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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 #24**

**FILED**

**MAY 11 2017**

**James J. DeLuca, 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; having conducted a CMC; counsel appearing; for good cause shown and for the reasons set forth on the record;

**IT IS** on this 11<sup>th</sup> day of May 2017, **ORDERED** as follows:

**PART I**

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

- A. Case Management Order No. 23, April 13, 2017
- B. Amended Scheduling Order Pertaining to Replacement Bellwether Cases, April 13, 2017.

**PART II**

**II. COMPLIANCE WITH PRIOR ORDERS**

**A. Case Management Order No. 23**

**1. Bard's initial production of documents:**

- a) There is a disagreement as to the timing of production. The Court intends to set a firm date. The issue will be deferred until the Parties meet and confer on the issue of the Protective Order for the PHI information. (See Part III, Section 5a)

**2. Bellwether case Selection:**

- a. Parties will disclose their selections by May 12, 2017.

**3. Privileged Documents:**

- a. Parties will meet and confer today. If there is no resolution, Defense counsel will provide the 13 documents to the Court with an explanation of why the documents are privileged.

**4. Status of IFU Charts:**

- a. Parties will meet and confer and report the status when they come to discuss the Protective Order on PHI issue.

**PART III**

**CASE MANAGEMENT**

**A. Status of Bard Cases**

1. Report on Bard docket
2. Status of discovery in current bellwether pool
  - a. Lewis: Parties will meet and confer on the discovery issues and inform the Court if there is no agreement.
3. Status of Plaintiff Sandra Rios's independent medical examination
  - a. Defense counsel will advise the Court during the next scheduled meeting on why Defendant's expert needs to conduct an independent medical examination after issuing their expert report.
4. Status of Plaintiffs' expert reliance materials to Bard
  - a. The Court reiterates the provisions in Case Management Order #23 regarding documents and materials relied upon by experts.
5. Bard's request for Stipulation on HIPAA and PHI information
  - a. The Parties will meet and confer and advise the Court by May 15, 2017 on whether an agreement has been reached on a protective order for PHI information. Parties will also submit availability of dates to come in to put the issue on the record.

6. Plaintiffs have requested all relevant disclosures by Bard to Becton Dickinson as part of the purchase of Bard, for example disclosures regarding the pelvic mesh litigation, safety and efficacy of the devices, allocation of liabilities, reserves, the liability exposure, and insurance coverage potentially applicable to the claims in the litigation. Defendants object and will respond in writing to Plaintiffs.
  - a. Defendants will respond in writing to Plaintiffs by May 19, 2017.
7. Plaintiffs continue to request rescheduling of the first bellwether trial to an earlier date, in early to mid-September, so there will be no overlap of the Bard and Ethicon bellwether cases (including pre-trial for Ethicon trial). Defendants disagree and will be prepared to address this issue with the Court.
  - a. The Court will defer the issue until the next meeting.
8. Plaintiffs request an order compelling defendants to provide dates for all of their expert depositions, as defendants have only given dates for 2 of their many experts. Defendants disagree and will be prepared to address this issue with the Court.
  - a. Parties will meet and confer and discuss the dates.
9. Plaintiffs request production of exemplar devices for use at the trials of these cases.
  - a. Parties will meet and confer and inform the Court at the next meeting or shortly thereafter. Parties will report on how many exemplar devices will be available at that time.
10. Status of Covidien
  - a. The Covidien stay will continue regarding the remaining cases.

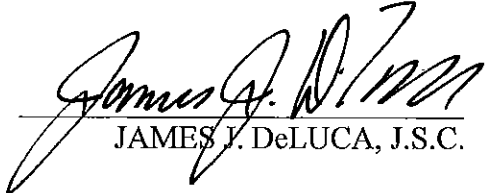
#### PART IV

#### IV. GENERAL

1. The next Case Management Conference is scheduled for June 22, 2017 at 10:00 a.m. Liaison Counsel shall report at 08:45 a.m. to Courtroom 401. **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 your 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. Counsel 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.

  
JAMES J. DeLUCA, J.S.C.