

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
WHITE PLAINS DIVISION

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IN RE:

MIRENA IUD PRODUCTS LIABILITY LITIGATION

Order No. 34  
(Census of Claims)

13-MD-2434 (CS)

13-MC-2434 (CS)

*This Document Relates to All Actions*

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CASE MANAGEMENT ORDER RE:  
CENSUS OF CLAIMS

Seibel, J.

The Court, having communicated about this issue with Plaintiffs' Lead Counsel and Defendants' Lead Counsel and finding good cause shown, believes that in the management of this coordinated litigation, it is necessary to have a more accurate census of the cases as well as claims of putative plaintiffs, represented by Counsel, defined below. To that end, this Order requires the registration of all filed cases and unfiled claims of putative plaintiffs who are represented by Counsel. This Order applies to all Counsel who represent one or more plaintiffs in *In Re: Mirena IUD Products Liability Litigation*, 13-MD-2434 (S.D.N.Y.) and all cases presently being transferred to this MDL ("MDL"); ("Plaintiffs"); who intend to bring such a claim; or otherwise have an Interest in the litigation (as defined below).

The Court hereby orders the following:

1. Primary Counsel, defined below, shall register each Mirena Claimant in which they have an Interest, also defined below, per the instructions below. Mirena Claimant shall mean each individual represented either by individual plaintiff counsel who asserts a claim arising out of personal use of Mirena, or a claim by a personal representative of such individual or executor or administrator of such person's estate. Mirena Claimants include: plaintiffs in lawsuits alleging injury from the use of Mirena filed before the issuance of the

Census Orders in the Litigations. The Litigations are defined as follows: (1) *In Re: Mirena IUD Products Liability Litigation*, 13-MD-2434 (S.D.N.Y.) and all cases presently being transferred to this MDL (“MDL”); (2) *In Re: Mirena IUD Products Liability Litigation*, Multi-County Litigation Case No. 297 pending in Bergen County New Jersey Superior Court (“MCL”); (3) in the Circuit Court City of St. Louis, State of Missouri, or removed therefrom and currently pending and/or stayed in federal district court in Missouri; and (4) in California state court. Mirena Claimants shall also include all known claimants whose claims have not yet been placed in litigation, but have executed a Retainer Agreement with an individual plaintiff counsel before August 11, 2017, and the personal representatives of such individuals and the executor or administrator of such individuals’ estates, if applicable. However, unfiled claims which allege a primary injury of idiopathic intracranial hypertension do not need to be registered on a Primary Counsel’s spreadsheet.

2. If a case has been filed by one law firm, Primary Counsel shall be the Counsel of Record. If a case has been filed by one or more firms, the firms filing such a case shall designate one firm among them as Primary Counsel. All Counsel in this proceeding shall be responsible for ensuring that all Mirena Claimants are registered by Primary Counsel in accordance with this Order; however, to avoid duplicative filings Primary Counsel is directed to file only one completed, Exhibit A that encompasses all Litigations.

3. Counsel shall be deemed to have an “Interest” in a Mirena Claimant, (as defined above) if Counsel or any person affiliated with, or related in any way to, Counsel: (a) has an Engagement or Retainer Agreement with a Mirena Claimant as of August 11, 2017; (b) is listed as the counsel of record for a Mirena Claimant in filed pleadings; (c) has entered an appearance for a Mirena Claimant; (d) would benefit directly or indirectly from any payment to settle any claim connected with a Mirena Claimant; or (e) otherwise has any financial interest of any kind whatsoever in any claim of such Plaintiff connected with a Mirena Claimant.

4. The registration of claims by Primary Counsel shall be provided in the form of a Census Spreadsheet which contains the fields as set forth in Exhibit A to this Order. To ensure that the submitted Census Spreadsheets are uniform and in order to satisfy the obligations as set forth in this

Census Order, Primary Counsel must request a copy of the Census Spreadsheet from [mirenacensusspreadsheet@johnsonbecker.com](mailto:mirenacensusspreadsheet@johnsonbecker.com). A copy of the Census Spreadsheet will then be sent to Primary Counsel for completion.

5. Primary Counsel shall provide the information required by this Order completely and accurately. The form shall provide the information required as of 20 days from the date Order is signed.

