

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**IN RE: ELMIRON (PENTOSAN
POLYSULFATE SODIUM) PRODUCTS
LIABILITY LITIGATION**

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: **Case No. 2:20-md-02973 (BRM)(ESK)**
: **MDL No. 2973**
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**THIS DOCUMENT RELATES TO:
ALL CASES**

**JUDGE BRIAN R. MARTINOTTI
JUDGE EDWARD S. KIEL**

AMENDED MDL CASE MANAGEMENT ORDER NO. 12

The Court, having held an MDL Case Management Conference (“CMC”) on July 7, 2021, and for good cause shown, enters the following Order:

I. STATUS OF LITIGATION AND COORDINATION

As of July 7, 2021, 361 cases alleging products liability claims relating to use of Elmiron have been filed and served (310 federal and 51 in New Jersey and Pennsylvania state courts).

II. ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE

One Case Management Order (“CMO”) has been entered on the MDL docket since the last CMC (June 9, 2021):

1. MDL Case Management Order No. 11. This case management order confirmed the issues discussed during the June 9, 2021 telephonic case management conference.

III. PROPOSED CASE MANAGEMENT ORDERS

The parties are continuing to meet and confer on other orders:

- A. Common Benefit Order. On July 7, 2021, Plaintiffs submitted a proposed common benefit order to the Court, which the Court will review for entry.

- B. Science Day Order. The parties shall continue to meet and confer regarding Science Day scheduled for September 30, 2021, including logistics, attendance, disclosure of experts, and coordination, and submit a proposed order.
- C. Case Management Order on Bellwethers and Trials. The parties shall continue to meet and confer, and submit a proposed order.

IV. JANSSEN DISCOVERY

The parties shall continue to meet and confer on discovery and state-federal coordination issues relating to depositions, and any disputes shall be directed to Judge Polifroni.

V. TEVA DISCOVERY

The parties shall continue to meet and confer on dismissals, discovery, and Rule 30(b)(6) deposition issues, and submit any disputes to Judge Polifroni.

VI. THIRD-PARTY LITIGATION FUNDING

At the request of Defendants, the following proposed text order language will be entered on the master docket in accordance with DNJ Local Rule 7.1.1:

“Pursuant to L. Civ. R. 7.1.1 (eff. June 21, 2021), the parties, including intervening parties, are required to file a statement (separate from any pleading) containing specific information regarding third-party litigation funding. *See* L. Civ. R. 7.1.1(a)(1-3). This statement shall be filed within 45 days of the effective date of this Rule, or no later than August 5, 2021. For newly filed cases, this information shall be filed within 30 days of filing an initial pleading. *See* L. Civ. R. 7.1.1(a). For transferred cases, this information shall be filed within 30 days of transfer of the matter to this district. *See* L. Civ. R. 7.1.1(a).”

VII. MOTION PRACTICE

MDL CMO No. 1 administratively terminated all pending motions, except for *pro hac vice* admission motions, so that the parties could meet and confer regarding the dismissal of claims and certain named defendants.

VIII. LEADERSHIP

At the request of plaintiffs’ counsel, and without objection, **Audrey Perlman Raphael** of Levy Kongsberg, LLP shall be added to the Plaintiffs’ Steering Committee upon entry of this Order.

VIII. FUTURE CASE MANAGEMENT CONFERENCE DATES

The next case management conference is scheduled for **Wednesday, August 11, 2021**. For the August 11, 2021 conference, Liaison Counsel, Lead Counsel for Plaintiffs, and Lead Counsel for Defendants shall appear via Zoom at 11:00 a.m. All other counsel shall appear via dial-in (to be circulated) at 12:00 p.m., unless otherwise provided by the Court. Counsel shall email their intention to attend the conference to Mr. Zogby, at michael.zogby@faegredrinker.com, by August 6, 2021. Mr. Zogby and Ms. Anello shall meet and confer regarding submission of the proposed agenda and logistics for the conference.

Dated: August 11, 2021



Hon. Brian Martinotti, U.S.D.J.