

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ATLANTIC COUNTY
MASTER CASE NO. ATL-L-3857-21

CASE NO. 636

Civil Action

**SECOND AMENDED CASE MANAGEMENT
ORDER NO. 5**

**[DISCOVERY, SCHEDULING AND CASE
MANAGEMENT – FIRST TRIAL POOL AND
FIRST TRIAL]**

IN RE STRATTICE HERNIA MESH
LITIGATION

This matter having been opened to the Court by the parties, and for good cause appearing:

IT IS on this 2nd day of May, 2023,

ORDERED as follows:

1. Amendments and Joinder

- a. Except as may be further ordered by the Court, all motions for leave to amend a complaint or to join additional parties shall be filed by Plaintiffs no later than 60 days after selection in the First Trial Pool.

2. General Discovery Rules

- a. Except as otherwise provided by this Court's Case Management Orders, the Rules governing the Courts of the State of New Jersey shall apply in this MCL.

3. Selection of Cases for First Trial Pool Workup

- a. On May 2, 2022, 6 cases shall be selected for Trial Pool workup ("Trial Pool Plaintiffs") in the following manner:

- i. The Plaintiffs shall select 3 Plaintiff Pick cases; and
- ii. The Defendants shall select 3 Defense Pick cases.

- b. Other than provision of Plaintiff Profile Forms (to be set out in a future Case Management Order), the cases selected for the First Trial Pool shall be the only cases that move forward with case-specific discovery or dispositive motion practice except upon further Order of the Court.
- c. Upon notice of selection for the First Trial Pool, Counsel for Trial Pool Plaintiffs shall obtain affirmation by May 30, 2022 from each Trial Pool Plaintiff that they presently intend to proceed through the Trial Pool process and desire to go to trial.
- d. If a Trial Pool Plaintiff voluntarily dismisses their case for any reason at any time, a replacement case will be selected in the same manner that the dismissed case was originally selected. In that event, the parties shall meet and confer to devise a schedule to ensure that the replacement case is on the same track as the remaining cases in the First Trial Pool.
- e. Trial Pool Plaintiffs will provide a completed Plaintiff Fact Sheet by May 30, 2022. Defendants will provide a complete Defendant Fact Sheet on each by July 29, 2022.
- f. The sales representative document production shall be produced to Plaintiffs no later than August 22, 2022 for each case in the Trial Pool.
- g. Fact discovery on Trial Pool cases may begin immediately after the deadline for service of the Plaintiff Fact Sheets. Depositions of physicians may be scheduled to occur on and after September 12, 2022. If either party asserts that physician depositions should not go forward due to incomplete discovery, the parties shall promptly meet and confer to resolve the discovery issues and, if resolution cannot be reached, shall bring the matter to the Court's attention promptly.

- h. The parties are directed to work together to schedule case-specific depositions, including, but not limited to, addressing issues regarding which party questions first, how costs associated with depositions are paid, and how the depositions get scheduled. Absent agreement of the parties, Defendants shall not contact a plaintiff's physicians.

4. Frist Trial Selection and Trial Schedule

a. First Trial Selection

- i. On July 7, 2023, the Parties shall make their respective trial selection from the 6 Trial Pool Cases by choosing one case per side to be their "First Trial Selection." The Parties shall only make their First Trial Selection from their prior respective selected Trial Pool cases.
- ii. The Parties have agreed that the Plaintiffs' First Trial Selection shall be the first case tried, and Defendants' First Trial Selection shall be the second case tried.

b. Expert Disclosures and Discovery for First Trial Selection; and Science Day:

- i. Plaintiffs' expert disclosures and reports shall be served by August 11, 2023. Defendant's expert disclosures and reports shall be served by September 22, 2023. Rebuttal reports by Plaintiff's experts, if any, shall be served by October 6, 2023.
- ii. The parties will meet and confer with respect to scheduling of expert depositions and deposition of experts may commence as soon as the respective expert reports are served. All expert depositions for the First Trial Selection cases shall be completed by October 27, 2023.

iii. The parties will coordinate and present to the Court a Science Day that will occur on May 18, 2023. A separate Case Management Order will govern the specifics of that proceeding.

c. Motions: The Parties shall agree to and inform the Court of a briefing schedule that contemplates that all dispositive and expert-related motions for the Parties' First Trial Selections are fully briefed and filed with the Court by December 1, 2023. The Parties shall not file any other dispositive or expert-related motions in any other case until after the Parties' First Trial Selections are disposed of either through motion practice or trial verdict, unless leave of Court is sought and granted. If Plaintiffs' First Trial Selection is dismissed due to dispositive motion practice and/or expert motion practice, then Defendants may proceed to the first trial with Defendants' First Trial Selection. Immediately following disposition of the First Trial Selection cases, the Court shall set a hearing to determine future trial dates and scheduling for the remaining cases.

d. First Trial: The Court will set the first trial for January 29, 2024 and will set further trials thereafter at regular intervals to be determined by the parties and the Court.



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