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Attorneys for Defendants
Johnson & Johnson & Ethicon, Inc.

IN RE PHYSIOMESH LITIGATION
 (Flexible Composite Mesh)

FILED

OCT 26 2018

JOHN C. PORTO, J.S.C.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION: ATLANTIC COUNTY
 MASTER CASE NO. ATL-L-2122-18

CASE NO: 627
 Civil Action

CASE MANAGEMENT ORDER NO. 2
[OCTOBER 18, 2018 CASE MANAGEMENT
CONFERENCE]

This matter having been opened to The Court at a Case Management Conference held on October 18, 2018; in the presence of the attorneys for the plaintiffs and the attorneys for the defendants; and good cause appearing;

IT IS on this 26th day of October, 2018,

ORDERED:

I. INITIAL PROVISIONS

A. Applicability

This Order applies to all cases previously filed and all those hereinafter filed or transferred to Atlantic County pursuant to the Supreme Court Order of July 17, 2018, establishing In Re Physiomesh Litigation, Case No. 627 (“Physiomesh MCL, Case No. 627”).

B. Continuing Obligations of CMO No. 1

Except as modified herein or any subsequent Case Management Order (“CMO”), the provisions of CMO No. 1, entered August 20, 2018 by the Honorable Nelson C. Johnson, J.S.C., continue in all respects, including the expectation that all counsel are to act in a courteous, professional manner at all times, and the practices and procedures otherwise set out in CMO No. 1.

C. Responsive Pleadings and Discovery Stay

1. General Provisions re Stay of Responsive Pleadings and Discovery

Unless as provided herein and as otherwise ordered by the Court, there shall be a temporary stay of the parties’ responsive pleading deadlines and all discovery, including responses to discovery. This Order does not (1) preclude voluntary informal discovery as to the identification and location of relevant documents and witnesses; (2) prevent a party from voluntarily making disclosures or responding to an outstanding discovery request; (3) authorize a

party to suspend its efforts in gathering information needed to respond to a request; and (4) obviate the obligations to preserve evidence relevant to the claims or defense of this matter.

2. Provisions Regarding Document Preservation, Production and Protective Order

Each party is reminded of their obligations regarding the preservation of documents, records, and physical evidence such as explanted mesh and pathology, pursuant to Case Management Order No. 1 of this Court and the Rules Governing the Court of the State of New Jersey.

II. PLAINTIFFS' AND DEFENDANTS' LEADERSHIP

A. Plaintiffs' Leadership

1. Appointment of Counsel

The Court appoints the following attorneys to serve on the Plaintiffs' Executive Committee ("PEC") for all Plaintiffs.

COUNSEL ON THE PLAINTIFFS' EXECUTIVE COMMITTEE:

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MDL LIAISON COUNSEL FOR PLAINTIFFS:

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2. Duties and Responsibilities of Plaintiffs' Lead and Liaison Counsel**Plaintiffs' Executive Committee**

Plaintiffs' Executive Committee ("PEC") shall be charged with formulating and presenting Plaintiffs' positions on all substantive and procedural issues arising during these pretrial proceedings, and shall be deemed able to bind all plaintiffs' counsel to decisions regarding same. The PEC shall submit and argue all motions and other matters. At least one member of the PEC shall attend status conferences and such other hearings or conferences as may occur. The PEC shall work with opposing counsel in developing and implementing a litigation plan to ensure pretrial proceedings are conducted effectively, efficiently, and economically. The PEC may delegate specific tasks to other counsel to further these prescribed goals.

Plaintiffs' Liaison Counsel

Plaintiffs' Liaison Counsel shall be charged with facilitating the administrative requirements of these pretrial proceedings. To the extent service is not otherwise achieved through eCourts, Plaintiffs' Liaison Counsel shall act as the primary recipients of the Court's orders on behalf of Plaintiffs, distributors of Plaintiffs' pleadings, notices, and motions to Defendants' Lead and Liaison counsel, and shall coordinate service and filings. Plaintiffs' Liaison Counsel shall communicate with Plaintiffs' Leadership in MDL 2782 in an effort to

promote efficiency and judicial economy. Plaintiffs' Liaison Counsel shall be reasonably available to communicate with the Court on administrative or procedural matters when necessary. Plaintiffs' Liaison Counsel shall attend status conferences and such other hearings or conferences as they may occur.

B. Defendants' Leadership

1. Appointment of Counsel

The Court appoints the following attorneys to serve as Co-Lead and Co-Liaison Counsel for Defendants Ethicon, Inc. and Johnson & Johnson.

