

**FILED**

DEC 23 2021

IN RE STRATTICE HERNIA MESH  
LITIGATION

**JOHN C. PORTO, J.S.C.**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – ATLANTIC COUNTY  
MCL CASE NO: 636

MASTER DOCKET NUMBER: ATL-L-3857-21

**CASE MANAGEMENT ORDER #4  
(Stipulated Protective Order)**

This matter, having come before the Court on the Parties' agreement for a Stipulated Protective Order Governing Confidential Materials (hereinafter "Protective Order"), and it appearing to the Court that:

Plaintiffs and Defendants LifeCell Corporation, Allergan, USA, Inc., and Allergan, Inc. (collectively, "Defendants" and together with Plaintiffs, the "Parties") agree that they may be required to produce or disclose in this proceeding certain confidential or private information, documents or things, as described below, and the disclosure of Confidential Material without reasonable restriction on its use may cause harm, damage, loss, embarrassment or disadvantage to the Producing Party.

The Parties desire entry of an order pursuant to the New Jersey Rules of Court, applicable New Jersey laws and statutes, other federal, state, or foreign data protection laws, and other privacy regulations and obligations to facilitate the orderly and cost-effective discovery of relevant information while minimizing the potential for unauthorized disclosure of Confidential Material.

The Parties agree that the discovery sought in this STRATTICE™<sup>1</sup> multicounty litigation ("MCL") is likely to require the production of certain confidential business, commercial, personnel, and financial information, as well as other confidential information, and that the Parties have a legitimate need to protect the confidentiality of such information.

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<sup>1</sup> STRATTICE™ includes each of the five variations of STRATTICE: STRATTICE Reconstructive Tissue Matrix, STRATTICE Laparoscopic, STRATTICE Perforated, and STRATTICE Extra Thick.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the following Protective Order is issued to govern certain disclosures in this case:

**DEFINITIONS**

1. For purposes of this Order, “Confidential Material” shall refer to information (regardless of how it is generated, stored, or maintained), documents or portion of any document, or tangible things which are in the possession of a Producing Party who believes in good faith that such information, documents, or tangible things that contain (a) trade secrets as defined in the New Jersey Trade Secrets Act, N.J.S.A. 56:15-1, *et seq*, or (b) competitively sensitive technical, marketing, financial, sales or other confidential business information, or (c) Sensitive Personal Information, or (d) which the Producing Party otherwise believes in good faith to be entitled to protection under the New Jersey Rules of Court or federal, state, or foreign data protection laws, and other privacy regulations and obligations. Confidential Material may include any information that a Producing Party reasonably believes to be subject to federal, state or foreign data protection laws or other privacy obligations. Information subject to data privacy protection constitutes highly sensitive materials requiring special care and protection. Examples of such data protection laws include, but are not limited to, The Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 *et seq*. (financial information); The Health Insurance Portability and Accountability Act and the regulations thereunder, 45 CFR Part 160 and Subparts A and E of Part 164 (medical information); General Data Protection Regulation (“GDPR”) (Regulation (EU) 2016/679); Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the Protection of Individuals with Regard to the Processing of Personal Data and on the Free Movement of Such Data, 1995 O.J. (L281/31) (E.U. personal information); Switzerland Federal Act on Data Protection of June 19, 1992 (DPA) and its ordinances, i.e., the Ordinance to the Federal Act on Data Protection (DPO)

and the Ordinance on Data Protection Certification (ODPC) (Swiss personal information); and Japan's Act on Protection of Personal Information ("APPI") and Personal Information Protection Commission supplementary rules and regulations. Any Party that produces information in this action that contains data subject to Federal, State or foreign data protection laws (collectively "DP Information") has the right to designate those documents (whether paper or electronic) as DP Information. Defendants may designate as "Highly Confidential – Attorneys' Eyes Only" any confidential contracts (including drafts) between a Defendant and a third party, including a Third Party Payor, any other document or communication that contains or recites the terms of such confidential contract (including any drafts), and/or any document which contains research and analysis that is known by Defendants to be treated as proprietary at the highest level within Defendants' business operations.

