
**IN RE TALC-BASED POWDER
PRODUCTS LITIGATION**

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: ATLANTIC COUNTY

: DOCKET NO. ATL-002648-15

: **CASE NO. 300**

: CIVIL ACTION

: **FOURTH AMENDED CASE
: MANAGEMENT ORDER 9**

THIS MATTER, having been brought before the Court for the purpose of adjusting the dates listed in the Third Amended Case Management Order 9, entered March 7, 2024, establishing a process for working up cases for trial in this Multicounty Litigation, with consent of counsel and for good cause shown,

IT IS on this 13th day of June 2025,

ORDERED that Third Amended Case Management Order 9 is amended, in part, and discovery shall proceed as follows:

STAGE 3 - DISCOVERY POOL

12. Except as specified in this Order and Amended Case Management Order 11, or otherwise authorized by the Court, all case-specific discovery in this MCL proceeding shall remain stayed. This does not affect the continuation of general liability and causation discovery.

STAGE 4-DEPOSITIONS

13. Fact discovery in the fourteen remaining Discovery Pool cases will be limited to the following:

a. If not completed already, the plaintiff in each case will be deposed; if a death case, then the spouse or significant other; or if a death case and there is no spouse or significant other, then the name personal representative or a family member selected by the plaintiff.

b. Up to two healthcare providers may be deposed in this phase with each side selecting one healthcare provider. The order of selection and questioning will alternate between plaintiffs and defendants based on alphabetical order. The list of fourteen cases in the Discovery Pool shall be put in alphabetical order.

Plaintiffs shall select and question a healthcare provider first in every alternate case starting with the first case on the list. As to the second healthcare provider in cases where plaintiffs select first, defendants shall select the second healthcare provider and question that healthcare provider first.

Defendants shall select and question the healthcare provider first in every alternate case starting with the second case on the list. As to the second healthcare provider in cases where defendants select first, plaintiffs shall select the second healthcare provider and question that healthcare provider first.

If cases are added to the Discovery Pool after the creation of the original list, they will be put on the bottom of the list and selection and questioning shall proceed in the order above. The time for healthcare provider depositions shall be divided 50/50.

c. Plaintiffs are permitted to engage in *ex parte* communication with plaintiffs' healthcare providers limited solely to the discussions of the physicians' records, diagnosis, peer-reviewed, published scientific literature and the course of treatment. Documents other than medical records for the individual plaintiff and peer-reviewed,

published scientific literature may not be provided to the healthcare providers, directly or indirectly, in any such *ex parte* meeting. If plaintiffs' counsel engages in *ex parte* communications with her plaintiffs' treating physician, plaintiffs' counsel shall disclose to defendants' counsel each of the following:

- i. the date(s) of each such *ex parte* communication;
- ii. the method and approximate duration of each such *ex parte* communication;
- iii. the location of each *ex parte* communication, if in person meeting(s);
- iv. the participants in each such *ex parte* communication; and
- v. shall provide electronic copies of the documents or a specific cross-reference to a set of documents produced to another healthcare provider previously or other materials that were shown or provided to the treating physician by plaintiffs' counsel in connection with each such *ex parte* communication.

If the communications are within 48 hours of the start of the deposition, the above information shall be provided no later than 30 minutes before the start of the deposition. *Ex parte* communications shall encompass substantive conversations regarding plaintiffs' claims, not discussions of scheduling or logistical matters.

d. Defendants' counsel are not permitted to engage in *ex parte* communications with plaintiffs treating healthcare providers. Nothing in this Order prohibits defendants' counsel from retaining a treating health care provider of a given plaintiff in this litigation, except that under no circumstances shall that treating healthcare provider be retained by defendants and permitted to offer expert testimony or expert opinions in the MCL litigation about a current or former patient.

e. Nothing in this Order is intended to place any limits on deposition or trial testimony of a treating healthcare provider other than those provided by New Jersey Rules of Court and the Rules of Evidence.

f. Further case specific discovery will be allowed before trial to the Trial Pool cases. No deposition is waived by not being taken in this phase of discovery.

g. Within thirty days of being selected for the Discovery Pool, such plaintiffs will provide authorizations for social security disability records and, if a lost wage claim is being made, employment records and tax returns.

14. The depositions outlined in paragraph 13(a) and 13(b) of this Order shall be completed by **October 31, 2025**.

STAGE 5- STRIKES

15. Following completion of the depositions outlined in paragraph 13(a) and 13(b) of this Order, each party is entitled to strike four cases from the Discovery Pool, leaving seven cases (“Trial Pool”) remaining for further work up.

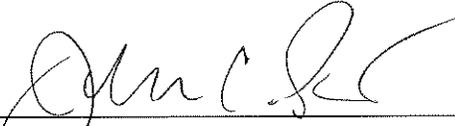
16. The parties shall inform the Court of the cases they strike from the Discovery Pool by **November 15, 2025**. Thereafter the parties shall meet and confer to agree upon a schedule for expert discovery.

FIRST BELLWETHER TRIAL POOL CASES

Following the parties’ meet and confer held on May 30, 2025, the parties agreed to the following:

17. As a result of *Mengel*’s (ATL-L-4011-20) dismissal from the first bellwether trial pool, an extra (16th) random trial pick shall be included in the second bellwether trial pool selection process as set forth in the forthcoming Case Management Order addressing Second Bellwether Trial Pool selection.

18. The Defense pick *Ryley* (ATL-L-2293-17) shall be removed and replaced in the first bellwether trial pool with a new Defense pick case. Defense shall identify their new replacement trial pick on or before June 20, 2025.



The Honorable John C. Porto, P.J.Cv.