CO-LEAD COUNSEL FOR DEFENDANTS:

William M. Gage, Esq.
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2. Duties and Responsibilities of Defendants' Lead and Liaison Counsel**Defendants' Lead Counsel**

Defendants' Lead Counsel shall be charged with formulating and presenting Defendants' positions on all substantive and procedural issues arising during these pretrial proceedings. Generally, Defendants' Lead Counsel shall submit and argue motions. Defendants' Lead Counsel shall work with opposing counsel in developing and implementing a litigation plan to ensure pretrial proceedings are conducted effectively, efficiently, and economically. Defendants' Lead Counsel may delegate specific tasks to other counsel to further these prescribed goals.

Defendants' Liaison Counsel

Defendants' Liaison Counsel shall be charged with facilitating the administrative requirements of these pretrial proceedings. To the extent service is not otherwise achieved through eCourts, Defendants' Liaison Counsel shall act as the primary recipients of the Court's orders on behalf of Defendants, distributors of defendants' pleadings, notices, and motions to

Plaintiffs' Lead and Liaison counsel, and shall coordinate service and filings. Defendants' Liaison Counsel shall be reasonably available to communicate with the Court on administrative or procedural matters when necessary. Defendants' Liaison Counsel shall attend status conferences and such other hearings or conferences as they may occur.

III. PRO HAC VICE ADMISSIONS

An attorney seeking to appear *pro hac vice* shall submit via eCourts a proposed form of order under the 5-day Rule. Said order may be submitted under the Master MCL docket number and need not be separately submitted in any individual matter or under any individual matter document number. Counsel admitted *pro hac vice* are admitted for all purposes.

IV. COORDINATION

It is the Court's intention and desire that, to the extent possible, the scheduling deadlines, case management orders, and discovery in this MCL litigation will be coordinated with those entered by The Honorable Richard W. Story, U.S.D.J. in the Northern District of Georgia.

V. PROTECTIVE ORDER

The parties will meet and confer by November 1, 2018 regarding the entry of a stipulated protective order. In the event the parties cannot reach an agreement as to the form and substance of a protective order, they must advise The Court, by letter(s) submitted via electronic mail to Chambers, no later than five (5) business days before the next Case Management Conference.

VI. CASE MANAGEMENT ORDERS

The parties will meet and confer by November 1, 2018 regarding the entry of a Case Management Order governing practices and procedures not already addressed in this Order and a Case Management Order governing deposition protocol. In the event the parties cannot reach an agreement as to the form and substance of those orders, they must advise The Court, by letter(s)

submitted via electronic mail to Chambers, no later than five (5) business days before the next Case Management Conference.

VII. WAIVER OF SERVICE

Defense counsel will advise Plaintiffs' counsel within seven (7) days of this Order whether they consent to waive formal service on Defendants, such that filing of pleadings via eCourts will constitute service as required by the New Jersey Rules of Court. In the event that Defendants do not agree to initial service of process being effected by virtue of the filing of a complaint via eCourts, Plaintiffs shall be required to comply with the Rules Governing the Courts of the State of New Jersey regarding proper and effective service of initial process.

VIII. DISCOVERY

Defense counsel will advise Plaintiffs' counsel within seven (7) days of this Order whether it will provide written discovery and deposition transcripts pertaining to Defendants' corporate structure and the manner in which Defendants' electronically stored information is kept. Defense counsel will further advise whether the production of the aforesaid discovery is or must be subject to a protective order.

IX. MOTIONS

Counsel must advise The Court before filing any motion other than a motion seeking *pro hac vice* admission.

X. EX PARTE SETTLEMENT COMMUNICATIONS

By consent of all parties, The Court may contact or be contacted on an *ex parte* basis regarding settlement issues.

XI. MEDICINE, FACT, AND LEGAL ISSUES HEARING

At the next Case Management Conference, The Court will address the scheduling of a future conference, at which the parties will present to the Court key issues of medicine, fact, and law in an non-adversarial manner..

XII. CASE MANAGEMENT CONFERENCE PROCEDURES

Until further notice, The Court will conduct monthly case management conferences. The next Case Management Conference is scheduled for **November 14, 2018, at 1:30 p.m.** Plaintiffs' counsel shall initiate the call. Counsel may appear in person, by telephone or by Skype or any such other means that the Court can reasonably accommodate.



HONORABLE JOHN C. PORTO, J.S.C.