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IN RE: PELVIC MESH/GYNECARE  
LITIGATION

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**FILED**

**NOV 03 2016**

**RACHELLE L. HARZ  
J.S.C.**

**SUPERIOR COURT OF NEW JERSEY**

**LAW DIVISION: BERGEN COUNTY**

**CASE NO. 291**

**MASTER DOCKET NO.: BER-L-11575-14**

**CIVIL ACTION**

**CASE MANAGEMENT ORDER #32**

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; counsel appearing; for good cause shown and for the reasons set forth on the record;

**IT IS** on this 3rd day of November 2016, **ORDERED** as follows:

**PART I**

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

- A. Case Management Order #31 entered on September 29, 2016
- B. Order of Dismissal without Prejudice for Failure to Provide PFS entered on October 11, 2016 (applicable to Plaintiffs' Complaints listed on Schedule "A" attached thereto)
- C. Arroyo v. Ethicon, Inc. – Order to Amend Complaint entered on September 9, 2016
- D. Bradshaw v. Ethicon, Inc. – Order Vacating Order of Referral to Mediation Pursuant to R. 4:50-1(a) entered on September 29, 2016
- E. Childress v. Ethicon, Inc. – Order to Amend Complaint entered on October 11, 2016
- F. Combs v. Ethicon, Inc. – Order to Amend Complaint entered on October 11, 2016
- G. Eberhart v. Ethicon, Inc. – Order to Amend Complaint entered on October 11, 2016
- H. Embry v. Ethicon, Inc. – Order to Amend Complaint entered on October 11, 2016
- I. Fratte v. Ethicon, Inc. – Order to Amend Complaint entered on October 7, 2016

- J. Gilmore v. Ethicon, Inc. – Order to Amend Complaint entered on October 7, 2016
- K. Gurenlian v. Ethicon, Inc. – Order to Amend Complaint entered on October 11, 2016
- L. Jaurez v. Ethicon, Inc. – Order to Amend Complaint entered on October 5, 2016
- M. Jimenez v. Ethicon, Inc. – Order to Amend Complaint entered on October 7, 2016
- N. Keefer v. Ethicon, Inc. – Order to Amend Complaint entered on October 5, 2016
- O. Kidd v. Ethicon, Inc. – Order to Amend Complaint entered on October 5, 2016
- P. Lafluer v. Ethicon, Inc. – Order to Amend Complaint entered on October 5, 2016
- Q. Linnen v. Ethicon, Inc. – Order to Amend Complaint entered on October 5, 2016
- R. Mannings v. Ethicon, Inc. – Order to Amend Complaint entered on October 5, 2016
- S. Martinez v. Ethicon, Inc. – Order to Amend Complaint entered on October 5, 2016
- T. Masson v. Ethicon, Inc. – Order to Amend Complaint entered on October 5, 2016
- U. McClurd v. Ethicon, Inc. – Order to Amend Complaint entered on October 5, 2016
- V. Murray v. Ethicon, Inc. – Order to Amend Complaint entered on October 7, 2016
- W. Nielsen v. Ethicon, Inc. – Order to Amend Complaint entered on October 11, 2016
- X. Ontiveros v. Ethicon, Inc. – Order to Amend Complaint entered on October 11, 2016
- Y. Padgett v. Ethicon, Inc. – Order to Amend Complaint entered on October 5, 2016
- Z. Salreno v. Ethicon, Inc. – Order to Amend Complaint entered on October 7, 2016
- AA. Young v. Ethicon, Inc. – Order to Amend Complaint entered on October 5, 2016

## **PART II**

### **II. COMPLIANCE WITH PRIOR ORDERS (REMAINING OUTSTANDING ITEMS ONLY)**

- A. Case Management Order #31 entered on September 29, 2016
  - 1. TVT-O Core Discovery Cases

a. Smith. Discovery shall continue in anticipation of a trial scheduled for January 9, 2017.

- (1) The Court permitted a supplemental deposition of Mrs. Smith by December 31, 2016 limited to issues post-dating last deposition and the parties have agreed that the deposition will proceed on November 3, 2016.
- (2) Plaintiffs were to serve a supplemental fact sheet ("PFS") by October 3, 2016, and did so.
- (3) The parties were to submit position papers to the Court addressing Defendants' request for pathology from other procedures, which was done and the Court issued a decision on October 25, 2016, permitting access and review.
- (4) The Parties were to ascertain if Dr. Green would testify live at trial. Dr. Green declined. The Court directed that Plaintiffs are to be permitted to question Dr. Green first at the pretrial de bene esse trial testimony preservation deposition by decision dated October 25, 2016.
- (5) Defendants requested an Order requiring Dr. Azadi to produce the patient intake questionnaires and other documents withheld from the medical records production. The order was filed October 11, 2016. To date, the documents have not been produced.
- (6) The Parties continue to meet and confer to attempt to streamline the deposition designation process.
- (7) Defendants were to tender dates for expert depositions by October 5, 2016, which was done and all outstanding expert depositions have been scheduled.

2. TVT Secur Core Discovery Cases

- a. The Parties were to propose a discovery schedule to the Court at the November 3, 2016, CMC, which the parties will do either by consent or by competing proposed forms of order.
- b. The Court has indicated that it will not schedule oral argument for Plaintiffs' motion for a multi-plaintiff trial until December 2016.

3. Mixed-Ethicon Product cases

- a. The Parties were to continue to meet and confer to address the Plaintiffs' request for selection of Mixed-Ethicon Product Core

Discovery Cases. The Parties will report on the status at the November 3, 2016 CMC.

4. Settled/Settling Ethicon Cases
  - a. These cases will be dismissed without prejudice. The cases may be restored on letter application with no restoration fee and will be converted to dismissal without prejudice upon submission of an Order agreed upon by counsel.
5. Miscellaneous

### III. CASE MANAGEMENT

#### A. TVT Retropubic Core Discovery Cases

1. Cantrell. Plaintiff's Motion to Reinstate Plaintiff's Action
  - a. Defense Counsel will submit opposition papers on or before November 10, 2016.

#### B. TVT-O Core Discovery Cases

1. Smith. Status of pre-trial preparation and the current pre-trial schedule and related issues, including:
  - a. Pre-trial motions filing and briefing status.
    - i. Parties will submit a second set of motions in accordance with the revised briefing schedule.
  - b. The parties will continue to meet and confer regarding deposition designations and issues related to same.
  - c. Witness lists and issues related to same.
    - i. Parties will continue to meet and confer on disputes on who must appear live from the company roster.
  - d. Catherine Smallwood Deposition
    - i. Catherine Smallwood will be taken off the witness list and there will be no deposition.
  - e. Jury Instructions: The Parties will continue to meet and confer to discuss the jury instructions.
2. Gilmer. Plaintiffs have agreed to dismiss the matter with prejudice. The Parties are in the process of submitting a stipulation to the Court

#### C. TVT Secur Core Discovery Cases

1. Status of pre-trial schedule in Cook, Nelson and Sheppard and issues related to same

- a. Cook: Plaintiffs' Counsel requests that the case be pulled from the bellwether pool.
- b. The Parties agreed on the pre-trial schedule and the Court will sign the schedule.
2. Scheduling a date for oral argument on Plaintiffs' Motion for a Multi-Plaintiff Trial.
  - a. Oral arguments will not be held in December but will be held at a later date.

#### D. Mixed-Ethicon Product Cases

1. Status of Discussion Regarding Mixed-Ethicon Product Core Discovery Cases.

#### E. Settled/Settling Ethicon Cases- Status of Docket Order

1. The Parties will meet and confer and report back to the Court.

### PART IV

#### II. GENERAL

1. The next Case Management is scheduled for December 15, 2016 at 9:30 a.m. in Room 359. Liaison Counsel shall report at 8:30 a.m. **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.: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.



RACHELLE L. HARZ, J.S.C.