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IN RE: PELVIC MESH/GYNECARE  
LITIGATION

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SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: BERGEN COUNTY

CASE NO. 291

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

CIVIL ACTION

CASE

MANAGEMENT ORDER #80

**FILED**

**MAR 03 2022**

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

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 3<sup>rd</sup> day of March, 2022, **ORDERED** as follows:

**I. CASE MANAGEMENT**

**A. Mixed-manufacturer cases.**

- (i) The parties shall 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 expeditiously entered to completely close any cases that will not be proceeding in discovery. Liaison counsel will submit an updated list of active cases to the Court within two weeks of the date of this Order.

**B. Active Ethicon cases not subject to MSA.**

- (i) **CMO 74 Cases.** The parties will submit an updated list of remaining activated cases, which list will be posted on the MCL website. The cases on that list should be in active discovery, with all efforts being undertaken to collect necessary records and schedule depositions of plaintiffs and necessary treating

physicians. 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) **Remaining Active Cases not yet activated for Discovery.** Liaison counsel shall work together and with the other parties to prepare a list of remaining active cases to be provided to the Court prior to the next case management conference. It is expected that a substantial number of additional cases will be activated for discovery following the next case management conference. Plaintiffs should be prepared to proceed with discovery following this case selection by regularly updating PFSs with new information and ensuring that Defendants are in possession of any necessary updated records release authorizations.

(iii) **12/1/2021 Settlement Conference Order.** The Court plans to continue to move forward with the protocols established in this order. The items listed in Paragraph 2 of the Order are the minimum required to engage in settlement discussions with Ethicon Settlement Counsel, whether or not a case is specifically identified in the rider to that Order. If any plaintiff not identified specifically in the Settlement Order is in a position to provide the required information and wishes to be put in contact with Ethicon Settlement Counsel, contact [kcrawford@riker.com](mailto:kcrawford@riker.com).

C. **Gynemesh/Prolene/Prolene Soft/Ultrapro/Mersilene cases.** It was reported to the Court that many plaintiffs with cases in this category have not complied with the CMO 74 Section I.(G) September 14, 2021, to provide proof regarding product identification and whether the product was implanted transvaginally or abdominally. As noted in CMO 75, the Defendants are permitted to seek relief from the Court to the extent there has been non-compliance. 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). Additionally, any plaintiff in a case not specifically identified in CMO 74, Exhibit C that involves only one or more of these meshes shall promptly provide the necessary information to document whether the mesh was implanted vaginally or abdominally.

- D. **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. Pathology Protocol. The parties expect to submit an agreed upon form of order within a week of this order.
- E. 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.

## II. MISCELLANEOUS

The next case management conference will be held on **April 8, 2022** at 10:30 am for liaison counsel only (via Zoom) and at 11:30 am for all counsel on the record; The Conference will be virtual or telephonic.

  
RACHELLE L. HARZ, J.S.C.