

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: DAVOL, INC./C.R. BARD,
INC., POLYPROPYLENE HERNIA
MESH PRODUCTS LIABILITY
LITIGATION**

Case No. 2:18-md-2846

**JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Kimberly A. Jolson**

**This document relates to:
ALL ACTIONS.**

**CASE MANAGEMENT ORDER NO. 24
(PSC Access to Certain Animal Study Slides)**

In connection with discovery on behalf of all Plaintiffs, the PSC has sought to have their expert, Dr. Tamas Nagy, review available histopathology materials on two preclinical studies performed on devices at issue in this litigation. These histopathology materials include 80 slides (in one slide box) from the Ventralight™ ST Mesh Comprehensive GLP Porcine Study (DB-300) and 109 slides (in two slide boxes) from Ventralight™ ST/Sorbafix™ versus Physiomesh™/Securestrap™ Porcine Study (DB-364). The PSC previously identified Dr. Nagy as an expert witness but has not yet served a written report from Dr. Nagy in accordance with Fed. R. Civ. P. 26(a)(2)(B) because the parties agreed that the review of the histopathology materials would occur on December 30 and 31, 2019. The parties have agreed that, upon review of available histopathology materials on the two aforementioned preclinical studies, the PSC will have until 5:00 p.m. EST on January 15, 2020, to serve an expert report from Dr. Nagy concerning his review of these materials; the parties have also agreed that Defendants

will have until 5:00 p.m. EST on January 22, 2020, to serve any expert reports associated with the review of these same materials.

Consistent with Fed. R. Civ. P. 26 and 34, Dr. Nagy will be entitled to analyze these materials under the following conditions: 1) his review will be under supervision and terms agreed by the parties, 2) he may not alter, damage, or destroy the materials, 3) he may grade, score, or otherwise characterize histopathology slides or images as necessary to his analysis, and 4) he may create photomicrographs or other images of the materials as necessary to his analysis. Because Dr. Nagy's review is done in conjunction with this MDL litigation, it creates no additional obligations for C. R. Bard, Inc., Davol Inc., Becton, Dickinson and Company, their vendors, or other parties/individuals who had or have involvement with these studies under Title 21 of the Code of Federal Regulations, including regulations governing Good Laboratory Practice for non-clinical studies. Should Defendants utilize one or more experts to review the same materials to respond to Dr. Nagy for purposes of litigation, such review would likewise create no additional obligations for C. R. Bard, Inc., Davol Inc., Becton, Dickinson and Company, their vendors, or other parties/individuals who had or have involvement with these studies under Title 21 of the Code of Federal Regulations.

IT IS SO ORDERED.

1-6-2020
DATE


EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE


KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE