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IN RE: PELVIC MESH/GYNECARE  
LITIGATION

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SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: BERGEN COUNTY

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

CIVIL ACTION

CASE MANAGEMENT ORDER #19

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

**FILED**

AUG 19 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 19<sup>th</sup> day of August 2015, **ORDERED** as follows:

**PART I**

**ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE**

1. Case Management Order No. 18 entered on July 23, 2015.
2. Revised Scheduling Order for TVT Retropubic Core Discovery Cases entered on July 23, 2015.
3. Order Reinstating *Bass-Brubaker, Karen v. Ethicon* complaint, entered on July 24, 2015.

**PART II**

**COMPLIANCE WITH PRIOR ORDERS**

1. Case Management Order No. 18 entered on July 23, 2015.

- a. Wicker pretrial motions were heard on August 18 and 19, 2015.
  - b. Liaison Counsel has met, and continues to meet and confer, regarding scheduling orders.
2. Order to Dismiss for Failure to Provide PFS, entered 6/26/2015
    - a. No action required.
  3. Orders (31) reinstating Williams Cuker Berezofsky firm Complaints previously dismissed for failure to provide PFS, entered 6/26/2015.
    - a. No action required.
  4. Wicker: Order entered 7/14/2015 regarding pretrial discovery issues.
    - a. Parties are in the process of implementing rulings, and will update the Court on status. Plaintiff objects to Defendant's effort to add a new expert.
  5. Case Management Order No. 18 entered on July 23, 2015
    - a. Liaison counsel for TVT Retropubic Core Discovery Cases has met and conferred and submitted to the Court a proposed scheduling Order for the completion of case management and pretrial issues, which was entered on July 23, 2015.
  6. Revised Scheduling Order for TVT Retropubic Core Discovery Cases entered on July 23, 2015.

### PART III

#### CASE MANAGEMENT

1. Prolift Core Discovery Cases – Wicker Matter.
  - a. Wicker pretrial motion hearings were heard on August 18 and 19, 2015. [There will be a status memo and accompanying orders prepared on these motions.]

- b. Wicker trial remains scheduled for September 28, 2015.
- c. Ms. Wicker's updated medical examination has been scheduled for September 2, 2015. Plaintiff objects to addition of a new defense expert in connection with that exam. The parties will meet and confer regarding the logistics of the new expert's report/testimony.
- d. Dr. Anne Weber was deposed on August 11, 2015.
  - i. The parties were largely able to agree as to the scope of the deposition. However, Defendants reserve their right to raise with the Court at a later date the issues as to the scope of the deposition that the parties were not able to resolve. Plaintiffs' position is that the issue was clearly set out in a letter to defense counsel in advance of the deposition and the issue should not be raised further
- e. Defendants await communication from Plaintiffs as to a date that Plaintiffs will make available photographs for inspection by Defense counsel. Plaintiffs are making these arrangements and will advise defense counsel shortly.
- f. Plaintiffs sought leave to file a motion to permit New Jersey plaintiffs with Prolift cases to agree to be bound by the design defect verdict in the Wicker trial. This request is DENIED without prejudice.
- g. Parties will meet and confer on unresolved deposition designation objections. If the parties cannot agree, they shall so advise the court and a conference will be set.

## 2. TVT Retropubic Core Discovery Cases

- a. Tentative trial setting remains scheduled for January 11, 2015.

- b. Liaison counsel has submitted a scheduling order, which was entered on July 23, 2015.

3. TVT Secur Core Discovery Cases

- a. Liaison counsel continue to meet and confer regarding ongoing scheduling issues. No trial setting has yet been made for this set of cases. Plaintiffs request setting of a trial date.
- b. The first bellwether trial is tentatively set for May 2, 2016.

4. TVT-O Core Discovery

- a. Liaison counsel continue to meet and confer regarding ongoing scheduling issues. No trial setting has yet been made for this set of cases. Plaintiffs request setting of a trial date.
- b. Bednarz – All discovery from medical malpractice matter to be produced within 45 days of July 23, 2015 (September 6, 2015).
- c. Velazquez – Counsel to meet and confer regarding status of bankruptcy matter. Counsel's request to file a motion on the matter is granted. Counsel may file such motion no sooner than 30 days from today.

5. Miscellaneous Issues:

- a. The Aylstock firm and Defense Counsel have reached a stipulation and order for staggering responsive pleadings and DFS responses. In addition, plaintiffs have agreed to dismiss, *Martinez v. Ethicon, Inc. et al.*, No. BER-L-5218-15, which is duplicative of an identical case filed in the MDL in 2013.
- b. Clarification regarding Case Management Order No. 18's direction to file a Motion to Dismiss with prejudice all matters that had previously been dismissed

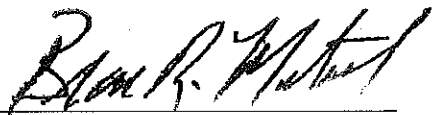
in Atlantic County without prejudice. Reportedly, Atlantic County has a protocol to initiate a *sua sponte* transfer of any previously dismissed pelvic mesh case to Bergen County.

#### **PART IV**

##### **GENERAL:**

1. The next Case Management Conference is scheduled for September 16, 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.

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BRIAN R. MARTINOTTI, J.S.C.