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7
 8 **IN THE UNITED STATES DISTRICT COURT**
 9 **FOR THE DISTRICT OF NEVADA**

10 FRANCISCA T. SALAZAR, an individual,
 11
 12 Plaintiff,

CASE NO. 2:19-cv-02225-RFB-BNW

13 v.

14 C. R. BARD, INC., a New Jersey corporation;
 BARD PERIPHERAL VASCULAR, INC., an
 15 Arizona corporation, and DOES 1 through 10,
 16
 17 Defendants.

18
 19 **STIPULATION AND [PROPOSED] ORDER TO CONTINUE STAY OF CASE**
 20 **(SECOND REQUEST)**

21 The Parties to the above-captioned matter hereby stipulate and jointly request this
 22 Court to stay this case through August 17, 2020, and extend any existing deadlines impacted
 23 by the stay to permit them to pursue negotiations of a global settlement of this and all cases
 24 filed by Plaintiff’s counsel in similar matters. For the past two months, the Parties have been
 25 working together cooperatively and diligently on settlement efforts. The Parties believe that
 26 a stay is necessary to conserve their resources and attention so that they may attempt to
 27 resolve this case and the claims of other plaintiffs represented by Plaintiff’s counsel.

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1 Plaintiff’s counsel in this matter represents approximately 400 plaintiffs with cases
2 proceeding in this and other courts across the country asserting similar claims against
3 Defendants for injuries they contend arise out of their use of Defendants’ IVC filters.
4 Plaintiff’s counsel was actively involved in IVC filter litigation against Defendants both prior
5 to the formation of the MDL and in the MDL, including actively participating in the
6 bellwether trials. Defendants have retained Chip Gaudreau as settlement counsel for their
7 IVC filter cases; and Mr. Gaudreau has successfully resolved thousands of similar cases with
8 other counsel representing similar plaintiffs. Thus, Defendants and counsel for Plaintiff are
9 well experienced in the claims and issues in these cases in order to successfully negotiate the
10 resolution of such cases.

11 As a result, counsel for the Parties have had numerous discussions in an attempt to
12 achieve a global settlement of the cases and claims of the plaintiffs represented by Plaintiff’s
13 counsel. Counsel for the Parties have been actively negotiating a potential settlement during
14 the past two months, including the exchange of extensive information, medical records, and
15 medical imaging, to facilitate settlement discussions. Notwithstanding that fact and the
16 Parties’ diligence in working cooperatively toward settlement, the process of collecting and
17 reviewing medical records in hundreds of cases is taking longer than originally anticipated
18 because of hospital delays resulting from COVID-19.

19 The Parties have scheduled a mediation on August 15 and 16, 2020 with a mediator
20 who has successfully mediated the settlement of numerous individual Bard IVC filter cases
21 as well as several large “group” settlements of such cases. The Parties request a stay through
22 August 17, 2020 to allow them to complete that process. As part of that process, the Parties
23 and their counsel have agreed to “stand down” while they continue to pursue settlement
24 discussions. Thus, the Parties stipulate and jointly request this Court to enter a stay of all
25 discovery through and including August 17, 2020 and extend all pretrial deadlines in this
26 case.

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1 Pursuant to Federal Rules of Civil Procedure 6(b) and 26, and the Court’s inherent
 2 authority and discretion to manage its own docket, this Court has the authority to grant the
 3 requested stay. Fed. R. Civ. P. 6(b) (“When an act may or must be done within a specified
 4 time the court may, for good cause, extend the time....”); Fed. R. Civ. P. 26(a) (“A party or
 5 any person from whom discovery is sought may move for a protective order in the court
 6 where the action is pending . . . The court may, for good cause, issue an order to protect a
 7 party or person from annoyance, embarrassment, oppression, or undue burden or expense.”).

