

FILED

SUPERIOR COURT OF NEW JERSEY

SEP 20 2021

LAW DIVISION: BERGEN COUNTY

RACHELLE L. HARZ
J.S.C.

IN RE: PELVIC MESH/GYNECARE
LITIGATION

CASE NO. 291

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

CIVIL ACTION

CASE
MANAGEMENT ORDER #75

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 20th day of September, 2021, **ORDERED** as follows:

I. CASE MANAGEMENT

- A. Status of the TVT-O cases the Court previously selected for an October 26, 2020 trial date:
1. **Farnsworth, Cheri Lynn & Leland**, (BER-L-014433-14), Hecht Kleeger and Oshman & Mirisola. This case has been reinstated to the trial pool calendar to be tried as a single plaintiff case.
 - a. The parties have conferred and will be submitting a Ninth Amended Pretrial Order that contemplates a trial to begin no earlier than the third week of March, 2022.
 - b. The parties are to meet and confer by October 20, 2021, to attempt to agree upon a submission for Judge Thurber to familiarize the Court with the products and science to be submitted within fifteen days thereafter, and whether/when to schedule a science day for the Court.
- B. Status of remaining single product TVT retropubic cases for discovery pool, previously slated for a January 11, 2021 trial date:

1. There remains 1 Case in the pool as of this date:

Nemcek, Madeline & Richard	Oshman & Mirisola	BER-L-012359-14
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2. The **Nemcek** case currently is not in compliance with this Court's April 16, 2020 TVT Retropubic 2020 Discovery Pool Pre-Trial Order (Fifth Amended). The deadline by which Plaintiff is to make herself available for a medical examination in New Jersey by Defendants' expert is extended to November 15, 2021. If plaintiff fails to have the IME conducted, Defendants may move before the Court for appropriate relief. If the IME is completed, the Parties will meet and Confer to propose to the Court a Sixth Amended Pre-Trial Order for the completion of discovery of this Case.

C. Status of **mixed-manufacturer cases.**

- (i) The parties are to continue to meet and confer consistent with CMO 74 to report back to the Court at the next CMC as to the status of cases that will move forward with discovery and a proposal to address those that will not move forward but as to which no dismissal order has been filed.
- (ii) For the cases that will move forward, the parties are to process updated authorizations for the collection of medical records and continue to meet and confer towards scheduling fact discovery, depositions of plaintiff(s), any requested sales representative(s), and deposition of implanting and any other necessary treating physicians when sufficient records have been collected. The Court will establish formal interim deadlines for these preliminary discovery milestones in the near future, but the parties are not to delay awaiting the entry of these deadlines.

D. Status of updated list of **active Ethicon cases not subject to MSA.**

- (i) The parties are to continue to meet and confer consistent with CMO 74 to report back to the Court at the next CMC as to the status of cases that will move forward with discovery and a proposal to address those that will not move forward but as to which no dismissal order has been filed.
- (ii) The Court and the parties will evaluate the status of the selected cases and the potential need to modify the lists and establish staggered interim deadlines. However, for the cases that will move forward, the parties are to process updated authorizations for the

collection of medical records and continue to meet and confer towards scheduling fact discovery, depositions of plaintiff(s), any requested sales representative(s), and deposition of implanting and any other necessary treating physicians when sufficient records have been collected. The Court will establish formal interim deadlines for these preliminary discovery milestones in the near future, but the parties are not to delay awaiting the entry of these deadlines.

- E. To the extent any Plaintiff has not complied with the extended September 14, 2021 deadline to provide updated PFS, authorizations and related information pursuant to CMO 74, Defendants are permitted to file motions for the appropriate relief.¹
- F. **Gynemesh/Prolene/Prolene Soft/Ultrapro/Mersilene** cases. It was reported to the Court that not all plaintiffs with cases in this category have complied with the CMO 74 September 14, 2021, deadline to meet and confer with liaison counsel to provide proof regarding product identification and whether the product was implanted transvaginally or abdominally. The Defendants are permitted to seek relief from the Court to the extent there has been non-compliance. The parties are to continue to meet and confer to ascertain the status of these cases with the goal of providing the Court with a report and recommendation as to how to proceed with these cases in the future. All communications regarding this issue are to be copied to plaintiffs' liaison counsel (Adam Slater ASlater@mazieslater.com) in addition to defense liaison counsel (Kelly Crawford kcrawford@riker.com).

II. MISCELLANEOUS

The next case management conference will be held on October 28, 2021 at 10:30 am for liaison counsel only and at 11:00 am for all counsel on the record. The Conference will be virtual or telephonic.


RACHELLE L. HARZ, J.S.C.

¹ The parties are reminded that there is an ongoing obligation to update PFS and produce medical records if there is a change in the plaintiff's medical condition, including, but not limited to, additional treatment or revision surgeries.