

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In re: Allergan Biocell Textured Breast
Implant Product Liability Litigation

MDL No. 02921
Case No. 2:19-md-02921 (BRM) (JAD)

This Document Relates to:
All Cases

CASE MANAGEMENT ORDER # 8
**(Service of Plaintiff Profile Forms, Plaintiff Fact Sheets, and Authorizations through MDL
Centrality)**

I. SCOPE OF ORDER

This Order shall govern: (1) cases transferred to this Court by the Judicial Panel on Multidistrict Litigation, pursuant to its Order of December 18, 2019; (2) any tag-along actions subsequently transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to Rule 7.1 of the Rules of Procedure of that Panel; and (3) all related cases originally filed in this Court or transferred or removed to this Court.

This Order only applies to cases brought by United States citizens or residents who presently or previously had Allergan Biocell® textured breast implants or tissue expanders that were implanted in the United States and who assert claims related to Breast Implant Associated Anaplastic Large Cell Lymphoma (“BIA-ALCL” or “BIA-ALCL Cases”).

II. MDL CENTRALITY

A. Manner of Completion, Service, and Authorization Forms

Plaintiffs and Defendants shall use the online MDL Centrality System designed and provided by BrownGreer PLC and accessible at www.mdlscentrality.com/Biocell to complete and

serve Plaintiff Profile Forms (“PPF”), Plaintiff Fact Sheets (“PFS”), and Defendant Fact Sheets (“DFS”), as follows:

1. Each Plaintiff required to submit a PPF and PFS, shall, by counsel or as a *pro se* Plaintiff, obtain an authorized user name and secure login password to permit use of a secure online portal in the MDL Centrality online system by such counsel or *pro se* 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, and not materials submitted by or relating to other Plaintiffs.

2. Defendants, through their counsel, shall obtain an authorized user name and secure login password to permit use of a secure online portal with the MDL Centrality online system by such Defendants’ counsel.

3. Plaintiffs’ Co-Lead Counsel shall obtain user names and secure login passwords to permit use of a secure online portal with the MDL Centrality online system by Plaintiffs’ Co-Lead Counsel. The online portal available to Plaintiffs’ Co-Lead Counsel shall permit Plaintiffs’ Co-Lead Counsel to view, search and download on MDL Centrality all materials submitted by any Plaintiff and all materials submitted by Defendants relating to any Plaintiff.

4. Unless it is not reasonably practical due to international data privacy laws and requirements,¹ the Parties shall use the MDL Centrality System to obtain, complete, and serve:

- a. Plaintiff’s PPF and PFS (including the upload of PDFs or other electronic images of photographs or other records required in the PPF and/or PFS);

¹ In such circumstances, the Parties will produce by another medium.

- b. Plaintiff's Records Authorizations, including all necessary Proprietary Authorizations;
- c. Defendants' DFS; and
- d. Deficiency Notices.

5. Service of a PPF, PFS, or Records Authorizations shall be deemed to occur when: (i) the submitting party has performed each of the steps required by the MDL Centrality System to execute the online submission of the materials; (ii) the submitting party has received confirmation on screen that the materials have been successfully submitted; and (iii) the receiving party (including Plaintiffs' Co-Lead Counsel) has received notice of the submission via notification in the MDL Centrality System.

6. If a Party amends a previously-served PPF, PFS, or DFS, the subsequent version must note the amendment number in its title (*e.g.*, "First Amended Fact Sheet," "Second Amended Fact Sheet," etc.). All iterations of a Party's PPF, PFS, or DFS must remain available and accessible to all Parties to a case through trial, appeal (if any), or other resolution of the litigation.

7. The Court may establish a secure online portal with the MDL Centrality online system and obtain an authorized user name and secure login password to permit use of MDL Centrality by the Court.

B. Payment for Centrality

For these services, BrownGreer will charge Plaintiff's counsel or the *pro se* Plaintiff a \$12.50 filing fee at the time the initial PPF is submitted. There will be no additional charge for

amendments, subsequent filings such as the PFS, or access in that particular case. The platform will require this payment via credit card.

For these services, Defendants will pay BrownGreer \$12.50 for each case, which will enable their access to the initial PPF and all subsequent filings in that particular case.

C. HIPAA Authorization

By using MDL Centrality, each Plaintiff authorizes the disclosure of his or her medical records and other health information to: BrownGreer PLC (as the administrator of the MDL Centrality System); the Court; Defendants; Plaintiffs' Co-Lead Counsel; and the authorized agents, representatives, and experts of the foregoing. This authorization is limited to use for purposes of this litigation.

