

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

**IN RE MENTOR CORP. OBTAPE
TRANSOBTURATOR SLING
PRODUCTS LIABILITY LITIGATION**

MDL CASE NO. 4:08md2004

STIPULATION AND ORDER REGARDING DIRECT FILING

The parties hereby submit this stipulation and proposed Order regarding direct filing in the MDL.

I. Scope of Order

This Order shall apply to all Plaintiffs and their counsel and to Mentor and its counsel in actions relating to Mentor Worldwide LLC's ObTape that are directly filed in MDL No. 2004.

II. Direct Filing of Cases into MDL No. 2004

A. Direct Filing. To eliminate delays associated with transfer of cases in or removed to other federal district courts to this Court, and to promote judicial efficiency, any plaintiff whose case would be subject to transfer to MDL No. 2004 may file her case directly in the MDL proceedings in the Middle District of Georgia.

B. Pretrial Proceedings Only. Each case filed directly in MDL No. 2004 that emanates from a district outside the Middle District of Georgia will be filed in MDL No. 2004 for pretrial proceedings only, consistent with the Judicial Panel on Multidistrict Litigation's December 3, 2008, Transfer Order.

C. Transfer for Trial to Federal District Court of Proper Venue. Upon completion of all pretrial proceedings applicable to a case filed directly before this Court, pursuant to this Order, this Court, pursuant to 28 U.S.C. § 1404(a), will transfer that case to a

federal district court of proper venue for trial, as defined in 28 U.S.C. § 1391. The parties stipulate and agree that the federal district court of proper venue for cases directly filed in MDL No. 2004 is the district where the plaintiff resides at the time of the filing of the complaint.

D. Waiver of Venue for Pretrial Proceeding Only; No *Lexecon* Waiver.

The inclusion of any action in *In re: Mentor Corp. ObTape Transobturator Sling Products Liability Litigation, MDL No. 2004*, whether such action was or will be filed originally or directly in the Middle District of Georgia or was or will be transferred or removed from some other court, shall not constitute a determination by this Court that jurisdiction or venue is proper in this District. To facilitate such direct filing, and with respect to pretrial proceedings only – consistent with Paragraph C above – Mentor will waive an objection of improper venue pursuant to Fed R. Civ. P. 12(b) as to any ObTape-related cases filed directly in the Middle District of Georgia. Plaintiffs and Mentor both agree that Mentor’s contingent waiver of venue for pretrial proceedings only for purposes of direct filing – consistent with Paragraph C above – does not constitute a waiver under *Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998).

E. Choice of Law. The fact that a case was directly filed in MDL No. 2004 pursuant to this Order will have no impact on the choice of law to be applied. The parties stipulate and agree that for direct-filed cases this Court will apply the choice of law rules of the state where the plaintiff resides at the time of the filing of the complaint. When a case directly filed in the MDL is transferred for trial at the conclusion of pretrial proceedings, the choice of law rules of the trial court shall govern the proceedings.

Dated: December 6, 2011

Respectfully submitted,

s/ Derek H. Potts (w/ consent) _____

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*Designated Lead and Liaison Counsel for
Defendant Mentor Worldwide LLC*

IT IS SO ORDERED, this 12th day of December, 2011.

s/Clay D. Land _____

CLAY D. LAND
UNITED STATES DISTRICT JUDGE

U.S. District Court [LIVE AREA]

Georgia Middle District

Notice of Electronic Filing

The following transaction was entered on 12/15/2011 at 3:44 PM EST and filed on 12/15/2011

Case Name: IN RE: Mentor Corp. Obtape Transobturator Sling Products Liability
Litigation

Case Number: [4:08-md-02004-CDL](#)

Filer:

**Document
Number:** No document attached

Docket Text:

This is a text only entry; no document issued. ORDER AMENDING STIPULATION and ORDER re (446 in 4:08-md-02004-CDL). The Court amends the previously entered Stipulation and Order Regarding Direct Filing (ECF No. 446) as follows: For any new action directly filed pursuant to that order, any attorney who is not admitted to practice in this Court, and who is not attorney of record in any other case in this MDL, shall be required to be admitted pro hac vice. The Court waives the requirement regarding the association of local counsel, but each new attorney entering an appearance pro hac vice shall be required to comply with the other requirements for such admission. Ordered by Judge Clay D. Land on 12/15/2011. Associated Cases: ALL (esl)