

FILED

JAN 03 2011

Carol E. Higbee, P.J.Cv.

**In re PELVIC MESH / GYNECARE
LITIGATION,**

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, ATLANTIC COUNTY**

CIVIL ACTION

**Case No. 291 CT
Master Case 6341-10**

Hon. Carol E. Higbee, P.J. Cv.

CASE MANAGEMENT ORDER NO. 2

Counsel for the parties having appeared for a preliminary case management conference on November 18, 2010, and for the continued purpose of equitable, economic and expedient resolution of these cases:

IT IS ON THIS 3rd day of Jan, 2011

ORDERED as follows:

GENERAL APPLICABILITY

1. By Order dated December 10, 2010, all cases involving the use of pelvic mesh products alleged to have been manufactured by Ethicon, Inc., Ethicon Women's Health & Urology, Gynecare, and/or Johnson & Johnson which have been centralized under the case number of CT 291 (previously collectively referred to as "the J&J litigation"), have been captioned and shall be referred to as "In re Pelvic Mesh / Gynecare Litigation." Case Number CT 291 shall apply to any case in which plaintiffs allege personal injuries resulting from a Gynecare product, even if the case also includes claims relating to other products.

2. All filed papers that are applicable to all cases in the In re Pelvic Mesh Litigation/ Gynecare matters shall also reference "Master Case No. L-6341-10" in the caption.

3. Before the next case management conference, the parties shall meet and confer regarding a proposal for the management of cases involving multiple manufacturers. The parties should be prepared to discuss their joint proposals, if any, and any disputed issues at the conference.

LIAISON COUNSEL

4. There are matters common among all plaintiffs and all defendants that require the coordinated efforts of counsel, including discovery, communications with the Court, and motion practice, and the appointment of liaison counsel would aid in these efforts. Plaintiffs' liaison counsel shall (1) serve as the primary contact for communication between the Court and other plaintiffs' counsel; (2) ensure that all notices, orders and material communications are properly distributed (to the extent they are not otherwise served on plaintiffs' counsel; (3) convene meetings of counsel as determined to be necessary; and (4) otherwise assist in the coordination of activities and positions of plaintiffs in this litigation. Defendants' liaison counsel shall serve the same function with respect to all defendants in this litigation.

5. Adam M. Slater of Mazie Slater Katz & Freeman LLC and Jillian A.S. Roman of Cohen Placitella & Roth PC are hereby appointed as Co-Plaintiffs' Liaison Counsel.

6. Kelly S. Crawford of Riker, Danzig, Scherer, Hyland & Perretti LLP is hereby appointed as Defendants' Liaison Counsel.

7. The attorneys listed below are designated as primary contacts for the defendants listed. It shall be the responsibility of the attorneys listed below to ensure all notices, orders and material communications are properly distributed to any other counsel entering an appearance on behalf of that defendant.

a. For Defendants Ethicon, Inc. and Johnson & Johnson: Kelly S. Crawford of Riker, Danzig, Scherer, Hyland & Perretti LLP.

b. For Defendants C.R. Bard, Inc., Bard Medical Division, and Bard Urological Division: Melissa A. Geist of Reed Smith LLP.

c. For Defendant American Medical Systems Inc.: Gerald Corcoran of Montgomery McCracken Walker & Rhoades LLP.

d. For Defendant Boston Scientific Corporation: Christopher J. Keale of Sedgwick Detert Moran & Arnold LLP.

e. For Defendant Caldera Medical, Inc.: Beth S. Rose, Esq. of Sills Cummis & Gross P.C.

ELECTRONIC FILE-AND-SERVE

8. Before the next case management conference, the parties shall meet and confer regarding whether to use an electronic service for the filing and service of all papers in this litigation. The parties should be prepared to discuss their proposal, if any.

PLEADINGS

9. Defendants' obligation to answer complaints for which answers would have been due to be filed on or after November 18, 2010, is hereby stayed until the next case management conference, at which the protocol and timing for answering complaints will be addressed.

10. Before the next case management conference, the parties shall meet and confer with regard to the protocol for responding to the master complaint and short form complaints.

PRO HAC VICE MOTIONS

11. Case Management Order No. 1, Part VI Motions, paragraph 2 is hereby amended as follows with respect to *pro hac vice* motions only: All *pro hac vice* motions must be accompanied by a list of all individual cases to which the motion is applicable (even if it is all cases filed to date). Such motion must be accompanied by a separate form of Order captioned in each case to which the motion applies. A separate filing fee will be assessed for each case to which the motion applies.