D. Registration with MDL Centrality

Within fourteen (14) days of the earliest of the following—entry of this Order, entry of appearance for a new attorney of record for any Plaintiff, entry of a *pro se* Plaintiff, the direct filing of a new case, or the docketing of a transferred case—the attorney or *pro se* Plaintiff shall: (1) obtain, if needed, an e-mail address and access to the internet; (2) forward a fully completed “MDL 2921 Counsel Contact Information Form” to Plaintiffs' Co-Lead Counsel (c/o Virginia Buchanan) at allerganMDLdocs@levinlaw.com and to BrownGreer at Allergan@browngreer.com; and (3) sign up for electronic service in this litigation by registering with the BrownGreer MDL Centrality system by going to <https://www.mdlcentrality.com/Biocell> and following the registration instructions.

Plaintiff attorneys who fail to register with MDL Centrality and complete a Counsel Contact Form, and any *pro se* Plaintiff who fails to register with MDL Centrality, will not receive service of documents filed in the MDL.

E. Notification by Plaintiffs' Co-Lead Counsel to Other Plaintiff Counsel: Access to Pleadings through MDL Centrality

Once BrownGreer advises Plaintiffs' Co-Lead Counsel that the MDL Centrality system is in place, Plaintiffs' Co-Lead Counsel will file a notice via ECF to notify all counsel of record.

MDL Centrality's system will upload all documents (all references to "document" include exhibits, if any) in Adobe PDF electronic format onto an Internet website maintained by MDL Centrality, in MDL No. 2921, where counsel of record or *pro se* Plaintiffs who are registered users of the MDL Centrality system may access the copy. The MDL Centrality system shall contain an index of all served documents for the MDL No. 2921 litigation that is searchable and able to be sorted according to methods that provide useful 24 hour/seven day a week access to the documents via the internet.

Once a document is uploaded and submitted electronically, MDL Centrality shall send an e-mail to all registered users notifying them that the document has been posted to its website (unless such registered user has declined to receive e-mails).

F. Interaction with Clerk of Court

When practicable, representatives of MDL Centrality shall meet and confer with the Clerk of Court for the United States District Court, District of New Jersey (Newark), to obtain a list of all cases filed in MDL 2921 that includes: the case name and number; original jurisdiction where filed; party names; party type; attorneys' names; firm names; addresses; phone numbers; and e-mail addresses. The Clerk of Court shall execute the steps necessary for the MDL Centrality Administrator at BrownGreer to receive emailed ECF notifications related to MDL 2921.

From time-to-time, the Court may call upon BrownGreer to run reports, statistics, and queries as directed by the Court.

G. Registered Users

Only registered users of MDL Centrality will be able to access the MDL No. 2921 documents hosted online with MDL Centrality. Registered users will include counsel of record for any party in the consolidated MDL No. 2921 or any *pro se* Plaintiff who complies with the requirements of this Order. Only counsel for a party in the MDL or a *pro se* Plaintiff shall be allowed to register or have access to the MDL Centrality system.

H. Responsibility to Keep Current Contact Information

MDL Centrality shall perform all administrative functions to the MDL Centrality system. Once initially registered, MDL Centrality shall be responsible for the registration and confirmation of all contact information for registered users. After initial enrollment/registration, it shall be the responsibility of the registered users to keep current their contact information by noting any changes directly on the MDL Centrality Website and completing an amended Counsel Contact Form and sending it to: allerganMDLdocs@levinlaw.com.

I. Privileges or Work Product Protection Maintained

Nothing in this Order shall be interpreted to alter or waive any attorney-client privilege or work product doctrine protection, or any other privilege or protection otherwise applicable under the law. Until material is served on or purposefully disclosed to the opposing party, any notations, comments, or documents stored or uploaded to MDL Centrality shall be afforded all applicable protections and limitations on waiver, including but not limited to those codified in Rule 502 of the Federal Rules of Evidence.

J. Effective Service

Defendants shall satisfy their service obligations for PPF/PFS deficiency notices, DFSs, and any accompanying documents as to any and all Plaintiffs' counsel or *pro se* Plaintiff by service

through MDL Centrality, after which MDL Centrality shall serve such copies on Plaintiffs' Co-Lead Counsel. Other than service on Defendants of the initial PPF and PFS, any supplemental PPF or PFS, any documents uploaded in connection with completion of the PPF or PFS, including signature page(s), and any DFS Deficiency Notice(s), nothing in this Order shall be construed to alter or amend the requirements of Plaintiffs to serve Defendants with process, summons, discovery, motions, or any other pleadings or documents. Any documents served pursuant to this Order shall be deemed served pursuant to Federal Rule of Civil Procedure 5.

K. Confidentiality and Protective Orders

All registered users shall be bound by any Confidentiality and Protective Orders entered separately by this Court, as well as the terms and conditions for the use of the MDL Centrality system, which include adherence to the terms and conditions of the MDL Centrality User Agreement that will be one of the first matters counsel or *pro se* Plaintiff will see the first time they log in. MDL Centrality will also be bound by the terms of the Administrative Agreement(s) and will comply with the requirements of and be bound by the terms of the Confidentiality and Protective Orders entered by this Court.

/s/*Brian R. Martinotti*

Date: March 23, 2020

HON. BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE