
**IN RE: PELVIC MESH/BARD
LITIGATION**

FILED
SEP 27 2017

James J. DeLuca, J.S.C.

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: BERGEN COUNTY

CASE NO. 292

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

CIVIL ACTION

CASE MANAGEMENT ORDER #28

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 27th day of September 2017, **ORDERED** as follows:

I. ORDER ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE

- A. Case Management Order No. 27, August 14th, 2017

II. COMPLIANCE WITH PRIOR ORDER

A. Case Management Order No. 27

1. **Report on Bard Docket:** The parties will be prepared to address the outstanding cases per the docket provided to the parties by the Court on September 13.
2. **Status of Discovery in Lewis:** Plaintiff served one expert report on September 13, and have indicated that a second report will be coming.
3. **Status of Meet and Confer on Trial Date:** The parties will submit an agreed upon proposed pre-trial schedule, or competing schedules of the parties cannot agree, and will be prepared to discuss the process for selecting the first bellwether case for trial.

4. **Status of meet and confer on privileged documents and exemplar products:** Defendants have confirmed that four exemplars per product are preserved. The parties will be prepared to report to the Court on the outcome of the meet and confer discussion on the issue of privileged documents.
5. **Corporate representative depositions:** Bard's corporate representative deposition on the Align topic will be conducted on September 26 and the continuation of Ronald Bracken's deposition will be conducted on September 28. The deposition notices have been served and locations confirmed by the parties.

III. CASE MANAGEMENT CONFERENCE

A. Status of Bard Cases

1. Report on Bard docket
 - a. Stay will be continued on Covidien case.
 - b. Four cases are ready for selection for Bellwether cases (McGinnis, Rios, Moore, Lewis)
 - c. Four cases are in or have settled (Connolly-Kahn, Best, Rayfield, Meade).
 - d. Dismissal Excel sheet list will be updated and the orders will be signed no later than September 29, 2017.
2. Status of discovery in *Lewis* matter
 - a. Status of *Lewis*:
 - i. Plaintiff's urogynecologist expert will be deposed on October 21, 2017.
 - ii. Parties are to meet and confer to agree upon a date to complete expert and fact discovery in *Lewis* within the next seven (7) days.
3. Proposed pre-trial schedule and process for selecting first bellwether case for trial
 - a. Pre-Trial Schedule:
 - i. All Briefs/Motions must be filed and exchanged by November 1, 2017.
 - ii. Parties will exchange all deposition designations on November 10, 2017.
 - iii. Opposition briefs will be filed by November 22, 2017.
 - iv. Reply briefs will be filed by December 1, 2017.
 - v. Parties will exchange witness lists and exhibit lists by December 4, 2017.
 - vi. Parties will exchange objections and counter-designations by December 8, 2017.

- vii. Arguments on motions will be on dates to be designated by the court.
 - viii. Jury questionnaire proposals to be submitted by December 15, 2017.
 - ix. Statement of the case for the jury to be submitted by December 15, 2017.
 - x. Parties to exchange objections to counter-designations and counter-counter designations by December 22, 2017.
 - xi. Jurors complete questionnaires and hardship requests to be addressed on January 15, 2018.
 - xii. Deposition Designation disputes to be held January 16, 2018.
 - xiii. Additional jurors complete questionnaires as necessary and remaining hardship requests to be addressed on January 17, 2018.
 - xiv. Jury Charges will be submitted by January 19, 2018.
 - xv. Jury selection will be conducted on January 22, 2018.
 - xvi. Trial will commence on 9:00 A.M. January 29, 2018 with opening statements.
- b. Selecting first Bellwether cases:
 - i. First case tried will be *McGinnis*.
 - ii. Second case scheduled if *McGinnis* is not ready to be tried will be *Moore*.
- 4. Status of meet and confer on privileged documents
 - a. Parties will meet and confer on the issue of privileged documents.
- 5. Update on the Court's *in camera* review of Becton Dickinson related documents
 - a. Defendants will provide Plaintiffs with Becton Dickinson documents publicly available.
 - b. Defendants will provide an 'unredacted' version of the Becton Dickinson acquisition agreement.

PART IV

IV. GENERAL

- 1. The next Case Management Conference is scheduled for November 2, 2017 at 10:00 a.m. Liaison Counsel shall report at 08:45 a.m. to Courtroom 401. **Counsel**

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.