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**IN RE: PELVIC MESH/BARD  
LITIGATION**

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**SUPERIOR COURT OF NEW JERSEY**

**LAW DIVISION: BERGEN COUNTY**

**CASE NO. 292**

**MASTER DOCKET NO.: BER-L-17717-14**

**CIVIL ACTION**

**CASE MANAGEMENT ORDER #37**

**FILED**  
**OCT 19 2018**

**MARY F. THURBER, J.S.C.**

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

**THIS MATTER** having been reassigned to the Bergen County Vicinage, from Atlantic County, pursuant to the Supreme Court's Order of October 31, 2014; the Court having conducted a Case Management Conference on this date; counsel appearing; for good cause shown and for the reasons set forth on the record;

**IT IS** on this 19 day of **October 2018**, **ORDERED** as follows:

**PART I**

**I. ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE**

- A. Case Management Order No. 36, dated August 24, 2018;
- B. Consent Order Vacating Dismissal Without Prejudice of Plaintiffs Peggy McAllister and Michael Patrick McAllister's Complaint and Reinstating to Active Bard Pelvic Mesh Master Docket, *McAllister, et al. v. C. R. Bard, Inc., et al. and John Does 1-20*, Docket No. BER-L-018545-14, dated October 10, 2018;
- C. Order of Dismissal, *Terri Harp v. C. R. Bard, Inc., et al.*, Docket No. BER-L-018118-14, dated October 11, 2018;
- D. Order Supplementing the Court's August 13, 2018, Order for the Court Reporter's Transcripts to Serve As Official Trial Transcripts in *McGinnis v. C.R. Bard, Inc.*, BER L 17543-14, dated October 11, 2018;

- E. Order Denying Defendant C.R. Bard, Inc.'s Motion for Judgment Notwithstanding the Verdict or, in the Alternative, for a New Trial on All Issues in *McGinnis v. C.R. Bard, Inc.*, BER L 17543-14, dated October 11, 2018; and
- F. Order Denying Defendant C.R. Bard, Inc.'s Motion for Remittitur in *McGinnis v. C.R. Bard, Inc.*, BER L 17543-14, dated October 11, 2018.

## PART II

### II. COMPLIANCE WITH PRIOR ORDERS

#### A. Case Management Order No. 36

1. **Pre-Trial Scheduling for the *Green, Oliver, Gasper, Asmussen, Lantigua, and Cruz* Bellwether Cases:** Pursuant to Section III(A)(a) of this Court's Case Management Order No. 36, the parties met and conferred regarding the scheduling deadlines and presentation of trials, including *Green, Oliver, Gasper, Asmussen, Lantigua, and Cruz*. The parties submitted respective Proposed Scheduling Orders to this Court on September 11, 2018.
2. **Plaintiffs' Production of Updated Plaintiff Fact Sheets and Authorizations for Collection of Medical Records in the *Green, Oliver, Gasper, Asmussen, Lantigua* and *Cruz* Cases:** Pursuant to Section III(B) of this Court's Case Management Order No. 36, Plaintiffs' counsel has produced updated Plaintiff Fact Sheets and authorizations for collection of medical records in the *Green, Oliver, Gasper, Asmussen* and *Cruz* bellwether cases. Plaintiffs' counsel in the *Lantigua* case has not yet provided an updated plaintiff fact sheet.
3. **Privilege Log Issue:** Pursuant to Section III(C) of this Court's Case Management Order No. 36, Bard has provided to the Court and counsel any transcripts and orders from Judge DeLuca addressing Plaintiffs' challenge to Bard's privilege claims in *McGinnis v. C. R. Bard, Inc.* This issue is addressed further in Section III(C).
4. ***Rios* Pre-Trial Status and Deadlines, Including Trial Date, Hearing Date for Summary Judgment and Other Pre-Trial Motions, the Parties' Submission of Proposed Juror Questionnaire and Neutral Statement of the Case:** Any issues related to the *Rios* trial shall be determined by the Hon. Rachelle L. Harz.

**5. Covidien settlement conference:**

The conference took place on October 11, 2018.

*Terri Harp v. C. R. Bard, Inc., et al.*, Docket No. BER-L-018118-14, was dismissed without prejudice by Order dated October 11, 2018;

*Catherine Guerrero v. C. R. Bard, Inc., et al.*, Docket No. BER-L-017838-14 did not settle. Trial of this matter is addressed in Section III(E)(b) below.

*Elizabeth Williams v. C. R. Bard, Inc., et al.*, Docket No. BER-L-17458-14, plaintiff was excused from the settlement conference, which will be rescheduled. Plaintiff remains subject to the provision of Case Management Order #36, dated August 24, 2018, requiring personal attendance at the settlement conference, with the case to be dismissed if plaintiff fails to attend.

**6. Defense Request for Replacement of *Leypoldt* with *Maria Lantigua v. C.R. Bard, et al.*, (BER-L-18313-14). Plaintiff's counsel shall provide the updated Fact Sheet before the next Case Management Conference.**

See Section II(A)(2).

