

FILED

JUN 21 2011

Carol E. Higbee, P.J.Cv.

IN RE PELVIC MESH / GYNECARE
LITIGATION

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION – ATLANTIC COUNTY
: MASTER CASE 6341-10
: CASE NO. 291 CT

:
: Civil Action
:

: **ORDER ESTABLISHING**
: **ESI PROTOCOL FOR ETHICON**
: **DEFENDANTS**

THIS MATTER having been presented to the Court on consent of the parties, and for good cause shown;

IT IS ON THIS 21 day of June, 2011;

ORDERED that all electronically stored information (“ESI”) produced by Defendants Johnson & Johnson and Ethicon, Inc. (and Ethicon’s Gynecare Division) shall be produced in accordance with the following protocol:

1. Excel and Powerpoint files shall be produced in native format, in the manner and form in which each was created, kept, or maintained in the ordinary course of business, with associated metadata. Three exceptions to this production format will apply: (1) if such documents contain privileged information protected from disclosure; (2) if such documents contain information subject to non-disclosure obligations imposed by governmental authorities, law or regulation; and (3) if such documents contain information that is irrelevant and inconsistent with the scope of permissible discovery under New Jersey law and rules (such as, but not limited to, products that are not at issue in the litigation). In the event that one of these exceptions applies, defendants will have the option to redact the protected information and produce the redacted documents in TIFF image format with corresponding searchable OCR text, with the associated metadata for the original

documents, and load files as agreed upon by the parties. Defendants will provide a log of material redacted from documents produced. If any produced Excel or Powerpoint files are entitled to confidential treatment pursuant to the Protective Order(s), the Protective Order(s) will apply even if it is unduly burdensome to stamp such documents as "confidential," as long as such documents are clearly identified.

2. Databases (defined as an electronic environment created to manage raw or structured data, often in table/row/column format, for specific purposes; distinguishable from a document management system, which often contains unstructured electronic documents such as Microsoft Word files) shall be produced, in a reasonably usable production format which shall be determined by the parties for each such database in advance of production. The parties agree to meet and confer in good faith regarding (1) the identification and production of responsive databases, (2) the production formats as necessary.

3. Emails and other electronic documents and attachments are to be produced in TIFF format with corresponding extracted text, along with the corresponding agreed upon designated metadata fields, to be provided in a standardized load file, with a bates number field included on the load file so that text and metadata can be matched with TIFF images. This protocol will apply to all electronic documents produced on a going forward basis. Regarding electronic documents and email produced in hard copy or image format prior to the protocol, Defendants represent that they cannot link those documents to their native files and associated metadata and cannot ensure reproduction of all documents previously produced in other cases prior to centralization. Accordingly, defendants will re-process the previously collected documents from which the prior productions were made, along with the newly collected documents, and review all documents identified as potentially responsive. The goal, to the extent reasonably practicable, is to produce all

previously produced electronic documents and email, as well as newly collected responsive documents, pursuant to the specifications set forth in this protocol. In the event that it is discovered that a previously produced document has not been produced in accordance with this protocol, defendants will, upon request and reasonable showing of need for associated metadata, promptly endeavor to identify the document and produce it in accordance with the protocol. The parties shall meet and confer with regard to (1) determination of the standardized load file, and (2) the designated metadata fields. Should emails or electronic documents produced under this format require redaction consistent with the exceptions set forth in Paragraph 1, above, they will be produced in TIFF format with corresponding searchable OCR text (not extracted text), with the associated metadata for the original document, ensuring the redacted content is fully protected from disclosure.

4. Parent-child relationships (the association between an attachment and its parent document) shall be preserved. Regarding produced attachments, a "BegAttach" and "EndAttach" Bates number will be provided for each attachment and included in the data load file.

5. All ESI and other documents shall be assigned a Bates number or otherwise marked with hash values for ease of reference and to preserve the integrity of the documents and avoid modification of any documents or information. Bates numbers shall be unique across the entire document production and sequential within a given document. The parties will agree on a Bates numbering convention (e.g., aBCD.000000001). If a Bates number or set of Bates numbers is skipped in a production, the producing party will so note in a cover letter accompanying the production.

6. Hard copy documents shall be produced in TIFF format, with corresponding searchable OCR text, and load files as agreed upon by the parties. The defendants will identify the source of all such hard copy documents.

7. All ESI produced in discovery shall be maintained and safeguarded by the producing party in its native format, and the parties may request and obtain the ESI in its native format for any document or documents for which the requesting party makes a good faith showing of need. Nothing in this Order shall preclude Defendants from objecting to such request or making an application to the Court.

8. This protocol shall not be construed to require the production of counsel's ESI or work product.

9. The parties understand that the protocol contemplates the production of large volumes of documents in a short time period, and they acknowledge that nothing in this Order waives, restricts or eliminates the Defendants' "claw-back" rights pursuant to the Protective Order(s) in this case, or governing law, rules, orders, or agreements regarding inadvertently produced documents.

10. The parties shall meet and confer and endeavor to resolve any disputes arising hereunder, before submitting such disputes to the Court for determination.

ORDERED that a true copy of this Order shall be served within seven (7) days of receipt.



