IN RE PELVIC MESH/GYNECARE LITIGATION **FILED** AUG 0 8 2012 ATLANTIC COUNTY LAW DIVISION	SUPERIOR COURT OF NEW JERSEY LAW DIVISION, ATLANTIC COUNTY CIVIL ACTION CASE NO. 291 CT Master Case No. 6341-10 Honorable Carol E. Higbee, P.J. Cv. **CASE MANAGEMENT ORDER NO. 8**

Counsel for the parties having appeared for a case management conference on July 19, 2012, and the Court having considered the papers and the argument submitted by the parties, and for the continued purpose of equitable, economic and expedient resolution of these cases:

IT IS ON THIS 8 day of August, 2012, **ORDERED** as follows:

1. By July 20, 2012, Plaintiffs shall provide Defendants with additional search terms to be added to those previously agreed to by the parties. The terms shall be reasonable. All material identified with one or more of the search terms will be produced to Plaintiffs without limitation, except based on a claim of privilege.

   a. The revised complete set of search terms shall be uniformly applied, and applied upon receipt of the additional search terms, to the custodial file productions made subsequent to the date of entry of this Order.

   b. Additionally, the revised set of search terms shall be applied to the following custodial file supplemental productions: Dr. Piet Hinoul, Scott

Jones, and Paul Parisi. At the time the supplemental documents are produced, Defendants shall notify Plaintiffs which custodian files were searched and are being supplemented. The parties will confer as to additional custodial files which the plaintiffs request be searched again and submit any disputes to the Court.

2. Defendants will advise Plaintiffs whether the procedure outlined in Paragraph 1 is consistent with the manner in which custodial files previously searched for responsive information throughout this litigation have been produced.

3. After *in camera* review, the Court determines that the Defendants have in the past properly redacted and may continue to redact any entries from Johnson & Johnson Board Meeting Minutes regarding discussions of Johnson & Johnson's global business wholly unrelated to Ethicon or the pelvic mesh products at issue.

4. Defendants are to produce on an attorneys-eyes' only basis to Plaintiffs' 3 Co-Liaison Counsel unredacted copies of materials prepared for use at Johnson & Johnson Board Meetings, with the exception of any PowerPoint slides or pages which are solely related to products other than pelvic mesh products at issue in this litigation. Attorneys-eyes' only shall only include the three Co-Liaison Counsel and no one else, including others in their law firms.

5. After review of these materials, Plaintiffs Co-Liaison Counsel will advise Defendants of which materials they believe are relevant to the litigation and which should be produced without relevancy redactions, consistent with the direction of the Court during the July 19, 2012 case management conference. To the extent any dispute

between the parties cannot be resolved after a "meet and confer", a phone conference will be scheduled with the Court.

6. Within one (1) week of July 23, 2012, Defendants shall produce all Section 522 Orders related to the products at issue in the litigation and all related communications between the Defendants and the FDA.

7. Within two (2) weeks of July 23, 2012, Defendants will produce all responsive materials from the custodial files of Brian Kanerviko and Catherine Beath, with regard to the Section 522 Orders any correspondence or communications with the FDA, drafts of any correspondence or communications with the FDA, any proposals from the FDA, any notes, reports, proposals, or drafts of proposals from the Defendants. This production will also include any notes, reports, or recordings with regard to the May 1, 2012 and May 8, 2012 telephone conferences referenced in the letters produced to date. Defendants will produce this material outside of the June 21, 2011 ESI Protocol in the first instance to the extent necessary, and then pursuant to the ESI Protocol subsequent to that.

8. Within thirty (30) days of July 19, 2012, Defendants will produce the balance of any materials requested by Plaintiffs related to the 522 Order.

9. Within two (2) weeks of July 19, 2012, Defendants will move to dismiss or exclude the defendant Johnson & Johnson from the litigation or else be precluded from moving or raising argument regarding whether Johnson & Johnson is a properly named defendant.

10. Defendants will continue to investigate the DVD referenced in the deposition of Daniel Minsker and provide a response to Plaintiffs inquiries within seven

(7) days of July 19, 2012 as to whether or not it was generated by Defendants, produced by Defendants and whether Defendants have an objection to producing it in this litigation. If there is an issue the parties will bring it to the Court's attention.

11. Within ten (10) days of July 19, 2012, Defendants will provide to Plaintiffs a proposed protocol for ongoing custodial ESI sweeps.

12. By July 27, 2012, Defendants shall provide a letter to Plaintiffs' Co-Liaison counsel providing the following information on the German, French and U.K. ex-US files:

a. The parameters of the ex-US production;

b. Expected production dates for requested documents that Defendants have agreed to produce;

c. The identification of custodians not providing the requisite consent for production and the effect on that custodial production; and,

d. Identification of any ex-U.S. documents that have previously been produced.

13. Plaintiffs shall provide by July 24, 2012 a list of nine (9) databases for discussion as to relevance and time frame for producing the relevant databases. Plaintiffs shall also provide the list of four databases which the parties agree are relevant. The parties shall submit a proposed Order to the Court memorializing the agreement. If there is no agreement as to databases to be produced or time frame for production, the parties are to notify the Court to schedule a conference.

14. The *de bene esse* deposition of Dr. Shlomo Raz in the *Wicker* case shall be conducted on July 25, 2012, unless Dr. Raz agrees in writing to appear for his *de bene esse* deposition in October, 2012.

15. The depositions of treating physicians should proceed as scheduled unless all parties and the deponent agree as to rescheduling. The parties may continue to cooperate as to cost and time conservation in scheduling.

16. Plaintiffs may serve Requests to Admit to establish "in use" dates for the Prolift patient brochures, sales aids, and professional education materials at issue in the *Gross* and *Wicker* cases.

17. Defendants shall identify, if available, the printing vendors who printed the Prolift patient brochures, sales aids, and professional education materials at issue in the *Gross* and *Wicker* cases, or, in the alternative, who provided printing services to Defendants during the "in use" dates of those materials.

18. Defendants shall produce (or confirm by bates number or DFS response) the requested financial disclosures for the French TVM Group physicians, Dr. David Robinson, Dr. Dennis Miller, and Dr. Vincent Lucente. Defendants may include permitted confidentiality designations with that production.

HONORABLE CAROL E. HIGBEE, P.J. CV.