

**IN RE ALLERGAN BIOCELL
TEXTURED BREAST IMPLANT
PRODUCTS LIABILITY LITIGATION**

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY**

CASE NO. 634

MASTER DOCKET NO. BER-L-5064-20

All prior orders remain in full force and effect
except as modified by this Order.

**CASE MANAGEMENT ORDER # 11
(Protocol for Discovery in Certain Cases That Assert Medical Malpractice Claims)**

This matter previously came before the Court by way of an informal application requesting the Court decide whether to permit discovery in cases filed in this Multicounty Litigation (“MCL”) involving plaintiffs who have undergone a surgical explant of a recalled BIOCELL device and have asserted claims for medical malpractice against their implanting physician (“Medical Malpractice Explant Cases”). On January 25, 2023, the Court issued its ruling on this dispute, holding that discovery is permitted in the three Medical Malpractice Explant Cases as outlined below. In accordance with that ruling the Court finds that the Parties have conferred regarding a Case Management Order addressing the scope of discovery to be conducted in Medical Malpractice Explant Cases. The Parties having stipulated thereto, and for other good cause shown, it is **ORDERED** as follows:

I. SCOPE OF THE ORDER

This Order shall apply to the three currently-filed Medical Malpractice Explant Cases only. This Order is binding on all parties and their counsel in these cases.

II. DISCOVERY ON PLAINTIFFS

1. The Court approves the use of the Plaintiff Fact Sheet, including the associated document production and authorizations (“PFS”), attached as Exhibit A to CMO

■, which shall be completed by the three Plaintiffs who have filed a Medical Malpractice Explant Cases in accordance with the procedures set forth in that CMO.

2. The Physician Defendants are also permitted to request that Plaintiffs who have filed a Medical Malpractice Explant Cases serve responses to Uniform Form A(1) Interrogatories, ten Supplemental Interrogatories, and Document Demands. Plaintiffs shall respond to any such requests within ninety days of receiving them.

3. Defendants are permitted to conduct the depositions of the Plaintiffs, which shall be scheduled after the completion of the PFSs and other written discovery requested per Paragraph 2 of this Order.

4. Absent a stipulation between the parties or leave of Court upon a showing of good cause, Defendants will not seek to serve any further written discovery upon Plaintiffs who filed Medical Malpractice Explant Cases or take additional depositions other than the named Plaintiffs until such time as they have been activated for trial.

III. DISCOVERY ON ALLERGAN DEFENDANTS

1. The Court approves the use of the Defense Fact Sheet (DFS), attached as Exhibit B to CMO ■, which shall be served by the Allergan Defendants in accordance with the procedures set forth in that CMO for each of the three Plaintiffs who have filed a Medical Malpractice Explant Case and who have served a materially completed PFS.

2. Plaintiffs are permitted to take the depositions of the Allergan Sales Representative(s) who communicated with or sold the device to the implanting doctor prior to each plaintiff's implant surgery.

3. Absent a stipulation between the parties or leave of Court upon a showing of good cause, neither the Plaintiffs nor Physician Defendants will seek to serve any

further written discovery upon the Allergan Defendants or conduct depositions of Allergan employees other than the sales representative(s) discussed above until such time as the Medical Malpractice Explant Cases have been activated for trial.


IV. DISCOVERY ON PHYSICIAN DEFENDANTS

1. Plaintiffs are permitted to request that the Physician Defendants serve responses to Uniform Form C and C(3) Interrogatories, ten Supplemental Interrogatories, and Document Demands. Physician Defendants shall respond to any such requests within ninety days of receiving them.

2. Plaintiffs will also be permitted to take the depositions of the Physician Defendants.

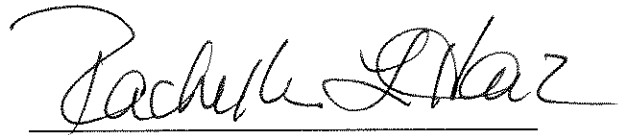
3. Absent a stipulation between the parties or leave of Court upon a showing of good cause, neither the Plaintiffs nor the Allergan Defendants will seek to serve any further written discovery upon Physician Defendants until such time as the Medical Malpractice Explant Cases have been activated for trial.

V. OTHER ISSUES

1. The Parties agree that the cases subject to this Order shall not be set for trial before a trial is conducted in one of the bellwether cases subject to CMO , which comprise the vast majority of the cases pending in MCL 634.

2. This Order may be modified or amended for good cause shown, after appropriate notice and opportunity to be heard is provided to the affected parties, when the Court believes the interest of justice requires modification.

Dated:

A handwritten signature in cursive script that reads "Rachelle L. Harz". The signature is written in black ink and is positioned above a horizontal line.

HON. RACHELLE L. HARZ, J.S.C.