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**FILED**  
**APR 25 2024**  
GREGG A. PADOVANO, J.S.C.

IN RE: ALLERGAN BIOCELL  
TEXTURED BREAST IMPLANT  
PRODUCTS LIABILITY LITIGATION

**Maria R. Gomez and Katie M.  
Curran,**

Plaintiff(s),

vs.

Allergan, Inc., Allergan USA, Inc., and  
DOES 1-100,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY  
DOCKET NO.: BER-L-1502-22

MASTER DOCKET NO. BER-L-5064-20  
MCL CASE NO. 634

**CONSENT ORDER  
PERMITTING PLAINTIFF TO  
AMEND THE COMPLAINT**

**THIS MATTER** having been opened to the Court by plaintiff, with the consent of defendants; and the Court having considered this Consent Order; and for good cause;

**WHEREAS** Plaintiff Katie M. Curran no longer wishes to pursue a claim for loss of consortium;

**WHEREAS** Plaintiff Maria Gomez wishes to add her tissue expanders to her Complaint;

**WHEREAS** Plaintiff now seeks to file an Amended Complaint to remove Plaintiff Katie M. Curran as a Plaintiff, withdraw her loss of consortium claim, and add Plaintiff's

tissue expanders, consistent with the proposed First Amended Short Form Complaint attached hereto as Exhibit "A";

IT IS on this 25<sup>th</sup> day of April, 2024;

**ORDERED** that plaintiff is permitted to file a First Amended Short Form Complaint to remove Katie M. Curran as a Plaintiff, withdraw her loss of consortium claim, and add Plaintiff's tissue expanders; and it is further

**ORDERED** that the posting of this Order on eCourts shall constitute service upon all counsel of record. If applicable, pursuant to R. 1:5-1(a), a copy of this Order shall be served upon all parties who have not been electronically served through an approved Electronic Court System pursuant to R. 1:32-2A, nor personally served in court, within seven (7) days of receipt of this Order.

  
HON. GREGG A. PADOVANO, J.S.C.

*We hereby consent to the form and  
Entry of this Consent Order*

**BERGER MONTAGUE PC**  
Attorneys for Plaintiffs

/s/ Dena Young  
DENA R. YOUNG

**REED SMITH**  
Attorneys for Defendants

/s/ David E. Stanley  
DAVID E. STANLEY

# EXHIBIT A

IN RE: ALLERGAN BIOCELL  
TEXTURED BREAST IMPLANT  
PRODUCTS LIABILITY LITIGATION

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY  
DOCKET NO.: BER-L-1502-22

MARIA R. GOMEZ  
13 Chadwell Court  
Pennington, NJ 08534

MASTER DOCKET NO. BER-L-5064-20  
MCL CASE NO. 634

Plaintiff,

**FIRST AMENDED SHORT-FORM  
COMPLAINT AND JURY DEMAND**

v.

ALLERGAN, INC. and ALLERGAN  
USA, INC.,

Defendants.

1. Plaintiff MARIA R. GOMEZ, hereby states and incorporates by reference all of the allegations contained in Plaintiffs' Master Long Form Complaint and Jury Demand ("Master Complaint"), against Defendants Allergan, Inc., and Allergan USA, Inc. ("Allergan"), which are the sole named Defendants pursuant to the Stipulation of Proper Parties which is incorporated herein by reference.
2. If a Complaint was filed in this action prior to the filing of this Short Form Complaint, set forth here the date(s) of filing the prior Complaint(s), and ensure that the correct Bergen County docket number is inserted in the caption above: June 1, 2020.

**I. IDENTIFICATION OF PLAINTIFFS AND RELATED INTERESTED PARTIES**

3. Name and current residence, or residence on date of death, of individual who is alleged to have suffered personal injuries and related damages due to implantation of one or more Allergan Biocell Textured Breast Implant medical devices ("Biocell"):

MARIA R. GOMEZ  
13 Chadwell Court  
Pennington, NJ 08534

4. Consortium Claim(s): Name and current residence of individual(s) alleging damages for loss of consortium:

N/A

5. If a survival and/or wrongful death claim is asserted, set forth Decedent's date of death due to Biocell-related injuries or conditions:

N/A

6. If this action is filed in a representative capacity, the name and current residence of the individual(s) bringing the claims on behalf of the injured individual or decedent's estate, and the representative capacity (i.e., personal representative, executor, administrator, next of kin, successor in interest, guardian, etc.):

N/A

**DEVICE IDENTIFICATION**

7. [Plaintiff/Decedent] was implanted with the following Biocell device[s], which Plaintiff contends caused her injury(ies). Check all that apply and provide all dates of implant and explant:

<p><input type="checkbox"/> <b>NATRELLE Silicone-filled Breast Implants</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Style 110</li> <li><input type="checkbox"/> Style 115</li> <li><input type="checkbox"/> Style 120</li> </ul> <p>Date[s] and state of Implant:</p> <p>Date[s] of Explant (if any):</p>	<p><input type="checkbox"/> <b>NATRELLE Saline-Filled Breast Implants</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Style 163</li> <li><input type="checkbox"/> Style 168</li> <li><input type="checkbox"/> Style 363</li> <li><input type="checkbox"/> Style 468</li> </ul> <p>Date[s] and state of Implant:</p> <p>Date[s] of Explant (if any):</p>
<p><input checked="" type="checkbox"/> <b>NATRELLE 410 Highly Cohesive Anatomically Shaped Silicone-Filled Breast Implants</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Style LL</li> <li><input type="checkbox"/> Style LM</li> <li><input type="checkbox"/> Style LF</li> <li><input type="checkbox"/> Style LX</li> <li><input type="checkbox"/> Style ML</li> <li><input type="checkbox"/> Style MM</li> <li><input type="checkbox"/> Style MF</li> <li><input type="checkbox"/> Style MX</li> <li><input type="checkbox"/> Style FL</li> <li><input type="checkbox"/> Style FM</li> <li><input type="checkbox"/> Style FF</li> <li><input checked="" type="checkbox"/> Style FX</li> </ul>	<p><input type="checkbox"/> <b>NATRELLE INSPIRA Silicone-Filled Breast Implants</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Style TRL</li> <li><input type="checkbox"/> Style TRLP</li> <li><input type="checkbox"/> Style TRM</li> <li><input type="checkbox"/> Style TRF</li> <li><input type="checkbox"/> Style TRX</li> <li><input type="checkbox"/> Style TSL</li> <li><input type="checkbox"/> Style TSLP</li> <li><input type="checkbox"/> Style TSM</li> <li><input type="checkbox"/> Style TSF</li> <li><input type="checkbox"/> Style TSX</li> <li><input type="checkbox"/> Style TCL</li> <li><input type="checkbox"/> Style TCLP</li> <li><input type="checkbox"/> Style TCM</li> <li><input type="checkbox"/> Style TCF</li> </ul>

<p>Left SN: 14742283 Right SN: 14742273</p> <p>Date[s] and state of Implant: 09/16/2011, implanted in New York</p> <p>Date[s] of Explant (if any): 10/15/2021</p>	<p><input type="checkbox"/> Style TCX</p> <p>Date[s] and state of Implant:</p> <p>Date[s] of Explant (if any):</p>
<p><input type="checkbox"/> McGhan BioDIMENSIONAL® Silicone-Filled BIOCELL® Textured Breast Implants, Style 153</p> <p>Date[s] and state of Implant:</p> <p>Date[s] of Explant (if any):</p>	<p><input type="checkbox"/> NATRELLE Dual-Gel Breast Implants</p> <p><input type="checkbox"/> Style LX <input type="checkbox"/> Style MX <input type="checkbox"/> Style FX.</p> <p>Date[s] and state of Implant:</p> <p>Date[s] of Explant (if any):</p>
<p><input type="checkbox"/> NATRELLE Komuro Breast Implants</p> <p><input type="checkbox"/> Style KML <input type="checkbox"/> Style KMM <input type="checkbox"/> Style KLL <input type="checkbox"/> Style RLM</p> <p>Date[s] and state of Implant:</p> <p>Date[s] of Explant (if any):</p>	<p><input type="checkbox"/> NATRELLE Ritz Princess Breast Implants</p> <p><input type="checkbox"/> Style RML <input type="checkbox"/> Style RMM <input type="checkbox"/> Style RFL <input type="checkbox"/> Style RFM</p> <p>Date[s] and state of Implant:</p> <p>Date[s] of Explant (if any):</p>
<p><input type="checkbox"/> NATRELLE 150 Full Height and Short Height double lumen implants.</p> <p>Date[s] and state of Implant:</p> <p>Date[s] of Explant (if any):</p>	<p><input type="checkbox"/> NATRELLE 133 Plus Tissue Expander</p> <p>Date[s] and state of Implant:</p> <p>Date[s] of Explant (if any):</p>

