
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 #78

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

FILED

JAN 21 2022

RACHELLE L. MARZ
J.S.C.

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 21st day of January, 2022, **ORDERED** as follows:

I. CASE MANAGEMENT

A. Status of the Farnsworth TVT-O case:

1. **Farnsworth, Cheri Lynn & Leland**, (BER-L-014433-14), Hecht Kleeger and Oshman & Mirisola. The parties have reached an agreement in principle to resolve this matter. A form of Notice of Settlement and request to Stay will be submitted to the Court for entry until such time as the formal dismissal documents can be filed.

B. Status of remaining single product TVT retropubic cases for discovery pool, previously slated for a January 11, 2021 trial date:

1. The parties in the remaining case in this pool, Nemcek v. Ethicon, BER-L-012359-14, have reached an agreement in principle to resolve this matter. A form of Notice of Settlement and request to Stay will be submitted to the Court for entry until such time as the formal dismissal documents can be filed:

C. Status of mixed-manufacturer cases.

- (i) The parties continue to work together to identify the list of cases from CMO 74, Exhibit A, which will be

proceeding for discovery, as well as to work with the court and clerk's office to ensure that proper dismissal documents are entered to completely close any cases that will not be proceeding in discovery. The parties will submit an updated list of active cases prior to the next CMC.

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

- (i) The parties are to continue to make every effort to collect medical records sufficient to proceed with depositions and to schedule depositions. To that end, the Defendants have asked counsel for plaintiffs to consider waiving or reducing the waiting periods between receipt of the records by the vendor and release of the records to defense counsel to expedite the ability to review and schedule depositions. Additionally, to the extent that there is a lack of response from any plaintiff or plaintiffs to requests to schedule depositions, Defendants are permitted to issue Deposition notices with an expectation that plaintiff(s) appear as noticed. Failure to appear may result in an application for appropriate relief.
- (ii) The parties will 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 those that will not. The parties will submit an updated list of active cases prior to the next CMC.

E. **Gynemesh/Prolene/Prolene Soft/Ultrapro/Mersilene cases.** It was reported to the Court that many plaintiffs with cases in this category have complied with the CMO 74 Section I.(G) 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. Some plaintiffs have not complied. As noted in CMO 75, 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). Defense liaison counsel will provide plaintiffs' liaison counsel with the information received to date.

F. **Motions Status.** It is noted that as to the motions identified in the agenda submitted for this CMC, all outstanding motions have been resolved with

the exception of one, which has been carried to March 18, 2022 (Tolson, BER-L-3777-16) and one for which oral argument has been scheduled (Pelican, BER-L-008062-20).

G. **Status of New Protocols**. The parties reported to the Court that they are negotiating new protocols to be submitted for entry. The following is the status of those protocols.

1. Remote Deposition Protocol. The parties expect to submit an agreed upon form of order within a week of this order.
2. Pathology Protocol. The parties expect to submit an agreed upon form of order within a week of this order.
3. Other protocols will be discussed between liaison counsel and may be raised on the agenda for the next CMC.

H. Filings on eCourts

1. Counsel are reminded not to use eCourts to file pleadings and other documents. This MCL requires paper filing or filing through the JEDS system. Any fees charged through an improper submission on eCourts will not be refunded.

I. Additional items. Defendant Ethicon has confirmed that it has updated information regarding the charts of in use dates, and will work with plaintiffs to ensure that the information is fully up to date, and that it has been updating DFS's when required. The parties will meet and confer to the extent there outstanding issues.

II. MISCELLANEOUS

The next case management conference will be held on **March 2, 2022** at 10:30 am for liaison counsel only (via Zoom) and at 11:00 am for all counsel on the record; The Conference will be virtual or telephonic.



RACHELLE L. HARZ, J.S.C.