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

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

Case No. 2:20-md-02973 (BRM)(ESK) MDL No. 2973

THIS DOCUMENT RELATES TO: ALL CASES

JUDGE BRIAN R. MARTINOTTI JUDGE EDWARD S. KIEL

MDL CASE MANAGEMENT ORDER NO. 16

The Court, having held an MDL Case Management Conference ("CMC") on September 8, 2021, and for good cause shown, enters the following Order:

I. STATUS OF LITIGATION AND COORDINATION

As of September 8, 2021, 523 cases alleging products liability claims relating to use of Elmiron have been filed and served (465 federal and 58 in 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 (August 11, 2021):

- 1. MDL Amended Case Management Order No. 12. This case management order amended Case Management Order No. 12 to appoint Audrey Perlman Raphael of Levy Konigsberg LLP to the PSC.
- 2. MDL Case Management Order No. 14. This case management order confirmed the issues discussed during the August 11, 2021 telephonic case management conference.
- 3. MDL Case Management Order No. 15. This case management order sets forth the procedure for the submission of Common Benefit Time & Expenses by Plaintiffs' counsel.

III. PROPOSED CASE MANAGEMENT ORDERS

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

- A. Bellwether and Trial Process Order. The parties shall continue to meet and confer on bellwether and trial process issues. The parties shall submit any issues to Judge Polifroni.
- B. Teva Dismissal Case Management Order. The parties shall continue to meet and confer on the dismissal of certain Teva entities that have been named as Defendants. The parties shall submit any issues to Judge Polifroni.

IV. JANSSEN AND TEVA DISCOVERY

The parties shall continue to meet and confer regarding Janssen and Teva discovery items, deposition issues, and document productions, and submit any issues to Judge Polifroni.

V. MOTION PRACTICE

Defendants have requested leave to amend CMO No. 1 to move to dismiss manufacturing defect claims being raised in certain cases. Defense letters shall be submitted within 21 days, by September 29. Plaintiffs shall have 14 days for their reply, by October 13. Submissions shall be limited to 5 pages.

VI. SCIENCE DAY

Based on the global pandemic and District of New Jersey guidelines and policies, Science Day, which is scheduled for September 30, 2021, shall be moved to a virtual platform. The parties shall meet and confer regarding technology, logistics, and start time.

VII. FUTURE CASE MANAGEMENT CONFERENCE DATES

The next case management conference is scheduled for Wednesday, October 6, 2021. For

the October 6, 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 October 1, 2021. Mr. Zogby and Ms. Anello shall meet and confer regarding submission of the proposed agenda and logistics for the conference.

Dated: September <u>16</u>, 2021

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