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IN RE: PELVIC MESH/GYNECARE  
LITIGATION

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**FILED**

**SEP 29 2016**

**RACHELLE L. HARZ  
J.S.C.**

**SUPERIOR COURT OF NEW JERSEY**

**LAW DIVISION: BERGEN COUNTY**

**CASE NO. 291**

**MASTER DOCKET NO.: BER-L-11575-14**

**CIVIL ACTION**

**CASE MANAGEMENT ORDER #31**

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; 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 29<sup>th</sup> day of September 2016, **ORDERED** as follows:

**PART I**

**I. ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE**

- A. Case Management Order #30 entered on August 24, 2016
- B. Order of Dismissal with Prejudice for Failure to Provide PFS entered on September 2, 2016 (applicable to Plaintiffs' Complaints' listed on Schedule "A" attached thereto)
- C. Smith v. Ethicon, Inc. – Pre-Trial Scheduling Order (Revised) entered on August 25, 2016
- D. Stevens v. Ethicon, Inc. – Consent Order of Dismissal Without Prejudice entered on September 9, 2016
- E. Watkins v. Ethicon, Inc. – Consent Order of Dismissal Without Prejudice entered on September 9, 2016

**PART II**

## II. COMPLIANCE WITH PRIOR ORDERS (REMAINING OUTSTANDING ITEMS ONLY)

### A. Case Management Order #30 entered on August 24, 2016

#### 1. TVT-O Core Discovery Cases

- a. Smith. Discovery shall continue in anticipation of a trial scheduled for January 9, 2017.

(1) The parties continue to proceed with discovery and will be prepared to report to the Court regarding the status at the September 29, 2016 CMC.

#### 2. TVT Secur Core Discovery Cases

- a. The Parties shall continue to meet and confer regarding Core Discovery cases of Cook, Nelson and Sheppard.

(1) The parties continue to meet and confer and will be prepared to report to the Court regarding the status at the September 29, 2016 CMC.

#### 3. Mixed-Ethicon Product cases

- a. The Parties shall meet and confer to select Mixed-Product Core Discovery cases.

(1) The parties continue to meet and confer and will be prepared to report to the Court regarding the status at the September 29, 2016 CMC.

#### 4. Miscellaneous

- a. Percia v. Ethicon BER-L-9279-15 / Percia v. Hackensack Medical Center, et al., BER-L-2192-15. **The motion to consolidate the existing malpractice action with the mesh litigation matter is adjourned to September 16, 2016.**

(1) **The motion to consolidate has been adjourned to October 14, 2016.**

## III. CASE MANAGEMENT

### A. TVT-O Core Discovery Cases

1. Smith. Status of pre-trial preparation and the current pre-trial schedule and related issues, including:

- a. Defendants' request for a supplemental deposition of Mrs. Smith;
  - i. There will be a supplemental deposition of Mrs. Smith by December 31, 2016 limited to issues post-dating last deposition.
- b. The status of Plaintiffs updating the Plaintiff Fact Sheet;
  - i. Plaintiffs will serve supplemental fact sheet by October 3, 2016
- c. Pathology related issues, including:
  - (1) Dr. Iakovlev's supplemental report relating to slides from the March 2016 surgery with Dr. Veronikis;
    - a) The report has been served.
  - (2) Defendants' request for pathology from other procedures;
  - (3) Defendants' request for a firm plan and revised schedule for completing the necessary assessments of relevant pathology and completing expert depositions.
    - a) Defendants will submit a letter brief based on the pathology issues raised by October 7, 2016
    - b) Plaintiffs will respond by October 17, 2016.
    - c) The Court will make its decision on that issue thereafter.
- d. The *de bene esse* deposition of Dr. Jill Green;
  - i. Parties will inform the Court if Dr. Green will testify in person.
- e. Defendants' requests for intraoperative photographs from Mrs. Smith's March 2016 surgical procedure with Dr. Veronikis and the patient intake questionnaire completed by Mrs. Smith in connection with her treatment by Dr. Azadi; and
  - i. Defendants have reported that they have received the intraoperative photographs.
  - ii. An Order will be signed to have Dr. Azadi produce the patient intake questionnaires to both parties.

- f. The recently exchanged affirmative deposition designations and issues related to same.
  - i. Parties will continue to meet and confer to attempt to streamline designation process.
- g. Defendants will tender dates for experts' depositions by October 5, 2016.

#### B. TVT Secur Core Discovery Cases

- 1. Status of Plaintiffs' motion for a multi-plaintiff trial.
  - a. Oral Argument will be set for December 2016.
  - b. Discovery schedule will be submitted to the Court by November 3, 2016

#### C. Mixed-Ethicon Product Cases

- 1. Process for the selection of Mixed-Ethicon Product Core Discovery Cases
  - a. Parties will continue to meet and confer.

#### D. Settled/Settling Ethicon Cases

- 1. Plaintiffs again requests disclosure and dismissal of all settled Ethicon cases, or, in the alternative, placing all cases that are settled in principle on an inactive list, as the MDL is now doing.
  - a. This Court will be following the procedures set forth in the MDL and an Order will be submitted to the Court for review and signature.

### PART IV

#### I. GENERAL

- 1. The next Case Management is scheduled for November 03, 2016 at 11:00 a.m. in Room 359. Liaison Counsel shall report at 9:30 a.m. **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 you 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.: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](mailto:Jamie.Colaneri@njcourts.gov) and Sean Hanratty at [Sean.Hanratty@njcourts.gov](mailto: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.

  
RACHELLE L. HARZ, J.S.C.