

FILED

JAN 31 2018

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY  
DOCKET NO.: BER-L-6832-12  
RACHELLE L. HARZ  
J.S.C.

FRANK BIFANO,  
Plaintiff,

v.

DePUY ORTHOPAEDICS, INC., et al.  
Defendants.

REGINA NAGY,  
Plaintiff,

v.

DePUY ORTHOPAEDICS, INC., et al.  
Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY  
DOCKET NO.: BER-L-7660-13

**CASE MANAGEMENT ORDER NO. 22**

**THIS MATTER** having been raised by the parties, and good cause having been shown,

the Court hereby enters the following order:

**IT IS** on this 31<sup>st</sup> day of January 2018;

**ORDERED** as follows:

Pre-trial deadlines and trial shall proceed as follows:

**I. PRE-TRIAL DISCOVERY**

1. Fact discovery concluded on January 13, 2017.

**II. EXPERT DISCOVERY SCHEDULED FOR ABOVE CAPTIONED TRIAL CASES**

**BIFANO**

1. On or before February 2, 2018 Plaintiffs shall serve supplemental reports of Dr. Parse and Dr. Kantor that contain ALL opinions to which they may testify at trial and the specific bases for each opinion, and lists all materials upon which they may rely. Plaintiffs shall produce copies of all the reliance materials, available at the time of production, (or provide citations if publicly available) and other documents

requested by defendants from such experts by the same date unless timely objections have been made. Opinions and bases available at the time of production, not disclosed by this date (other than rebuttal opinions) shall not be admissible at trial. Documents not produced by this date shall only be used or relied upon by agreement of the parties or by good cause shown.

2. On or before February 23, 2018, Defendants shall identify all experts and provide reports that contain ALL opinions to which they may testify at trial and the specific bases for each opinion, and lists all materials upon which they may rely. Defendants shall produce copies of all the reliance materials, available at the time of production, (or provide citations if publicly available) and other documents requested by plaintiffs from such experts two weeks before any scheduled deposition unless timely objections have been made. Opinions and bases, available at the time of production, not disclosed by this date (other than rebuttal opinions) shall not be admissible at trial. Documents not produced by this date shall only be used or relied upon by agreement of the parties or by good cause shown.
3. Any rebuttal reports and/or documents by plaintiffs' experts shall be served no later than March 23, 2018. Such reports will contain a complete statement of the rebuttal opinions, their bases and the documents relied upon for each opinion. Rebuttal opinions and bases, available at the time of production, not disclosed by this date shall not be admissible at trial. Documents not produced by this date shall only be used or relied upon by agreement of the parties or by good cause shown.

4. Expert deposition(s) of plaintiff's expert(s) shall be completed by April 27, 2018.
5. Any rebuttal reports or documents by defense experts shall be served no later than April 6, 2018. Such reports will contain a complete statement of the rebuttal opinions, their bases and the documents relied upon for each opinion. Rebuttal opinions and bases, available at the time of production, not disclosed by this date shall not be admissible at trial. Documents not produced by this date shall only be used or relied upon by agreement of the parties or by good cause shown.
6. Expert depositions of defense experts shall be completed by May 30, 2018.
7. No expert may testify at trial unless the individual is identified and a report provided as outlined above.
8. The parties will complete all remaining discovery, including expert discovery, by July 30, 2018.

**NAGY**

1. On or before February 9, 2018 Plaintiffs shall serve supplemental reports of Dr. Parse and Dr. Gutowski that contain ALL opinions to which they may testify at trial and the specific bases for each opinion, and lists all materials upon which they may rely. Plaintiffs shall produce copies of all the reliance materials, available at the time of production, (or provide citations if publicly available) and other documents requested by defendants from such experts by the same date unless timely objections have been made. Opinions and bases, available at the time of production, not disclosed by this date (other than rebuttal opinions) shall not be admissible at trial. Documents not produced by this date shall only be used or relied upon by agreement of the parties or by good cause shown.

