

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: ALLERGAN BIOCELL TEXTURED :
BREAST IMPLANT PRODUCTS LIABILITY : Case No. 2:19-md-02921 (BRM)(ESK)
LITIGATION : MDL No. 2921
: JUDGE BRIAN R. MARTINOTTI
THIS DOCUMENT RELATES TO ALL CASES : JUDGE EDWARD S. KIEL

CASE MANAGEMENT ORDER NO. 26

This Court, having held a Case Management Conference on September 26, 2023, and for good cause shown, enters the following Order:

**1. Allergan's Proposed Motion to Strike Class Action Allegations or
Alternatively, to Dismiss Short Form Complaints Filed By Certain Putative
Class Representatives**

The Court will permit briefing on this dispute subject to the following limitations:

- a. Allergan shall file its motion on or before October 26, 2023. Allergan's opening memorandum shall be limited to 15 pages.
- b. Plaintiffs shall respond to the motion on or before November 30, 2023. Plaintiffs' memorandum in opposition shall be limited to 15 pages.
- c. Allergan shall file its reply brief in further support on or before December 14, 2023. Allergan's reply shall be limited to 10 pages.

d. Plaintiffs shall file their sur-reply brief in further opposition on or before December 21, 2023. Plaintiffs' sur-reply shall be limited to 3 pages.

e. Neither party may file lengthy appendices in connection with this motion.

2. Depositions and Custodial Productions.

Special Master Dickson will set a deadline for the completion of custodial productions that were ordered on September 7, 2023. Allergan has indicated that the productions for 61 other custodians are substantially complete, and the parties shall continue to work together regarding deposition scheduling and the completion of the remaining document discovery. Any disputes regarding the completion of depositions and/or custodial productions shall be submitted to Special Master Dickson.

3. Bellwether Selections

MDL Plaintiffs and Allergan will each be prepared to select 8 ALCL cases and 8 non-ALCL/revision cases for initial bellwether fact discovery (as described in Special Master CMO 12) at the next case management conference on January 22, 2024. If the parties require additional time to submit their bellwether selections, they shall notify the Court during December.

4. Response to Questions Posed By Swedish Ministry of Justice Regarding Subpoena Issued to Per Heden Via Hague Evidence Convention

No later than October 6, 2023, the parties shall meet and confer and submit to Magistrate Judge Kiel a joint response to the 4 questions posed by the Swedish Ministry of Justice concerning Plaintiffs' subpoena to Per Heden.

5. Next Case Management Conference Date

The next case management conference is scheduled for January 22, 2024. For the January 22nd conference, liaison counsel and lead counsel shall arrive at 10:00 a.m. All other counsel shall appear via dial-in (to be circulated) at 11:00 a.m., unless otherwise provided by the Court. The parties shall meet and confer regarding submission of the proposed agenda for the conference.

SO ORDERED.

Dated this 2 day of October, 2023

/s/ *Brian R. Martinotti*
Hon. Brian R. Martinotti, U.S.D.J.