2. For purposes of this Order, "Party" or "Parties" shall refer to any party to this MCL, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

3. For purposes of this Order, "Producing Party" shall be defined as any Party or non-party who designates and produces Confidential Material.

4. For purposes of this Order, "Receiving Party" shall be defined as any Party or non-party who receives any Confidential Material.

5. For purposes of this Order, "Sensitive Personal Information" shall refer to any personal identifying number, including social security numbers and drivers' license numbers, dates of birth, names of minor children, individual personal and/or financial information, including financial account numbers, home addresses, and telephone numbers, except Plaintiffs' dates of birth and city and state of residence.

6. For purposes of this Order, “Protected Health Information” shall refer to protected health information as that term is used in the Health Insurance Portability and Accountability Act of 1996 and defined in 45 C.F.R. §§ 160 & 164 (2003) (“HIPAA”). Protected Health Information will be designated as “Confidential.” A covered entity will make best efforts to redact Protected Health Information pursuant to HIPAA that is personally identifying before it is disclosed or produced, to the extent it is not discoverable or relevant.

**DESIGNATION AND TREATMENT OF CONFIDENTIAL MATERIAL**

7. Any Party that designates information or items for production under this Protective Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. Indiscriminate designations are prohibited.

8. Any Party to this MCL or any third party covered by this Protective Order, who produces or discloses any Confidential Material, including without limitation any information, document, thing, interrogatory answer, admission, pleading or testimony, shall mark the same with one of the following or similar legend: (1) “CONFIDENTIAL – Subject to Protective Order” to each page of each document that contains Confidential Material (herein “Confidential”), or (2) “Highly Confidential – Attorneys’ Eyes Only” to each page of each document that contains Highly Confidential Material (herein “Highly Confidential”). If a Party produces a Confidential document in native format, the native file shall be renamed to include the confidentiality designation, as set forth in the Stipulation Regarding Electronically Stored Information and Hardcopy Document Protocol, entered in this action.

9. For deposition exhibits or transcripts, a Producing Party must make a “line and page” designation either on the record at the deposition or in writing within 45 days of its receipt of the deposition transcript. A blanket designation shall not be permitted under this Order. Until 45 days

after receipt by all Parties (or their attorneys) of the deposition transcript, the entire transcript and any exhibits that contain a “Confidential - Subject to Protective Order” or “Highly Confidential – Attorneys’ Eyes Only” stamp shall be treated as Confidential Information or Highly Confidential – Attorneys’ Eyes Only, as the case may be. The Party designating the confidential portions bears the burden of ensuring that the cover page and any designated portions of the original transcript or any copies of the transcript bear, in substance, the legend “Confidential - Subject to Protective Order” or “Highly Confidential – Attorneys’ Eyes Only.”

10. For information produced in some form other than documentary and for any other tangible items, the Producing Party shall affix in a prominent place on the exterior of the container, or containers in which the information or item is stored, the legend “CONFIDENTIAL - Subject to Protective Order” Or “Highly Confidential – Attorneys’ Eyes Only,” as permitted. If only a portion or portions of the information or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

11. The Parties will designate Sensitive Personal Information as Confidential or redact it before it is disclosed or produced.

#### **USE OF CONFIDENTIAL MATERIAL**

12. All Confidential Material or information designated “Highly Confidential – Attorneys’ Eyes Only” shall be used by the Parties solely for the necessary purposes of the prosecution or defense of this action, including in all add-on or included actions to this STRATTICE™ MCL by written agreement between the Parties identifying such specific add-on or included actions, and shall not be used by the Receiving Party for any business, commercial, competitive, personal or other purpose, and shall not be disclosed by the Receiving Party to anyone other than those set forth herein, unless and until the restrictions herein are removed either by

written agreement of Counsel for the Parties, or by Order of the Court. It is, however, understood that Counsel for a Party may give advice and opinions to his or her client solely relating to the above-captioned action based on his or her evaluation of Confidential Information, provided that such advice and opinions shall not reveal the content of such Confidential Information except by prior written agreement of Counsel for the Parties, or by Order of the Court.

13. This Protective Order shall be binding on all Parties and their respective counsel, experts, consultants, representatives, and others set forth below, including in all agreed-upon add-on or included actions to this STRATTICE<sup>TM2</sup> MCL, and further binds all signatories to Exhibit A to this Protective Order.

14. Confidential Material shall not be used by the Receiving Party for any business, commercial, competitive, personal or other purpose. Confidential Material and the contents of Confidential Material produced pursuant to this Protective Order may be disclosed or made available only to the following individuals under the following conditions:

- a. A Party, or officers, directors, employees, and agents of a Party deemed necessary by counsel to aid in the prosecution, defense, or settlement of this MCL;
- b. Counsel for a Party (including in-house attorneys, outside attorneys associated with a law firm(s) of record, and paralegal, clerical, and secretarial staff employed by such counsel);
- c. Agents, consultants or experts (together with their support staff) retained for the prosecution or defense of this MCL and who have signed the "Exhibit A", provided that such an expert or consultant is not a current employee of a direct competitor of a Party named in this action. For purposes of this Protective Order, Consultant(s) or Expert(s) is defined as a person(s) with specialized knowledge or experience in a matter pertinent to this MCL who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this MCL;
- d. The Court and court personnel;

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<sup>2</sup> STRATTICE<sup>TM</sup> includes each of the five variations of STRATTICE: STRATTICE Reconstructive Tissue Matrix, STRATTICE Laparoscopic, STRATTICE Perforated, and STRATTICE Extra Thick.

- e. Any person who is called to testify as a witness either at a deposition or court proceeding in this MCL, but only to the extent necessary for the purpose of assisting in the examination of the witness. During a deposition or other testimony in this MCL, any witness who refuses to sign the Exhibit A may be shown Confidential Material during his or her testimony but may not be provided copies to retain. Either Party may identify that portion of the transcript as Confidential;
- f. During their depositions, or in preparation therefore, witnesses in the action to whom disclosure is reasonably necessary and who have signed the Exhibit A unless otherwise agreed by the Producing Party or ordered by the Court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Confidential Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Protective Order;
- g. Vendors retained by or for the Parties to assist in preparing for pretrial discovery, trial and/or hearings including, but not limited to, outside vendors hired to process electronically stored documents, court reporters, videographers, litigation support personnel, jury consultants, individuals to prepare demonstrative and audiovisual aids for use in the courtroom or in depositions or mock jury sessions, as well as their staff, stenographic, and clerical employees whose duties and responsibilities require access to such materials provided they have signed a non-disclosure agreement in the form attached hereto as Exhibit A;
- h. The author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;
- i. Any employees of Defendants who are involved with the receipt, review, evaluation, and reporting of adverse event reports and other patient-related information to governmental and regulatory agencies to whom Defendants may be obligated to report Plaintiffs' information as well as any governmental or regulatory agencies to whom Defendants may be obligated to report such Plaintiffs' information. The disclosure and use of Confidential Plaintiffs' information permitted under this paragraph shall continue for as long as Defendants have an obligation to maintain, review, evaluate, and disclose such Plaintiffs' information regardless of whether that Plaintiff's claims or the MCL have been concluded. No such disclosure by Defendants' employees shall constitute a waiver of the Plaintiffs' Confidential Information or in any way expand on any Federal or State statutory or regulatory reporting requirements.
- j. Any mediator or other third party/neutral who is assigned to hear this matter, and his or her staff, subject to the agreement to maintain confidentiality to the degree required by this Protective Order; and
- k. Any other person as to whom the Parties agree, in writing, or that the Court in

these proceedings so designates.

15. Unless otherwise ordered by the Court or permitted in writing by the Producing Party, a Receiving Party may disclose any information or item designated “Highly Confidential – Attorneys’ Eyes Only” only as set forth in subparagraphs 14(b) through (k) above, except that such information or items may also be disclosed by any Party to the Producing Party.

16. Before being given access to any Confidential Material, any person to whom Confidential Material is disclosed pursuant to subparts (a) through (j) hereinabove (other than the Court) shall be advised of the terms of this Protective Order, shall be given a copy of this Protective Order, and shall agree in writing, in the form attached hereto as Exhibit A, to be bound and to comply with the terms of this Order.

#### **CHALLENGES TO CONFIDENTIAL DESIGNATIONS**

17. If counsel for a Party receiving documents or information designated as Confidential Material hereunder objects to such designation of any or all of such items, the following procedure shall apply:

- a. Counsel for the objecting Party shall serve on the designating Party or third party a written objection to such designation, which shall describe with particularity the documents or information in question and shall generally state the grounds for objection. Counsel for the designating Party or third party shall respond in writing to such objection within thirty (30) days, and shall state with particularity the grounds for asserting that the document or information is Confidential. Counsel shall meet and confer within those thirty (30) days in good faith in an effort to resolve the dispute of the designation.
- b. If a dispute as to the Confidential designation of a document or item of information cannot be resolved by agreement, before filing a formal motion with the Court for an order regarding the challenged designation, either Party shall, unless otherwise ordered by the Court, present the dispute to the Court initially by telephone or letter and the other Party shall be afforded the opportunity to respond. The document or information that is the subject of the filing shall be treated as originally designated pending final resolution of the dispute.



**FILING CONFIDENTIAL MATERIAL**

18. Any Party wishing to submit any Confidential Material to the Court must ensure that the Confidential Material is filed under seal in accordance with the applicable New Jersey Rules of Court, local rules, and any other rules, procedures, or Orders of this Court for filing documents under seal. The Parties may, without prior court approval, redact from their public filings Sensitive Personal Information or Protected Health Information to the extent permitted by the New Jersey Rules of Court, any local rules, and any other rules, procedures, or Orders of this Court.

**PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED INFORMATION**

19. The provisions in this Order, and not the provisions of the New Jersey Rule of Evidence 530(a), control and apply to the disclosure of Privileged Material in this action.

20. If, at any time, a Party discovers it produced information it reasonably believes is subject to protection under the attorney/client, work-product, trial-preparation or other privileges, then it must promptly notify each Receiving Party of the claim for protection, the basis for it, and amend its privilege log accordingly. When the disclosure of any information, document or thing protected by privilege or work-product immunity is discovered by the Producing Party and brought to the attention of the Receiving Party, the Receiving Party's treatment of such material shall be in accordance with N.J. Ct. R. 4:10-2(e)(2). Such disclosure of such information, document or thing shall not by itself constitute a waiver by the Producing Party of any claims of privilege or work-product immunity. However, nothing herein shall be interpreted to mean that a party may not voluntarily and/or intentionally waive a claim of privilege. Nothing herein restricts the right of the Receiving Party to challenge the Producing Party's claim of privilege, if appropriate, at any time after receiving notice of the inadvertent or mistaken disclosure.

21. To the extent that a responsive document contains Sensitive Personal Information, Protected Health information, attorney/client privileged information, work-product privileged information, commercially sensitive or proprietary non-responsive information, or is otherwise specifically protected against such disclosure by applicable laws, Rules, regulations or separate order of the Court, including information subject to any foreign privacy laws, the Producing Party may apply redactions to the document and produce the document in a redacted format.

22. In preparing document families for production, the Producing Party may also redact entire attachments that are wholly non-responsive and/or may produce slipsheets in their place that identify the document is withheld as non-responsive.

23. If a redaction is made for any of the reason described in Paragraphs 20 and 21, other than privilege, and the basis for such redaction is annotated (e.g., Redacted for Privacy, Redacted as Non-Responsive, etc.) on the redaction itself, such redaction need not be included on a redaction log. The Producing party shall preserve an un-redacted version of the item.

24. Privilege Log. Any information or document withheld or redacted, in whole or in part, on the basis of a claim of attorney-client privilege, work-product doctrine, or any other appropriate claim of privilege or immunity from discovery shall be identified by the Producing Party in a privilege log within 21 days of making the production that the document is withheld from, or within 21 days from a later assertion of the claim of privilege for documents clawed back herein above, unless there is good cause for delay.

25. The privilege log shall be in an electronic format that allows text searching and organization of data (e.g., an Excel spreadsheet) and shall provide sufficient information to permit the Receiving Party and the Court to evaluate the claim of privilege or be able to challenge the claim of privilege. There shall be only one master privilege log that gets updated/supplemented

each time a document is added or removed by adding the new log to the end of the prior log. Any time a document is removed from the privilege log, the same shall be indicated in a clear manner in the privilege log itself -- the Producing Party is not permitted to merely delete an entry from the privilege log. Only the most inclusive emails from an email thread need to be recorded once on the Producing Party's privilege log. Only the last in time email in that most inclusive email needs to be identified in the Privilege log even if a privilege is asserted over multiple portions of the thread, provided that all recipients, including cotypees, are listed. Each document withheld from production based on a claim of privilege shall be identified on the privilege log individually.

26. The Producing Party shall separately provide the Receiving Party with a list identifying the following information:

- a. For all in-house counsel/attorneys, paralegals, or legal staff appearing on the privilege log, a list of each person's name, position(s) within the company, and employer.
- b. For all outside counsel/attorneys, paralegals, or legal staff appearing on the privilege log, a list of each person's name, and employer.

27. Each document withheld or redacted, in whole or in part, from production based on a claim of privilege shall be identified on the privilege log. Each entry on the privilege log shall contain the following information:

- a. A document identification number and/or bates number of the document;
- b. The custodian from whose custodial file the document was retrieved;
- c. The date of the document or communication;
- d. The author(s) or sender(s) of the document or message;
- e. The recipient(s) of the document or message;
- f. Any person(s) carbon copied on the document or message;

- g. Any person(s) blind carbon copied on the document or message, to the extent known;
- h. The document type(s) (e.g., email, email chain, attachment, hard copy document, notebook) to the extent available in and as extracted from the metadata (.eml, .msg, .docx). In the event the document type is not provided on the privilege log, the Producing Party shall not unreasonably refuse a reasonable request by the Receiving Party that the document type be provided for specific privilege log entries;
- i. All privilege(s) asserted by the Producing Party; and
- j. A description of each document or message that, without revealing information itself privileged or protected, describes the nature and subject matter of the documents, communications, or things withheld as privileged in a manner that allows the Receiving Party to assess the applicability of the privilege or protection being asserted by the Producing Party.

28. Any attachments to any document or message withheld on the grounds of privilege shall be listed individually on the privilege log apart from the parent document (e.g., if withheld as privileged, an attachment to an email shall be listed separately from the parent email).

29. If only a portion of a document is privileged, the Producing Party will only withhold that portion which is privileged, by redaction if possible.

30. A Receiving Party may challenge a Producing Party's claim of privilege by notifying the Producing Party, in writing, of its good faith belief that the challenged claim of privilege was not proper and shall clearly identify the challenged document or data and state the basis for the Receiving Party's claim that the challenged material is not privileged. The Receiving Party must give the Producing Party an opportunity to review the identified material, to reconsider the circumstances, and, if the Producing Party does not agree to withdraw the claim of privilege within fourteen (14) days of receiving such a challenge (provided, however, that a request for additional time to respond to such a challenge shall not be unreasonably refused), then the Receiving Party may make a motion to the Court for an Order determining that the material is not

privileged. The Parties are encouraged to speak in person or by telephone during that fourteen (14) business day period. The burden remains on the Producing Party to establish the privilege.

31. Once the meet and confer requirements of this Order have been met, nothing in this Order limits the right of any Party to petition the Court for an in-camera review of the Material(s).

32. A Party shall not be obliged to challenge the propriety of any material being designated as privileged at the time made, and failure to do so shall not preclude a subsequent challenge thereto.

33. Privilege log identification is not required for communications exchanged between the Defendants and their litigation counsel or among counsel for the Defendants after December 23, 2020, the date of filing of the first of the included actions in this STRATTICE™ MCL. Privilege log identification is not required for communications exchanged between a Plaintiff and that Plaintiff's litigation counsel or among counsel for that Plaintiff.

