Prepared by the court

CLARA M. SANDS,

Plaintiff,

v.

ETHICON INC., ET AL.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
DOCKET NO.: BER-L-1448-24
MASTER CASE NO.: BER-L-11575-14
CIVIL ACTION
In Re: Pelvic Mesh / Gynecare Litigation
Case No. 291

ORDER

FILED
FEB 10 2026
GREGG A. PADOVANO, J.S.C.

THIS MATTER having been brought before the court upon motion filed by Anapol Weiss, counsel for plaintiff Clara M. Sands ("Plaintiff"), seeking an order to quash a subpoena issued to non-party OpenAI OpCo, LLC; and opposition having been filed by Riker Danzig, LLP, counsel for defendants Ethicon, Inc. and Johnson & Johnson (collectively "Defendants"); and the court having reviewed all papers submitted; and for reasons set forth in the attached rider; and for other good cause having been shown

IT IS ON THIS 10th DAY OF FEBRUARY 2026

ORDERED that Plaintiff's motion seeking to Defendant's motion seeking to quash a subpoena issued to non-party OpenAI OpCo, LLC is **DENIED**; and it is further

ORDERED that a copy of this order shall be served upon all parties by eCourts.

GREGG A. PADOVANO, J.S.C.

RIDER TO FEBRUARY 10, 2026 ORDER[1]
DOCKET NO.: BER-L-1448-24
MASTER DOCKET NO.: BER-L-11575-14

This matter arises from alleged personal injuries Plaintiff sustained as a result of implantation of Defendants' transvaginal mesh product. Plaintiff's claim is part of an ongoing multi-county litigation. Defendants served a subpoena duces tecum dated December 19, 2025 upon non-party OpenAI OpCo, LLC (the "Subpoena") seeking the following:

> 1. Produce all conversation records for Clara Sands from December 2022 to present including all prompts, inputs, uploaded files, outputs, messages, images, audio, tool calls, browsing artifacts, attachments, comments, annotations, titles, chat IDs/URLs, timestamps, user identifiers, model identifiers, configuration settings, custom instructions, and any associated metadata and logs.
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> 2. All files uploaded or referenced in chats by Plaintiff Clara Sands from December 2022 to present (documents, images, code, datasets), with native files and all generated artifacts (e.g. code files, images, downloadable outputs).
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> 3. Retention schedules or settings applicable to ChatGPT data during the relevant period.
>
> 4. A custodian-of-records declaration authenticating the produced records as business records, including a description of the systems used to create and maintain them.
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> [Certification of Catelyn McDonough, Esq., Exhibit A.]

Plaintiff argues that the Subpoena should be quashed as it is "unreasonable and oppressive." Plaintiff's Brief at 2. Plaintiffs assert that

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[1] Not for publication without the approval of the committee on opinions. (See R. 1:36-1).

> [i]n short, Defendants' [S]ubpoena is an unreasonable and oppressive fishing expedition for information that Defendants already possess. This is intended to bully and harass Plaintiff and is a major invasion of privacy with no relevance to her lawsuit concerning personal injuries caused by Defendants' defective transvaginal mesh.
> [Ibid.]

Plaintiff argues that the information sought under the Subpoena "is not specific at all to Ms. Sands' lawsuit." Id. at 3. Plaintiff also argues that the information sought is cumulative and duplicative. Id. at 4. Plaintiff asserts that her medical records have been released to Defendants. Ibid. Plaintiff finally argues that the Subpoena is overly broad and seeks information not material or related to the litigation. Id. at 5.

Defendants argue in opposition that

> Following Plaintiff's deposition on June 23, 2025, Ethicon obtained subsequently created medical records indicating that Plaintiff had conducted searches on Chat GPT related to her health concerns and their relation to pelvic mesh. See Ex. B to Certification of Catelyn McDonough in support of Pl.'s Motion to Quash, E-consult follow up between Plaintiff and her urologist's office (July 14, 2025). Plaintiff advised her urologist that she had been "working on this in chat GPT, taking in everything that all the doctor's [sic] have ruled out over the last 2-3 years." Id. During her deposition three weeks prior, Plaintiff acknowledged that she had conducted Google research on pelvic mesh but did not mention any use of Chat GPT or the results of any such searches. See Certification of Kelly Crawford ("Crawford Cert."), Ex. 1, Pl. Dep. (June 23, 2025) at 54:4-7. Plaintiff testified that she conducted online research and ensured that the information she gleaned was from a "credible source." Id. at 62:2-14. She admitted that she decided to bring this lawsuit after she conducted her research. Id. at 65:1-3. Based on this, Plaintiff's inquiries to Chat GPT and the results of those inquiries are relevant to what damages Plaintiff relates to her TVT-O mesh and when she learned about it, as well as her motivations for pursuing litigation.
> [Defendants' Brief at 1.]

