

**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**

MDL CASE MANAGEMENT ORDER NO. 10

The Court, having held an MDL Case Management Conference (“CMC”) on May 12, 2021, and for good cause shown, enters the following Order:

I. STATUS OF LITIGATION AND COORDINATION

As of May 12, 2021, 225 cases alleging products liability claims relating to use of Elmiron have been filed and served (192 federal and 33 in New Jersey and Pennsylvania state courts).

II. ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE

Three Case Management Orders (“CMO”) have been entered on the MDL docket since the last CMC (April 14, 2021):

1. Amended MDL Case Management Order No. 6. An Amended Direct Filing Order was entered by the Court that governs the procedures for directly filing cases into this MDL.
2. MDL Case Management Order No. 7. This case management order confirmed the issues discussed during the April 14, 2021 telephonic case management conference.

3. MDL Case Management Order No. 8. This case management order governs the use and format of and deadlines surrounding the plaintiff fact sheets and defense fact sheet, as well as any disputes arising out of the same.

In addition, the Defendants will resubmit the proposed preliminary scheduling order as MDL CMO No. 9.

III. PROPOSED CASE MANAGEMENT ORDERS

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

- A. Science Day Order. The parties shall continue to meet and confer and submit any issues to Judge Polifroni. Science Day shall be scheduled for September 30, 2021, and the parties will discuss logistics and coordination.
- B. Remote Depositions. Based on the status of federal and state guidelines and District of New Jersey policies on in-person attendance, the parties shall continue meeting and conferring on a proposed deposition order.
- C. Teva Dismissals. The parties shall continue to meet and confer on the dismissal of certain Teva entities. Teva's responses to plaintiffs' discovery are due on May 19, 2021, and the parties shall thereafter confer on the status of a proposed order.

IV. DISCOVERY

The parties shall continue to meet and confer on any discovery issues, and are instructed to submit any issues or disputes to Judge Polifroni. The parties shall also confer with Judge Polifroni about a periodic schedule for regular meetings based on his availability.

V. PLAINTIFFS' LIAISON COUNSEL

The Court grants the request [Dkt. 38] for Caroline F. Bartlett to replace Chirali Patel as Plaintiffs' Liaison Counsel.

VI. 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.

VII. FUTURE CASE MANAGEMENT CONFERENCE DATES

The next case management conference is scheduled for **Wednesday, June 9, 2021**. For the June 9, 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 June 4, 2021. Mr. Zogby and Ms. Anello shall meet and confer regarding submission of the proposed agenda and logistics for the conference.

Dated: May 20, 2021



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