IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

IN RE: C.R. BARD, INC.
PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION

MDL No. 2187

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER # 59
(**THIRD AMENDED Discovery Scheduling Order for Group 1A Cases)**

Pending is an oral joint motion for extension of certain deadlines contained in PTO ##s 35, 41, 50, and 58 [ECF 407.] For good cause shown, the court adopts the following amended schedule (where applicable) for trial and discovery in the Group 1A cases, and **ORDERS** as follows:

1. General Provisions.

   a. *Applicability of Rules.* Except as otherwise stated herein and in prior case management orders, the Federal Rules of Civil Procedure and Local Rules of this court shall apply.

   b. *Applicability of Pretrial Orders.* Unless modified by the terms of this Order, all previously entered pretrial orders shall remain in effect, including but not limited to, PTO #7 (Stipulated Protective Order) and PTO #8 (Proposed Discovery, Scheduling, and Case Management Order – Initial Discovery Group).

2. Protocol Governing Depositions. The parties have agreed to the terms of a deposition protocol. This deposition protocol, entered in PTO #40, shall govern all depositions taken in the MDL.

3. Discovery for Group 1A Cases.

   a. *Identity of Cases.* Group 1A consists of the five (5) cases selected by the court and identified in PTO #32.

   b. *Discovery Initiation Date*. Pursuant to PTO #8 ¶ 3(e), discovery for Group 1A cases commenced on **April 14, 2012.**

c. *Discovery Schedule.* Discovery in Group 1A cases shall be completed in accordance with the following schedule:

i. Deposition of plaintiffs and/or their spouses shall be completed by **June 26, 2012.**

ii. Depositions of implanting physicians and any additional medical treatment providers shall be completed by **March 3, 2013.**

iii. Depositions of any additional fact witnesses including corporate and employee/former employee witnesses as to Group 1A shall be completed by **March 3, 2013.**

iv. No written discovery may be served after **January 2, 2013.**

v. Plaintiffs shall serve expert reports by **October 15, 2012**, and specify those dates when their experts are available for depositions between **October 15, 2012**, and **February 4, 2013.**

vi. Defendants shall serve expert reports by **February 11, 2013,** and specify those dates when their experts are available for depositions between **March 1, 2013** and **April 15, 2013.**

vii. Plaintiffs shall serve rebuttal expert reports, if any, by **April 1, 2013.**

viii. The parties shall submit their proposals to the court for the first case or cases to be tried from Group 1A by **March 1, 2013.** Plaintiffs reserve the option to move the court to consolidate cases for trial.

4. Motion Practice.

a. Dispositive motions and motions pertaining to the application of a specific state's laws to a case or the appropriate venue for trial shall be filed by **April 1, 2013.** Response briefs are due by **April 15, 2013**, and any reply briefs shall be due by **April 22, 2013.**

b. *Daubert* motions shall be filed by defendants by **March 14, 2013**. Response briefs are due by **March 28, 2013**. Reply briefs are due by **April 4, 2013**.

c. *Daubert* motions shall be filed by plaintiffs by **April 22, 2013**. Response briefs shall be filed by **May 6, 2013**. Reply briefs shall be filed by **May 13, 2013**.

d. Dates for summary judgment and *Daubert* hearings will be set at an upcoming status conference.

5. Pretrial. The court shall conduct pretrial and final settlement conferences at dates to be determined at an upcoming status conference. The court will issue future orders related to conduct of the pretrial and submission of a Proposed Pretrial Order.

6. Trial. The court shall begin trial on the Group 1 cases on **June 11, 2013**.

The court **DIRECTS** the Clerk to file a copy of this order in 2:10-md-2187 and it shall apply to each case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:12-cv-08610. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsd.uscourts.gov.

ENTER: December 10, 2012

Joseph R. Goodwin, Chief Judge