

SAYRIS J. GONZALEZ,

Plaintiff,
vs.

ETHICON, INC., ETHICON WOMEN'S
HEALTH AND UROLOGY, a Division of
ETHICON, INC., GYNECARE, JOHNSON &
JOHNSON, and JOHN DOES 1-20,

Defendants.

FILED

OCT 21 2022

RACHELLE L. HARZ
J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – BERGEN COUNTY
DOCKET NO. BER-L-011810-14-MCL

MASTER DOCKET NO. BER-L-11575-14
CIVIL ACTION
In Re Pelvic Mesh/Gynecare Litigation
Case No. 291

**ORDER GRANTING IN PART PLAINTIFF'S
MOTION FOR A PROTECTIVE ORDER AND
GRANTING IN PART DEFENDANTS'
MOTION FOR A PROTECTIVE ORDER
REGARDING THE TIMING AND SCOPE OF
DEFENDANTS' SUBPOENA *DUCES TECUM*
TO DR. MARGOLIS**

THIS MATTER having been brought before the Court by Plaintiffs' Motion for a Protective Order on various grounds and by Defendants Ethicon, Inc. and Johnson & Johnson, through its counsel Riker Danzig LLP, Cross-Motion seeking a Protective Order regarding the 10/22/2022 deposition of Dr. Margolis, and the Court having considered the Motion and Cross-Motion, any opposition filed with respect to the Cross-Motion, and the arguments of counsel conducted on October 20, 2022, and October 21, 2022; and for good cause shown,

IT IS on this 21st day of October, 2022,

ORDERED this Order addresses only the relief sought in Plaintiffs' Motion for a Protective Order and Defendants' Cross-Motion for a Protective Order that relates to the timing of the

deposition of Dr. Margolis and the scope of the document request rider contained in the subpoena *duces tecum* to Dr. Margolis;¹

IT IS FURTHER ORDERED that the Plaintiffs' Motion for a Protective Order is denied in part and Defendants' Cross-Motion for a Protective Order is granted in part in that the scheduled deposition for 10/22/2022 shall be adjourned and the deposition of Dr. Margolis shall be postponed until the first week of December 2022;

IT IS FURTHER ORDERED that the Plaintiffs' Motion for a Protective Order is granted in part and denied in part, and Defendants' Cross-Motion for a Protective Order is granted in part and denied in part, in that the document request rider to Defendants' Subpoena *duces tecum* shall be modified such that Requests 12, 20, 21, 23, 25, 26, 27 and 28 shall be stricken and a definition of "affiliated entities" shall be included, and a copy of the subpoena with the modified rider is attached hereto as Exhibit A;

IT IS FURTHER ORDERED that a copy of this Order and Exhibit A shall be delivered by Defendants to Dr. Margolis and served upon counsel for plaintiff within 7 days of the date of this Order.



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

Opposed
 Unopposed

The Court's findings of fact and conclusions of law were placed on the record October 20, 2022 and October 21, 2022 and were:

Written
 Oral

¹ Other aspects of the relief sought in the cross-protective order motions by Plaintiffs and Defendants may be addressed by subsequent orders, if necessary.

EXHIBIT A

Kelly S. Crawford – NJ Attorney ID #029141993
RIKER DANZIG LLP
Headquarters Plaza
One Speedwell Avenue
Morristown, NJ 07962-1981
(973) 538-0800

Attorneys for Defendants,
Ethicon, Inc. and Johnson and Johnson

SAYRIS GONZALEZ,

Plaintiff,

vs.

ETHICON, INC., and JOHNSON &
JOHNSON,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – BERGEN COUNTY
DOCKET NO. BER-L-11810-14 MCL

MASTER CASE NO. BER-L-11575-14

CIVIL ACTION

In Re: Pelvic Mesh/Gynecare Litigation
Case No. 291 CT

SUBPOENA *DUCES TECUM* AND *AD TESTIFICANDUM*
FOR DR. MICHAEL T. MARGOLIS
(VIDEOTAPED DEPOSITION BY ZOOM)
(Revised)

THE STATE OF NEW JERSEY TO:

Dr. Michael T. Margolis, M.D.
Bay Area Pelvic Surgery
1820 Ogden Drive
Burlingame, California 94010

YOU ARE HEREBY COMMANDED, pursuant to R. 1:9 and R. 4:14-7, to attend and give testimony upon oral examination, on **December 5, 2022, or an alternative date thereafter agreed to by the parties**, for a videotaped deposition upon oral examination

via videoconference (Zoom), as a witness in connection with the above-referenced matter. Video conferencing link and dial-in information will be provided by the court reporting service prior to the deposition.

YOU ARE ALSO COMMANDED to bring with you and to produce at the same time and place any and all documents or electronically stored information identified in the attached Schedule A.

YOU ARE FURTHER COMMANDED that the subpoenaed evidence shall not be produced or released until the date specified for the taking of the deposition, and if you are notified that a motion to quash the subpoena has been filed, you shall not produce or release the subpoenaed documents until the Court orders you to do so or until the parties to the lawsuit agree to their production or release. If the parties agree and inform you of such agreement in writing, then you may produce the requested documents in advance of the date set for the deposition in this Subpoena.

Failure to appear or comply with the command of this Subpoena will subject you to the penalties provided by law.

