

FILED

SUPERIOR COURT OF NEW JERSEY

SEP 21 2021

IN RE: PELVIC MESH/GYNECARE
LITIGATION

LAW DIVISION: BERGEN COUNTY
RACHELLE L. HARZ
J.S.C.

CASE NO. 291
MASTER DOCKET NO.: BER-1-11575-14

CIVIL ACTION

TVT-O PRE-TRIAL SCHEDULING ORDER
(NINTH 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 Eighth Pre-trial Order entered on March 9, 2021, and for good cause shown;

IT IS on this 21st day of September 2021, ORDERED that the following pre-trial deadlines are hereby set for the trial involving TVT-O:

- I. Trial Date Change – Trial shall be set for **March 28, 2022**, or a date thereafter as set by the Court.
- 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. Any outstanding Plaintiffs’ expert reports shall be served by **October 12, 2021**, along with a letter specifically listing and confirming any expert

report previously served in the Farnsworth case that Plaintiff expects to rely upon at trial. This shall not apply to Plaintiffs' treating physicians. 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. Defendants' expert reports shall be served by **November 5, 2021**. In any case where the Defendants fail to serve all expert reports by the deadline without having obtained prior leave of the Court, the defendants may be precluded from using the testimony of any expert at trial whose report is served after the deadline.
3. The parties shall make best efforts to complete all necessary plaintiff expert depositions by no later than **November 26, 2021** (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 **December 24, 2021**.

IV. Pre-trial motions

1. Pre-trial motions (dispositive, Kemp/Accutane, *in limine*) shall be served and filed directly with Judge Harz's¹ chambers by **January 6, 2022**.
2. Oppositions to pre-trial motions shall be filed and served by **February 7, 2022**.
3. Only where necessary, on leave of Court, limited replies shall be filed and served by **February 18, 2022**.

¹ Should the case be re-assigned to Judge Thurber for pre-trial motions as well as trial, all papers will be submitted to Judge Thurber's chambers instead of to Judge Harz.

4. Oral argument on pretrial motions and any remaining outstanding disputed deposition designations shall commence on **February 28, 2022**, continuing day to day as necessary.
5. The Court shall issue rulings on pretrial motions and any outstanding deposition designation disputes that impact opening statements, or other such issues that must be resolved prior to opening statements by no later than **March 18, 2022**.

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 **November 5, 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 **December 10, 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 **December 10, 2021**.

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 **January 7, 2022**.
5. The parties shall meet and confer no later than **February 4, 2022** 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 **March 18, 2022**.

VI. Trial witnesses and exhibits

1. The parties shall exchange witness lists no later than **January 7, 2022**.
2. On or before **January 7, 2022**, 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 by no later than **February 4, 2022**. 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 **February 25, 2022**, and thereafter shall meet and confer regarding jury instructions.

VIII. Jury selection

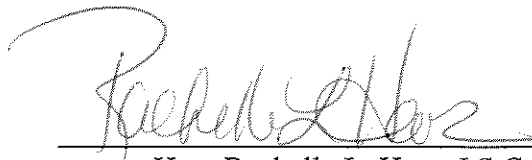
1. The parties shall meet and confer on a juror questionnaire by no later than **February 25, 2022**.
2. A proposed agreed upon jury questionnaire must be submitted to the Court no later than **March 4, 2022**. If the parties are unable to agree upon a

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 **March 28, 2022**, with jurors to complete short form (hardship) and long form questionnaires on **March 21, 22, and 23, 2022**.

IX. Commencement of Trial — Opening statements will commence on or as soon after **March 28, 2022**, 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.