Defendants also argue that there is no evidence that non-party recipient of the Subpoena will be overly burdened by the discovery request. Id. at 2. Defendants further argue that Plaintiff has

failed to show how the information sought under the Subpoena is duplicative or cumulative. Id. at 3. Defendants assert that the date limitation under the Subpoena (2022-2025) is reasonable based upon the information in the record. Defendants argue that

> [i]n the July 2025 medical record discussing her use of Chat GPT, Plaintiff indicated that she had been researching her condition and working in Chat GPT based on what doctors ruled out for the "last 2-3 years." Pl. Ex. B, E-consult record. That would mean 2022-2025: the precise date parameters of the subpoena.
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> Further, Plaintiff had surgery to remove her TVT-O mesh on June 20, 2023, and she alleges in her Plaintiff Fact Sheet that the symptoms leading to her revision surgery came about in January 2023. See Crawford Cert., Ex. 4, Plaintiff Fact Sheet at SandsC-PFS-00034 (June 18, 2025). What Plaintiff searched six months before her removal surgery is relevant to what conditions she believed were caused by the mesh and to her decision to have the mesh removed.
>
> Searches made in the two years after her removal surgery are also relevant to injuries she claims here and whether she was influenced by Chat GPT results. Because the only Chat GPT searches that Ethicon knows she conducted relate to her medical condition and her self-diagnosis of her injuries, there is nothing to suggest that requesting documents from six months before her mesh removal in 2023 to the present is in any way overbroad.
> [Id. at 4.]

The court recognizes that the New Jersey discovery rules are to be construed liberally in favor of broad pretrial discovery. See Payton v. N.J. Tk. Auth., 148 N.J. 524, 535 (1997); Jenkins v. Rainner, 69 N.J. 50, 56 (1976). Further, "[t]he discovery rules were designed to eliminate, as far as possible, concealment and surprise in the trial of lawsuits to the end that judgments rest upon real merits of the causes and not upon the skill and maneuvering of counsel." Abtrax Pharmaceuticals, Inc. v. Elkins-Sinn, Inc. 139 N.J. 499, 512 (1995). Moreover, "[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . . ." R. 4:10-2(a). The term "relevant evidence" has been interpreted in include "evidence having a tendency to prove or disprove any fact of consequence

to the determination of the action." Payton, 148 N.J. at 535, citing N.J.R.E. 401. Thus, when applying the discovery rules a court may compel a party to produce all relevant, unprivileged information that may lead to the discovery of other relevant evidence. See Mortons Int'l, Inc. v. General Accident Ins. Co. Of Am., 266 N.J. 75, 82 (2000). However, discovery is broad, but not unlimited. See K.S. v. ABC Professional Corp., 330 N.J. Super. 288, 291 (App. Div. 2000); Berrie v. Berrie, 188 N.J. Super. 274, 282 (App. Div. 1983). Courts do not permit a discovery "fishing exhibition" to establish otherwise unsupported accusations. See R. 4:10-2(c), R. 4:10-3, and Miller v. J.B. Hunt Transport, 339 N.J. Super. 144, 148 (App. Div. 2001), to wit: privileged work product. See also Medford v. Duggan, 323 N.J. Super. 127, 135 (App. Div. 1999). Privileges reflect "a societal judgment that the need for confidentiality outweighs the need for disclosure." Ibid. Confidential and proprietary information, while perhaps not privileged, is also entitled to protection from disclosure. Hammock v. Hoffmann-LaRoche, Inc., 142 N.J. 356, 383 (1995).

New Jersey Court Rules 4:14-7(a) and 1:9-2 provide that a subpoena may require the "production of books, papers, documents, electronically stored information, or other objects designated therein." However, as mentioned above, the court on motion may quash or modify the subpoena if, in its discretion, compliance would be unreasonable and oppressive. R. 1:9-2. The "reasonableness" standard has been articulated in New Jersey as the subpoenas "subject . . . must be specified with reasonable certainty, and there must be a substantial showing that they contain evidence relevant and material to the issue. If the specification is so broad and indefinite as to be oppressive and in excess of the defendant's necessities, the subpoena is not sustainable." State v. Cooper, 2 N.J. 540, 556 (1949). Reasonableness is also viewed in light of the demandant's use of routine pretrial discovery, such as depositions and interrogatories. See Wasserstein v. Swern & Co., 84 N.J. Super. 1, 6-8 (App. Div. 1964), certif. den. 43 N.J. 125 (1964).

