FILED

FEB 25 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 #18

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 February 25, 2014; having reviewed counsel's joint submissions dated February 18, 2014; conducting a CMC; counsel appearing; for good cause shown and for the reasons set forth on the record;

IT IS on this 25th day of February 2014,

ORDERED

[1] The Court remains in contact with the Honorable Cathy Seibel, U.S.D.J., who is presiding over the MDL In re Mirena IUD Products Liability Litigation, MDL No. 2434, 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.

PART I

ORDERS ENTERED SINCE CASE MANAGEMENT CONFERENCE

On January 14, 2014

1. First Amended Agreed Order Regarding Proper Party-Defendant and Abbreviated Service Procedures for Service upon Defendants Bayer Healthcare Pharmaceuticals Inc., Bayer Oy, and Bayer Pharma AG (CMO #14) – entered February 25, 2014.
2. Order Regarding Amendment of Prior Answers of Defendant Bayer Healthcare Pharmaceuticals Inc. (CMO #15) – entered February 25, 2014.
3. Waiver of Answer Filing (CMO #16) – entered February 25, 2014.
4. Amendment of Complaint as to Foreign Defendants (CMO #17) – entered February 25, 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 with representatives of LexisNexis File & Serve. All Confidentially/Protective Orders will be binding on all such representatives. [Order to be submitted.]

2. Defendants shall continue to provide to Plaintiffs each month 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 at least two days prior to the Motion Filing Date. 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 on the dates so indicated.

3. Defendant's request to file a Motion to Dismiss on the limited issue of whether removal of a plaintiff's Mirena or diagnosis of the alleged perforation, embedment, or migration injury triggers accrual of plaintiffs' cause of action is denied without prejudice.

4. IDP Protocol: The Court conducted a conference and will reserve on any disposition. Counsel are directed to e-mail the Court a brief synopsis of their respective positions which the Court will forward to Judge Seibel. [The Court will forward a transcript to Judge Seibel.] The Court will discuss this issue

Judge Seibel. Counsel are also instructed to advise regarding any agreed upon terms in a supplemental IDP order.

PART IV:

DECISIONS ON SUBSTANTIVE OR PROCEDURAL MOTIONS

1. Defendant's application of January 28, 2014 to dismiss 12 claims for failure to provide Plaintiff's Fact Sheets in accordance with Paragraph 17 of CMO #3 is GRANTED for the reasons set forth in the memorandum decision filed herein with.

PART V

GENERAL:

1. The next Case Management Conference is scheduled for April 1, 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 May 13, 2014, at 2:00pm; June 24, 2014, at 2:00pm; August 5, 2014 at 2:00pm; September 23, 2014 at 2:00pm; October 21, 2014 at 2:00pm; November 18, 2014 at 2:00pm; December 16, 2014 at 2:00pm; January 20, 2015 at 2:00pm; and February 24, 2015 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.