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IN RE: PELVIC MESH/BARD  
LITIGATION

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SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: BERGEN COUNTY

CASE NO. 292

MASTER DOCKET NO.: BER-L-17717-14

CIVIL ACTION

CASE MANAGEMENT ORDER #42

All prior orders remain in full force and effect except as modified by this Order.

**FILED**

JUL 11 2019

RACHELLE L. HARZ  
J.S.C.

THIS MATTER having been reassigned to the Bergen County Vicinage, from Atlantic County, pursuant to the Supreme Court's Order of October 31, 2014; the Court having conducted a Case Management Conference on this date; counsel appearing; for good cause shown and for the reasons set forth on the record;

IT IS on this 11<sup>th</sup> day of **July 2019**, **ORDERED** as follows:

**I. ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE**

- A. Case Management Order No. 41, dated April 25, 2019;
- B. Order Granting Defendant's Notice of Motion for Admission *Pro Hac Vice* of Allison Ng, Esq. in the *McAllister v. Bard* matter, BER-L-18545-14, dated April 26, 2019;
- C. Order Granting Defendant's Notice of Motion for Admission *Pro Hac Vice* of Sean Jessee, Esq. in the *McAllister v. Bard* matter, BER-L-18545-14, dated April 26, 2019;
- D. Order Granting Defendant's Notice of Motion for Admission *Pro Hac Vice* of Courtland C. Chillingworth, Esq. in the *Mosby v. Bard* matter, BER-L-18993-14, dated May 7, 2019;
- E. Order Granting Defendant's Notice of Motion for Admission *Pro Hac Vice* of Michael Kevin Brown, Esq. in the *Asmussen v. Bard* matter, BER-L-17894-14, dated May 20, 2019;

- F. Order Granting Defendant's Notice of Motion for Admission *Pro Hac Vice* of Michael Kevin Brown, Esq. in the *Green v. Bard* matter, BER-L-17671-14, dated May 20, 2019;
- G. Order Granting Defendant's Notice of Motion for Admission *Pro Hac Vice* of Janna S. Nugent, Esq. in the *Gasper v. Bard* matter, BER-L-03159-15, dated May 20, 2019;
- H. Order Granting Defendant's Notice of Motion for Admission *Pro Hac Vice* of Janna S. Nugent, Esq. in the *Oliver v. Bard* matter, BER-L-880-15, dated May 21, 2019;
- I. Scheduling and Pre-Trial Order Pertaining to the *Gasper* and *Oliver* Matters, dated May 30, 2019;
- J. Decision and Order Regarding Privilege Log, dated May 30, 2019;
- K. Order on C. R. Bard, Inc.'s Motion to Sever Or, In The Alternative, To Adjourn September 2019 Trial, dated June 4, 2019;
- L. Order Granting Defendant's Notice of Motion for Admission *Pro Hac Vice* of Mildred Segura, Esq. in the *Asmussen v. Bard* matter, BER-L-17894-14, dated June 5, 2019;
- M. Order Granting Defendant's Notice of Motion for Admission *Pro Hac Vice* of Marilyn Ann Moberg, Esq. in the *Asmussen v. Bard* matter, BER-L-17894-14, dated June 5, 2019;
- N. Order Granting Defendant's Notice of Motion for Admission *Pro Hac Vice* of Brian Patrick Cadigan, Esq. in the *Asmussen v. Bard* matter, BER-L-17894-14, dated June 5, 2019; and,
- O. Order On C. R. Bard, Inc.'s Motion For Commission To Take The Deposition of Pei Hui, M.D. in the *Gasper v. Bard* matter, BER-L-3159-15, dated June 5, 2019.
- P. Decision regarding discovery disputes in *Gasper* and *Oliver* cases, dated June 19, 2019.

## II. COMPLIANCE WITH PRIOR ORDERS

- A. **Case Management Order No. 41**
  - 1. **Align Trials Scheduled for September of 2019:** Pursuant to Section III(B) of this Court's Case Management Order No. 41, the parties met and conferred regarding pre-trial scheduling and scheduling of expert depositions for the consolidated Align trials scheduled for September 2019. The parties jointly submitted a proposed scheduling order and the Court thereafter ordered the Scheduling and Pre-Trial Order Pertaining to the *Gasper* and *Oliver* Matters on May 30, 2019. Ongoing disputes regarding expert depositions were resolved by the Court.
  - 2. **Avaulta Trials Scheduled for January of 2020:** The parties will be prepared to discuss this topic at the Case Management Conference.

