

FILED

AUG 24 2020

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

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY**

**IN RE ALLERGAN BIOCELL
TEXTURED BREAST IMPLANT
PRODUCTS LIABILITY LITIGATION**

CASE NO. 634

MASTER DOCKET NO. BER-L-_____

All prior orders remain in full force and effect
except as modified by this Order.

CASE MANAGEMENT ORDER # 3

THIS MATTER having been assigned to the Honorable Rachelle L. Harz, J.S.C., pursuant to the Supreme Court's Order of May 5, 2020, designating this matter for Multicounty Litigation ("MCL") status, and the Court having received a proposed agenda from counsel for the parties, and having conducted a Case Management Conference on August 18, 2020 (via Zoom), and for the reasons set forth on the record, and good cause shown,

IT IS on this 24th day of August, 2020, **ORDERED:**

I. COORDINATION WITH THE MULTIDISTRICT LITIGATION

- a. The Court has been in contact with District Judge Martinotti and Magistrate Judge Dickson regarding the status of the related MDL proceeding in the District of New Jersey in furtherance of the goal of federal/state coordination.
- b. A joint hearing with the MDL judges was held on July 27, 2020 via Zoom to discuss the parties' submissions relating to an ESI protocol, anonymous pleadings, and to discuss discovery generally. A joint hearing is scheduled for September 1, 2020 at 2:00 pm via zoom, for the continuation of the joint hearing.
- c. The Court has received Magistrate Judge Dickson's August 17, 2020 Letter Order granting Defendants' Motion to Prohibit Anonymous Pleadings.

II. CASE MANAGEMENT

- a. Plaintiffs' Master Complaint for personal injuries shall be filed on or before August 28, 2020. The parties are to meet and confer on a schedule for Defendants' motion(s) in response to the Master Complaint and submit that for approval by the Court.
- b. The Court has considered the issue of anonymous pleadings in connection with the MDL Order and directs that all cases filed from the date of this Order shall set forth the plaintiff's actual name, with no anonymous pleading. For cases filed by an anonymous plaintiff(s) prior to the date of this Order, the plaintiff(s) names shall be set forth in the Short Form Complaint to be agreed-upon by the parties.
- c. The Court has considered the parties' positions relating to the discovery of digital information, including computer-based information and ESI. On or before August 25, 2020, Plaintiffs shall serve a Notice of Deposition for a corporate representative to testify on topics relating to the discovery of digital information, including computer-based information and ESI. Defendants' response shall be due by September 4, 2020. In the interim, Defendants are to identify their corporate representative(s) to be prepared to be deposed if the Court orders that a deposition needs to go forward at this time. In that event the deposition shall be conducted on or before September 25, 2020.
- d. Prior to the next Case Management Conference, the parties are directed to meet and confer on the following issues:
 - a. Timing for Defendants' responsive pleadings, and briefing schedule for their anticipated motion(s) to dismiss;
 - b. Form of a Short Form Complaint and implementing procedures;
 - c. Science Day (in coordination with the MDL)

- d. Plaintiff and Defendants Fact Sheets; and
- e. Common Benefit Fund and Procedure.

III. CASE MANAGEMENT CONFERENCES

- a. The Court will conduct the next Case Management Conference on **September 24, 2020** at 11:00 o'clock AM via Zoom conference. All plaintiffs' counsel shall provide their contact information to Adam Slater, Esq. at ASlater@mazieslater.com and all defense counsel shall provide their contact information to Melissa A. Geist, Esq. at MGeist@ReedSmith.com.
- b. Counsel are encouraged to submit an agenda for the Case Management Conference at least seven (7) days prior to the Case Management Conference.
- c. The Court will conduct conferences, anticipated to be held every 45 to 60 days, and in addition the parties may request status, scheduling, and case management conferences to assess the progress regarding relevant issues. Reasonable notice of all such conferences will be provided to all counsel of record.

IV. INTERNET NOTICES

- a. All orders, notices, and other pertinent documents filed with the Court common to the entire litigation shall be available on the Judiciary Web Page for Multicounty Litigation Center, which may be accessed at www.judiciary.state.nj.us/mass-t01t/index.htm. It is incumbent upon all counsel to regularly review the MCL web page for all orders and updates.

V. E-FILING

- a. All parties shall file individual actions on e-courts in accordance with the Court's Initial CMO, dated June 19, 2020. Upon receipt of an electronically filed Complaint, wherein the data entered by Plaintiff's Counsel, does not accurately reflect the physical pleading, the Clerk is granted the authority to update the data in the Judiciary's Automated Case Management System (ACMS) to accurately reflect what is listed on the physical pleading absent a subsequent court order. All parties have consented to this provision.

VI. CONTACT WITH THE COURT

- a. Counsel may correspond to the court via email:
 - a. Jennifer.Cacchioli@njcourts.gov – Judge Harz's Law Clerk
 - b. Jamie.Colaneri@njcourts.gov – Judge Harz's Team Leader

Dated: August 24th, 2020



HON. RACHELLE L. HARZ, J.S.C.