Dated: October 21, 2022

s/ Kelly S. Crawford
Kelly S. Crawford
Riker Danzig LLP

Attorneys for Defendants

s/ Michelle M. Smith
Michelle M. Smith
Clerk of the Superior Court

Schedule A

The deponent shall bring to the deposition the following documents that are in his possession, control or custody:

1. Your *Curriculum Vitae*.
2. Dr. Margolis's complete original chart and file(s) regarding Plaintiff Sayris Gonzalez ("Plaintiff"), including, but not limited to, all medical records, correspondence, e-mail, memoranda and other documents; materials upon which Dr. Margolis will rely for his opinions or testimony in this case; and materials which reflect Dr. Margolis's analysis of this case, such as summaries, memoranda, evaluations or notes, including any notes or memoranda of any examinations conducted by Dr. Margolis of Sayris Gonzalez.
3. All original documents, books, records, materials, correspondence, memoranda, receipts, including, but not limited to diaries and notes pertaining to the claims raised by Plaintiff.
4. All medical information, records and reports, including inpatient, outpatient, and emergency room treatment, all clinical charts, reports, documents, correspondence, test results, statements, questionnaires/histories, office records, handwritten notes by doctors and medical personnel and records received by other physicians or healthcare providers that pertain to or reference Plaintiff.
5. All laboratory, histology, cytology, pathology, radiology, CT Scan, MRI, ultrasound or other studies or tests that pertain to or reference Plaintiff.
6. All pharmacy/prescription records, including NDS numbers and drug information handouts/monographs, that pertain to or reference Plaintiff.
7. All documents you reviewed, referred to, or relied upon in arriving at any of your medical opinions concerning your treatment and care of Plaintiff.
8. All billing records, including all statements, itemized bills and insurance records that pertain to or reference Plaintiff.
9. All documents which evidence any communication between you and Sayris Gonzalez regarding the Surgery, including estimated cost, invoices, bills, invoices, receipts, authorization approvals and/or denials, and party(ies) responsible for paying for the Surgery.
10. Any and all documents sent to or received by your practice regarding the Surgery, including estimated cost, invoices, bills, invoices, receipts, medical records, authorization approvals and/or denials, and party(ies) responsible for paying for the Surgery.

11. Any and all documents showing the sources of payments, direct or from a third-party, for Sayris Gonzalez's mesh revision surgery with Dr. Margolis and his affiliated entities.¹
12. [Stricken by the Court].
13. Any and all documents referencing visits following Sayris Gonzalez's mesh revision surgery made by Dr. Margolis, his affiliated entities, or their staff.
14. Any and all documents referencing lodging, travel, and/or other accommodations made for Sayris Gonzalez by Dr. Margolis and his affiliated entities in connection with her mesh revision surgery.
15. Any and all communications, with Sayris Gonzalez or any third-party, regarding scheduling of Sayris Gonzalez's appointments, surgeries, visits, or care with Dr. Margolis, his affiliated entities, or their staff.
16. Any and all documents showing the source of payments for any treatment Sayris Gonzalez received from Dr. Margolis, his affiliated entities, or their staff.
17. All correspondence, e-mail, memoranda, documents and other material either to or from Dr. Margolis and other persons (other than Plaintiffs' counsel), including, but not limited to, other witnesses, treating physicians, and third party funding entities, relating to or generated in connection with Plaintiff.
18. All documents, invoices, and/or other written material concerning Medstar Funding LLC's funding of Plaintiff's care and treatment.
19. All materials, including records, summaries, drafts and deposition transcripts provided to Dr. Margolis by Plaintiffs' counsel or any agent of Plaintiffs' counsel concerning Plaintiff.
20. [Stricken by the Court]
21. [Stricken by the Court]
22. Copies of any bills or invoices for services rendered and/or moneys received for services rendered by Dr. Margolis in connection with this matter.
23. [Stricken by the Court]
24. All materials, including without limitation, research, notes, memoranda, drafts, slides or photographs, prepared by or at the direction of Dr. Margolis pertaining to this case.

¹ "Affiliated entities" shall be defined as any medical practice or entity with which Dr. Margolis was affiliated in connection with the care and treatment of Sayris Gonzalez.

25. [Stricken by the Court]
 26. [Stricken by the Court]
 27. [Stricken by the Court]
 28. [Stricken by the Court]
 29. Identification of all documents and other materials Plaintiff's counsel showed Dr. Margolis as part of any communications with Plaintiff's counsel or their representatives in which counsel for the defendants did not participate.
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CERTIFICATE OF SERVICE

I certify that on this date I caused the attached Subpoena *Duces Tecum* and *Ad Testificandum* issued by Defendants Ethicon, Inc. and Johnson & Johnson to be served by email upon the following:

Adam M. Slater, Esq.
Julia S. Slater, Esq.
Mazie Slater Katz and Freeman
103 Eisenhower Parkway, 2nd Floor
Roseland, NJ 07068
ASlater@mazieslater.com
JSlater@mazieslater.com
Attorneys for Plaintiff

I certify that on this date I caused the attached Subpoena *Duces Tecum* and *Ad Testificandum* issued by Defendants Ethicon, Inc. and Johnson & Johnson to be served by hand delivery upon the following:

Dr. Michael T. Margolis, M.D.
Bay Area Pelvic Surgery
1820 Ogden Drive
Burlingame, California 94010

/s/ Nakul Y. Shah
Nakul Y. Shah

Dated: October 121, 2022