
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 #36

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

FILED

APR 13 2017

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

Order.

THIS MATTER having come before the Court or a Case Management Conference on
January 26, 2017; and for good cause shown and for the reasons set forth on the record;

IT IS on this 13th day of April 2017, **ORDERED** as follows:

PART I

I. ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE

- A. Case Management Order #35 entered on February 28, 2017
- B. Order of Dismissal without Prejudice for Failure to Provide PFS entered on
March 3, 2017
- C. Fitzpatrick v. Ethicon, Inc. – Order to Amend Complaint entered on March
3, 2017
- D. Guillen v. Ethicon, Inc. – Order to Amend Complaint entered on March 3,
2017
- E. Lee v. Ethicon, Inc. – Order to Amend Complaint entered on March 3, 2017
- F. M. Martin v. Ethicon, Inc. – Order to Amend Complaint entered on March
3, 2017
- G. McGibbon v. Ethicon, Inc. – Order to Amend Complaint entered on March
6, 2017
- H. Paulman v. Ethicon, Inc. – Consent Order of Dismissal without Prejudice
entered on March 17, 2017
- I. Poe v. Ethicon, Inc. – Order to Amend Complaint entered on March 3, 2017

- J. Rodriguez v. Ethicon, Inc. – Order to Amend Complaint entered on March 3, 2017
- K. Rolocut v. Ethicon, Inc. – Order to Amend Complaint entered on March 3, 2017

PART II

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

A. Case Management Order #35 entered on February 28, 2017

- 1. Briefing regarding the impact of the Gross Decision.
 - a) Plaintiffs filed their motion on February 7, 2017; Defendants filed their opposition on March 7, 2017; Plaintiffs filed their reply on April 3, 2017.
- 2. The parties exchanged their selection of Ethicon Product Core Discovery Cases (“March 2017 Discovery Cases”) and the Court determined that the March 2017 Discovery Cases will be limited to the following referenced matters:
 - Becker, Lynda, BER-L-010634-14;
 - Burns, Catherine, BER-L-013723-14;
 - Hrymoc, Elizabeth and Taduesz, BER-L-013696-14;
 - Levin, Marci and Robert, BER-L-013705-14;
 - Hurley, Cathy, BER-L-05447-15;
 - Lemon, Dorothy, BER-L-05251-15;
 - Moore, Hendree and Timothy, BER-L-015077-14; and
 - Schubert, Lynne, BER-L-00398-15.
 - a) The parties continue to meet and confer regarding a proposed discovery schedule for the March 2017 Discovery Cases and will report on the status at the April 13, 2017 CMC. Plaintiffs have also raised an issue regarding the defense selections, and will update the Court to the extent necessary at the conference.
- 3. Settled Case Information
 - a) The parties will report on the status at the April 13, 2017 CMC. Plaintiffs request fully updated information regarding all cases that should be dismissed, and all cases currently subject to a settlement agreement.
- 4. The parties will meet and confer regarding the potential to determine a mechanism to address the impact of the McCarrell Supreme Court decision on statute of limitations issues for pending cases.

- a) The parties will report on the status at the April 13, 2017 CMC.

III. CASE MANAGEMENT

A. March 2017 Discovery Cases

1. Status of pre-trial preparation and proposing a pre-trial schedule. Also, update regarding Plaintiffs' request that adequate numbers of Exemplar products be preserved and dedicated for use in New Jersey Superior Court trials.

- a) All expert reports will be served and then 4 cases will be selected out of the pool of 8 cases.

- B. Status of the Parties' meet and confer to address the impact of the McCarrell Supreme Court decision on statute of limitations issues for pending cases.

PART IV

IV. GENERAL

1. The next Case Management Conference is will be decided on May 9, 2017. Liaison Counsel shall call in via telephone at 10:00 a.m for a telephone conference. **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.: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 Sean Hanratty at 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.