

**IN RE: ALLODERM® LITIGATION**

**FILED**

**JAN 15 2015**

JUDGE JESSICA R. MAYER

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

CASE CODE: 295

Civil Action

CASE MANAGEMENT ORDER No. 6

**THIS MATTER** having come before the court during a case management conference on December 4, 2014, concerning the management of pending New Jersey state cases in the above litigation, and thereafter counsel having met and agreed upon a process for selecting potential bellwether trial cases, and good cause having been shown;

**IT IS** on this 15<sup>th</sup> day of January, 2015,

**ORDERED** as follows:

1. This case management order shall supersede any conflicting provisions in the previous case management orders entered in this matter, and is intended to govern discovery and pretrial activities from the date of this order through commencement of the first bellwether trial.

2. Previously, counsel for Plaintiffs and Defendant LifeCell Corporation (“LifeCell”) (collectively referred to as “the Parties”) agreed to a pool of Plaintiffs for bellwether trial selection (“the Pool”) consisting of one hundred and forty-four (144) cases based on agreed upon criteria.

3. On **Wednesday, December 18, 2013**, the Parties exchanged twenty (20) cases from the Pool for bellwether trials consisting of each side choosing a total of ten (10) cases from the Pool.

4. On or about **Wednesday, February 19, 2014**, the Parties each chose four (4)

cases from those cases identified by the Parties in paragraph 3 of this order, for a collective total of eight (8) cases.

5. Case specific discovery for the eight bellwether trial cases was completed on or about **Friday, November 21, 2014**. Non-plaintiff-specific fact discovery (i.e., general discovery by Plaintiffs from LifeCell and any third party discovery not specific to any of the eight (8) bellwether plaintiffs) was completed on or about **Friday, November 21, 2014**, with the exception of the depositions of third party witnesses James Colyn and Dr. Jose Diaz, M.D., which shall be completed no later than **Friday, January 30, 2015**.

6. The parties agreed that New Jersey law is applied to all claims in this multicounty litigation matter and submitted a consent order stipulating choice of law to the court for approval. The court signed and filed the consent order stipulating choice of law on **January 15, 2015**.

7. On **Thursday, January 8, 2015**, the Parties chose two (2) cases from those cases identified by the Parties in paragraph 4 of this order, for a total of four (4) cases. Of the two (2) cases chosen by each side, at least one (1) is a Five Factor Plaintiff. The four (4) cases selected by the Parties are as follows: Patricia Julien v. LifeCell Corporation, Docket No. L-507-12 (selected by Plaintiffs' counsel); Michael Simineri v. LifeCell Corporation, Docket No. L-5972-11 (selected by Plaintiffs' counsel); Thomas Dutcher v. LifeCell Corporation, Docket No. L-1469-12 (selected by LifeCell's counsel); and Debbie Foster v. LifeCell Corporation, Docket No. L-6841-12 (selected by LifeCell's counsel). The four (4) cases selected pursuant to this paragraph shall proceed with additional plaintiff specific discovery, if any, necessary to prepare each of the four (4) cases for trial. The additional discovery shall be completed no later than **Friday, May 29, 2015**.

8. Plaintiffs' general causation expert reports and case specific expert reports as to liability and/or damages in the four (4) bellwether trial cases shall be served on or before **Friday, February 27, 2015.**

9. No later than **Friday, March 6, 2015**, any party contending that the "learned intermediary doctrine" does not apply in this matter shall file and serve a motion addressed to that issue. Opposition papers shall be filed and served no later than noon on **Friday, March 20, 2015**. Reply papers, if any, shall be filed no later than noon on **Friday, March 27, 2015**. Oral argument, if any, shall be conducted on a date to be determined by the court.

10. LifeCell's general causation expert reports and case specific expert reports as to liability and/or damages in the four (4) bellwether trial cases shall be served on or before **Friday, April 24, 2015.**

11. The service of supplemental expert reports, if any, shall be addressed at a case management conference to be scheduled by the court after service of LifeCell's expert reports.

12. Experts' depositions shall be completed on or before **Friday, May 29, 2015**

13. Dispositive motions (including motions based upon the statute of limitations) and motions relating to the admissibility of expert testimony (Kemp/N.J.R.E. 702) in the four (4) bellwether trial cases shall be served and filed with the court no later than noon on the dates set forth below:

- (a) Motions: no later than **Friday, June 12, 2015;**
- (b) Oppositions: no later than **Monday, June 29, 2015;**
- (c) Replies: no later than **Tuesday, July 7, 2015;** and
- (d) Oral argument and/or hearings: to be scheduled by the court if necessary.

14. On or before **Friday, August 21, 2015**, from the four (4) bellwether trial cases identified in paragraph 7 of this order, each party shall select one (1) case for trial for a total of two trial ready bellwether cases.

15. On or before **Thursday, September 3, 2015**, the court shall select a case for a bellwether trial from the two (2) cases selected by the Parties pursuant to paragraph 14 of this order.

16. The schedule for the exchange and submission of deposition designations between the Parties in the selected trial case shall be as follows:

(a) Counsel to exchange proposed deposition designations on or before **Friday, September 11, 2015**;

(b) Counsel to exchange objections to deposition designations and counter designations on or before **Friday, September 18, 2015**;

(c) Counsel to meet and confer regarding deposition designations during the week of **September 21, 2015**; and

(d) Counsel to submit written objections to the court as to any unresolved deposition designations no later than **Thursday, September 24, 2015**.

17. *In limine* motions in the selected trial case shall be filed with the court no later than noon on the dates set forth below:

(a) Motions: no later than **Friday, October 16, 2015**;

(b) Oppositions: no later than **Friday, October 30, 2015**;

(c) Oral argument: to be scheduled by the court if necessary.

18. The schedule for the exchange and submission of proposed exhibit lists and witness lists for the selected trial case shall be as follows:

(a) Counsel to exchange proposed exhibit lists and witness lists no later than **Friday, December 4, 2015;**

(b) Counsel to serve objections to proposed exhibit lists and witness lists no later than **Friday, December 11, 2015;**

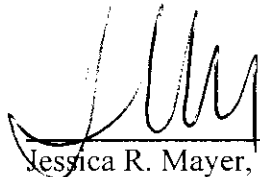
(c) Counsel to submit final exhibit lists and witness lists to the court no later than **Friday, December 18, 2015.**

19. A one (1) page joint statement of the case for the jury pool, joint submissions of questions for the jury voir dire, proposed jury charges and proposed verdict sheet shall be submitted to the court no later than **Friday, December 18, 2015.**

20. The trial in the selected case will commence on **Tuesday, January 19, 2016.**

21. The next case management conference shall be conducted on **Tuesday, February 10, 2015,** at 10:30 a.m. in courtroom 403. Any joint agenda items and submissions shall be submitted to the court by noon on seven (7) days prior to the conference.

22. The court shall post a copy of this order online within seven (7) days of the date of this order.

  
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Jessica R. Mayer, J.S.C.