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

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: BERGEN COUNTY

CASE NO. 292

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

CIVIL ACTION

CASE MANAGEMENT ORDER #36

FILED
AUG 24 2018
MARY E. THURBER, JUDGE

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 24th day of **August 2018**, **ORDERED** as follows:

PART I

I. ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE

- A. Case Management Order No. 35, dated July 19, 2018;
- B. Order as to Defendants' Motion to Supplement the Record in *McGinnis v. C.R. Bard, Inc.*, BER L 17543-14, dated July 23, 2018;
- C. Order Regarding Privileged Documents, dated July 25, 2018;
- D. Consent Order Approving Supersedeas Bond and Staying Judgment Pending Appeal in *McGinnis v. C.R. Bard, Inc.*, BER L 17543-14, dated August 2, 2018;

- E. Order on Parties' Joint Request for the Court Reporter's Transcripts to Serve As Official Trial Transcripts in *McGinnis v. C.R. Bard, Inc.*, BER L 17543-14, dated August 13, 2018; and
- F. Order (second) on Defendants' Motion to Supplement the Record in *McGinnis v. C.R. Bard, Inc.*, BER L 17543-14, dated August 17, 2018.

PART II

II. COMPLIANCE WITH PRIOR ORDERS

A. Case Management Order No. 35.

1. **Status of Future Trials:** The parties failed to meet and confer regarding scheduling deadlines and presentation of upcoming trials, including *Green, Oliver, Gasper, Asmussen* and *Cruz*. The schedules for discovery and trial of those matters are addressed below in Part III of this Case Management Order No. 36.
2. **Updated Plaintiff Fact Sheets for the Six Bellwether Cases:** Pursuant to Section III(A) of this Court's Case Management Order No. 35, entered on July 19, 2018, Plaintiffs' counsel produced updated Plaintiff Fact Sheets for each of the six (6) bellwether cases.
3. **Information Regarding the Number of Documents on the Privilege Log Versus the Number of Documents Withheld in Their Entirety:** Pursuant to Section III(B) of this Court's Case Management Order No. 35, on August 7, 2018, Bard provided both Plaintiffs' counsel and the Court with information regarding the number of documents on the privilege log, the number of documents that were withheld in their entirety, and the number of documents on the privilege log produced with redactions.
4. **Upcoming Trials:** Pursuant to Section III(C)(4) and (5) of this Court's Case Management Order No. 35, on August 6, 2018, the parties submitted a jointly proposed Juror Questionnaire and Neutral Statement of the Case in advance of the upcoming *Rios* trial.
5. **Covidien:** Pursuant to Section III(D) of this Court's Case Management Order No. 35, on August 23, 2018, counsel for Covidien reported on the status of resolution discussions and proposed dates for settlement conferences.

B. Order Regarding Privileged Documents, entered July 25, 2018

1. Pursuant to this Court's Order Regarding Privileged Documents, on July 23, 2018, Bard produced two documents to Plaintiffs as required.

C. Order as to Defendants' Motion to Supplement the Record, entered July 23, 2018 (*McGinnis* Case)

1. Pursuant to this Court's Order as to Defendants' Motion to Supplement the Record, the parties submitted a jointly proposed Order on August 16, 2018, setting forth specific items to be included in the record in the *McGinnis* case and attaching the specific deposition designations and related references, which Order the Court entered on August 17, 2018.

PART III

III. CASE MANAGEMENT

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

- a. Parties will meet and confer on a pretrial scheduling order for each case. Parties will submit the scheduling order by September 11, 2018.
- b. Motion on cases consolidated for trial. Parties will submit briefs by September 11, 2018. Replies are due September 18, 2018. Oral argument on the motion will be held September 25, 2018 at 2:30 p.m.

B. Plaintiffs' Production of Updated Plaintiff Fact Sheets and Authorizations for Collection of Medical Records in the *Green, Oliver, Gasper, Asmussen, and Cruz* Cases

- a. Plaintiffs' counsel has provided the outstanding documents.

C. Privilege Log Issue

- a. Defense counsel shall provide the court with the transcripts, order and decision from the hearing.
- b. The court will initiate a phone conference with the parties if the court determines to hear argument on the issue before the next case management conference.

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

- a. Juror Questionnaire: November 5 and 7
- b. Jury Selection: November 13 and 14
- c. Trial: November 26 through December 14

- E. Covidien settlement conference**
- a. The Covidien settlement conference will take place on October 9, 10 or 11, pending confirmation from Ms. Reisman. The parties will report to Courtroom 315. The parties will confirm via letter, by August 31, 2018, the confirmed date of the settlement conference. Plaintiffs are required to appear and attend the settlement conference. The Complaint of any plaintiff failing to appear shall be dismissed without prejudice.
 - b. The Covidien stay is extended to the next Case Management Conference.
- F. Status of Ted Oshman Cases and Defense Request for Replacement of *Leyboldt***
- a. Defense has selected *Maria Lantigua v. C.R. Bard, et al.*, (BER-L-18313-14) to replace the defense pick of *Leyboldt*. Plaintiff's counsel shall provide the updated Fact Sheet before the next Case Management Conference.
- G. Bard Report on Active, Unsettled Cases on Docket**
- a. Defense counsel will provide a list to the court and plaintiff's counsel by August 31, 2018.

PART IV

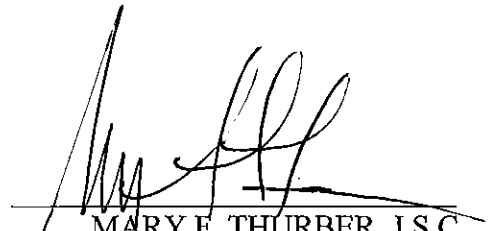
IV. GENERAL

1. The next Case Management Conference is scheduled for October 19, 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 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 and Sean Hanratty at 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.



MARY F. THURBER, J.S.C.