

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE:

MIRENA IUD PRODUCTS LIABILITY LITIGATION

This Document Relates to All Actions

**ORDER No. 25
(Non-Party Discovery)**

13-MD-2434(CS)
13-MC-2434(CS)

Seibel, J.

~~PROPOSED~~ **CONFIDENTIALITY STIPULATION AND PROTECTIVE ORDER FOR
DISCOVERY PRODUCED BY NON-PARTIES**

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs and Defendants BAYER HEALTHCARE PHARMACEUTICALS INC., BAYER PHARMA AG (“BPAG”) and BAYER OY (“BOY”) through their respective counsel and subject to the approval of this Court, that the following Confidentiality Stipulation and Protective Order for Discovery Produced by Non-Parties shall be entered in this action. This Order shall govern the production and use of documents produced by non-parties to this litigation.

1. **Discovery Materials.** This Confidentiality Stipulation and Protective Order for Discovery Produced by Non-Parties applies to all products of discovery and all information derived there from, including but not limited to all documents and deposition testimony and any copies, excerpts or summaries thereof (“Discovery Materials”), obtained by

any party from a non-party in this litigation pursuant to the requirements of any court order or subpoenas.

2. **Identification of Confidential Discovery Materials.** All Discovery Materials produced by non-parties to this litigation that contain trade secrets and other confidential research, development, or commercial information, or personal and medical information may in good faith be stamped "Confidential" by any party to the litigation and shall be subject to the provisions of this Confidentiality Stipulation and Protective Order for Discovery Produced by Non-Parties. Such stamping or marking will take place within sixty (60) days of transmittal of the produced discovery materials from the party who received the production from the non-party to the other parties in the litigation. Until such sixty (60) day period expires, the entirety of the production shall be treated as "Confidential" and subject to the Revised Confidentiality Stipulation and Protective Order entered by this Court on December 20, 2013 (Document No. 537). After such sixty (60) day period expires, the discovery materials designated as "Confidential" shall be treated as such under the Revised Confidentiality Stipulation and Protective Order entered by this Court on December 20, 2013 (Document No. 537). If no such designation is made within sixty (60) days such documents shall not be treated as "Confidential."

3. **Production of Discovery Materials.** Within three working days of receipt of a production from a non-party, the party that receives the production must transmit a copy of the production, in its entirety, via Federal Express next day delivery to the opposing party. Non-party productions initially received by Plaintiffs are to be sent to:

David Hartnett
JPMorgan Chase Tower
600 Travis Street, Suite 3400
Houston, Texas 77002-2926
713.227.8008
Email: dhartnett@shb.com

Non-party productions initially received by Defendants are to be sent to:

Matthew J. McCauley
Senior Litigation Counsel
Parker Waichman LLP
6 Harbor Park Drive
Port Washington, New York 11050
516-723-4630
Email: mmccauley@yourlawyer.com

The parties agree that, unless otherwise agreed to by the issuing party, all productions by non-parties shall be made to the address provided on the issued subpoena. Should it become known to a non-issuing party that a production will be made, or has been made, to a location other than the address provided on the issued subpoena, the representative for issuing defendant or issuing plaintiff identified above shall be immediately notified in writing via email and U.S. Mail.

4. Bates Numbering of Discovery Materials. Defendants will affix Bates numbers to the documents produced by non-parties. Defendants will provide a Bates numbered set of documents to Plaintiffs within 5 business days of the expiration of the 60 day period described in paragraph two above. The Bates numbered set will be forward to Mr. McCauley via Federal Express, next day delivery, at the address identified above. All parties agree to use Bates numbered documents in depositions, pleadings, and at trial. However, the failure to use a Bates numbered document shall not be the basis for preclusion of the documents use in deposition, pleading or trial. The parties maintain their rights to object to the use of the document for other

reasons. Should a document be used at deposition, pleading or trial that does not contain a Bates number, that document shall be considered confidential in its entirety until supplemented with a corresponding Bates numbered document.

5. Documents Produced Before the Entry of This Order. This Order applies to documents produced by non-parties before the entry of this order. For such documents, the presumed Confidential designation of paragraph two above and the deadlines established in this Order will start running on the day the Order is entered.

Dated: May 12, 2015
White Plains, New York

SO ORDERED.



CATHY SEIBEL, U.S.D.J.

SHOOK
HARDY & BACON

James Shepherd

May 11, 2015

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VIA EMAIL AND ECF

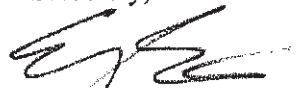
Honorable Cathy Seibel
The Hon. Charles L. Brieant Jr.
Federal Building and United States Courthouse
300 Quarropas St.
White Plains, NY 10601-4150

Re: *In re: Mirena IUD Products Liability Litigation*; No. 13-MD-2434, 13-MC-2434

Dear Judge Seibel:

Attached for the Court's consideration is a joint proposed Confidentiality Stipulation and Protective Order for Discovery Produced by Non-Parties (Order 25). By proposing this Order, the parties are not offering any commentary on the Motion to Quash the Rule 45 Subpoenas that is currently pending. Instead, the parties want to provide protection to documents that have already been produced pursuant to the subpoenas and to documents that may be produced in the future.

Sincerely,



James Shepherd
Counsel for Defendants

CC (via e-mail):

Counsel for Plaintiffs' Steering Committee