDED CASE MANAGEMENT ORDER NO. 2
(Direct Filing and Waiver of Service)**

I. SCOPE OF ORDER

This order and all subsequent orders with the designation “ALL CASES” entered in MDL No. 2753 shall apply to all cases that are, or become, part of this MDL, regardless of whether that case was part of the MDL when the order was entered.

On February 7, 2017, the court held a telephone conference in *In Re: Atrium Medical Corp. C-Qur Mesh Products Liability Litigation*, MDL No. 2753. Participating in this telephone conference were Robert J. Bonsignore, Plaintiffs’ Temporary Lead Counsel, and Hugh J. Turner, Jr. and Enjoliqué D. Aytech, Counsel for Defendants. During the telephone conference, Defendants Atrium Medical Corporation, Maquet Cardiovascular, LLC, Maquet Cardiovascular US Sales, LLC, Getinge AB, and Getinge USA, Inc. (collectively “Defendants”) agreed to waive any objection to improper venue for actions filed directly in this MDL, and agreed to waive formal service of process in all actions in this MDL.

II. DIRECT FILING OF CASES INTO MDL NO. 2753 AND WAIVER OF VENUE OBJECTION

In order to eliminate delay and to promote judicial efficiency, any plaintiff whose case would qualify for transfer to MDL No. 2753 under the Judicial Panel on Multidistrict Litigation's December 8, 2016 transfer order (doc. no. 1) may file his or her complaint directly in MDL No. 2753 in this court. Defendants reserve the right to object to the inclusion of any such action in this MDL.

Defendants agree that they will not assert any improper venue objection as to any such actions filed directly in MDL No. 2753. Upon the completion of all pretrial proceedings applicable to such a case, this court, pursuant to 28 U.S.C. § 1404(a), will transfer that case to a federal district court of proper venue, as defined in 28 U.S.C. § 1391, after giving the parties an opportunity to meet and confer and be heard on the issue. The inclusion of any such action in MDL No. 2753 shall not constitute a determination by this court that venue is proper in this District. Nothing contained in this order precludes the parties from agreeing, at a future date, to try in this District any such cases.

The fact that a case was filed directly in MDL No. 2753 pursuant to this order will have no impact on the choice of law, including the statute of limitations, that otherwise would apply to an individual case had it been originally filed in another district court and transferred to this court pursuant to 28 U.S.C. § 1407.

III. SERVICE OF PROCESS

In order to eliminate disputes over service of process, Defendants agree that they will waive formal service of process in cases in this MDL.

To effectuate service, plaintiffs shall send a conformed or stamped copy of the filed complaint and a request for waiver of service pursuant to the provisions of Fed. R. Civ. P. 4(d) by jointly emailing EACH of the two following individuals:

Pierre Chabot at pchabot@devinemillimet.com; and mesh@dechert.com **OR** by U.S. Mail to:

Paul LaFata
Dechert LLP
Three Bryant Park
1095 Sixth Avenue
New York, New York 10036

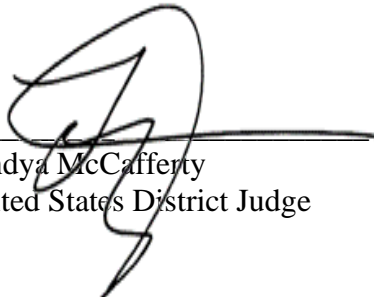
Counsel for Defendants shall file the signed waiver requests with the court within the time permitted by Fed. R. Civ. P. 4(d). Service is deemed effective as of the date Defendants file the waiver.

Plaintiffs submitting a request for waiver shall not seek to hold the Defendants in default for failure to timely answer a complaint in which service has been accomplished pursuant to the terms of this order without first giving the Defendants written notice of the alleged default and ten (10) business days in which to cure any alleged default.

Defendants' waiver of formal service does not waive any of Defendants' other rights and defenses; Defendants expressly reserve such other rights and defenses.

Service will be effective only if accomplished as set forth above, or if accomplished pursuant to the Federal Rules of Civil Procedure.

SO ORDERED.



Landya McCafferty
United States District Judge

February 9, 2021
cc: Counsel of Record