

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE: ALLERGAN BIOCELL TEXTURED :
BREAST IMPLANT PRODUCTS LIABILITY : **Case No. 2:19-md-02921 (BRM)(JAD)**
LITIGATION : **MDL NO. 2921**
: **JUDGE BRIAN R. MARTINOTTI**
: **JUDGE JOSEPH A. DICKSON**

THIS DOCUMENT RELATES TO: ALL CASES

CASE MANAGEMENT ORDER #10

These matters having been transferred to this Court by order of the Judicial Panel on Multidistrict Litigation pursuant to its order of December 18, 2019, meriting special attention as complex litigation, the Court having entered its Initial Case Management Order (ECF No. 13) on January 7, 2020, setting forth the Court’s parameters and expectations of counsel during the course of this litigation, the Court having held a video status conference on May 18, 2020, via Zoom, for good cause shown, the Court enters the following Order:

I. ORDERS ENTERED SINCE LAST CMC

A. Amended Case Management Order No. 7 (Service on Allergan, Inc., and Allergan USA Inc.) (ECF No. 102), filed May 6, 2020

II. CASE MANAGEMENT

A. Pleadings, discovery, and 12(b)(6) motions:

- i. Master Complaints to be filed by May 25, 2020. (ECF No. 98.)
- ii. Allergan to file all Rule 12(b)(6) motions, including motion to dismiss based on preemption, by August 7, 2020. Opposition due September 8, 2020. Reply due October 8, 2020.

iii. The stay of all outstanding discovery proceedings and of all further discovery in these actions as set forth in the Initial Case Management Order (ECF No. 13), Section 2(C), entered on January 7, 2020, remains in effect.

1. On May 14, 2020, Plaintiffs filed a letter brief to the Court (ECF No. 108), in support of their motion to lift or deny a stay of discovery and in opposition to Defendant's request to stay discovery. Allergan shall respond within seven days, by May 25, 2020, which will be reviewed by Judge Dickson.

B. Parties shall continue to meet and confer regarding the items listed below and shall submit to the Court proposed consent orders upon reaching agreements. If an agreement cannot be reached, the parties should be prepared to discuss the issue at the next case management conference.

- i. ESI order and protective order – Parties to submit a joint proposal with competing positions by May 29, 2020.
- ii. *Ex parte* communications with treating physicians – Plaintiffs to submit letter submissions by May 29, 2020. Defendants to respond by June 5, 2020.
- iii. Proper parties order
- iv. Science Day CMO
- v. Defendants' Motion to Prohibit Anonymous Filings (ECF No. 70)

III. SCHEDULING

The following dates have been scheduled for 2020 case management conferences at 12:00 p.m. Liaison counsel shall appear at 11:00 a.m., unless otherwise stated:

June 1, 2020 (10:00 a.m. via Zoom)

July 13, 2020

August 10, 2020

September 14, 2020

October 19, 2020

November 2, 2020

December 14, 2020

IV. COMMUNICATION WITH THE COURT AND FILINGS

No motions shall be filed without leave of Court.

Unless otherwise ordered by this Court, all substantive communications with the Court shall be in writing, with copies to opposing counsel. Nevertheless, the Court recognizes that cooperation by and among plaintiffs' counsel and by and among defendants' counsel is essential for the orderly and expeditious resolution of this litigation. The communication of information among and between plaintiffs' counsel and among and between defendants' counsel shall not be deemed a waiver of the attorney-client privilege or the protection afforded attorney's work product, and cooperative efforts contemplated above shall in no way be used against any plaintiff by any defendant or against any defendant by any plaintiff. 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.

Counsel may contact *ex parte*, for the purpose of settlement discussions only, Judge Martinotti via email at brian_martinotti@njd.uscourts.gov or Judge Dickson via email at Chambers_of_Magistrate_Judge_Joseph_Dickson@njd.uscourts.gov.

Date: May 19, 2020

/s/Brian R. Martinotti
BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE