

SUPERIOR COURT OF NEW JERSEY

IN RE: PELVIC MESH/GYNECARE
LITIGATION

LAW DIVISION: BERGEN COUNTY

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

FILED

JUL 19 2019

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

CIVIL ACTION

**PROLIFT/TENNESSEE PLAINTIFF PRE-TRIAL SCHEDULING ORDER
(Amended July 19, 2019)**

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 19th day of July, 2019, ORDERED that the following pre-trial deadlines are hereby set for the 2019 trial involving single-product Prolift cases with Tennessee Plaintiffs:

I. Cases Covered by this Order¹ -

1. McKnight, Stacie J. Miller, (BER-L-010227-14), Bernstein Liebhard; Law Offices of Jan Meyer & Associates;
2. Susong, Nancy Justice, (BER-L-000793-15), Bernstein Liebhard; Law Offices of Jan Meyer & Associates;
3. Tays, Carolyn Atkinson, (BER-L-011577-14), Bernstein Liebhard

II. Trial Date Change – The trial is now rescheduled for **November 12, 2019**.

¹ Defendants have filed a pre-trial motion to sever the cases for trial, which the Court has not yet addressed.

III. Pre-trial motions

1. Outstanding pre-trial motions (dispositive, Kemp/Accutane, *in limine*) previously scheduled to be filed but not yet filed shall be served and filed directly with Judge Harz's chambers by **July 19, 2019**.
2. To the extent not previously filed, oppositions to any outstanding pre-trial motions, or motions filed by the July 19, 2019 deadline, shall be filed directly with Judge Harz's chambers and served by **August 9, 2019**.
3. Only where necessary, on leave of Court, limited replies shall be filed and served by **August 23, 2019**.
4. Oral argument on pretrial motions and any remaining disputed deposition designations shall commence on **November 4, 2019**, continuing day to day as necessary to **November 8, 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 **November 8, 2019**.

IV. Experts

1. Pursuant to the Court's written opinion dated June 6, 2019, Defendants may use Harvey Winkler, MD, Bryce Bowling, MD, and/or Robert Rogers MD as general experts in this trial.

V. Deposition designations

1. The parties have fully exchanged deposition designations and have completed the meet and confer obligations under the prior pretrial order.

The hearings previously scheduled to be heard on May 9 and 10 to resolve all outstanding objections relating to the deposition designations and exhibits (and pretrial motions) shall be held beginning **November 4, 2019**, continuing through **November 8, 2019**, if necessary.

2. The Court shall issue rulings regarding disputed deposition designations by no later than **November 8, 2019**.

VI. Trial witnesses and exhibits

1. The parties already have exchanged witness lists.
2. Plaintiffs already have advised Defendants' corporate witnesses whom they request to call as live witnesses at trial (Scott Ciarrocca and Piet Hinoul). Should Plaintiffs determine not to call either witness, they shall so advise Defendants by **August 23, 2019**.
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 have exchanged their lists of all exhibits that may be offered during each party's case in chief. Demonstratives and exhibits to be utilized solely for impeachment purposes need not have been included. The exhibit list was to 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.

VII. Jury instructions

1. The parties shall exchange initial proposed jury instructions by **October 15, 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 **November 4, 2019**.

VIII. Jury selection

1. The parties have met and conferred on a juror questionnaire and shall submit the agreed upon form to the Court by **October 10, 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.
2. 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.

3. By **October 10, 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. This statement may be included in the form of proposed jury questionnaire.

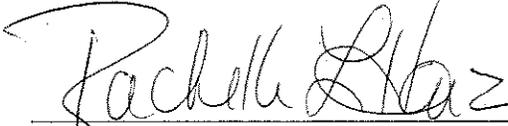
4. Jury selection will begin on **November 12, 2019**, with jurors to complete short form (hardship) and long form questionnaires on **November 6, 7 and 8, 2019**.

IX. Commencement of Trial — Opening statements will commence on **November 13, 2019**, or as soon as possible following jury selection.

X. Trial shall not be conducted on the following days.

1. **November 25 through 29 (Thanksgiving Week).**

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.