2. Expert depositions of plaintiff's experts shall be completed by May 31, 2018.
3. On or before March 9, 2018, Defendants shall identify all experts and provide reports that contain ALL opinions to which they may testify at trial and the specific bases for each opinion, and lists all materials upon which they may rely. Defendants shall produce copies of all the reliance materials, available at the time of production, (or provide citations if publicly available) and other documents requested by plaintiffs from such experts two weeks before any scheduled deposition unless timely objections have been made. Opinions and bases, available at the time of production, not disclosed by this date (other than rebuttal opinions) shall not be admissible at trial. Documents not produced by this date shall only be used or relied upon by agreement of the parties or by good cause shown.
4. Any rebuttal reports and/or documents by plaintiffs' experts shall be served no later than March 30, 2018. Such reports will contain a complete statement of the rebuttal opinions, their bases and the documents relied upon for each opinion. Rebuttal opinions and bases, available at the time of production, not disclosed by this date shall not be admissible at trial. Documents not produced by this date shall only be used or relied upon by agreement of the parties or by good cause shown.
5. Any rebuttal reports or documents by defense experts shall be served no later than April 13, 2018. Such reports will contain a complete statement of the rebuttal opinions, their bases and the documents relied upon for each opinion. Rebuttal opinions and bases, available at the time of production, not disclosed by this date shall not be admissible at trial. Documents not produced by this date shall only be used or relied upon by agreement of the parties or by good cause shown.

6. No expert may testify at trial unless the individual is identified and a report provided as outlined above.
7. Expert depositions of defense experts shall be completed by June 30, 2018.
8. The parties will complete all remaining discovery, including expert discovery by August 31, 2018.

**III. PRE-TRIAL PROCEDURE FOR ABOVE CAPTIONED TRIAL CASES**

**A. PRE-TRIAL CONFERENCE.** The date for pre-trial conference will be determined at a Case Management Conference on TBD by the Court. (this date and time can be adjusted at the request of counsel) at which time dates for the following will be determined:

**MOTIONS.** By agreement of the parties, motions to dismiss and for summary judgment, motions *in limine*, motions directed to expert testimony, including Kemp motions, shall be served on the following schedule and shall be heard in advance of trial on dates specially set by the Court as follows:

<b>Deadline</b>	<b>Description</b>
	All discovery to be completed.
	Parties to file all motions to dismiss and for summary judgment, motions <i>in limine</i> and motions directed to expert testimony, including <u>Kemp</u> motions (and supporting materials).
	Parties to file oppositions to motions to dismiss and for summary judgment, motions <i>in limine</i> and motions directed to expert testimony, including <u>Kemp</u> motions (and supporting materials).
	Parties to file replies in further support of motions to dismiss and for summary judgment, motions <i>in limine</i> and motions directed to expert testimony, including <u>Kemp</u> motions (and supporting materials).

Oral Argument (as necessary).

**PRE-MARKING EXHIBITS.** Prior to trial, each party shall meet with and assist the clerk in marking for identification all exhibits, as directed by the clerk, on or about the date indicated in paragraph G.

**DEPOSITION DESIGNATIONS AND HEARINGS.** Each party shall serve his, her, or its designation of depositions, or portions of depositions, each intends to offer as testimony at trial as follows:

**Deadline**

**Description**

The parties shall serve page/line designations of deposition testimony.

The parties shall serve any page/line counter-designations of deposition testimony, Objections to the other party's deposition designations, and affirmative page/line designations of deposition testimony.

**STATEMENT OF THE CASE, JURY INSTRUCTIONS.** The parties shall submit to the Court a joint, agreed statement of the case for presentation to the jury, and shall also submit, with copies to opposing counsel, proposed versions of a written jury instructions, jury questionnaire, and verdict forms a date to be determined. Each jury instruction (a) shall be on a separate sheet of paper; (b) shall be plainly marked with the name and number of the case; (c) shall contain citations of supporting authorities, if any; (d) shall designate the party submitting the instructions; and (e) shall be numbered in sequence. This paragraph does not foreclose the right of each party to modify instructions, up to and including the instruction conference, at the close of the evidence. Any party that intends to request that the Court provide a list of written jury instructions for the jury's

consideration during deliberations shall be responsible for providing a clean copy of the full jury instructions to the Court.

A handwritten signature in black ink, appearing to read "Rachelle Lea Harz". The signature is written in a cursive, somewhat stylized font.

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RACHELLE LEA HARZ, J.S.C.