

FILED

FEB 10 2022

JOHN C. PORTO, J.S.C.

IN RE STRATTICE HERNIA MESH
LITIGATION

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – ATLANTIC COUNTY

MCL CASE NO: 636

MASTER DOCKET NUMBER: ATL-L-3857-21

***FIRST AMENDED CASE
MANAGEMENT ORDER #2
(MCL LEADERSHIP)***

I. PLAINTIFFS' AND DEFENDANTS' LEADERSHIP

A. Plaintiffs' Leadership

1 Appointment of Counsel

The Court appoints the following attorneys to serve as Leadership Counsel for all Plaintiffs.

CO-LEAD COUNSEL FOR PLAINTIFFS:

Robert E. Price, Esq.
KETTERER, BROWNE & ASSOCIATES
336 S. Main Street
Bel Air, MD 21014
850.805.7011
robert@kbaattorneys.com

-and-

Chad Ihrig, Esq.
NIX PATTERSON, LLP
3600 N. Capital of Texas Highway
Suite B350
Austin, TX 78746
512-328-5333
Cihrig@nixlaw.com

-and-

Jonathan A. Knoll, Esq.
COHEN & MALAD, LLP
One Indiana Square; Suite 1400

Indianapolis, IN 46204
Tel: (317) 636-6481
Fax: (317) 636-2593
jknoll@cohenandmalad.com

LITIGATION LIAISON COUNSEL FOR PLAINTIFFS:

Edward "Ned" Mulligan, Esq.
COHEN & MALAD, LLP
One Indiana Square; Suite 1400
Indianapolis, IN 46204
Tel: (317) 636-6481
Fax: (317) 636-2593
nmulligan@cohenandmalad.com

NEW JERSEY LIAISON COUNSEL FOR PLAINTIFFS:

Derek T. Braslow, Esq.
NJ State Bar No. 02758-1996
THE BRASLOW FIRM, LLC
230 Sugartown Road
Wayne, Pennsylvania 19087
(484) 443-4558
Derek@KBAattorneys.com

2. Designations and Future Changes in Leadership Structure

These designations are of a personal nature. This Court looks to these counsel to undertake personal responsibility to perform the designated functions and reserves the discretion to replace these counsel should they become unable or unwilling to do so, or should such other circumstances arise that warrant the same. Co-Lead Counsel may, in the future and upon application and approval of the Court, organize and create a Plaintiffs' Executive Committee ("PEC") and/or Plaintiffs' Steering Committee ("PSC").

3 Duties and Responsibilities of Plaintiffs' Leadership Counsel

Co-Lead Counsel shall be charged with formulating and presenting Plaintiffs' positions on substantive and procedural issues arising during these pretrial proceedings, and shall be deemed able to bind all plaintiffs' counsel to decisions regarding same. Co-

Lead Counsel shall submit and argue all motions and other matters and at least one of the Co-Lead Counsels shall attend status conferences and such other hearings or conferences as may occur. Co-Lead Counsel shall work with opposing counsel in developing and implementing a litigation plan to ensure pretrial proceedings are conducted effectively, efficiently, and economically. Co-Lead Counsel may delegate specific tasks to other counsel to further these prescribed goals.

Duties of Co-Lead and Liaison Counsel further include, but are not limited to, the following:

Administration

- a. Call meetings of counsel for Plaintiffs for any appropriate purpose;
- b. perform any task necessary and proper to accomplish its responsibilities as defined by the Court's orders, including assigning and delegating tasks and organizing a PEC or PSC;
- c. maintain adequate files of all pretrial matters, including establishing and maintaining a document or exhibit depository, in either real or virtual format;
- d. provide periodic reports to other counsel not on Plaintiffs' Leadership;
- e. to coordinate services and filings;
- f. to maintain and distribute to co-counsel and to Defendants' Counsel an up-to-date service list;
- g. to receive and distribute all pleadings, all Court orders, and motions, provided all counsel shall continue to receive all notices through the New Jersey eCourts electronic filing system;

- h. to maintain and make available to all Plaintiffs' counsel of record at reasonable hours a complete file of all documents served by or upon each party (except such documents as may be available at a document depository);
- i. to be available for any telephone conferences convened by the Court and to communicate the substance of any such telephone conference to all other Plaintiffs' counsel; and
- j. perform such other functions as may be expressly authorized by further orders of the Court.

Discovery

- a. Initiate, coordinate, and conduct pretrial discovery on behalf of Plaintiffs who file civil actions in this Court or are consolidated with this multi-county litigation and are part of the MCL proceeding;
- b. develop and propose to the Court schedules for the commencement, execution, and completion of discovery on behalf of Plaintiffs;
- c. initiate, coordinate, and cause to be issued in the name of all Plaintiffs the necessary discovery requests, motions and subpoenas pertaining to any witnesses and documents needed to properly prepare for the pretrial discovery of relevant issues; and
- d. conduct all discovery in a coordinated and consolidated manner on behalf of and for the benefit of all Plaintiffs.

