

FILED

SEP. 30 2020

IN RE ALLERGAN BIOCELL  
TEXTURED BREAST IMPLANT  
PRODUCTS LIABILITY LITIGATION

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY J.S.C.

CASE NO. 634

MASTER DOCKET NO. BER-L-5064-20

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

CASE MANAGEMENT ORDER # 4

**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 September 24, 2020 (via Zoom), and for the reasons set forth on the record, and good cause shown,

IT IS on this 30<sup>th</sup> day of September, 2020, **ORDERED:**

**I. COORDINATION WITH THE MULTIDISTRICT LITIGATION**

- a. The Court continues to be 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. The Court has received the Second Amended Case Management Order No. 12 (Protective Order) signed by Magistrate Judge Dickson on September 23, 2020. Pursuant to this Court's CMO No. 1, the Protective Order entered in the MDL shall also be entered in this litigation. This is being entered in the interest of federal/state coordination, and this Court has not ruled on each disputed issue.

## II. CASE MANAGEMENT

- a. Plaintiffs' Master Long Form Complaint was filed on August 31, 2020. The parties shall submit a proposed form of a Short Form Complaint and implementing CMO for the Court's approval by September 24, 2020.
- b. Defendants' Motion to Dismiss. The following briefing schedule shall apply to Defendants' Motion to Dismiss Plaintiffs' Master Complaint:
  - i. October 26, 2020: Defendants' moving papers due;
  - ii. December 4, 2020: Plaintiffs' opposition papers due; and
  - iii. January 8, 2021: Defendants' reply papers due.
  - iv. Oral argument will be scheduled at a later date, in coordination with Judge Martinotti in the MDL.
- c. Defendants' Motion to Quash Plaintiffs' Notice of Deposition and for a Protective Order. The following briefing schedule shall apply to Defendants' Motion to Quash:
  - i. October 8, 2020: Defendants shall file a notice of motion and proposed Order on eCourts, which shall be served together with Defendants' moving brief and any supporting papers;
  - ii. October 19, 2020: Plaintiffs' opposition papers due; and
  - iii. October 27, 2020 at 1:30 p.m.: Oral argument will be heard.
- d. The Court is considering but has not yet ruled on Plaintiffs' request to compel the production of seven categories of documents as requested in the June 30, 2020 agenda letter. Defendants continue to oppose this request and have requested leave to submit a brief on this issue.

- e. Prior to the next Case Management Conference, the parties are directed to meet and confer on the following issues:
- i. Plaintiff and Defendants Fact Sheets; and
  - ii. Common Benefit Fund and Procedure.

### **III. CASE MANAGEMENT CONFERENCES**

- a. The Court will conduct the next Case Management Conference on **November 5, 2020** at 11:00 o'clock a.m. via Zoom conference. All plaintiffs' counsel shall provide their contact information to Adam Slater, Esq. at [ASlater@mazieslater.com](mailto:ASlater@mazieslater.com) and all defense counsel shall provide their contact information to Melissa A. Geist, Esq. at [MGeist@ReedSmith.com](mailto:MGeist@ReedSmith.com).
- b. Counsel are encouraged to submit an agenda for the Case Management Conference at least five (5) 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](http://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:

- i. ~~Jennifer.Cacchioli@njcourts.gov~~ – Judge Harz’s Law Clerk
- ii. Antonious.Sadek@njcourts.gov – Judge Harz’s Law Clerk
- iii. Jamie.Colaneri@njcourts.gov – Judge Harz’s Team Leader

Dated: September 30, 2020

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