

FILED

MAR 10 2022

JOHN C. PORTO, J.S.C.

PREPARED BY THE COURT

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ATLANTIC COUNTY
MASTER DOCKET NO. ATL-L-794-19

MCL CASE NO. 630

Civil Action

**CASE MANAGEMENT ORDER NO. 24
[PROCEDURES FOR TREATING
PHYSICIAN FACT WITNESSES]**

IN RE PROCEED MESH LITIGATION
(Proceed® Surgical Mesh and Proceed®
Ventral Patch Hernia Mesh)

This matter having been opened to the Court by counsel for the Defendants at a Case Management Conference conducted on the record on February 10, 2022; and it appearing that certain treating physicians are independent fact witnesses in the within MCL; and the Court having considered the oral argument of counsel on February 10, 2022 and the letter briefs and certifications submitted in support of and in opposition to entry of the within Case Management Order; and the Court having entertained further oral argument on the record on February 23, 2022; and good cause appearing as stated on the record;

IT IS on this 10th day of March, 2022,

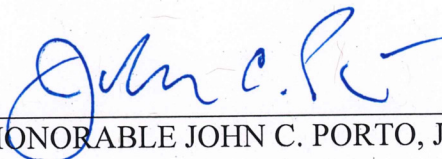
ORDERED as follows:

1. If any treating physician was deposed, that deposition may be used at trial in accordance with the Rules Governing the Courts of the State of New Jersey and the New Jersey Rules of Evidence.

2. If a party intends to call a witness, including but not limited to a treating physician live, the party must give notice of its intent as well as a list of all witnesses testifying live no later than 14 days after the trial pick.

3. If any plaintiffs' attorneys or their representatives meet with, or confer with, any treating physician who was deposed or the representative of any treating physician¹ who was previously deposed, the defendants' attorneys shall be provided with the name of the physician and the date(s) when such meeting took place within seven (7) days after said meeting.

4. If a party, an attorney or their representative becomes aware that any treating physician has developed additional or different opinions or intends to offer additional or different testimony from the physician's deposition testimony, before that party calls the treating physician live to offer the additional/different opinions or testimony at trial or for a trial preservation *de bene esse* deposition, the party must provide an appropriate and detailed disclosure of the additional/different opinions or testimony, no later than the deadlines for disclosing expert testimony set in the January 13, 2022 Fifth Amended Case Management Order No. 7 [Discovery, Case Management – Initial Discovery Pool]. An additional deposition to address the additional/changed opinions or testimony may be scheduled if requested.


HONORABLE JOHN C. PORTO, J.S.C.

¹ This obligation shall not apply to discussions with representatives of doctors which solely address the scheduling of a meeting between counsel and a doctor, nor does it apply to communications between lawyers.