

**FILED**

**OCT 31 2017**

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

SUPERIOR COURT OF NEW JERSEY LAW  
DIVISION: BERGEN COUNTY  
DOCKET NO.: BER-L-6832-12

FRANK BIFANO,  
Plaintiff,

v.

DePUY ORTHOPAEDICS, INC., et al.  
Defendants.

REGINA NAGY,  
Plaintiff,

v.

DePUY ORTHOPAEDICS, INC., et al.  
Defendants.

SUPERIOR COURT OF NEW JERSEY LAW  
DIVISION: BERGEN COUNTY  
DOCKET NO.: BER-L-7660-13

**SECOND AMENDED CASE MANAGEMENT ORDER NO. 21**

**THIS MATTER** having been raised by the parties, and good cause having been shown,

the Court hereby enters the following order:

**IT IS** on this 31 day of October 2017;

**ORDERED** as follows:

Pre-trial deadlines and trial shall proceed as follows:

- I. PRE-TRIAL DISCOVERY**
  - 1. Fact discovery concluded on January 13, 2017.
- II. EXPERT DISCOVERY SCHEDULED FOR ABOVE CAPTIONED TRIAL CASES**
  - BIFANO**
    - 1. Plaintiff's counsel responded to defendant's request for admissions, numbers 49-56, 61, as set forth in defense counsel's letter dated June 30, 2017 on September 8, 2017.

2. The deposition of George Kantor, M.D. shall be conducted on November 30, 2017.
3. Defendants shall identify all experts and provide their reports on or before January 5, 2018.
4. Defense counsel attended the deposition of Dr. Albert Burstein, Ph.D. (in connection with both Bifano and Nagy), in the MDL on August 9, 2017. This August 9, 2017 testimony of Dr. Burstein is a discovery deposition and not a de bene esse deposition in both the Bifano and Nagy cases.
5. Expert depositions of plaintiff's experts shall be completed by January 31, 2018.
6. Expert depositions of defense experts shall be completed by April 30, 2018.
7. No expert may testify at trial unless the individual is identified and a report provided as outlined above.
8. The parties will complete all remaining discovery, including expert discovery, by June 30, 2018.

#### NAGY

1. Plaintiff shall identify all experts and provide reports pursuant to Rule 4:10-2(d)(1) on or before August 31, 2017.
2. Plaintiff's counsel responded to defendant's request for admissions, numbers 49-56, 61, as set forth in defense counsel's letter dated June 30, 2017, on September 8, 2017.
3. The deposition of W. Thomas Gutowski, M.D. shall be conducted on February 2, 2018.
4. Defendants shall identify all experts, and provide their reports on or before March 5, 2018.

5. No expert may testify at trial unless the individual is identified and a report provided as outlined above.
6. The parties will complete all remaining discovery, including expert discovery by June 30, 2018.

### III. PRE-TRIAL PROCEDURE FOR ABOVE CAPTIONED TRIAL CASES

A. **PRE-TRIAL CONFERENCE.** The date for pre-trial conference will be determined at a Case Management Conference on March 9, 2018 at 1:30 p.m. (this date and time can be adjusted at the request of counsel) at which time dates for the following will be determined:

**MOTIONS.** By agreement of the parties, motions to dismiss and for summary judgment, motions *in limine*, motions directed to expert testimony, including Kemp motions, shall be served on the following schedule and shall be heard in advance of trial on dates specially set by the Court as follows:

<b>Deadline</b>	<b>Description</b>
	All discovery to be completed.
	Parties to file all motions to dismiss and for summary judgment, motions <i>in limine</i> and motions directed to expert testimony, including <u>Kemp</u> motions (and supporting materials).
	Parties to file oppositions to motions to dismiss and for summary judgment, motions <i>in limine</i> and motions directed to expert testimony, including <u>Kemp</u> motions (and supporting materials).
	Parties to file replies in further support of motions to dismiss and for summary judgment, motions <i>in limine</i> and motions directed to expert testimony, including <u>Kemp</u> motions (and supporting materials).
	Oral Argument (as necessary).

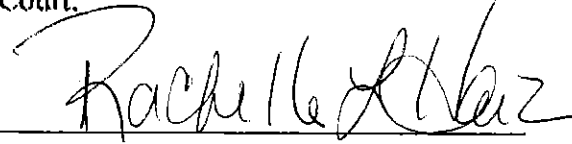
**PRE-MARKING EXHIBITS.** Prior to trial, each party shall meet with and assist the clerk in marking for identification all exhibits, as directed by the clerk, on or about the date indicated in paragraph G.

**DEPOSITION DESIGNATIONS AND HEARINGS.** Each party shall serve his, her, or its designation of depositions, or portions of depositions, each intends to offer as testimony at trial as follows:

<b>Deadline</b>	<b>Description</b>
	The parties shall serve page/line designations of deposition testimony.
	The parties shall serve any page/line counter-designations of deposition testimony, Objections to the other party's deposition designations, and affirmative page/line designations of deposition testimony.

**STATEMENT OF THE CASE, JURY INSTRUCTIONS.** The parties shall submit to the Court a joint, agreed statement of the case for presentation to the jury, and shall also submit, with copies to opposing counsel, proposed versions of a written jury instructions, jury questionnaire, and verdict forms a date to be determined. Each jury instruction (a) shall be on a separate sheet of paper; (b) shall be plainly marked with the name and number of the case; (c) shall contain citations of supporting authorities, if any; (d) shall designate the party submitting the instructions; and (e) shall be numbered in sequence. This paragraph does not foreclose the right of each party to modify instructions, up to and including the instruction conference, at the close of the evidence. Any party that intends to request that the Court provide a list of written jury instructions for the jury's

consideration during deliberations shall be responsible for providing a clean copy  
of the full jury instructions to the Court.



RACHELLE LEA HARZ, J.S.C.

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