

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TIMOTHY MILLER,
Plaintiff,
v.
C R BARD INC, et al.,
Defendants.

Case No. 20-cv-06250-MMC

**ORDER DENYING AS MOOT
DEFENDANTS' MOTIONS TO
DISMISS**

On April 3, 2020, plaintiff Timothy Miller ("Miller"), along with nine other plaintiffs, filed a complaint in Texas state court, which complaint subsequently was removed to the Northern District of Texas. By order filed August 31, 2020, the Northern District of Texas granted plaintiffs' "Motion to Sever and Transfer Venue of Out-of-State Plaintiffs' Cases," and, in so doing, severed Miller's claims and transferred them to the Northern District of California, resulting in the above-titled action.

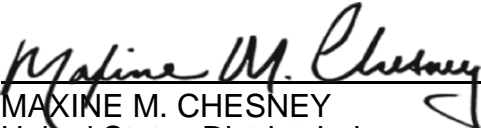
Prior to the transfer of Miller's claims to this District, defendants C.R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively, "Bard") had filed a "Motion to Dismiss the Out-of-State Plaintiffs' Claims for Lack of Personal Jurisdiction." As the Northern District of Texas's order granting plaintiffs' motion to sever effectively resolved the issues raised in Bard's motion, said motion to dismiss is hereby DENIED as moot.

Additionally, prior to the transfer of Miller's claims, defendant McKesson Corporation ("McKesson") filed a "Motion to Dismiss Without Prejudice Plaintiffs' Claims for Lack of Subject Matter Jurisdiction," whereby McKesson, a citizen of Texas, asserted it had been "fraudulently joined to this action" (see McKesson's Mot. at 1), which action included claims asserted on behalf of Peggy Aguilar, a citizen of Texas. In light of the

1 Northern District of Texas's order granting plaintiffs' motion to sever, however, Peggy
2 Aguilar is not a party to the instant action, and complete diversity of citizenship exists as
3 to the four parties thereto. Accordingly, McKesson's motion to dismiss for lack of subject
4 matter jurisdiction is hereby DENIED as moot.

5 **IT IS SO ORDERED.**

6
7 Dated: September 14, 2020

8 
9 MAXINE M. CHESNEY
10 United States District Judge

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28