<input checked="" type="checkbox"/> <b>NATRELLE 133 Tissue Expander with Suture Tabs</b>  Allergan Style 133MV Tissue Expanders Left Lot: 1619002; SN: 13615884 Right Lot: 2064410; SN: unknown  Date[s] and state of Implant: 04/08/2011, implanted in New York  Date[s] of Explant (if any): 09/16/2011	<input type="checkbox"/> <b>OTHER (Please describe):</b>  Date[s] and state of Implant:  Date[s] of Explant (if any):
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**PLAINTIFF'S BIOCELL-RELATED INJURIES**

8. Has Plaintiff or Plaintiff's decedent ever been diagnosed with BIA-ALCL:

- Yes  
 No

If Yes, date of diagnosis: Ms. Gomez was diagnosed with BIA-ALCL on 9/15/2021

Plaintiff[s] suffered, and continues to suffer, from permanent physical injury, mental and emotional suffering, fear, grief, anxiety, apprehension, permanent scarring, and financial loss, including but not limited to, BIA-ALCL, scarring, disfigurement, diagnostics and explant, reconstruction, hospitalization, cancer treatments, infection, disability, chronic pain, seroma, pain, rashes, itching, swelling, asymmetry of breasts, capsular contracture, mental anguish and fear due to fear of recurrence, and other past and future economic and non-economic damages such as medical care costs, lost wages, lost wage earning capacity and mental pain and suffering.

**IV. CAUSES OF ACTION**

9. The following claims asserted in the *Master Long Form Complaint and Jury Demand* are herein adopted by Plaintiff(s):

- Count I: Manufacturing Defect
- Count II: Failure to Warn
- Count III: Breach of Express Warranty
- Count IV: Design Defect
- Count V: Negligence
- Count VI: Consumer Fraud
- Count VII: Survivorship and Wrongful Death
- Count VIII: Loss of Consortium

- Other Claims (please identify non-Allergan Defendant(s) if applicable, and state causes of action, and short summary of factual and legal bases for other claims not included in the Master Complaint; attach a separate sheet or sheets if necessary):

**Count IX: Negligent in infliction of emotional distress:** Defendant was negligent when they breached their duty by failing to adequately warn Plaintiff and her physicians, either directly or by not timely and accurately reporting to the regulatory authorities the risks of serious defects, adulterations and life-threatening complications, including development of BIA-ALCL experienced by patients in whom BIOCELL products were previously implanted.

**Counts III:** Plaintiff can establish privity with Defendant. Alternatively, Plaintiff can establish that she falls into an exception to a privity requirement. Plaintiff relied on Defendant's warranties contained in written labels and dealt directly with Defendant through the exchange of warranty and recall information. Alternatively, Plaintiff was a foreseeable third-party beneficiary of Defendant's sale of BIOCELL products to her physician. Plaintiff is not required to give notice to Defendant, a remote manufacturer.

- As a proximate result of the foregoing, Plaintiff(s) has/have suffered the injuries and damages set forth in the Master Complaint, and any other injuries and damages that may be proven.

**WHEREFORE,** Plaintiff(s) request the entry of Judgment awarding relief including compensatory damages, punitive damages, treble damages, attorneys fees, costs of suit, interest, and such further relief as the Court deems equitable and just.

**V. JURY DEMAND**

Plaintiff(s) demand(s) a trial by jury of all claims set forth herein.

**VI. DESIGNATION OF TRIAL COUNSEL**

Pursuant to R.4:25-4, Plaintiff hereby designate(s) Shanon J. Carson as trial counsel.

**VII. CERTIFICATION OF VALID RETAINER AGREEMENT**

Plaintiff's counsel of record hereby certifies that the retainer agreement utilized in this action fully complies with the New Jersey Court Rules, including R.1:21-7, and that if there is a recovery in this action, any attorney's fees and expenses shall be deducted and paid pursuant to the New Jersey Court Rules, including R.1:21-7.



Dated: \_\_\_\_\_, 2024

**BERGER MONTAGUE PC**

/s/ Dena R. Young

Dena R. Young

Shanon Carson

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Philadelphia, PA 19103

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*Attorneys for Plaintiff*

**VIII. RULE 4:5-1 CERTIFICATION:**

I hereby certify that to the best of my knowledge the matter in controversy is the subject of numerous other actions filed in the Superior Court, all of which are consolidated and designated as an MCL under Master Docket Number BER-L-5064-20, Case No. 634, and including similar actions filed in the federal MDL assigned to the District of New Jersey, and potentially other state and federal courts, and that no other parties are necessary to join at this time.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: \_\_\_\_\_, 2024

**BERGER MONTAGUE PC**

/s/ Dena R. Young

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Shanon Carson

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