FILED

JUN 16 2015

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 #38

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 December 16, 2014; having conducted a CMC; counsel appearing; for good cause shown and for the reasons set forth on the record;

IT IS on this 16th day of June, 2015,

ORDERED,

PART I

ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE

N/A

[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.

PART II

COMPLIANCE WITH PRIOR ORDERS

N/A

PART III

CASE MANAGEMENT

1. 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 on which the Defendants intend to file Motions to Dismiss. 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.
2. The court finds good cause to GRANT the following Motions to Reinstate:
    a. *Averhart v. Bayer* (Docket No. BER-L-9203-13)
    b. *Mitchell v. Bayer* (Docket No. BER-L-7665-13)
3. Moving forward, once the 90 days referenced in CMO #3 has expired, notwithstanding the fact that a formal Motion to Dismiss has not been filed, any application to reinstate will require a showing of exceptional circumstances by the plaintiff in order for the court to grant that relief.

4. Bayer will use best efforts to locate the design specifications as referenced in correspondence between plaintiffs' counsel and defense counsel within a reasonable amount of time.
5. Defendants will strike the matter of Bryttany Wright from the IDP Pool.

PART IV

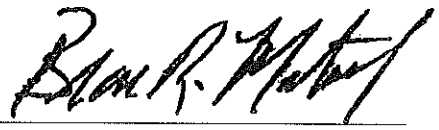
GENERAL:

1. The next Case Management Conference is scheduled for July 21, 2015, 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: September 1, 2015; October 13, 2015 and December 1, 2015.
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.