FILED

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BRIAN R. MARTINO, J.S.C.

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: BERGEN COUNTY

IN RE: MIRENA® LITIGATION

This Document Relates to All Actions

CASE NO. 297

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

Case Management Order No. 40
EXPERT DEPOSITIONS

This matter, having been opened to the Court by counsel for the Parties, and the Parties having consented, stipulated and agreed to the entry of this Case Management Order, and good cause appearing therefore:

IT IS, on this 21st day of July, 2015, hereby **ORDERED** as follows:

This Order governs expert depositions in the above-captioned MultiCounty litigation ("In Re Mirena, Case No. 297"):

1. Case Management Order No. 11 (Deposition Protocol) shall govern depositions to the extent its provisions are not inconsistent with the provisions of this Order.

2. Each party shall bear the costs of witness fees and travel expenses of its own experts relating to depositions.

3. If free office space is unavailable to accommodate an expert deposition, it is the producing party's obligation to pay to rent reasonably accommodating space for the deposition.

4. If an expert is designated as a generic expert only, then the deposition of that expert is limited to 7 hours on the record.

5. If an expert is designated as a case-specific expert only, then the deposition of that expert is limited to 7 hours on the record.

6. If an expert is designated as both a generic and a case-specific expert, then the deposition of that expert is limited to 10 hours on the record.

7. If an expert is designated as a case-specific expert on more than one case, then for each case beyond the first, that expert may be deposed for an additional 3 hours beyond the limits in Paragraphs 5 and 6.

8. Parties may seek additional deposition time for an expert beyond the limitations of this Order through agreement of the parties or through a motion to this Court for good cause shown.

9. Defendants will identify no more than ten experts as "priority experts" for plaintiffs to depose. These "priority experts" are the witnesses whom Defendants may call during trials for the Initial Disposition Pool cases. Plaintiffs shall have the right to depose and file *Kemp* challenges to Defendants' "priority experts."

10. Defendants may designate any of the remaining "non-priority experts" for any trial as soon as reasonably possible but not less than sixty days before trial without agreement of the parties, or through a motion to this Court and good cause shown. Upon such designation, Plaintiffs shall have the right to depose the "non-priority expert" and file *Kemp* challenges.

11. In the event that any "non-priority experts" are not identified by Defendants as trial experts for trial cases from the Initial Disposition Pool, Plaintiffs' right to depose and file *Kemp* challenges to any "non-priority expert" that is identified in any trial setting is specifically

preserved.

12. Nothing in this Order shall serve as a basis to reopen generic expert discovery beyond generic experts whose reports already have been disclosed.

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