The court recognizes that a subpoena duces tecum should not be used in place of such discovery. See New Century Financial Services, Inc. v. Dennegar, 394 N.J. Super. 595, 600 (App. Div. 2007). Furthermore, "relevant evidence," although not defined in the discovery rules, is defined elsewhere as "evidence having a tendency in reason to prove or disprove any fact of consequence to the determination of the action." Payton, 148 N.J. at 535 (1997) (citing N.J.R.E. 401). "The relevance standard does not refer only to matters which would necessarily be admissible in evidence but includes information reasonably calculated to lead to admissible evidence." Berrie, 188 N.J. Super. at 278.The court acknowledges the well-settled law that discovery should be liberally granted, the court also notes that discovery is not limitless. The general standard of discoverable information is relevance. See Pressler & Verniero, Current N.J. Court Rule, cmt. 1 on R. 4:10-2 (2025). The relevance standard includes information reasonably calculated to lead to admissible evidence respecting the cause of action or its defense. See Pfenninger v. Hunterdon Central, 167 N.J. 230, 237 (2001).

Relevant evidence," although not defined in the discovery rules, is defined elsewhere as "evidence having a tendency in reason to prove or disprove any fact of consequence to the determination of the action." Payton, 148 N.J. at 535, citing N.J.R.E. 401. The New Jersey discovery rules are to be construed liberally in favor of broad pretrial discovery. See Payton, 148 N.J. at 56 ("our court system has long been committed to the view that essential justice is better achieved when there has been full disclosure so that the parties are conversant with all available facts."). Further, "[t]he discovery rules were designed to eliminate, as far as possible, concealment and surprise in the trial of lawsuits to the end that judgments rest upon real merits of the causes and not upon the skill and maneuvering of counsel." Abtrax Pharmaceuticals, 139 N.J. at 512. Moreover, "[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . . ." R. 4:10-2(a). Thus, when applying the

discovery rules a court may compel a party to produce all relevant, unprivileged information that may lead to the discovery of other relevant evidence. See Mortons Int'l, 266 N.J. at 82.

"When the burdens outweigh the benefits the tools of discovery become, intentionally or unintentionally, weapons of oppression," a party may seek a protective order from the court pursuant to R. 4:10-3." Berrie, 188 N.J. Super. at 282. The party seeking a protective order bears the burden of persuasion in showing that good cause exists for the issuance of a protective order. Kerr v. Able Sanitary and Environmental Services, Inc., 295 N.J. Super. 147, 155 (App. Div. 1996). "Good cause" is determined by a court upon a detailed analysis of the circumstances of the parties and issues involved. Mugrage v. Mugrage, 335 N.J. Super. 653, 657 (Ch. Div. 2000). The court here recognizes in a motion seeking a protective order, the movant bears the burden of persuasion in showing that good cause exists for the issuance of a protective order. Kerr, 295 N.J. Super. at 155. Here, the there is no protective order in place, nor has a protective order been sought by any party or non-party.

Defendants argue that the information sought is relevant to Plaintiff's motivation in asserting her claims in this matter. The information sought is directly related to information Plaintiff provided to her medical provider. Specifically, Plaintiff acknowledged utilizing ChatGPT in connection with her medical condition and the allegations relevant to this litigation. Based upon the information provided, the court does not find that the Subpoena is merely a "fishing expedition." Discovery is broad and relevant material, or material which may lead to relevant evidence, is subject to disclosure in discovery. Disclosure of the information sought under the subject Subpoena clearly appears to seek information which falls within the scope of appropriate discovery. The court finds that the information sought under the Subpoena is not overly broad and, in fact, is limited and directly related to the allegations of Plaintiff's complaint and likely to lead to relevant information. The court also finds no evidence that the information sought will

violate any privilege known at this time. The information sought under the Subpoena is appropriate under New Jersey's liberal discovery standards.

Based upon the information and argument presented, Plaintiff's motion seeking to quash the Subpoena is **DENIED**.