

FILED
MAR 10 2021
NEW JERSEY
MICHELLE L. HANZ
J.B.C.

**IN RE: PELVIC MESH/GYNECARE
LITIGATION**

SUPERIOR COURT OF BERGEN COUNTY

LAW DIVISION: BERGEN COUNTY

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

CIVIL ACTION

**CASE
MANAGEMENT ORDER #68**

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 10th day of March, 2021, **ORDERED** as follows:

I. ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE

- A. Case Management Order #66, entered January 22, 2021
- B. Order Admitting Jonathan F. Feczko, Esq. *Pro Hac Vice*, entered January 26, 2021
- C. Mary McMahon, et al. v. Ethicon, Inc. et al., BER-L-011988-14, Consent Order to Reinstate Case, entered January 26, 2021
- D. Marita Barker, et al. v. Ethicon, Inc. et al., BER-L-000530-18, Consent Order to Reinstate Case, entered January 26, 2021
- E. Mary Bray v. Ethicon, Inc. et al., BER-L-005910-18, Consent Order to Reinstate Case, entered January 26, 2021
- F. Christy Ferguson, et al. v. Ethicon, Inc. et al., BER-L-011998-14, Consent Order to Reinstate Case, entered January 26, 2021
- G. Jana Emanuel, et al. v. Ethicon, Inc. et al., BER-L-018610-14, Consent Order to Reinstate Case, entered January 26, 2021
- H. Case Management Order #67, entered February 5, 2021

- I. Susanne Portaleos, et al. v. Ethicon, Inc. et al., BER-L-004370-18, Consent Order to Reinstate Case, entered February 5, 2021
- J. Yolanda Daza-Nieva v. Ethicon, Inc. et al., BER-L-011739-14, Consent Order to Reinstate Case, entered February 5, 2021
- K. Order Extending Discovery End Date, entered February 5, 2021
- L. Wendy Schulz, et al. v. Ethicon, Inc. et al., BER-L-013709-14, Consent Order of Dismissal with Prejudice as to Ethicon and Johnson & Johnson Defendants only, entered February 10, 2021
- M. Irene O. Bachmann-Hoff, et al. v. Ethicon, Inc. et al., BER-L-000196-16, Order Withdrawing *Pro Hac Vice* Admission of Counsel – As to Katie Fillmore only, entered February 17, 2021
- N. Order Withdrawing *Nunc Pro Tunc* and Without Prejudice the *Pro Hac Vice* Admissions of the Attorneys Listed on Schedule “A,” entered February 17, 2021
- O. Babiak, Bart, BER-L-155987-14, Order reinstating consortium claims only.

II. COMPLIANCE WITH PRIOR ORDERS

- A. TVT-O Pre-Trial Scheduling Order (Fifth Amended), entered on December 19, 2019 (superseded by TVT-O Pre-trial Scheduling Order (Seventh Amended) (Farnsworth), entered September 29, 2020). The Order is out of date and the parties were to meet and confer to generate a revised Scheduling Order (Eighth Amended) as soon as feasible once the plaintiff’s planned surgery was firmly scheduled. The parties consent to the revised Scheduling Order and it will be entered by the court.
- B. Case Management Order #66, entered January 22, 2021
- C. TVT 2020 Discovery Pool Pre-Trial Scheduling Order (Fourth), entered September 24, 2020. The Order is out of date and the parties were to meet and confer to generate a revised Scheduling Order (Fifth Amended) as soon as feasible once certain case-specific issues could be resolved.

III. CASE MANAGEMENT

- A. Status of the TVT-O cases the Court previously selected for an October 19, 2020 trial date:
 - 1. Farnsworth, Cheri Lynn & Leland, (BER-L-014433-14), Hecht Kleeger and Oshman & Mirisola. The Court has adjourned the trial scheduled for this case due to COVID-related circumstances. The Eighth Amended Pretrial Order, entered March 9, 2021, supersedes prior scheduling orders..
- B. Status of remaining single product TVT retropublic cases for discovery pool, previously slated for a January 11, 2021 trial date:

1. There remain 4 Cases in the pool as of this date. Retaining their original selection order number, these are:

4	Brown, Rhonda & Mark ¹	Oshman & Mirisola	BER-L-011572-14
11	Steadman, Teresa & Jimmy ²	Oshman & Mirisola	BER-L-011516-14
12	Nemcek, Madeline & Richard	Oshman & Mirisola	BER-L-012359-14
17	Mohr, June	Girardi Keese ³ ; Seeger Weiss	BER-L-012791-14

2. The current scheduling order is out of date and a proposed revised Scheduling Order (Fifth Amended) has been submitted to the Court, but the Court will hold off on entering the Order at this time.
 - C. Status of mixed-manufacturer cases. The Court will enter an Order for the parties to meet and confer to reconcile and update the spreadsheet of cases potentially available in this pool that was submitted to the Court on January 27, 2021 so that the process of pool selection can be finalized.
 - D. Status updated list of active cases not subject to MSA for purposes of selecting future discovery pools. The parties will meet and confer and propose an order for the court to enter regarding a process for reconciliation of a spreadsheet of all active cases meeting the Court's discovery pool protocol so that the process of selection of the next discovery pools can be completed.
 - E. Deficient PFSs submitted by the Johnson Law Group. The parties will follow noncompliance protocol for deficient PFSs submitted.

¹ Motion for Summary Judgment based on Statute of Limitations pending. Opposition had been due on 10/20/2020 and Reply due on 10/26/2020, but Plaintiff's counsel took the position that the deposition of Dr. Rast was needed before he could file opposition papers to the motion. The Court granted the request and the parties thereafter agreed that Plaintiff would file opposition to the motion within three weeks of the completion of Dr. Rast's deposition and Defendants' reply would be due three weeks following the filing of Plaintiffs' opposition. Most recently, Defendants have asked the Court to reset the briefing scheduling without Dr. Rast's deposition. The court will proceed with hearing this motion. Plaintiff's opposition is due March 18, 2021. Defendant's reply is due March 29, 2021.

² Motion for Summary Judgment based on Statute of Limitations and Bankruptcy Judicial Estoppel filed with a briefing schedule that had been set forth in Consent Order dated 9/24/2020. The bankruptcy trustee, Henry J. Applewhite, has advised that the bankruptcy case has been reopened as of December 9, 2020 and the bar date for claims is March 3, 2021, after which the applications will be made to substitute party in interest and appoint counsel. The parties intend to submit a revised order to the Court to incorporate these timelines into a new briefing schedule.

³ The parties are attempting to meet and confer to ascertain the status of the case and whether a substitution of counsel will be filed.

- F. Cathy Pelican, BER-L-8062-20: Defendants' request for leave to file a motion for summary judgment was granted.

IV. MISCELLANEOUS

The next case management conference will be held on April 9, 2021 at 10:30 am for liaison counsel only and at 11:00 am for all counsel on the record.


RACHELLE L. HARZ, J.S.C.