

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

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

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**THIS DOCUMENT RELATES TO: ALL CASES**

**CASE MANAGEMENT ORDER #9**

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 April 20, 2020, via Zoom, for good cause shown, the Court enters the following Order:

**I. ORDERS ENTERED SINCE LAST CMC**

- A. Case Management Order No. 6 (Direct Filing) (ECF No. 83), filed March 23, 2020
- B. Case Management Order No. 7 (Service on Allergan, Inc., and Allergan USA Inc.) (ECF No. 84), filed March 23, 2020
- C. Case Management Order No. 8 (Centrality) (ECF No. 85), filed March 23, 2020

**II. CASE MANAGEMENT**

- A. Discovery and preemption:
  - i. Master Complaints to be filed by May 4, 2020.
  - ii. Parties to meet and confer regarding Defendants’ deadline to file their

preemption motion, which shall address discovery issues.

- 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.

B. Plaintiffs' emergency motion (ECF No. 5) is scheduled for oral argument on April 29, 2020 at 10:30 a.m. to be held via Zoom before Judge Dickson.

C. 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. Plaintiff's served discovery
- ii. Protective order
- iii. ESI order
- iv. Revised order regarding service of process of Allergan
- v. Science Day procedure
- vi. *Ex parte* communications with treating physicians
- vii. 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:

May 18, 2020 (10:00 a.m. via Zoom)

June 1, 2020

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](mailto:brian_martinotti@njd.uscourts.gov) or Judge Dickson via email at [Chambers\\_of\\_Magistrate\\_Judge\\_Joseph\\_Dickson@njd.uscourts.gov](mailto:Chambers_of_Magistrate_Judge_Joseph_Dickson@njd.uscourts.gov).

Date: April 20, 2020

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