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Ethicon, Inc. and Johnson & Johnson

**FILED**

**MAR 08 2023**

**RACHELLE L. HARZ  
J.S.C.**

IRENA D. PERCIA and  
STEPHEN A. PERCIA,

Plaintiffs,

vs.

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

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - BERGEN COUNTY  
DOCKET NO. BER-L-9279-15 MCL

MASTER DOCKET NO. BER-L-11575-14

CIVIL ACTION

In Re Pelvic Mesh/Gynecare  
Litigation,  
Case No. 291

IRENA D. PERCIA and  
STEPHEN A. PERCIA,

Plaintiffs,

vs.

HACKENSACK MEDICAL CENTER, ET  
AL.

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - BERGEN COUNTY  
DOCKET NO. BER-L-2192-15

CIVIL ACTION

**CASE MANAGEMENT ORDER  
Amended**

THIS MATTER having been brought before the Court  
jointly by Defendants Ethicon, Inc. and Johnson & Johnson

("Ethicon"), through their counsel Riker Danzig LLP (Kelly S. Crawford, Esq.), Defendant Alex Coccoziello, D.O. and Coccoziello & Coccoziello ("Coccoziello"), through their counsel Stahl & DeLaurentis, P.C. (Dominic DeLaurentis, Esq.) (collectively "Defendants"), and Plaintiffs Irena D. Percia and Stephen A. Percia ("Plaintiffs"), through their counsel Miller and Gaudio, P.C. (Frank Gaudio, Esq.), and the Court having held a case management conference via videoconference on November 1, 2022, and for good cause shown;

IT IS on this 8<sup>th</sup> day of March, 2023, ORDERED that the following pre-trial deadlines are hereby set:

I. Fact Discovery - Any outstanding fact discovery will be completed by **April 3, 2023**.

II. Expert Discovery

1. In order to facilitate compliance with the deadlines in this Order, by **April 3, 2023**, Plaintiffs are to advise Defendants if the plaintiff has or intends to submit to an IME by plaintiffs' case specific expert, and provide possible dates between **July 31** and **August 21, 2023** when the plaintiff can travel for an IME to be conducted by each of the Defendants' experts. Defendants will then send plaintiffs' counsel an email confirming the name of the defense expert,

his or her qualifications, the location, date and time of the IME. This information will then be formalized in a Notice for IME that complies with the New Jersey Court Rules.

2. Plaintiffs' expert reports shall be served by **July 31, 2023**. If Plaintiffs fail to serve all expert reports by the deadline without having obtained prior leave of the Court, the case may be dismissed with prejudice.
3. Defendants' expert reports shall be served by **September 15, 2023**.
4. The parties shall make best efforts to complete all necessary plaintiff expert depositions by **September 29, 2023** and all necessary defense expert depositions by **October 30, 2023**. Defense expert depositions will not be conducted until after completion of plaintiff expert depositions.
5. Expert discovery shall be completed by **October 30, 2023**.

### III. Pre-trial motions

1. Pre-trial motions (dispositive, Kemp/Accutane, in *limine*) shall be served by **December 1, 2023**. Consistent with the practice in this MCL, the original motion papers shall be submitted directly

to the trial judge's chambers. Only Notices of Motion and Forms of Order shall be submitted for filing with the Clerk's office (either via JEDS or in hard copy).<sup>1</sup>

2. Oppositions to pre-trial motions shall be filed and served by **January 8, 2023**.
3. Only where necessary, on leave of Court, limited replies shall be filed and served by **January 22, 2024**.
4. Oral argument on pretrial motions and any remaining outstanding disputed deposition designations shall commence on **[To be determined by later order of the Court]**, 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 **[To be determined by later order of the Court]**.

#### IV. Deposition designations

1. The parties shall exchange affirmative deposition designations for case-specific and non-case

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<sup>1</sup>This MCL is not an eCourts docket; no filings are to be made on eCourts in this MCL.

specific witnesses on or before **December 4, 2023**. 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 **January 8, 2024**.
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 on or before **January 8, 2024**.
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 **February 26, 2024**.

5. The parties shall meet and confer no later than **March 20, 2024**, 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 week of **[To be determined by later order of the Court]**, continuing as necessary.
7. The Court shall issue rulings regarding disputed deposition designations by no later than **[To be determined by later order of the Court]**.

V. Trial witnesses and exhibits

1. The parties shall exchange witness lists on or before **March 13, 2024**.
2. On or before **January 8, 2024**, 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 **March 29, 2024**. The Exhibit list must be separated by General and Case-Specific Exhibits. The parties shall meet and confer to attempt to establish a limit on the number of exhibits that may be utilized by each party. Medical literature, demonstratives and exhibits to be utilized solely for impeachment purposes need not be included on the Exhibit List, however there shall be exchanged on the same date a separate list of medical literature. 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 parties.

VI. Jury instructions

1. The parties shall exchange initial proposed jury instructions by **[To be determined by later order of the Court]**, and thereafter shall meet and confer regarding jury instructions.

VII. Jury selection

1. The parties shall meet and confer on a juror questionnaire by **[To be determined by later order of the Court]**.

2. A proposed agreed upon jury questionnaire must be submitted to the Court on or before **[To be determined by later order of the Court]**. 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

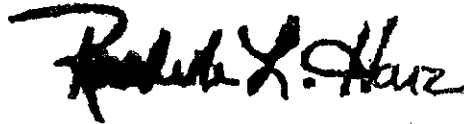


for distribution among counsel. The cost of copying shall be borne equally by Plaintiffs and Defendants.

4. By **[To be determined by later order of the Court]**, 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 **[To be determined by later order of the Court]**, with jurors to complete questionnaires (both short form hardship and long form) on **[To be determined by later order of the Court]**.

VIII. Commencement of Trial - Opening statements will commence on or as soon after **[To be determined by later order of the Court]**, 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.



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