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MAR 1 7 2015

BRIAN R. MARTINOTTI
J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

IN RE: MIRENA® LITIGATION

CASE NO. 297

This Document Relates to All Actions

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

CASE MANAGEMENT ORDER NO. 35

SECOND DISPOSITION POOL SELECTION

This Order governs the selection of cases pending in the Superior Court of New Jersey, Law Division, Bergen County, MultiCounty Litigation Case No. 297 to be included in the Initial Disposition Pool.

I. Selection of Cases for the Second Disposition Pool

1. Each side shall select seven cases for potential inclusion in the Second Disposition Pool. Only cases with Plaintiff Fact Sheet in which the Core Criteria has been completed by May 1, 2015 are eligible for selection to the Second Disposition Pool. By 4 p.m. Eastern on July 2, 2015, Lead Counsel for the Plaintiffs' Steering Committee ("PSC") and Lead Counsel for the Defendants shall identify to the Court by email each party's selections for the Second Disposition Pool.

2. The Court expects the parties to exercise good faith in selecting cases for potential inclusion in the Second Disposition Pool, and to not select cases presenting unique or idiosyncratic facts that would render the results of these cases unenlightening. The Court cannot police this request and will not entertain applications regarding whether one side or another has abided by it. The Court merely sets forth its expectations.

II. Voluntary Dismissal of Second Disposition Pool Cases

3. After a case is selected for inclusion in the Second Disposition Pool, a case may

not be voluntarily dismissed without prejudice without a showing of good cause.

4. If a Second Disposition Pool case that is selected by the Defendants is voluntarily dismissed by Plaintiffs, Defendants shall identify a replacement case to the Court within fourteen days of the dismissal order.

5. If a Second Disposition Pool case selected by Defendants is voluntarily dismissed with prejudice by Plaintiffs after September 15, 2015 or more than 30 days after selection, whichever comes later, Defendants shall, within fourteen days of the dismissal order either (i) identify up to two replacement cases, or (ii) identify a case selected by Plaintiffs to remove from the Second Disposition Pool. In the event that Defendants choose option (ii), neither the dismissed case nor the removed case shall be replaced. If a voluntary dismissal and subsequent removal of a case from the Second Disposition Pool pursuant to option (ii) would cause the number of cases in the Second Disposition Pool to fall under six total cases, then Defendants must choose option (i).

6. If a Second Disposition Pool case selected by Defendants is voluntarily dismissed **without** prejudice pursuant to ¶II.4 by Plaintiffs after September 15, 2015 or more than 30 days after selection, whichever comes later, Defendants shall, within fourteen days of the dismissal order identify two replacement cases.

7. If a Second Disposition Pool case selected by Plaintiffs is voluntarily dismissed **without** prejudice pursuant to ¶II.4 by Plaintiffs more than 90 days before the close of case-specific discovery, Plaintiffs shall identify a replacement case within fourteen days of the dismissal order.

8. If a Second Disposition Pool case selected by Plaintiffs is voluntarily dismissed due to resolution, Plaintiffs shall identify a replacement case to the Court within fourteen days

of the dismissal order.

9. If a Second Disposition Pool case selected by Defendants is voluntarily dismissed due to resolution, Defendants shall not be entitled to a replacement case.

III. Schedule for Second Disposition Pool

10. Generic discovery is governed by CMO No. 7A.

11. Case-specific discovery in the Second Disposition Pool shall be completed by February 18, 2016. Upon agreement or showing of good cause, case-specific discovery may continue beyond February 18, 2016.

12. Each side shall select four of the Second Disposition Pool cases for trial and shall identify its selections by e-mail to the Court and opposing counsel by 4 p.m. Eastern on March 4, 2016. Each side shall exercise two vetoes from the other side's selections and inform the Court of such by email by 4 p.m. Eastern on March 11, 2016. Nothing in this Order shall prevent dispositive motions from being filed in cases that are not selected for trial upon application to the Court.

13. Generic expert reports are governed by CMO No. 7A.

14. Plaintiffs' case-specific expert reports for the cases selected for trial are due on May 1, 2016. Defendants' case-specific expert reports for cases selected for trial are due on June 1, 2016.

15. The parties shall conduct depositions of all experts for the cases selected for trial between June 15, 2016 and September 15, 2016. Plaintiffs shall not depose any defense expert on a case as to which Defendants have not already deposed Plaintiffs' case-specific expert(s).

16. By August 15, 2016, the Court will set briefing schedules for dispositive motions and *Kemp* motions as well as a trial schedule for the Second Disposition Pool Trial Cases.

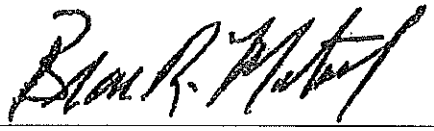
IV. Sales Representative Custodial Productions

17. CMO 30 will apply to cases in the Second Disposition Pool subject to the following deadlines: Plaintiffs shall identify all sales representatives pursuant to Paragraph 1 of CMO 18C by:

a. 4 p.m. Eastern on August 17, 2015;

b. 30 days after selection for the Second Disposition Pool; or

c. 30 days after Defendants have provided a completed Defense Fact Sheet identifying all sales representatives, whichever comes later.



HONORABLE BRIAN R. MARTINOTTI, J.S.C.