

**FILED**

JUN 01 2011

**Carol E. Higbee, P.J.Cv.**

**In re PELVIC MESH / GYNECARE  
LITIGATION,**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION, ATLANTIC COUNTY

CIVIL ACTION

Case No. 291 CT  
Master Case 6341-10

Hon. Carol E. Higbee, P.J. Cv.

**CASE MANAGEMENT ORDER NO. 3**

Counsel for the parties having appeared for a second case management conference on May 11, 2011:

IT IS ON THIS 1 day of <sup>June</sup> ~~May~~, 2011

**ORDERED** as follows:

**RECORDS COLLECTION AND DISTRIBUTION.**

1. The parties have agreed upon the retention of The Marker Group as a vendor for the collection and storage of plaintiffs' records.

**MASTER AND SHORT FORM PLEADINGS.**

**Complaints**

2. On or before June 1, 2011, Co-Plaintiffs' Liaison Counsel may file a master long form complaint. The master long form complaint shall be posted on the Court's website at <http://www/judiciary.state.nj.us/mass-tort/forms/index.htm>. All complaints in this litigation filed on or before June 1, 2011, shall be deemed amended to incorporate and conform to the master long form complaint.

3. Service of the master long form complaint on defendants shall be deemed sufficient by virtue of service upon defense liaison counsel in accordance with the Rules of Court, or by such other informal means as agreed to by all parties.

4. On or before June 1, 2011, Co-Plaintiffs' Liaison Counsel shall file a master short form complaint. The master short form complaint shall refer to and adopt the master long form complaint as appropriate. The master short form complaint shall be posted on the Court's website at <http://www/judiciary.state.nj.us/mass-tort/forms/index.htm>. All individual complaints filed after June 1, 2011 shall be in the short form of complaint. Plaintiffs' Liaison Counsel shall circulate the plaintiffs' form of master long form complaint and form of master short form complaint to defense liaison counsel by May 20, 2011.

5. Plaintiffs shall not be required to file and serve a short form complaint in any case filed on or before June 1, 2011.

6. A short form complaint shall be filed in all cases to be filed after June 1, 2011.

7. All short form complaints must be served with summons upon defendants in accordance with the Rules of Court.

8. The master complaint and short form complaint process is intended to apply to claims asserted against the manufacturers of pelvic / gynecological mesh products. As such, after the filing of the master long form complaint, plaintiffs shall not be permitted to assert a cause of action not set forth in the master long form complaint against a defendant alleged to be a manufacturer of a mesh product unless good cause is demonstrated to the Court. The master complaint is not intended to apply

to, or contain allegations against, parties other than mesh manufacturers, such as medical malpractice defendants.

9. In the event that a manufacturer of a non-Gynecare product is named in a particular case filed after June 1, 2011, the name shall be added to the caption of the short form complaint and the allegations of the master long form complaint shall apply.

10. In the event that medical malpractice claims (i.e. negligence, lack of informed consent) are pled against a physician in a particular case filed after June 1, 2011, the name of the defendant shall be added to the short form complaint and additional counts relevant only to that defendant shall be added as necessary in the short form complaint. Medical malpractice defendants shall be served in accordance with the Rules of Court with a copy of the master long form complaint and the case-specific short form complaint, and the medical malpractice defendant(s) shall file an answer in accordance with the Rules of Court.

#### **Responses To Complaints**

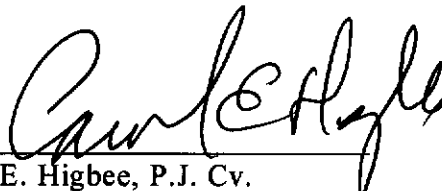
11. The filing of all answers to complaints not already answered as of November 18, 2010 (the date of the first CMC) is stayed. All answers to complaints filed prior to November 18, 2010 are deemed to conform to and adopt the master long form answer referenced in Paragraph 12, below.

12. On or before June 30, 2011, the defendants shall file a master long form answer responding to the master long form complaint. The master long form answer shall include a general denial of all factual allegations in the master long form complaint, as well as a reservation of all available defenses. The Court, at a later date

in connection with the selection of bellwether cases and/or scheduling of motion practice unrelated to discovery issues, will establish a procedure for the assertion of case-specific defenses.

13. For all short form complaints filed and served, the defendants shall file and serve a short-form answer within 30 days of service of the short form complaint, but in no event shall any short form answer be required to be filed and served prior to July 25, 2011. For all cases filed and served on or before June 1, 2011, for which an answer has not already been filed, the defendants shall file and serve a short-form answer by July 25, 2011. Defendants shall also copy all short form answers on all liaison counsel. The parties agree that, given the large number of complaints being filed, plaintiffs' counsel will meet and confer with defendants' counsel to advise defendants before implementing any default procedures, and will provide defendants with ten business days in which to cure any alleged default.

**IT IS FURTHER ORDERED** that a copy of this Order shall be served upon all counsel of record within seven (7) days of the date hereof.

  
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Carol E. Higbee, P.J. Cv.