34. Nothing in this Order limits an attorney's ethical responsibilities to refrain from examining or disclosing materials the attorney knows or reasonably should know to be privileged and to inform the Producing Party that such privileged material has been produced.

35. A Party is not precluded by this Order from arguing that a privilege or protection has been waived for reasons other than the production of a Document or information subsequently clawed back in accordance with the terms of this Order.

36. The disclosure of any privileged material in the deposition of any witness or as part of their filings with the Court shall not be deemed a violation of this Joint Protective Order. In the event any privileged material is used in any deposition, filing or court proceeding during the course of this MCL, it shall not lose its "Confidential" status through such use. This notwithstanding, any materials specifically designated as Privileged Material under this Joint Protective Order shall,

when filed with the Court, be submitted in a sealed envelope or other container, and shall be prominently labeled on the first page: "Contains Confidential Information - Subject to Court Order."

37. The provisions of this Order with respect to privileged material shall not apply to information which (a) was, is, or becomes public knowledge, through no violation of this Order; (b) is acquired in good faith from a third party not subject to this Order, such third party being lawfully in possession of such information and able to release it; (c) was possessed prior to receipt of the material asserted to be confidential from a source able to provide it without a breach of confidence; or (d) was or is discovered independently by the Receiving Party by means that do not constitute a violation of this Order.

38. This Order is entered pursuant to New Jersey Rule of Evidence 530(c)(4) and New Jersey Rule of Court 4:13 and is intended to protect the Parties to this STRATTICE™ MCL, to the fullest extent permissible by law, against any waiver of the privileges or protections described in this Order that might otherwise arise from the disclosure of Privileged Material.

39. This Order does not preclude a Party or non-party from voluntarily and/or intentionally waiving any claims of privilege.

#### **SCOPE AND DURATION**

40. This Protective Order shall neither enlarge nor affect the proper scope of discovery in this proceeding. In addition, this Protective Order shall not limit or circumscribe in any manner any rights the Parties (or their respective counsel) may have under common law or pursuant to any state, federal, or foreign statute or regulation, and/or ethical rule.

41. The protections conferred by this Protective Order cover not only Confidential Material but also: (1) any information copied or extracted from Confidential Material; (2) all copies, excerpts, summaries, or compilations of Confidential Material; and (3) any testimony,

conversations, or presentations by Parties or their Counsel that might reveal Confidential Material.

42. Unless otherwise stated herein, this Protective Order does not and will not govern any trial proceedings in this action, but will otherwise be applicable to and govern the handling of documents, depositions, deposition exhibits, interrogatory responses, responses to requests for admissions, responses to requests for production of documents, and all other discovery obtained pursuant to the New Jersey Rules of Court or other legal process by or from, or produced on behalf of, a Party or witness in connection with this action.

43. Any documents or information designated as Confidential must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Protective Order.

44. This Protective Order shall survive the termination of this MCL and all included actions and shall remain in full force and effect unless modified by an Order of this Court or by the written stipulation of the Parties filed with the Court.

45. If the need arises during trial or at any Hearing before the Court for any Party to disclose Confidential Material, it may do so only after giving notice to the Producing Party and as directed by the Court.

46. The Defendants may, at their option, produce documents containing commercially sensitive and propriety information regarding non-responsive products (products other than the STRATTICE™ product line) or other non-responsive information, without redacting such information.

- a. The Party receiving the documents or information and any other person who receives documents or information through this Receiving Party will only use the documents or information containing the non-responsive information for the sole purpose of the MCL.
- b. The Party receiving the documents or information or any other person who receives documents or information through the Receiving Party will not use the

documents or information containing the non-responsive information, or any information derived therefrom, for any purpose following the conclusion of the MCL.

- c. At any point during the pendency of the MCL, the Producing Party may, at its option, redact the non-responsive information or clawback a document containing non-responsive information that has been produced, upon notice to the Receiving Party, and substitute a redacted version of the document or slipsheet.
- d. After notice by the Producing Party that it desires to clawback a document containing non-responsive information, the Receiving Party (i) will sequester, return, or destroy the previous version of the document; (ii) will not use the previous version for any purpose other than to challenge the asserted privilege nature of the document or message, and (iii) will ensure it retrieves any and all copies of the document from any person who received documents through the Receiving Party.

