
IN RE: PELVIC MESH/BARD
LITIGATION

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: BERGEN COUNTY

CASE NO. 292

MASTER DOCKET NO.: BER-L-17717-14

CIVIL ACTION

CASE MANAGEMENT ORDER #22

FILED

FEB 28 2017

James J. DeLuca, J.S.C.

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; having conducted a CMC; counsel appearing; for good cause shown and for the reasons set forth on the record;

IT IS on this 28th day of February 2017, **ORDERED** as follows:

PART I

I. ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE

- A. Case Management Order No. 21, entered January 26, 2016.
- B. Order as to Plaintiffs' Request for Additional Discovery, entered January 30, 2017.
- C. Bellwether Scheduling Order, including Schedule for next Bellwether Selections, Case-Specific Discovery, and Pre-Trial Deadlines, February 7, 2017.

PART II

II. COMPLIANCE WITH PRIOR ORDERS

A. Case Management Order No. 21

- 1. The parties met and conferred in regards to the Pathology Protocol and have reached an agreement.

2. Bard selected three additional cases for the Bellwether pool, which conform with the prior Orders.
3. The parties will advise the Court as to the outcome of their meet and confer concerning the next pool of bellwether cases at the conference.

B. Order as to Plaintiffs' Request for Additional Discovery

1. Bard informed Plaintiffs that Mr. Ronald Bracken is a former employee of Bard and, consistent with Plaintiff's statements at the last conference, will produce Mr. Bracken for deposition after the completion of his supplemental document production.
2. On February 17, Plaintiffs provided Bard with a letter regarding the biocompatibility test results. Bard is investigating whether the documents requested by Mr. Slater exist.
3. Bard has completed an updated privilege log and on February 15, Bard provided same to Plaintiffs pursuant to the Court's Order.
4. Bard is continuing to work diligently on its response to the Court's Order concerning supplemental document production as to certain topics and will report to the Court and counsel on progress and timeframe for completion of same.
5. The parties have met and conferred as to Plaintiff's request for certified charts confirming approval and in-use dates for key documents and will report on the status of those discussions to the Court at the next case management conference.
6. Plaintiffs will be submitting a letter to the Court in advance of the conference in order to update the Court on the status of defendant's compliance with the Order so that the Court will know the issues in advance.

C. Bellwether Scheduling Order, including Schedule for Next Bellwether Selections, Case-Specific Discovery, and Pre-Trial Deadlines

1. Bard has selected its three replacement Bellwether cases and the parties are attempting to work cooperatively and in good faith to complete case specific discovery by March 13, 2017; however, Bard has not received a response from Plaintiffs to multiple correspondence regarding waiver of the 10 day wait period for receipt of medical records by Bard, dates for depositions of Plaintiffs and prompt production of medical records in counsel's possession.

PART III

III. CASE MANAGEMENT

A. Status of Bard Cases

1. Report on Bard Docket
 - i. The Covidien stay will continue regarding the 60 cases.
2. Discovery Issues in current bellwether pool
 - i. Compliance with Order for Additional Discovery entered January 30, 2017
 - a. There will be a telephone conference on March 14, 2017 at 8:45am arranged by Defendants.
 - b. Defendants will submit a letter to the Court outlining the status of compliance with the January 30, 2017 Order in the March 14, 2017 telephone conference no later than March 13, 2017.
 - i. Defendants will also include an update on the additional bellwether cases. (Best, Lewis, Moore).
 - ii. McGinnis deposition
 - a. Defendants will have 1 hour and Plaintiffs will have 15 minutes for the deposition.
3. Pathology Protocol
 - i. The Parties have met and conferred and have come to an agreement.
 - ii. The protocol will be circulated to Counsel to be signed but will not be filed with the Court.
4. Status of discovery in new bellwether cases: Best, Lewis, Moore
 - i. Applications for case specific discovery should be made prior to the March 13, 2017 deadline.
 - ii. Defendants will submit a letter to the Court updating the status of the additional bellwether cases no later than March 13, 2017 as referenced above.

5. Set of new cases

- i. The Parties will meet and confer on the criteria for the next set of cases.
- ii. The eight cases do not have to be selected at this time.
- iii. The Court intends to have monthly updates on the status of bellwether cases so additional pools can be created.

B. MDL Status Report

1. N/A

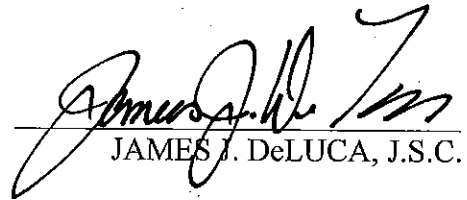
PART IV

IV. GENERAL

1. The next Case Management Conference is scheduled for March 30, 2017 at 9:30 a.m. Liaison Counsel shall report at 08:45 a.m. to Courtroom 401. **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.1:4-8 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 and Sean Hanratty at 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.



JAMES J. DeLUCA, J.S.C.