8 This Court therefore has broad discretion to stay proceedings as incidental to its power
 9 to control its own docket – particularly where, as here, a stay would promote judicial
 10 economy and efficiency. *Bacon v. Reyes*, 2013 U.S. Dist. LEXIS 143300, at *4 (D. Nev.
 11 Oct. 3, 2013) (citing, *Munoz-Santana v. U.S. I.N.S.*, 742 F.2d 561, 562 (9th Cir. 1984))
 12 (“Whether to grant a stay is within the discretion of the court”); *Lockyer v. Mirant Corp.*, 398
 13 F.3d 1098, 1109 (9th Cir. 2005) (“A district court has discretionary power to stay proceedings
 14 in its own court.”); *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (“[T]he power to stay
 15 proceedings is incidental to the power inherent in every court to control the disposition of the
 16 causes on its docket with economy of time and effort for itself, for counsel, and for
 17 litigants.”).

18 Furthermore, Federal Rules of Civil Procedure 26(c) and 26(d) vest the Court with
 19 authority to limit the scope of discovery or control its sequence. *Crawford-El v. Britton*, 523
 20 U.S. 574, 598 (1998) (“Rule 26 vests the trial judge with broad discretion to tailor discovery
 21 narrowly and to dictate the sequence of discovery.”)

22 In deciding whether to stay proceedings, courts weigh the competing interests of the
 23 parties and the court.

24 Among those competing interests are the possible damage which may result
 25 from the granting of a stay, the hardship or inequity which a party may suffer
 26 in being required to go forward, and the orderly course of justice measured
 27 in terms of the simplifying or complicating of issues, proof, and questions of
 28 law which could be expected to result from a stay.

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1 *Lockyer*, 398 F.3d at 1110 (citing *Landis*, 299 U.S. at 255). Facilitating the efforts of parties
2 to resolve their disputes weighs in favor of granting a stay. In *Coker v. Dowd*, 2:13-cv-0994-
3 JCM-NJK, 2013 U.S. Dist. LEXIS 201845, at *2-3 (D. Nev. July 8, 2013), the parties
4 requested a 60-day stay to facilitate ongoing settlement negotiations and permit them to
5 mediate global settlement. The Court granted the stay, finding the parties would be
6 prejudiced if required to move forward with discovery at that time and a stay would
7 potentially prevent an unnecessary complication in the case. *Id.* at *3. Similarly, the Parties
8 in the present case are engaged in ongoing global settlement negotiations with mediation
9 scheduled on August 15 and 16, 2020.

10 Thus, in order to facilitate settlement and conserve the resources of this Court and the
11 Parties, the Parties stipulate and jointly request this Court to enter a stay of this case through
12 August 17, 2020. The Parties further request that the Court extend the deadline for the
13 Defendants to file their responsive pleading, currently set for July 9, 2020, to August 31,
14 2020.

15 IT IS STIPULATED AND AGREED BY THE PARTIES that all activity in this case
16 shall continue to be stayed through and including **August 17, 2020**.

17 IT IS FURTHER STIPULATED AND AGREED BY THE PARTIES that the
18 deadline to file Defendants’ responsive pleading, currently set for **July 9, 2020** should be
19 continued to **August 31, 2020**.

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Respectfully submitted this 8th day of July 2020.

NETTLES MORRIS

GREENBERG TRAUIG, LLP

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Counsel for Defendants

ORDER


The Court, having reviewed the stipulation of the Parties, and good cause appearing therefore:

IT IS HEREBY ORDERED ADJUDGED AND DECREED that all activity in this case shall be stayed through and including **August 17, 2020**.

IT IS FURTHER HEREBY ORDERED ADJUDGED AND DECREED that the deadline to file Defendants' responsive pleading, currently set for **July 9, 2020** should be continued to **August 31, 2020**.

IT IS SO ORDERED.

Dated this 20th of July 2020.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE

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CERTIFICATE OF SERVICE

I hereby certify that on **July 8, 2020**, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive such service.

/s/ Evelyn Escobar-Gaddi
An employee of GREENBERG TRAURIG, LLP

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