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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 #31

**FILED**

**FEB 12 2018**

**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 12<sup>th</sup> day of February 2018, **ORDERED** as follows:

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

- A. Case Management Order No. 30, December 19, 2017
- B. Consent Order, November 29, 2017
- C. Order Re Deposition Designation/Counter Designation, February 5, 2018
- D. Order Re Plaintiffs' and Defendant's in Limine Motion, February 8, 2018
- E. Order Re Bifurcation of Punitive Damages, February 9, 2018

**II. AGENDA ITEMS FOR NEXT CASE MANAGEMENT CONFERENCE**

- A. *McGinnis Case*
  - 1. Number of jurors and number needed for verdict - revisit prior discussion
    - a. There will be 10 jurors selected on this case. The number of jurors to deliberate is not addressed at this time. The court will follow the 5/6 verdict to deliberating ratio for a proper verdict, unless parties consent to another ratio. Parties may meet and confer.
  - 2. Open-ended questions for jurors - further thoughts by the parties

- a. Parties are amendable to the following: “1.) Most important quality to being a good juror; 2.) Other than family, who the juror admires most; 3.) Anything else we should know about you that may impact your decision in this case.”
3. Juror questions – whether or not jurors should be allowed to submit questions to witnesses
  - a. Parties consent that jurors may take notes, but will not submit questions to witnesses.
4. Medical records authorizations – to allow for updated medical record collection
  - a. Parties will meet and confer. Issues will be brought to the court’s attention.
5. Special Master request for Dr. Bercik trial testimony deposition
  - a. The court does not find an extraordinary circumstance to warrant an appointment of a Special Master. The court provides admonition on proper conduct for the deposition. Deposition and objections are to be conducted, i.e. demeanor and no speaking objections, as if in court in trial.
6. *De bene esse* deposition of UCLA Pathologist, Dr. Neda Moatamed
  - a. Defendant to file its opposition brief in regards to conducting this deposition.
7. Other lawsuits & explants – let court know how it was handled previously and propose recommendation for how to handle here
  - a. Parties will meet and confer.
8. Financial stipulation in lieu of subpoenas - pending Motion for Protective Order
  - a. Parties will meet and confer.
9. Exchange of exhibits and objections
  - a. Defendants have provided their witness and exhibit lists, and Plaintiffs will provide this witness and exhibit lists to this court, if not already provided. Exhibits will be provided to this court by way of a flash drive; court also encourages key exhibits to be shared in advance.
10. The CVN Motion and talking to the press

- a. CVN will be permitted to broadcast the trial. Court enters no limitation on communication with the press at this time. Parties may file motions on this matter.

11. Covidien: The Covidien stay is extended

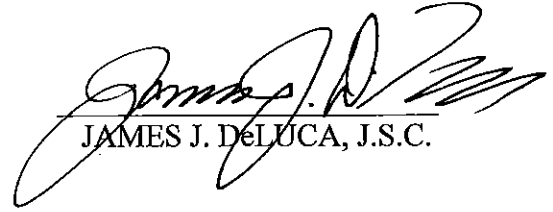
#### PART IV

### III. GENERAL

1. The next Case Management Conference is scheduled for February 28<sup>th</sup>, 2018 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.