FILED

JAN 14 2014

BRIAN R. MARTINOTTI
J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

CASE NO. 297
MASTER DOCKET NO.:BER-L-4098-13

IN RE MIRENA

LITIGATION

CIVIL ACTION
CASE MANAGEMENT ORDER #12

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 May 13, 2013, designating this matter for Multicounty Litigation Status ("MCL") of Mirena Litigation, (hereinafter referred to as "Mirena")[1] and the Court having entered an Initial Case Management Order ("CMO") on May 20, 2013; scheduling a Case Management Conference ("CMC") on January 14, 2014; having reviewed counsel's joint submissions dated January 7, 2014; conducting a CMC; counsel appearing; for good cause shown and for the reasons set forth on the record;

**IT IS** on this 14th day of January 2014,

**ORDERED**

## PART I

## ORDERS ENTERED SINCE CASE MANAGEMENT CONFERENCE ON NOVEMBER 20, 2013

[1] The Court is cognizant that MDL In re Mirena IUD Products Liability Litigation, MDL No. 2434, is pending before Judge Seibel in the Southern District of New York. This Court is a proponent of federal/state cooperation; all counsel are urged to use their best efforts to coordinate with their counterparts in the MDL matter to avoid duplication of efforts where practicable, specifically but not limited to infra Part I, Paragraph 2.

1. Revised Confidentiality Stipulation and Protective Order (CMO #10) – entered December 23, 2013
2. Order Regarding Privilege Log – entered December 23, 2013
3. Deposition Protocol (CMO #11) – entered January 14, 2014

## PART II

## COMPLIANCE WITH PRIOR ORDERS

1. All new complaints shall be dispatched for service within twenty-one (21) days of receipt of a docket number from the Court.

2. Counsel shall meet and confer to discuss a framework for a proposed database to be used by the Court. Plaintiff's Liaison Counsel shall distribute a proposed template to Plaintiff's Counsel and determine the best means to aggregate the information to provide to the Court.

## PART III

## CASE MANAGEMENT

1. Parties will continue to meet and confer regarding Proper Party Designation (Foreign) and shall submit a proposed order to the Court within 30 days.

2. Defendants shall provide to Plaintiffs within two days a list of Plaintiffs who have failed to timely serve Fact Sheets pursuant to CMO #3 and which the Defendants intend to file Motions to Dismiss on. Plaintiffs shall file a Fact Sheet

or seek an extension by January 27, 2014. If not, Defendants have leave to file a Motion to Dismiss without prejudice, pursuant to CMO #3. Defendants shall file one omnibus motion (with a fee and order for every docket number it applies to). This motion will be returnable at the next Status Conference, on February 25, 2014.

3. Defendants are permitted to take five (5) Plaintiff's depositions of their choosing, provided they have provided Defendant Fact Sheets and custodial files of the sales representatives who have called on that Plaintiff's treating physician thirty (30) days prior to the deposition. [If there were numerous sales representatives calling on a particular Plaintiffs doctors, Counsel will meet and confer regarding those files. If they are unable to agree, the Court will conduct a phone conference.]

4. Counsel shall continue to meet and confer regarding the Initial Disposition Pool Selection.

5. Defendants are permitted to file one motion with a New Jersey Plaintiff based on the allegation that the Plaintiff cannot satisfy the Statute of Limitations on the face of the Complaint. Said motion shall be filed within thirty days. Time for the reply will be set at the next Case Management Conference.

6. Parties shall continue to meet and confer regarding the production of all Defendant's discovery, including Defense Fact Sheet. The meet and confer regarding Defense Fact Sheet shall occur no later than seven (7) days. If the

parties are unable to agree on a protocol, the Court will conduct a telephone conference.

## PART IV

## GENERAL:

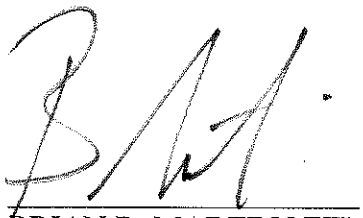
1. The next Case Management Conference is scheduled for February 25, 2014, at 2:00pm. Liaison Counsel shall report at 1:00 pm. **Counsel shall submit a proposed agenda seven (7) days prior to this Case Management Conference.** Conferences are also scheduled for the following dates: April 1, 2014, at 2:00pm; May 13, 2014, at 2:00pm; and June 24, 2014, at 2:00pm.
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.1:48 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.