### III. AGENDA ITEMS FOR NEXT CASE MANAGEMENT CONFERENCE

#### A. Status of Bellwether Case Discovery

##### a. Generally:

- i. Motion to Compel Answers to Certain Questions in Dr. Weber's deposition where she was instructed not to answer. The parties discussed in the off the record conference, and the Judge will make a decision on the record with respect to the related motions in limine (to be filed).
- ii. Pathologist deposition (Dr. Hui) set for July 19, 2019 in both Oliver and Gasper cases. Scheduled.
- iii. Outstanding depositions of Bard expert witnesses. The parties discussed in the off the record conference, and the Judge will make a decision on the record.
- iv. Pretrial motions filing – logistics, and modifications to aspects of briefing schedule due to delays in deposing defense experts. The parties discussed in the off the record conference, and the Judge will make a decision on the record related to the motions in limine. The parties agreed to certain revisions and will submit an agreed upon order to the Judge. The trial is still scheduled to commence with openings on September 16, 2019. The parties to submit to the court the trial schedule for use in the juror questionnaire.

##### b. *Asmussen*:

- i. Bard's Written discovery requests to Plaintiffs. The parties discussed on the off the record conference and will continue to confer on the discovery requests.

##### c. *Oliver*:

- i. Scheduling of Independent Medical Examination by Dr. Molden. The parties will work cooperatively to schedule the IME.

##### d. *Gasper*:

- i. Scheduling of additional *de bene esse* depositions (Dr. DeLuca, Cooley, Chao). The parties are attempting to work cooperatively to schedule the *de bene esse* depositions of these witnesses. Plaintiffs to question the witnesses first if intended to be called in plaintiff's case.

##### e. *McAllister*:

- i. Difficulty scheduling implanting physician and other treating physician depositions and modification of fact and expert discovery schedules
- ii. Redactions of non-party communications in Plaintiffs' document production
- iii. The parties will continue to meet and confer to resolve these issues.

#### B. Pre-trial Scheduling of Avaulta Trials Scheduled for January 2020

- a. The parties discussed in the off the record conference, and will submit an agreed upon order.

#### IV. GENERAL

1. There is no upcoming case management conference since the *Gasper* and *Oliver* trial is beginning September 2019.
2. By consent of all parties, the Court may contact or be contacted on an *ex parte* basis regarding settlement issues only.
3. The Court may, from time to time, conduct phone conferences with defense counsel and liaison counsel.
4. Subject to agreement by and between counsel and with permission from the Court, counsel is permitted to appear telephonically; in order to have your appearance on the record, it is counsel's responsibility to e-mail liaison counsel and the Court reporter at least one hour before the proceeding with your name, firm, and party representing, indicating that you intend to appear by phone; in addition you must confirm you appearance, immediately following the proceeding. Absent the above, counsel's appearance will not be noted.
5. The official record shall be the transcript provided by the court reporter retained by counsel. The reporter shall preserve all proceedings and shall email a transcript of any court proceeding to the Court within 14 days of the proceeding.
6. Counsel is permitted to serve one motion with a schedule of attached cases for *pro hac* admission. However, a separate order per case/docket number and filing fees is required.
7. The Court directs all counsel to R.1:4-8 and expects all counsel to abide by the parameters set forth therein.
8. All Court proceedings will start at the designated scheduled time. Counsel is expected to arrive promptly for these proceedings.
9. Counsel shall provide the Court with their preferred e-mail address by e-mailing same to Jamie Colaneri at [Jamie.Colaneri@njcourts.gov](mailto:Jamie.Colaneri@njcourts.gov) and Sean Hanratty at [Sean.Hanratty@njcourts.gov](mailto:Sean.Hanratty@njcourts.gov).
10. Counsel shall copy their co-counsel and all adversaries on all e-mails and other electronic correspondence submitted to the Court [COUNSEL IS PROHIBITED FROM FILING ANY PLEADING ELECTRONICALLY]. Any such submission received after 4:30 p.m. will be deemed received at 9:00 a.m. on the next day Court is in session. Any such submission received after 4:30 p.m. on a Friday or over a weekend, will be deemed received on 9:00 a.m. on the next day Court is in session.
11. Any counsel who has not already done so is directed to contact The Superior Court of New Jersey, Attorneys Accounts: P.O. Box 980, Hughes Justice Complex, 25 W. Market Street, Trenton, New Jersey 08625 (609) 633-8643 to establish a collateral account for any filing fees within seven (7) days.
12. Counsel is required to check the Judiciary's Web Site dedicated to this matter for any decisions/Orders/information contained therein.
13. A copy of this Order and any subsequent Orders to the Court will be posted on the Judiciary Web Site.

  
RACHELLE L. HARZ, J.S.C.