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**RACHELYN L. HARZ
J.S.C.**

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

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
CASE NO. 291
MASTER DOCKET NO.: BER-1-11575-14

CIVIL ACTION

**TVT-O PRE-TRIAL SCHEDULING ORDER
(EIGHTH AMENDED)**

THIS MATTER having been brought before the Court jointly by Defendants Ethicon, Inc. and Johnson & Johnson (“Defendants”), through their counsel Riker Danzig Scherer Hyland & Perretti, LLP, and Plaintiffs, through Plaintiffs’ liaison counsel, and the Court needing to amend the Seventh Pre-trial Order entered on September 29, 2020, as a result of the inability to complete discovery and set a trial date because of the COVID-19 crisis, and for good cause shown;

IT IS on this 9th day of March 2021, ORDERED that the following pre-trial deadlines are hereby set for the trial involving TVT-O:

- I. Trial Date Change – Trial (previously scheduled for October 26, 2020) continues to be adjourned until further order of the Court following the ability to complete the outstanding discovery and set a civil trial within COVID-19 limitations.
- II. Trial pool – The pool consists of:
 1. Farnsworth, Cheri Lynn & Leland, BER-L-014433-14, Hecht Kleeger and Oshman & Mirasola.

III. Expert Discovery

1. Plaintiffs' expert reports shall be served by **March 30, 2021**. In any case where the plaintiff fails to serve all expert reports by the deadline without having obtained prior leave of the Court, the case may be dismissed with prejudice.
2. Plaintiff shall be made available for an IME by Defendant's expert by **April 6, 2021**. Assuming that the IME of Plaintiff by Defendant's expert occurs within that timeframe, Defendants' expert reports shall be served by **May 7, 2021**. If the IME is not completed within that timeframe, Defendant's expert reports shall be served within two weeks after Defendants' expert is able to conduct a defense medical examination of the Plaintiff.
3. The parties shall make best efforts to complete all necessary plaintiff expert depositions by no later than 30 days following the service of Plaintiffs' expert reports (no plaintiff expert need be produced for deposition before all corresponding defense expert reports are served with adequate time for review), and all necessary defense expert depositions by no later than 30 days following the service of Defendants' expert reports.

IV. Pre-trial motions

1. The schedule for Pre-trial motions (dispositive, Kemp/Accutane, *in limine*) shall be set when it is determined what the trial date will be, and the briefing schedule will contemplate motion days sufficiently in advance of

the trial date such that the Court can issue rulings at least ten days in advance of opening statements.

V. Deposition designations

1. The parties shall exchange affirmative deposition designations for case-specific and non-case specific witnesses (other than expert witnesses who have not been deposed and to the extent that such witnesses may not appear live at trial) on or before **June 18, 2021**. The designations shall be identified by page and line number and the parties have agreed to use the same Excel spreadsheet format for ease of reference and exchange. The designations shall specifically identify exhibits to be offered through the deposition testimony.
2. Any objections to the designations or any of the accompanying exhibits sought to be entered through the deposition testimony, and any counter-designations and accompanying exhibits sought to be entered through the counter-designation testimony, shall be exchanged on or before **July 23, 2021**.
3. Plaintiffs shall advise Defendants of any witness for whom Defendants have identified deposition designations to which Plaintiffs will object on the grounds that the witness needs to be brought live to trial rather than played by video by no later than 90 days prior to the trial date once set.
4. Any objections to the counter-designations and exhibits, and any counter-counter-designations to an opposing party's counter-designations, shall be exchanged on or before **August 16, 2021**.

5. The parties shall meet and confer no later than 30 days in advance of the trial date once set to resolve objections to the designated testimony and exhibits and to resolve any proposed redactions to exhibits.
6. The Court shall commence hearings to resolve all outstanding objections relating to the deposition designations and exhibits during the same week that hearings will be set for pretrial motions, such that the Court will be able to issue rulings regarding disputed deposition designations by no later than ten days before opening statements.

VI. Trial witnesses and exhibits

1. The parties shall exchange witness lists no later than 90 days before the trial date, once set.
2. On or before a date no later than 90 days before the trial date once set, Plaintiffs shall advise Defendants of Defendants' corporate witnesses whom they request to call as live witnesses at trial.
3. The parties shall disclose the identities of live witnesses who will testify at trial at least two business days prior to when the witness will be called. If the witness will be called on a Monday, then the witness must be disclosed by the end of court day on the preceding Friday.
4. The parties shall exchange their lists of all exhibits that may be offered during each party's case in chief no later than sixty days prior to the trial date, once set. Demonstratives and exhibits to be utilized solely for impeachment purposes need not be included. The exhibit list shall be in the form of an Excel spreadsheet. The parties may supplement their

exhibit lists from time to time prior to and during trial, provided that the supplementations are reasonable in terms of scope and number of documents. The parties shall meet and confer regarding the deadline and manner by which they will exchange copies of all exhibits (e.g., on a hard drive, as separate .pdf or .tiff images, etc.).

5. If a party elects to submit a paper copy of proposed exhibits to the Court for any purpose, and if the Court so permits, a duplicate shall also be provided to the adverse party.

VII. Jury instructions

1. The parties shall exchange initial proposed jury instructions by no later than 14 days prior to the trial date once set, and thereafter shall meet and confer regarding jury instructions.

VIII. Jury selection


1. The parties shall meet and confer on a juror questionnaire by no later than 35 days prior to the trial date once set.
2. A proposed agreed upon jury questionnaire must be submitted to the Court no later than 30 days before the trial date, once. If the parties are unable to agree upon a form of juror questionnaire, the parties shall submit competing forms and identify for the Court those questions upon which they cannot agree.
3. The parties shall agree upon a service to copy the final questionnaire to ensure that there are sufficient copies for distribution to the jury pool and for duplication of the completed questionnaires for distribution among

counsel. The cost of copying shall be borne equally by Plaintiffs and Defendants.

4. On the same date that the jury questionnaire is submitted (and if not included in the proposed long form jury questionnaire), the parties shall submit a concise descriptive statement of the nature of the case not to exceed one page in length for the Judge's use during jury selection.
5. Jury selection will begin on the date selected by the Court as the trial date, with jurors to complete questionnaires (both short form hardship and long form) at least one week prior to the trial date, with dates to be set by the Court in a subsequent order after conferring with the jury manager.

IX. Commencement of Trial — Opening statements will commence on or as soon after the trial date, once set, following jury selection.

IT IS FURTHER ORDERED that a copy of this Order shall be served upon all counsel within seven (7) days of the date of this Order.



Hon. Rachelle L. Harz, J.S.C.

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