

FILED
APR 20 2021
BACHELLE L. HARZ
J.S.C.

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/J&J**
: **MULTI-MANUFACTURER CASES FOR**

DEFENDANTS OTHER THAN ETHICON/J&J

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

IT IS ON THIS 20th day of April, 2021;

ORDERED that all electronically stored information (“ESI”) produced by Defendants other than Ethicon/J&J¹ shall be produced in accordance with the following protocol:

1. Subject to the qualification in Paragraph 4A concerning prior productions, Excel 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

¹ The ESI Protocol in place for this MCL applicable to Ethicon and Johnson & Johnson shall remain in full force and effect for documents produced by Ethicon and Johnson & Johnson.

searchable OCR text, with the associated metadata for the original documents, and load files as agreed upon by the parties. If any produced Excel 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. PowerPoints and other color documents (i.e., marketing documents) will be produced in color, with all notes and text. This protocol will apply to all electronic documents produced on a going forward basis.

4. Previously/Newly Produced Documents

a. To the extent documents previously produced in other litigation are produced in this matter, they will be produced in the original production format which may, or may not, strictly comply with the production format outlined in this Order.

b. Any newly collected responsive documents, will be produced pursuant to the specifications set forth in this protocol. For such newly collected responsive documents, 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.

5. 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.

6. 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.

7. 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.

8. All newly collected ESI of the kind described in Paragraph 4(b) that is produced in discovery shall be maintained and safeguarded by the producing party in its native format, and the parties may request and obtain the newly collected 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.

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

10. 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.

11. 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 RACHELLE L. HARZ, J.S.C.

____ Opposed
 X Unopposed