HONORABLE CAROL E. HIGBEE, P.J.C.V.

____ Opposed
 X Unopposed

EXHIBIT A

Pelvic Mesh/Gynecare Litigation
 CT No. 291
 Agreed Metadata and Index Fields for Production

Field Name	Description	Index	Metadata
1	BEGDOC	Page ID of first page in doc	x (index)
2	ENDDOC	Page ID of last page in doc	x (index)
3	Custodian	Custodian source of documents	x (index)
4	From	Author of e-mail message	x (index)
5	To	Main recipient(s) of e-mail message	x (metadata)
6	CC	Recipient(s) of "Carbon Copies" of e-mail message	x (metadata)
7	BCC	Recipient(s) of "Blind Carbon Copies" of e-mail message	x (metadata)
8	DateSent	Sent date of e-mail message	x (metadata)
9	DateRecv	Received date of an e-mail message	x (metadata)
10	Auditor	Value extracted from metadata of the native file	x (metadata)
11	Organization/Company	Company field extracted from metadata of native file	x (metadata)
12	DateCreated	Creation date of the native file	x (metadata)
13	Date/TimeLastMod	Date and time the native file was last modified	x (metadata)
14	EdiFolder/EdiSource	Full path to source files (if e-docs or loose e-mail) or folder path contained with a mail store (if NSF or PST)	x (metadata)
15	FileName	Original file name of native file	x (metadata)
16	Subject	Field extracted from metadata of native file	x (metadata)
17	Attach	Original file names of all attached records	x (metadata)
18	TimeSent	Time the e-mail message was sent	x (metadata)
19	TimeCreated	Creation time of the native file	x (metadata)
20	DocExt	File extension of native file	x (metadata)
21	PageCount	Number of pages in a document (image records)	x (index)
22	BEGATTACH	BeginDoc# of parent record	x (index)
23	ENDATTACH	EndDoc# of last attached doc in family	x (index)
24	Conversation	Normalized subject of e-mail	x (index)
25	ConversationIndex	E-mail thread identification	x (metadata)
26	Email Subject	Subject of the e-mail	x (metadata)
27	FileDescription	Description of native file type as listed in file type database	x (metadata)
28	Unread	E-mail has not been read (Y/N)	x (metadata)
29	BATESRANGE	Combination of beginning control number to ending control number e.g. 000001-000006	x (index)
30	DOCRANGE	Complete family range of a document (Control number of Parent document - Control Number of Last attachment). If the document does not have children then the range will be identical to the "Bates Range" field.	x (index)

**Pelvic Mesh/Gynecare Litigation
CT No. 291
Agreed Metadata and Index Fields for Production**

31	PARENTID	Parent's starting Bates Number (for child documents only). All children should have the same information in this field.	✓			x (index)
32	ATTCHIDS	Child document list: Start Bates of each child separated by a semicolon (for parent documents only)	✓		x (index)	x (index)
33	FILESIZE	File Size of the native file measured in Kilobytes	✓		x (metadata)	x (metadata)
34	RECEIVEDTIME	An email's date and time when the email was received. (mm/dd/yyyy hh:mm:ss AMPM)	✓			x (metadata)
35	TITLE	Metadata collected from MS office files. For emails, the subject	✓		x (metadata)	x (metadata)
36	LASTSAVEDBY	Last user to save the document	✓		x (metadata)	x (metadata)
37	CATEGORY	Metadata collected from MS office files	✓		x (metadata)	
38	KEYWORDS	Metadata collected from MS office files	✓		x (metadata)	
39	TEMPLATE	Metadata collected from MS office files	✓		x (metadata)	
40	WORDCOUNT	Metadata collected from MS office files	✓		x (metadata)	
41	CHARACOUNT	Metadata collected from MS office files	✓		x (metadata)	
42	LINES	Metadata collected from MS office files	✓		x (metadata)	
43	PARAGRAPHS	Metadata collected from MS office files	✓		x (metadata)	
44	SCALE	Metadata collected from MS office files	✓		x (metadata)	
45	LINKSDIRTY	Metadata collected from MS office files	✓		x (metadata)	
46	COMMENTS	Metadata collected from MS office files	✓		x (metadata)	
47	REVISION	Metadata collected from MS office files	✓		x (metadata)	
48	APPLICATIONNAME	Native Application Program name	✓		x (index)	x (index)
49	HASH	Generated MD5/SHA1 Hash value for native files	✓		x (index)	x (index)
50	ENTRYID	Metadata collected from MS Exchange emails	✓			x (metadata)
51	MSGID	Metadata collected from MS Exchange emails	✓			x (metadata)
55	BODY	Extracted TEXT or OCR of a document	✓		x (index)	x (index)

Notes:

- (i) Different electronic documents have different metadata. Accordingly, certain file types may not have information for all fields identified for production.
- (ii) To the extent any field information contains information protected from disclosure consistent with Paragraph 1 of the ESI protocol, such information will not be provided. A privilege log will be provided and a log of redacted information will be provided.
- (iii) Regarding the "BODY" field, document text will be provided in the form of searchable text files as agreed by the parties in the ESI protocol.