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IN RE: PELVIC MESH/GYNECARE  
LITIGATION

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**FILED**

**DEC 15 2016**

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

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: BERGEN COUNTY

CASE NO. 291

MASTER DOCKET NO.: BER-L-11575-14

CIVIL ACTION

CASE MANAGEMENT ORDER #33

All prior orders remain in full force and effect except as modified by this Order.

**THIS MATTER** having been reassigned to the Bergen County Vicinage, from Atlantic County, pursuant to the Supreme Court's Order of October 31, 2014; the Court having conducted a Case Management Conference; counsel appearing; for good cause shown and for the reasons set forth on the record;

**IT IS** on this 15th day of December 2016, **ORDERED** as follows:

**PART I**

**I. ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE**

- A. Case Management Order #32 entered on November 3, 2016
- B. Order Extending Discovery entered on November 3, 2016
- C. Pre-Trial Scheduling Order (TVT Secur Discovery Pool) entered on November 3, 2016
- D. Cook v. Ethicon, Inc. – Order of Dismissal Without Prejudice entered on November 29, 2016
- E. Cruey-Vargas v. Ethicon, Inc. – Order to Amend Complaint entered on November 7, 2016
- F. Dobbie v. Ethicon, Inc. – Order to Amend Complaint entered on November 7, 2016
- G. Jarco v. Ethicon, Inc. – Order to Amend Complaint entered on November 7, 2016
- H. Michalkiewicz v. Ethicon, Inc. – Order to Amend Complaint entered on November 7, 2016

- I. Prince v. Ethicon, Inc. – Order to Amend Complaint entered on November 7, 2016
- J. Reeves v. Ethicon, Inc. – Order to Amend Complaint entered on November 7, 2016
- K. Ward v. Ethicon, Inc. – Order to Amend Complaint entered on November 7, 2016

## **PART II**

### **II. COMPLIANCE WITH PRIOR ORDERS (REMAINING OUTSTANDING ITEMS ONLY)**

#### A. Case Management Order #32 entered on November 3, 2016

- 1. Cantrell. Plaintiff's Motion to Reinstate Plaintiff's Action.
  - a. Plaintiff's motion has been withdrawn.
- 2. TVT-O Core Discovery Cases
  - a. Smith. This case is resolved.
- 3. TVT Secur Core Discovery Cases
  - a. Plaintiffs' counsel requested that Cook be pulled from the bellwether pool and on November 29, 2016 an Order of Dismissal Without Prejudice was entered.

#### B. Mixed-Ethicon Product Cases

- 1. The parties will report on the status at the December 15, 2016 CMC.

#### C. Settled/Settling Ethicon Cases – Status of Docket Order

- 1. The parties will report on the status at the December 15, 2016 CMC.

### **III. CASE MANAGEMENT**

#### A. TVT-O Core Discovery Cases

- 1. Smith. The case has been resolved.
  - a. The court will review Plaintiffs' brief in support for their Motion for Partial Summary Judgment for Inadequate Warning and Defendants' Opposition to same and will advise Counsel by January 13, 2017 regarding Plaintiffs' request for oral argument on said motion.

B. TVT Secur Core Discovery Cases

1. Status of pre-trial preparation and the current pre-trial schedule and related issues.
  - a. Parties will meet and confer regarding the pre-trial schedule for Nelson and Sheppard.
2. Status of scheduling a date for oral argument on Plaintiffs' motion for a multi-plaintiff trial.
  - a. Plaintiffs will withdraw the motion and the court has decided to try both cases consecutively.

C. Mixed-Ethicon Product Cases

1. Status of Discussion Regarding Mixed-Ethicon Product Core Discovery Cases.
  - a. The Parties will meet and confer to develop a bellwether pool.

D. Plaintiffs' Request to Discuss Impact of Gross decision.

1. Plaintiffs will file a Motion for Collateral Estoppel on the Failure to Warn verdict in the Gross case pertaining to Prolift products only by January 31, 2017.
2. Defendants will file opposition by February 28, 2017.
3. Plaintiffs will file a reply by March 17, 2017.

E. Plaintiffs' Request that Settled Cases Information is updated.

1. Parties will meet and confer regarding the updating the previously provided spreadsheet and names of firms who have reached a master settlement.

F. The Notice and Order Regarding Service of Plaintiff's Fact Sheets and Applications for Extension of Service Dates has been updated as of December 2016.

**PART IV**

## II. GENERAL

1. The next Case Management is scheduled for January 26, 2017 at 11:00 a.m. in Room 359. Liaison Counsel shall report at 9:30 a.m. **Counsel shall submit a proposed agenda seven (7) days prior to this Case Management Conference.**
2. By consent of all parties, the court may contact or be contacted on an *ex parte* basis regarding settlement issues only.
3. The court may, from time to time, conduct phone conferences with defense counsel and liaison counsel.
4. Subject to agreement by and between counsel and with permission from the Court, counsel is permitted to appear telephonically; in order to have your appearance on the record, it is counsel's responsibility to e-mail liaison counsel and the court reporter at least one hour before the proceeding with your name, firm, and party representing, indicating that you intend to appear by phone; in addition, you must confirm your appearance, immediately following the proceeding. Absent the above, counsel's appearance will not be noted.
5. The official record shall be the transcript provided by the court reporter retained by counsel. The reporter shall preserve all proceedings and shall email a transcript of any court proceeding to the court within 14 days of the proceeding.
6. Counsel is permitted to serve one motion with a schedule of attached cases for *pro hac* admission. However, a separate order per case/docket number and filing fees is required.
7. The Court directs all counsel to R.:4-8 and expects all counsel to abide by the parameters set forth therein.
8. All Court proceedings will start at the designated scheduled time. Counsel is expected to arrive promptly for these proceedings.
9. Counsel shall provide the Court with their preferred e-mail address by e-mailing same to Jamie Colaneri at [Jamie.Colaneri@njcourts.gov](mailto:Jamie.Colaneri@njcourts.gov) and Sean Hanratty at [Sean.Hanratty@njcourts.gov](mailto:Sean.Hanratty@njcourts.gov).
10. Counsel shall copy their co-counsel and all adversaries on all e-mails and other electronic correspondence submitted to the Court [COUNSEL IS PROHIBITED FROM FILING ANY PLEADING ELECTRONICALLY]. Any such submission received after 4:30 p.m. will be deemed received at 9:00 a.m. on the next day Court is in session. Any such submission received after 4:30 p.m. on a Friday or over a weekend, will be deemed received on 9:00 a.m. on the next day Court is in session.
11. Counsel is directed to contact The Superior Court of New Jersey, Attorneys Accounts: P.O. Box 980, Hughes Justice Complex, 25 W. Market Street, Trenton, New Jersey 08625 (609) 633-8643 to establish a collateral account for any filing fees within seven (7) days.

12. Counsel is required to check the Judiciary's Web Site dedicated to this matter for any decisions/Orders/information contained therein.
13. A copy of this Order and any subsequent Orders to the Court will be posted on the Judiciary Web Site.

A handwritten signature in cursive script, reading "Rachelle L. Harz". The signature is written in black ink and is positioned above a horizontal line.

RACHELLE L. HARZ, J.S.C.