

SUPERIOR COURT OF NEW JERSEY

IN RE: PELVIC MESH/GYNECARE
LITIGATION

LAW DIVISION: BERGEN COUNTY

CASE NO. 291
MASTER DOCKET NO.: BER-1-11575-14

FILED

JAN 07 2019

**RACHELLE L. HARZ
J.S.C.**

CIVIL ACTION

**TVT-O PRE-TRIAL SCHEDULING ORDER
(THIRD AMENDED)**

THIS MATTER having been brought before the Court jointly by Defendants Ethicon, Inc. and Johnson & Johnson ("Defendants"), through their counsel Riker Danzig Scherer Hyland & Perretti, LLP, and Plaintiffs, through Plaintiffs' liaison counsel, and for good cause shown;

IT IS on this 7th day of January, 2019, ORDERED that the following pre-trial deadlines are hereby set for the trial involving TVT-O:

- I. Trial Date Change – The trial, which rescheduled for February 18, 2019, has been adjourned to **October 15, 2019**.
- II. Addition of Cases – As per CMO #50, three additional cases are to be included in this pool, which now consists of:
 1. Reyes, Yvette Castruita Ramirez (BER-L-012431-14), Bernstein Liebhard; Law Offices of Jan Meyer & Associates
 2. McFall, Kathy Ann Price, (BER-L-011513-14), Oshman & Mirisola,
 3. Burgess, Laray & James, BER-L-006902-15, Kline & Specter,

4. Detrick, Teri, BER-L-007144-15, Law Offices of Jan Meyer and Bernstein Liebhard; and
5. Farnsworth, Cheri Lynn & Leland, BER-L-014433-14, Hecht Kleeger and Oshman & Mirasola.

III. Fact Discovery — Any outstanding fact discovery will be completed by **May 3, 2019**.

IV. Expert Discovery

1. Plaintiffs' expert reports shall be served by **May 14, 2019**. If plaintiff fails to serve all expert reports by May 14, 2019, without having contained prior leave of this court, said case may be dismissed with prejudice.
2. Defendants' expert reports shall be served by **June 14, 2019**.
3. The parties shall make best efforts to complete all necessary plaintiff expert depositions by **June 24, 2019** (no plaintiff expert need be produced for deposition before all corresponding defense expert reports are served with adequate time for review), and all necessary defense expert depositions by **July 19, 2019**.

V. Pre-trial motions

1. Pre-trial motions (dispositive, Kemp/Accutane, *in limine*) shall be served and filed directly with Judge Harz's chambers by **August 9, 2019**.
2. Oppositions to pre-trial motions shall be filed and served by **September 6, 2019**.
3. Only where necessary, on leave of Court, limited replies shall be filed and served by **September 20, 2019**.

4. Oral argument on pretrial motions and any disputed deposition designations shall commence on **September 30, 2019**, continuing day to day as necessary to **October 4, 2019**.
5. The Court shall issue rulings on pretrial motions that impact deposition designation disputes, and/or opening statements, or other such issues that must be resolved prior to opening statements by no later than **October 4, 2019**.

VI. Deposition designations

1. The parties shall exchange affirmative deposition designations for case-specific and non-case specific witnesses on or before **July 19, 2019**. The designations shall be identified by page and line number and the parties have agreed to use the same Excel spreadsheet format for ease of reference and exchange. The designations shall specifically identify exhibits to be offered through the deposition testimony.
2. Any objections to the designations or any of the accompanying exhibits sought to be entered through the deposition testimony, and any counter-designations and accompanying exhibits sought to be entered through the counter-designation testimony, shall be exchanged on or before **August 8, 2019**.
3. Plaintiffs shall advise Defendants of any witness for whom Defendants have identified deposition designations to which Plaintiffs will object on the grounds that the witness needs to be brought live to trial rather than played by video on or before **August 29, 2019**.

4. Any objections to the counter-designations and exhibits, and any counter-counter-designations to an opposing party's counter-designations, shall be exchanged on or before **September 20, 2019**.
5. The parties shall meet and confer no later than **September 30, 2019**, to resolve objections to the designated testimony and exhibits and to resolve any proposed redactions to exhibits.
6. The Court shall commence hearings to resolve all outstanding objections relating to the deposition designations and exhibits (and pretrial motions) during the week of **September 30, 2019**, continuing through **October 4, 2019**, if necessary.
7. The Court shall issue rulings regarding disputed deposition designations by no later than **October 4, 2019**.

VII. Trial witnesses and exhibits

1. The parties shall exchange witness lists on or before **September 16, 2019**.
2. On or before **August 23, 2019**, Plaintiffs shall advise Defendants of Defendants' corporate witnesses whom they request to call as live witnesses at trial.
3. The parties shall disclose the identities of live witnesses who will testify at trial at least two business days prior to when the witness will be called. If the witness will be called on a Monday, then the witness must be disclosed by the end of court day on the preceding Friday.
4. The parties shall exchange their lists of all exhibits that may be offered during each party's case in chief no later than **September 16, 2019**.

Demonstratives and exhibits to be utilized solely for impeachment purposes need not be included. The exhibit list shall be in the form of an Excel spreadsheet. The parties may supplement their exhibit lists from time to time prior to and during trial, provided that the supplementations are reasonable in terms of scope and number of documents. The parties shall meet and confer regarding the deadline and manner by which they will exchange copies of all exhibits (e.g., on a hard drive, as separate .pdf or .tiff images, etc.).

5. If a party elects to submit a paper copy of proposed exhibits to the Court for any purpose, and if the Court so permits, a duplicate shall also be provided to the adverse party.

VIII. Jury instructions

1. The parties shall exchange initial proposed jury instructions by **September 24, 2019**, and thereafter shall meet and confer regarding jury instructions.
2. The Court shall hold a preliminary jury charge conference regarding the scope of substantive law to be applied in each plaintiff's case following the oral arguments regarding the pre-trial motions during the week of **September 30, 2019**.

IX. Jury selection

1. The parties shall meet and confer on a juror questionnaire by **September 12, 2019**.

2. A proposed agreed upon jury questionnaire must be submitted to the Court on or before **September 26, 2019**. If the parties are unable to agree upon a form of juror questionnaire, the parties shall submit competing forms and identify for the Court those questions upon which they cannot agree.
3. The parties shall agree upon a service to copy the final questionnaire to ensure that there are sufficient copies for distribution to the jury pool and for duplication of the completed questionnaires for distribution among counsel. The cost of copying shall be borne equally by Plaintiffs and Defendants.
4. By **September 26, 2019**, the parties shall submit a concise descriptive statement of the nature of the case not to exceed one page in length for the Judge's use during jury selection.
5. Jury selection will begin on **October 15, 2019**, with jurors to complete questionnaires on **October 9, 10 and 11, 2019**.

X. Commencement of Trial — Opening statements will commence on **October 21, 2019**, following jury selection.

IT IS FURTHER ORDERED that a copy of this Order shall be served upon all counsel within seven (7) days of the date of this Order.



Hon. Rachelle L. Harz, J.S.C.