SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

CASE NO. 296
MASTER DOCKET NO.:BER-L-936-13

IN RE Stryker Rejuvenate & ABG II

Modular Hip Implant LITIGATION

CIVIL ACTION
CASE MANAGEMENT ORDER #8

All prior orders remain in full force and effect except as modified by this Order

This Matter having been assigned to the Honorable Brian R. Martinotti, J.S.C., pursuant to the Supreme Court's Order of January 24, 2013, designating this matter for Multicounty Litigation Status ("MCL") of Stryker Rejuvenate & ABG II Modular Hip Implant Litigation (hereinafter referred to as "Stryker") [of note is the Federal Joint Panel on Multidistrict Litigation has assigned a similar matter to Judge Donovan W. Frank in the D. Minnesota], and the Court having reviewed the proposed agenda, conducting a CMC on August 13, 2013, counsel appearing, for good cause shown and for the reasons set forth on the record,

IT IS on this 13th day of August 2013,

ORDERED,

I. COMPLIANCE WITH PRIOR ORDERS:

1. ORDERS ENTERED SINCE CMO #7:

    A. CMO #7.1 (entered July 26, 2013)

    B. Interim Protective Order (entered August 2, 2013)

    C. Amended Interim Protective Order (entered August 13, 2013)

    D. Order Regarding Alternative Option For Service Complaints Under Certain Specific Circumstances (entered August 13, 2013)

2. COMPLIANCE:

    A. Counsel have met and are continuing to meet on the following:

[Counsel's request to extend this time set forth in CMO #7 and 7.1 is GRANTED.]

i. Defendants' Fact Sheet: **Plaintiff to respond with redline changes by August 19, 2013. Counsel shall meet and confer thereafter and produce a final fact sheet to the Court by August 30, 2013. If counsel cannot agree on a final form, counsel shall email the Court with their disagreements after August 30, 2013.**

ii. Scope, parameters and timing for service of written discovery: **Parties may serve discovery requests compliant with court rules and shall continue to meet and confer.**

iii. Protective Order: **See supra Parts I (1)(B), (C).**

Parties shall continue to meet and confer regarding a Final Protective Order.

II. DISCOVERY

1. Written Discovery (including insurance disclosures and DFS):

   a. Defendants to produce a chart setting forth insurance coverage information and declaration sheets by August 16, 2013 (premiums to be redacted).

2. Defendants to produce one ESI witness for deposition by August 23, 2013, and one corporate structure witness for deposition requests by August 23, 2013;

   a. Depositions shall include no more than two (2) questioning attorneys with cases filed in New Jersey [issues of cross notice and attendance by MDL attorneys shall be addressed by Judge Frank]

3. Counsel shall continue to meet and confer regarding the ESI Protocol.

4. Medical Records authorization/vendor status: The Marker Group has been selected. Defendants shall provide forms of authorization by August 21, 2013.

III. CASE MANAGEMENT:

1. All new complaints shall be served within thirty (30) days of receipt of a filed copy from the Court.

2. Cases for Mediation will be chosen as follows:

a. Six (6) cases randomly selected by the Court; the Court has randomly selected the following six cases: Seely v. Howmedica, BER-L-850-13; Cortone v. Howmedica, BER-L-8492-13; Singh v. Howmedica, BER-L-6882-12; Seeman v. Howmedica, BER-L-6878-12; Grossman v. Howmedica, BER-L-849-13; and Cook v. Howmedica, BER-L-1021-13.

b. Two (2) cases selected by Plaintiffs; Plaintiffs have selected Dixon v. Howmedica, BER-L-1744-13, and Mergel v. Howmedica, BER-L-1022-13.

c. Two (2) cases selected by Defendants within thirty (30) days.

d. Formal mediation session to take place no later than December 15, 2013.

3. Counsel shall meet and confer regarding Phase II mediation, which will be defined at the next CMC.

4. All other Plaintiffs shall serve completed Fact Sheets on Defendant and Liaison Counsel within sixty (60) days of service of the complaint.

5. Parties are required to comply with CMO #3 regarding the service of preliminary disclosure forms. (See CMO #3, paragraph (I)(2)(A)(i).)

6. Discussion Regarding Exemplar Products:

a. Defendant shall produce a chart of the "universe" of exemplars that exist and provide type, size, quantity, and whether packaged or unpackaged to Plaintiffs and the Court by August 16, 2013.

b. Once the above is produced, Parties will have a telephone conference with the Court concerning production.

7. File & Serve Service: pending proposal and continued discussion

8. Service on Defendants: The Court entered an order on August 13, 2013.

IV. GENERAL:

1. The next Case Management Conference is scheduled for September 24, 2013, at 10:30am. Liaison counsel shall meet at 9:45am. **Counsel shall submit a proposed agenda seven (7) days prior to this Case Management Conference.**

2. *Pro hac vice* motions shall not be filed until complaint is filed and served on Defendants.

3. 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.

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 Email 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. By consent of all parties, the court may contact or be contacted on an *ex parte* basis regarding settlement issues only.

6. The court may, from time to time, conduct phone conferences with defense counsel and liaison counsel.

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 Kelly Gibson at Kelly.Gibson@judiciary.state.nj.us and Stephanie Gino at Stephanie.Gino@judiciary.state.nj.us.

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.

BRIAN R. MARTINOTTI, J.S.C.