47. If at any time a Producing Party realizes that previously undesignated documents should be designated as Confidential, the Producing Party may so designate by advising all other Parties in writing. The designated document will thereafter be treated as Confidential pursuant to this Protective Order. Upon receipt of such designation in writing, each Party shall take reasonable and appropriate action to notify any and all persons to whom the Party provided the document of the protected status of the newly designated Confidential information, and to retrieve same from any person to whom the Party has provided it who is not permitted by this Protective Order to be in possession of such information.

48. No information that is in the public domain or which is already known by the Receiving Party through proper means or which is or becomes available to a Party from a source other than the Party asserting confidentiality, rightfully in possession of such information on a non-confidential basis, shall be deemed or considered to be Confidential material under this Protective Order. This includes all materials originally designated as Confidential for which the Producing Party agrees to withdraw, or has previously withdrawn, its confidential designation.

49. This Protective Order shall not deprive any Party of its right to object to discovery



by any other Party or on any otherwise permitted ground. This Protective Order is being entered without prejudice to the right of any Party to move the Court for modification or for relief from any of its terms.

50. This Protective Order shall survive the termination of this action and shall remain in full force and effect unless modified by an order of this Court or by the written stipulation of the Parties filed with the Court.

51. Not later than 120 days after conclusion of this MCL (and/or any other STRATTICE™ action in which counsel for plaintiff is involved) and any appeal related to it, any Confidential material, all reproductions of such Confidential material, and any notes, summaries, or descriptions of such Confidential material in the possession of any of the persons specified in Paragraph 5 shall be returned to the Producing Party or destroyed, except as this Court may otherwise order or to the extent such Confidential material has been used as evidence at any trial or hearing. Notwithstanding any obligation to sequester, return, or destroy such Confidential Material, counsel may retain all attorney work product, including but not limited to document indices, pleadings, depositions transcripts/exhibits, hearing transcripts/exhibits, trial transcripts/exhibits, and demonstrative exhibits for use at any hearing, mediation, and/or trial.

52. This Order shall take effect when entered and shall be binding upon all counsel of record and their law firms, the Parties, and persons made subject to this Order by its terms.

53. The terms of this Protective Order may be modified only by written agreement of counsel for all Parties (subject to Court approval) or by further order of the Court. Further, a Party's agreement to this Protective Order does not prejudice the Party's right to move the Court to lift or otherwise modify the Protective Order for good cause.

54. Any of the undersigned may request the Court to modify or otherwise grant relief

from any provision of this Order.

On behalf of Plaintiff and Defendants, I hereby consent to the form and entry of this Stipulated Protective Order.

Dated: December 23, 2021

s/Derek Braslow

Derek T. Braslow, Esq.  
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*New Jersey Liaison Counsel for Plaintiffs*

s/David W. Field

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*Liaison Counsel for Defendants LifeCell Corporation, Allergan USA, Inc., and Allergan, Inc.*

**IT IS SO ORDERED**

Dated: December 23, 2021

  
HON. JOHN C. PORTO, J.S.C.

ATTACHMENT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

The undersigned hereby acknowledges that he/she has read the Protective Order dated \_\_\_\_\_ in the above-captioned action and attached hereto, understands the terms thereof and agrees to be bound by those terms. The undersigned submits to the jurisdiction of the Superior Court of New Jersey Law Division, Atlantic County, in matters relating to the aforementioned and attached Protective Order and understands that the terms of the Order obligate him/her to use materials designated as Confidential Material in accordance with the Order solely for the purposes of the above-captioned action, and not to disclose any such Confidential Material to any other person, firm or concern. The undersigned acknowledges that violation of the Protective Order may result in penalties for contempt of court.

Name (printed): \_\_\_\_\_

Job Title: \_\_\_\_\_

Employer: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_