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

FILED

JUN 19 2018

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 #34

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 19th day of June 2018, **ORDERED** as follows:

PART I

I. ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE

- A. Case Management Order No. 33, entered May 14, 2018.
- B. By letter dated May 25, 2018, the Honorable Mary Thurber was designated a backup judge in connection with MCL cases pending in Bergen County

PART II

II. COMPLIANCE WITH PRIOR ORDERS

- A. **Case Management Order No. 33**
 - 1. The Parties report that they have met and conferred regarding the scheduling of the current trial pool cases, namely Moore (Docket No. BER-L-18156-14), Rios (Docket No. BER-L-018689-14) and Lewis (Docket No. BER-L-19011-14) but have not been able to reach agreement.

The parties also advise that Greene (Docket No. to be produced) has been added to the pool of trial cases.

2. The court has received a report from Joseph Petrosinelli, Esq. settlement counsel for Covidien. Settlement conferences are to take place in certain Covidien cases commencing at 9:00 am on June 20, 2018 in Courtroom 401.

PART III

III. CASE MANAGEMENT

A. Status of Bard Cases

1. There are presently approximately 114 active cases in the Bard Litigation.

B. Status of Covidien Cases

1. There are approximately 36 active cases in Covidien. The stay in Covidien is extended until July 19, 2018.

C. Trial Schedule

In connection with the Moore action, the parties have filed in limine/Kemp/summary judgment motions pursuant to previously entered orders of this court. Subject to the resolution of the Moore action which the parties advise is imminent, the parties shall advise as to the status of the Moore settlement by June 26, 2018. The court hereby establishes the following pretrial schedule in connection with the Moore action:

- i. Parties will exchange all deposition designations by August 1, 2018.
- ii. Parties will exchange witness lists and exhibit lists by August 15, 2018.
- iii. Parties will exchange objections and counter-designations of depositions by August 15, 2018.
- iv. Arguments on motions previously filed will be on dates designated by the court.
- v. Jury questionnaire proposals to be submitted by August 15, 2018.
- vi. Statement of case for jury to be submitted by August 15, 2018.

- vii. Parties to exchange objections to counter-designations on counter-counter designations by August 31, 2018.
- viii. Deposition designations and disputes to be held on September 17, 2018, and such other date as designated by the court.
- ix. Juror questionnaires to be completed on October 16, 2018 and October 11, 2018.
- x. Jury charges and proposed jury verdict sheet are to be submitted by October 16, 2018.
- xi. Jury selection will begin on October 22, 2018.
- xii. Trial in the Moore case shall begin on October 29, 2018.

The court hereby sets the following schedule for the Rios and Lewis:

- i. All briefs/motions (*in limine*/Kemp/Summary Judgment) must be filed and exchanged by September 1, 2018.
- ii. Parties will exchange all deposition designations on September 21, 2018
- iii. Opposition briefs will be filed by September 15, 2018.
- iv. Reply briefs will be filed by September 24, 2018.
- v. Parties will exchange witness lists and exhibit lists by September 30, 2018.
- vi. Parties will exchange objections and counter-designations by October 5, 2018.
- vii. Arguments on motions will be on dates to be designated by the court.
- viii. Jury questionnaire proposals to be submitted by October 5, 2018.
- ix. Statement of the case for the jury to be submitted by October 5, 2018.
- x. Parties to exchange objections to counter-designations and counter-counter designations by October 12, 2018.
- xi. Jurors' complete questionnaires and hardship requests to be addressed on a date to be established by the court.
- xii. Deposition designation disputes to be held on a date to be established by the court.

In the event that Moore settles, the court anticipates that either Rios or Lewis will be tried as close to October 29, 2018 as possible.

D. Next Pool of Cases

No later than July 11, 2018, the parties are to jointly designate in writing six (6) additional cases for trial. (The parties have correctly designated Greene, Oliver, Gaspar, and Asmussa). If the parties are unable to agree upon two additional cases, Plaintiffs shall designate one (1) additional case for trial and Defendant shall designate one (1) additional case for trial. The designation shall set forth the products involved, the trial counsel for each Plaintiff. The parties shall also provide the court with the Plaintiffs' fact sheet as to each case designated by the parties. The fact sheet and authorization for each of these matters to be updated promptly. The court expects to set a schedule for these six (6) cases at the next case management conference.

PART IV

IV. GENERAL

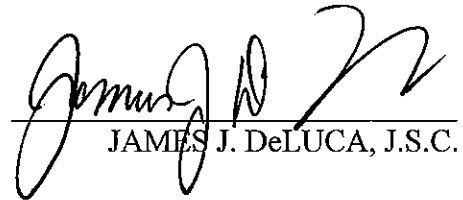
1. The next Case Management Conference is scheduled for July 19, 2018 at 9:30 a.m. Liaison Counsel shall report at 8:45 a.m. to Courtroom 401. **Counsel shall submit a proposed agenda seven (7) days prior to this Case Management Conference.**
2. By consent of all parties, the court may contact or be 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 Yeon Ji Lee at Yeon.Ji.Lee@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.