**7. Bard Report on Active, Unsettled Cases on Docket:** Pursuant to Section III(G) of Case Management Order No. 36, on August 31, 2018, counsel for C. R. Bard, Inc. provided plaintiffs' counsel and this Court with a list of then-current active and unsettled *In re Pelvic Mesh/Bard Litigation* cases.

### PART III

#### III. CASE MANAGEMENT

**A. Pre-Trial Scheduling for the *Green, Oliver, Gasper, Asmussen, Lantigua, and Cruz Bellwether* Cases**

Pre-Trial scheduling for these cases is addressed in a separate order, which may be subject to modification after Judge Harz rules on the consolidation motion.

**B. Plaintiffs' Production of Updated Plaintiff Fact Sheets and Authorizations for Collection of Medical Records in the *Lantigua* case**

Plaintiff's counsel in the *Lantigua* case shall provide an updated fact sheet and authorizations for release of medical information within a time frame agreed to by counsel.

- C. Privilege Log Issue**  
All issues related to the privilege log shall be determined by the Hon. Rachelle L. Harz. Judge Harz will prepare an order regarding same.
- D. *Rios* Pre-Trial Status and Deadlines, Including Trial Date, Hearing Date for Summary Judgment and Other Pre-Trial Motions, the Parties' Submission of Proposed Juror Questionnaire and Neutral Statement of the Case**  
These issues shall be determined by the Hon. Rachelle L. Harz. Judge Harz will prepare an order regarding same.
- E. Covidien**
- a. Plaintiff Elizabeth Williams shall appear for a rescheduled settlement conference on a date to be agreed between counsel. Plaintiff's case shall be dismissed without prejudice if plaintiff fails to appear for the rescheduled settlement conference.
  - b. The matter of *Catherine Guerrero v. C. R. Bard, Inc., et al.*, Docket No. BER-L- 017838-14, is scheduled for trial on October 21, 2019, and is the subject of a separate scheduling order.
  - c. With the exception of the *Guerrero* matter, the Covidien stay is extended to the next Case Management Conference.
- F. Rescheduling of Hearing on Pending Motions Related to Trial Consolidation**  
Judge Harz shall determine the consolidation issue.
- G. Plaintiffs' request to restore the McAllister case to the bellwether pool.**  
This application is denied without prejudice and may be renewed when cases now in the bellwether pool are removed from the pool by trial or settlement.
- H. Discovery End Date**  
The discovery end date is extended from October 30, 2018 to May 31, 2019.


#### **PART IV**

#### **IV. GENERAL**

1. The next Case Management Conference is scheduled December 17, 2018, at 10:30 a.m. Liaison Counsel shall report at 9:00 a.m. to Courtroom 315. **Counsel shall submit a proposed agenda seven (7) days prior to this Case Management Conference.**

2. By consent of all parties, the Court may contact or be contacted on an *ex parte* basis regarding settlement issues only.
3. The Court may, from time to time, conduct phone conferences with defense counsel and liaison counsel.
4. Subject to agreement by and between counsel and with permission from the Court, counsel is permitted to appear telephonically; in order to have your appearance on the record, it is counsel's responsibility to e-mail liaison counsel and the Court reporter at least one hour before the proceeding with your name, firm, and party representing, indicating that you intend to appear by phone; in addition you must confirm you appearance, immediately following the proceeding. Absent the above, counsel's appearance will not be noted.
5. The official record shall be the transcript provided by the court reporter retained by counsel. The reporter shall preserve all proceedings and shall email a transcript of any court proceeding to the Court within 14 days of the proceeding.
6. Counsel is permitted to serve one motion with a schedule of attached cases for *pro hac* admission. However, a separate order per case/docket number and filing fees is required.
7. The Court directs all counsel to R.1:4-8 and expects all counsel to abide by the parameters set forth therein.
8. All Court proceedings will start at the designated scheduled time. Counsel is expected to arrive promptly for these proceedings.

9. Counsel shall provide the Court with their preferred e-mail address by e-mailing same to Jamie Colaneri at [Jamie.Colaneri@njcourts.gov](mailto:Jamie.Colaneri@njcourts.gov) and Sean Hanratty at [Sean.Hanratty@njcourts.gov](mailto:Sean.Hanratty@njcourts.gov).
10. Counsel shall copy their co-counsel and all adversaries on all e-mails and other electronic correspondence submitted to the Court [COUNSEL IS PROHIBITED FROM FILING ANY PLEADING ELECTRONICALLY]. Any such submission received after 4:30 p.m. will be deemed received at 9:00 a.m. on the next day Court is in session. Any such submission received after 4:30 p.m. on a Friday or over a weekend, will be deemed received on 9:00 a.m. on the next day Court is in session.
11. Any counsel who has not already done so is directed to contact The Superior Court of New Jersey, Attorneys Accounts: P.O. Box 980, Hughes Justice Complex, 25 W. Market Street, Trenton, New Jersey 08625 (609) 633-8643 to establish a collateral account for any filing fees within seven (7) days.
12. Counsel is required to check the Judiciary's Web Site dedicated to this matter for any decisions/Orders/information contained therein.
13. A copy of this Order and any subsequent Orders to the Court will be posted on the Judiciary Web Site.



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MARY F. THURBER, J.S.C.