6. Primary Counsel shall serve the Census Spreadsheet via electronic mail on Lead Counsel for the Plaintiffs and Lead Counsel for the Defendants within 20 days of the date of this Order as follows<sup>1</sup>:

(a) Primary Counsel shall attach three files to a single electronic mail message: (i) the completed Census Spreadsheet in Adobe pdf format; (ii) the completed Census Spreadsheet in Excel format; and (iii) a certification of service in Adobe pdf format which attests that Primary Counsel has registered all of their Mirena Claimants as defined by way of this Census Order. The email with the necessary documentation shall be served on the following counsel at their respective email addresses:

For Plaintiffs: Gregory S. Spizer at [mirenacensus@anapolweiss.com](mailto:mirenacensus@anapolweiss.com) and Michael K. Johnson at [mirenacensus@johnsonbecker.com](mailto:mirenacensus@johnsonbecker.com).

For Defendants: James Shepherd at [mirenaclaims@shb.com](mailto:mirenaclaims@shb.com).

(b) The subject line in the email should state: "Census Spreadsheet for [insert name of Primary Counsel and that attorney's law firm]."

7. Primary Counsel must certify and affirm under penalty of perjury that the information contained in the Census Spreadsheet is true, complete and correct to his or her knowledge.

<sup>1</sup> In the event that Primary Counsel has claims pending in more than one Litigation, Primary Counsel should only submit one spreadsheet which contains all claims pending in every Litigation. Primary Counsel is deemed to have satisfied its obligations under this Order by submitting one spreadsheet which contains all claims pending in every Litigation.

Submission of the Census Spreadsheet (Exhibit A) constitutes a representation to the Court that the list of claimants and information provided therein is true, complete and correct.

8. The Court expects all Counsel to comply with this Order. Failure to meet the requirements of this Order by the deadlines set herein will subject non-compliant Counsel to a show cause hearing as to why they have not complied with this Order.

IT IS SO ORDERED.

Dated: 1/29, 2018

White Plains, NY.

A handwritten signature in cursive script, reading "Cathy Seibel", is written over a horizontal line.

CATHY SEIBEL, U.S.D.J.

# EXHIBIT A

Categories Included in Census Spreadsheet:

Last Name of Mirena Claimant  
First Name of Mirena Claimant  
Last four digits of Social Security Number  
Current Address  
Date of Birth  
Filed or Unfiled (Dropdown: Filed, Unfiled)  
If Filed, where Filed (Dropdown: MDL, NJ, MO, CA, Other)  
If selecting Other, please identify the specific Court where pending:  
If Filed, date of filing?  
If Filed, case number?  
If Unfiled, Date of Retention  
Law Firm of Primary Counsel  
Address of Primary Counsel  
E-mail of Primary Counsel  
Telephone Number of Primary Counsel  
Date of Insertion of Mirena  
Primary Injury Claimed (Dropdown: Perforation, Embedment, IIH, Other)  
If selecting Other, please identify primary claimed injury:  
Has Mirena been Removed (Dropdown: Yes, No)  
Reason for Removal (Dropdown: Perforation, Embedment, IIH, Other)  
If selecting Other, please identify why:  
Date of Removal of Mirena  
Removal via Open Surgery (Not Laparoscopic) (Dropdown: Yes, No)  
Removal via Laparoscopy (Dropdown: Yes, No)  
Removal Vaginally via Hysteroscopy or Other Means (Dropdown: Yes, No)  
State Living in at Time of Removal (Dropdown: List all states abbreviations)  
Consortium Claim: (Dropdown: Yes, No)  
If yes, Last Name of Consortium Claimant  
If yes, First Name of Consortium Claimant  
If yes, Date of Birth of Consortium Claimant  
Last four digits of Consortium Claimant Social Security Number  
Claims against Co-Defendants (Dropdown: Yes, No)  
If Yes, Name of Co-Defendant

If Yes, Address of Co-Defendant

If Yes, telephone number of Co-Defendant

If Yes, is Co-Defendant represented by counsel (Dropdown: Yes, No)

If Yes, Name of Co-Defendant's counsel?

If Yes, Address of Co-Defendant's counsel?

If Yes, telephone number of Co-Defendant's counsel?