

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – BERGEN COUNTY

FILED

JUN 15 2018

RACHELLE L. HARZ
J.S.O.

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

CATHERINE BURNS,
Plaintiffs,
vs.
ETHICON, INC., et al.,
Defendants.

DOCKET NO. BER-L-013723-14 MCL

MARCI LEVIN AND ROBERT LEVIN,
Plaintiffs,
vs.
ETHICON, INC., et al.,
Defendants.

DOCKET NO. BER-L-13705-14 MCL

PRE-TRIAL SCHEDULING ORDER

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 for good cause shown;

IT IS on this 15th day of June, 2018, ORDERED that:

I. The following pre-trial deadlines are hereby set:

1. Expert Discovery

i. Defendants’ expert reports shall be served by **June 25, 2018.**

- ii. The parties shall make best efforts to complete all necessary plaintiff expert depositions Plaintiffs' by **July 27, 2018**, and all necessary defense expert depositions by **August 24, 2018**.

2. Pre-trial motions

- i. Pre-trial motions (dispositive, Kemp, *in limine*) shall be served and filed directly with Judge Harz's chambers by **August 24, 2018**.
- ii. Oppositions to pre-trial motions shall be filed and served by **September 7, 2018**.
- iii. Only where necessary, on leave of Court, limited replies shall be filed and served by **September 11, 2018**.
- iv. Oral argument on pretrial motions and any disputed deposition designations shall commence on **September 17 and 18**, and continue on **September 20, 2018**, and thereafter if necessary.
- v. The Court shall issue rulings on pretrial motions that impact deposition designation disputes, and/or opening statements, or other such issues that must be resolved prior to opening statements by no later than **September 21, 2018**.

3. Deposition designations

- i. The parties shall exchange affirmative deposition designations for case-specific and non-case specific witnesses on or before **July 13, 2018**. 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. The designations shall clearly highlight the deposition designations not previously addressed in the Hrymoc matter. Plaintiffs have served their case specific designations with the exception of the recently conducted deposition of Dr. Brown in the Levin case, which will be served on June 18, 2018, and have indicated their intent to utilize the non-case specific deposition designations used in the Hrymoc matter and need not re-serve those designations.

- ii. 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 **August 3, 2018**.
- iii. 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 **August 17, 2018**.
- iv. 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 31, 2018**.

- v. The parties shall meet and confer no later than **September 7, 2018**, to resolve objections to the designated testimony and exhibits and to resolve any proposed redactions to exhibits.
- vi. The Court shall commence hearings to resolve all outstanding objections relating to the deposition designations and exhibits (and pretrial motions) on **September 17 and 18**, and continue on **September 20, 2018**, and thereafter if necessary.
- vii. The Court shall issue rulings regarding disputed deposition designations by no later than **September 21, 2018**.

4. Trial witnesses and exhibits

- i. The parties shall exchange witness lists on or before **August 17, 2018**.
- ii. On or before **August 17, 2018**, Plaintiffs shall advise Defendants of Defendants' corporate witnesses whom they request to call as live witnesses at trial. Plaintiffs have already indicated that they intend to call Scott Ciarrocca as a live witness.
- iii. 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.
- iv. The parties shall exchange their lists of all exhibits that may be offered during each party's case in chief no later than **September**

14, 2018. 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.).

- v. If a party elects to submit a hard 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.

5. Jury instructions

- i. The parties shall exchange initial proposed jury instructions by **September 28, 2018**, and thereafter shall meet and confer regarding jury instructions.
- ii. The Court shall hold a preliminary jury charge conference regarding the scope of substantive law to be applied in each plaintiff's case following the oral arguments regarding the pre-trial motions during the week of **September 24, 2018**.

6. Jury selection

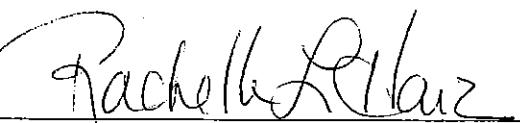
- i. The parties shall meet and confer on a juror questionnaire by **September 10, 2018**.

- ii. A proposed agreed upon jury questionnaire must be submitted to the Court on or before **September 15, 2018**. 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.
- iii. 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.
- iv. By **September 15, 2018**, 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.
- v. It is the Court's intention to begin jury selection on **September 24, 2018**, with jurors to complete questionnaires on **September 17 and 18, 2018**, such that opening statements can commence on **October 1, 2018**.

7. Commencement of trial

- i. Opening statements are expected to commence on **October 1, 2018**.

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.