UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

In Re: Ethicon, Inc., Power Morcellator Products Liability Litigation

MDL No. 2652

(This Order Relates to All Cases)

Case No. 15-md-2652-KHV

ORDER

On November 18, 2015, an initial status and scheduling conference was conducted in this multidistrict litigation ("MDL") by the undersigned U.S. District Judge Kathryn H. Vratil and U.S. Magistrate Judge James P. O'Hara. This order memorializes the rulings at the hearing and sets forth additional procedures for the management of this litigation.

I. Organizational Structure For Plaintiffs' Counsel

Counsel for multiple plaintiffs have consulted and proposed an organizational structure which Paul Pennock submitted by letter on November 6, 2015. Based on the joint submission as amended at the status conference to include Lawrence R. Cohan on the steering committee, the court approves the joint proposal.[1] The approved organizational structure for plaintiffs' counsel is as follows:

Co-Lead Counsel:
Paul J. Pennock Aimee H. Wagstaff

Co-Liaison Counsel:
Kirk Goza Robert Horn

[1]The court received a proposal from C. Mark Whitehead, III, but he withdrew his proposal shortly before the status conference. The court also received a proposal from Lawrence R. Cohan, but he has agreed to join the proposed steering committee.

Steering Committee:

Anne Andrews	Andrea Hirsch
Avram Blair	Rebecca King
Francois Blaudeau	Megan McKenzie
Dennis Canty	Stephanie O'Connor
Lawrence R. Cohan	Neil Overholtz
Sindhu Daniel	Thomas Preuss
Yvonne Flaherty	Meghan Quinlivan
Elizabeth Graham	Carmen Scott

II. Pending Motions

The court OVERRULES all pending motions in the member cases of this MDL action without prejudice to re-filing the motions in the lead MDL action. This order applies to the motion to stay (Doc. #15) filed in D. Kan. No. 15-9326, the motion to transfer (Doc. #17) and the cross-motion to stay (Doc. #19) filed in D. Kan. No. 15-9339, the motion to dismiss (Doc. #8) filed in D. Kan. No. 15-9348, the motion for leave to file second amended complaint (Doc. #44) filed in D. Kan. No. 15-9360, the motion to dismiss (Doc. #14) filed in D. Kan. No. 15-9347, and the motion to dismiss (Doc. #42) and renewed motion to amend complaint (Doc. #71) filed in D. Kan. No. 14-2633.

III. Case Management Submissions

The parties report that they are in discussion about case management issues and hope to jointly submit the following proposed orders: (1) protective order,[2] (2) ESI order, (3) direct

[2]The proposed protective order should be drafted in compliance with the guidelines available on the court's website: http://www.ksd.uscourts.gov/guidelines-for-agreed-protective-orders-district-of-kansas/. At a minimum, the proposed order must include a concise but sufficiently specific recitation of the particular facts in this case that would provide the court with an adequate basis upon which to make the required finding of good cause pursuant to Fed. R. Civ. P. 26(c).

filing order, (4) discovery order for in extremis cases, (5) product identification order, (6) amended pleading order, (7) surgeons and surgical facilities disclosure order, (8) pathology preservation order, and (9) scheduling order. By **December 7, 2015,** the parties shall submit their jointly proposed orders on these topics, in WordPerfect (preferred) or Word format, by email sent to: ksd_vratil_chambers@ksd.uscourts.gov and ksd_ohara_chambers@ksd.uscourts.gov.[3]

Should the parties be unable to reach agreement on any of these issues, then by **December 10, 2015,** the parties shall jointly submit—again by email to the chambers of the undersigned judges—a summary of the unresolved issues. By **December 18, 2015, at noon**, the parties shall file a joint motion asking the court to resolve the outstanding issues. The parties may set forth their respective positions in separate briefs of no more than ten double-spaced pages, which shall be made attachments to the joint motion.

With respect to the proposed scheduling order, the parties are directed to specifically address the following: (1) whether the time period for responding to written discovery should be decreased from thirty to fourteen days; (2) whether the time period for bringing discovery disputes before the court should be decreased from thirty to fourteen days; and (3) compression of the response and reply period for discovery-based motions, and page limitations applicable to the same.

[3]The parties suggested that they would submit the first three of these orders by November 25, 2015.

The court will address the outstanding case management issues at a conference to be held in Courtroom 655, Robert J. Dole United States Courthouse, 500 State Avenue, Kansas City, Kansas, on **December 21, 2015, at 10:30 a.m.**

IV. Status Conferences

The court sets status conferences in Conference Room 659, Robert J. Dole United States Courthouse, 500 State Avenue, Kansas City, Kansas, as follows:

January 6, 2016, 9:00 a.m.
February 10, 2016, 9:00 a.m.
March 2, 2016, 9:00 a.m.
March 30, 2016, 9:00 a.m.
May 4, 2016, 9:00 a.m.
June 1, 2016, 9:00 a.m.

Counsel shall confer and seek consensus to the extent possible with respect to the items on the agenda for each status conference. **At least 48 hours before each status conference,** the parties shall submit a proposed agenda by email (not to be filed) to ksd_vratil_chambers@ksd.uscourts.gov and ksd_ohara_chambers@ksd.uscourts.gov.

IT IS SO ORDERED.

Dated November 19, 2015, at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge

s/ James P. O'Hara
JAMES P. O'HARA
United States Magistrate Judge