FILED

MAY 29 2013

BRIAN R. MARTINOTTI
J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

CASE NO. 293
MASTER DOCKET NO.:BER-L-3971-11

IN RE DePuy ASR™ Hip Implants

LITIGATION

CIVIL ACTION
CASE MANAGEMENT ORDER #21

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 April 12, 2011 ordering centralized case management of DePuy ASR ™ Hip Implants, (hereinafter referred to as "DePuy") and this Court having conducted a Case Management Conference on May 28, 2013, having reviewed the proposed agenda, counsel appearing including but not limited to, liaison counsel, Drinker Biddle/Susan M. Sharko; Seeger Weiss LLP /David R. Buchanan; Keefe Bartels/John E. Keefe; Wilentz, Goldman P.A./Daniel R. Lapinski, for good cause shown and for the reasons set forth on the record,

IT IS on this 29th day of May 2013,

ORDERED,

COMPLIANCE WITH PRIOR ORDER

1. The following orders have been entered since the last Case Management Conference: CMO #20 (amended discovery schedule for MacDonald).

CASE MANAGEMENT/STATUS:

1. Discovery.

Counsel shall meet and confer regarding any discovery deficiencies.

2. Docket Update – NJ and Beyond.
    a. An MDL trial will take place before Judge Katz beginning September 9, 2013.
    b. The first New Jersey trial is set for October 21, 2013, as per CMO #20.

3. Bellwether Trial Selection and Trial Date
    a. The first case to be tried in New Jersey is MacDonald (BER-L-1856-12); followed by Coughlin (BER-L-5353-12) and Gullo (BER-L-0499-12) subject to the motion for separate trials.
    b. The dates set forth in the April 17, 2013 Order are modified as follows:
        i. McDonald:
            1. See CMO #20 for revised discovery dates.
            2. The Court has received the May 15, 2013, submission by Defendants, Plaintiffs' response on May 17,2013, and Defendants' reply on May 20, 2013.

a. The records: Plaintiffs have obtained copies of the records the Defendants have and are comparing same to Plaintiffs' set of records; Plaintiffs shall provide Defendants with any records missing from their set; parties will then visit Dr. Banzon's office and compare the parties' sets with the original records.

b. Defendant may re-depose Dr. Banzon on records not previously supplied; deposition shall not duplicative of prior testimony; shall not include areas outside the scope of the newly supplied records, and is to be limited to 3 hours at Defendants' sole cost and expense.

3. Schedule for next CMC: Parties shall meet and confer prior to next CMC and be prepared to discuss a schedule for Kemp motions, motions in limine, voir dire, etc.

ii. Coughlin and Gullo: Cases will be tried together on January 13, 2014 (subject to the Court's ruling on the Defendants' application, which shall be filed as set forth below):

1. Motions to be filed by June 3, 2013
2. Opposition by June 21, 2013
3. Replies by July 3, 2013
4. Oral argument to be held on July 12, 2013.

4. All counsel shall keep discovery current; Plaintiffs' counsel shall ensure that plaintiff fact sheets are updated and accurate.

GENERAL:

1. The next Case Management Conference is scheduled for July 12, 2013, at 10:00am. 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. 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.

4. The Court directs all counsel to R.1:4-8 and expects all counsel to abide by the parameters set forth therein.

5. All Court proceedings will start at the designated scheduled time. Counsel is expected to arrive promptly for these proceedings.

6. Counsel shall provide the Court with their preferred e-mail address by e-mailing same to Michel Szponder at Michel.Szponder@judiciary.state.nj.us.

7. 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 pm. 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.

8. 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.

9. Counsel is required to check the Judiciary's Web Site dedicated to this matter for any decisions/Orders/information contained therein.

10. 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.