Motion Practice and Hearings

- a. Call meetings of counsel for plaintiffs for any appropriate purpose, including coordinating responses to questions of other parties or of the Court. Initiate

- proposals, suggestions, schedules, or joint briefs, and any other appropriate matter(s) pertaining to pretrial proceedings;
- b. submit and argue motions presented to the Court on behalf of all Plaintiffs as well as oppose when necessary any motions submitted by Defendants or third parties;
 - c. examine or designate other counsel to examine witnesses and introduce evidence at hearings on behalf of Plaintiffs; and
 - d. act or designate other counsel to act as spokesperson(s) for Plaintiffs at pretrial proceedings and in response to any inquiries by the Court.

Contact with Defense Counsel

- a. Initiate, coordinate and conduct (or designate others to do so) the requisite meet and confers with Defendants, confer with Defendants regarding procedural matters, and negotiate and enter into stipulations with Defendants regarding this litigation; and
- b. explore or designate other counsel to explore, develop and pursue settlement options with Defendants on behalf of Plaintiffs.

4. Communications with the Court

All communications from Plaintiffs with the Court should be through Co-Lead or Liaison Counsel. If circumstances require direct correspondence with the Court by an individual counsel, copies of any such communications shall be simultaneously served upon the Plaintiff's Co-Lead and Liaison Counsel.

5. No Waiver of Privilege

The Court recognizes that cooperation by and among plaintiffs' counsel is essential for the orderly and expeditious resolution of this litigation. The communication of information among and between plaintiffs' counsel shall not be deemed a waiver of the attorney-client privilege and/or the work product doctrine, if the privilege or doctrine is otherwise applicable, and all of such persons shall maintain the confidentiality of such communications. Cooperative efforts contemplated above shall in no way be used against any plaintiff by any defendant. Nothing contained in this provision shall be construed to limit the rights of any party or counsel to assert the attorney-client privilege or attorney work product doctrine.

6. Individual Claimants' Counsel Responsibility for Their Respective Clients.

Co-Lead Counsel and Liaison Counsel do not have an attorney-client relationship with all plaintiffs by virtue of their leadership role prescribed under this Order. Under no circumstances are Co-Lead or Liaison Counsel responsible for filings, discovery, or any other issue or matter related to an individual plaintiff's case or claim, and Co-Lead and Liaison Counsel are in no way responsible for fulfilling the duties and responsibilities that an individual attorney or law firm owes their client(s) in the prosecution of their individual case(s).

B. Defendants' Leadership

1 Appointment of Counsel

The Court appoints the following attorneys to serve as Lead and Liaison Counsel for Defendants.

LEAD COUNSEL FOR DEFENDANTS:

John Q. Lewis, Esq.
TUCKER ELLIS LLP
950 Main Avenue, Suite 1100
Cleveland, Ohio 44113
216.592.5000
John.Lewis@tuckerellis.com

LIAISON COUNSEL FOR DEFENDANTS:

David W. Field, Esq.
NJ State Bar No. 00378-1984
LOWENSTEIN SANDLER LLP
One Lowenstein Drive
Roseland, New Jersey 07068
973.597.2500
dfield@lowenstein.com

2 Duties and Responsibilities of Defendants' Lead and Liaison Counsel**Defendants' Lead Counsel**


Defendants' Lead Counsel shall be charged with formulating and presenting Defendants' positions on all substantive and procedural issues arising during these pretrial proceedings. Generally, Defendants' Lead Counsel shall submit and argue motions. Defendants' Lead Counsel shall work with opposing counsel in developing and implementing a litigation plan to ensure pretrial proceedings are conducted effectively, efficiently, and economically. Defendants' Lead Counsel may delegate specific tasks to other counsel to further these prescribed goals.

Defendants' Liaison Counsel

Defendants' Liaison Counsel shall be charged with facilitating the administrative requirements of these pretrial proceedings. To the extent service is not otherwise achieved through eCourts, Defendants' Liaison Counsel shall act as the primary recipients of the Court's orders on behalf of Defendants, distributors of defendants' pleadings, notices, and motions to Plaintiffs' Lead and Liaison counsel, and shall coordinate service and filings. Defendants' Liaison Counsel shall be reasonably available to communicate with the Court on

administrative or procedural matters when necessary. Defendants' Liaison Counsel shall attend status conferences and such other hearings or conferences as they may occur.

Dated: February 10, 2022


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