INITIAL DISCOVERY

(Paragraphs 13 through 19, below, do not apply to defendants other than the Gynecare defendants. Consistent with Paragraph 3, above, discovery related to cases involving multiple manufacturer defendants shall be addressed at a later date.)

12. The parties' obligations to answer the form interrogatories or any previously-served written discovery requests are hereby suspended, except as set forth herein.

13. Before the next case management conference, the parties shall meet and confer to reach agreement on the following items:

- (a) Form of Plaintiffs' Fact Sheet (PFS);
- (b) Form of authorizations to be completed by plaintiffs and served with the PFS;
- (c) Form of Defendants' Fact Sheet (DFS);
- (d) A proposed order setting forth a schedule for the completion of PFSs, authorizations, and DFS's.

(e) A proposal for completion of initial discovery requirements in cases in which some discovery already has been exchanged.

(f) A proposed protocol for the collection and distribution of plaintiffs' records, which may include the use of a records collection vendor. The protocol should consider the timing for the provision of records authorizations not covered by the PFS (such as providers that are not disclosed in the PFS, or are identified after the PFS has been completed), as well as methods of collection, storage, distribution, and cost sharing.

(g) A protocol for the provision of exemplar products by defendants to plaintiffs.

To the extent that the parties are unable to reach agreement, the parties should be prepared to discuss the disputed issues at the next case management conference.

14. Plaintiffs' liaison counsel have served upon Defendants a master Notice to Produce Documents on behalf of all plaintiffs. Before the next case management conference, the parties shall meet and confer regarding Defendants' objections to the Notice to Produce and a deadline for responding to the Notice to Produce. To the extent that the parties are unable to reach agreement, the parties should be prepared to discuss the disputed issues at the next case management conference.

15. Before the next case management conference, the parties shall meet and confer with regard to whether the protective order previously entered in certain cases prior to the order of centralization complies with R. 1:38, and shall present the agreed form of protective order to be entered at the next case management conference, or be prepared to discuss any disputed issues.

ELECTRONICALLY STORED INFORMATION

16. Before the next case management conference, the parties shall meet and confer to reach agreement on a protocol and deadline for the production of electronically

stored information (ESI), including the protocol and scope of the document capture, the identity of the custodians, search terms and related items. To the extent that the parties are unable to reach agreement on an ESI protocol and deadline, the parties should be prepared to discuss the disputed issues at the next case management conference.

17. Plaintiffs shall not file any motions relating to ESI pending the outcome of the procedures set forth in Paragraph 16, above.

EXPERT/CONSULTANT ISSUE

18. Defendants may file at any time a motion addressing whether Defendants may consult with or use as experts physicians who have also acted as treating physicians for one or more of the plaintiffs in this litigation. Upon the filing of such motion, the parties shall meet and confer to reach agreement on a reasonable briefing schedule and shall present a proposed briefing schedule to the Court.

DEPOSITIONS OF DEFENSE WITNESSES

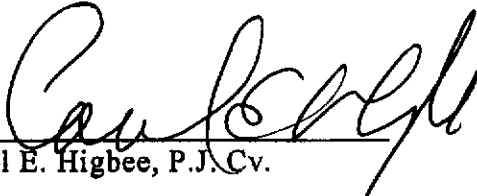
19. The consolidated deposition notice for the production of defense witnesses served by the Mazie Slater firm is hereby stayed, and there shall be no depositions of defenses witnesses pending the establishment of a protocol for such depositions that considers the schedule for the parties to provide completed PFSs, authorizations, DFS's (referenced in Paragraphs 13-14, above), and the protocol for document production and ESI (referenced in Paragraph 16, above), as well as efforts to avoid the unnecessary production of any defense or plaintiff witness for more than one

deposition. The schedule for establishing such a protocol shall be discussed at the next case management conference.

NEXT CASE MANAGEMENT CONFERENCE

20. The next case management conference shall be held on January 13, 2011 at 10:00 a.m. Should any issues develop prior to the next conference that indicate that the deadlines set forth in this Order cannot be met, liaison counsel shall promptly alert the Court.

IT IS FURTHER ORDERED that a copy of this Order shall be served upon all counsel of record within seven (7) days of the date hereof.



Carol E. Higbee, P.J. Cv.