
IN RE: PELVIC MESH/GYNECARE
LITIGATION

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

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

CIVIL ACTION

CASE MANAGEMENT ORDER #16

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

FILED

JUN 11 2015

BRIAN R. MARTINOTTI
J.S.C.

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 11th day of June 2015, **ORDERED** as follows:

PART I

ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE

1. Order dated March 20, 2015 of Dismissal without Prejudice for Failure to Provide PFS, with attached Schedule A.
2. Order dated March 25, 2015 regarding protocol for intake of several hundred cases filed by Sanders Viener Grossman LLPju.
3. Order entered on April 15, 2015 in the Fuller, Tucker, Martin and Broadway cases granting Blau Leonard's Motion to Withdraw as Counsel and addressing PFS issues in those cases.

4. Order entered on April 28, 2015 vacating the dismissal of and reinstating the complaint filed by plaintiff Patricia Grant in Bergen County.
5. Order entered on May 27, 2015 in the Fuller, Tucker, Martin and Broadway cases granting Defendants' Motion to Dismiss without Prejudice for failure to provide a PFS.

PART II

COMPLIANCE WITH PRIOR ORDERS

1. Case Management Order No. 15 entered March 18, 2015

- a. In Wicker (Prolift) the parties filed their pretrial motions on February 19, 2015. Responses to pretrial motions were filed by March 30, 2015. Defendants are permitted to file the reply papers noted in their June 3, 2015 letter by July 2, 2015. The Court will hear oral argument on the pretrial motions on August 18, 2015 at 10:30a.m. Trial is now set, with jury selection to begin on, September 28, 2015.
- b. In Cantrell (TVT Retropubic), defense expert reports were served on March 19, 2015.
- c. Liaison counsel are in the process of meeting and conferring regarding forms of scheduling orders for the TVT Retropubic, TVT Obturator and TVT Secur core discovery cases. The parties have not been able to come to agreement on matters of trial selection: Although there is agreement that TVT Retropubic will be the product involved in the first trial setting involving the New Jersey Ethicon SUI products, Defendants maintain that only one case should be selected for the first TVT Retropubic trial. Plaintiffs do not agree to limit trials to single plaintiffs.

Defendants request the right to brief this issue at the appropriate time when the Court wishes to address it.

- d. The parties exchanged case selections for TVT Obturator on May 4, 2015.

Liaison counsel has met and conferred to work towards preparing a preliminary case management order.

- e. At the March 18 CMC, the Court indicated that it would confer with Atlantic County regarding the process and venue for resolution of the Defendants' Motions to Dismiss with Prejudice (in cases which had already been dismissed without prejudice for failure to provide a PFS). Defendants await guidance from the Court on this issue.

PART III

CASE MANAGEMENT

1. Prolift Core Discovery Cases – Wicker Matter

- a. Status of trial. The Court will hear oral argument on the pretrial motions on August 18, 2015 at 10:30a.m. Trial is now set for September 28, 2015.
- b. On July 14, 2015 at 10:30a.m., the Court will hear Oral Argument on the discovery issues set forth in Defense counsel's June 3, 2015 letter. Counsel shall submit memoranda of law by June 30, 2015 (5-page limit).

2. TVT Retropubic Core Discovery Cases

- a. A trial date is tentatively set for January 11, 2016.

- b. Corbet – there is a long outstanding discovery request from Defendants regarding vacation photos/videos of Mrs. Corbet and materials requested following the deposition of Plaintiffs’ expert. Plaintiffs oppose this request as framed.
- c. Cantrell - This Court will hear Oral Argument on the diary/notes issues on July 14, 2015. Counsel shall submit memoranda of law by June 30, 2015 (5-day limit).

3. TVT Secur Core Discovery Cases

- a. The Court will address scheduling at the next Case Management Conference.

4. TVT-O Core Discovery

- a. The Court will address scheduling at the next Case Management Conference.

5. Miscellaneous Issues

- a. Counsel shall continue to meet and confer on Defendants’ Motion for a Protective Order as to multiple discovery requests by plaintiffs, previously filed by defendants.
- b. The decision on Plaintiffs’ request for determination of the confidential status of Defendants’ confidential designation of documents relating to Dr. Withagen is deferred. Pursuant to the protective order, the obligation to file this motion rests with defendants.
- c. Counsel shall meet and confer to designate categories for privilege challenges, narrow the pool of privilege challenges, and attempt to resolve them.
- d. Counsel shall meet and confer about the establishment of discovery pools for mixed product cases. Counsel shall meet and confer on the mixed manufacturer cases.

- e. Counsel shall submit amended form documents, such as the Short-Form Answer and Short-Form Complaint, to Kelly Gibson at Kelly.Gibson@judiciary.state.nj.us for posting to the MultiCounty Litigation Center website.

PART IV

GENERAL

1. The next Case Management Conferences are scheduled for July 23, 2015 and August 19, 2015 at 12:00pm. Liaison Counsel shall report at 9:30am. **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 Kelly Gibson at Kelly.Gibson@judiciary.state.nj.us and Yeon Ji Lee at Yeon-Ji.Lee@judiciary.state.nj.us.
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.



BRIAN R. MARTINOTTI, J.S.C.