

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

CHARLESTON DIVISION

IN RE: ETHICON, INC., PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION

MDL NO. 2327

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER # 33
(DOCKET CONTROL ORDER)

1. Identity of cases. Group 1 will consist of cases filed by **January 1, 2013**.
2. Plaintiff Profile Forms. Each plaintiff filed in MDL Number 2327 as of January 1, 2013, must serve a substantively complete Plaintiff Profile Form (PPF) by **January 31, 2013**, to be considered for the Initial Pool.
3. Initial Pool Cases. On **March 1, 2013**, the parties shall submit a list of eighty (80) cases, forty (40) for each side, which shall constitute the Initial Pool Cases. Submissions shall be made to the Court's Clerk no later than 5:00 p.m., EST, on that date.
4. Discovery Pool Cases. By **March 22, 2013**, the parties shall each submit a list of a total of thirty (30) cases, fifteen (15) for each side, to be included in the Discovery Pool.
5. Identification of Sales Representatives. By **April 1, 2013**, Defendants will provide plaintiffs with the name of the relevant sales representative, if any, for each case in the Discovery Pool.
6. Plaintiff Fact Sheets. By **April 8, 2013**, each Plaintiff in the Discovery Pool must serve a substantially complete Plaintiff Fact Sheet (PFS).

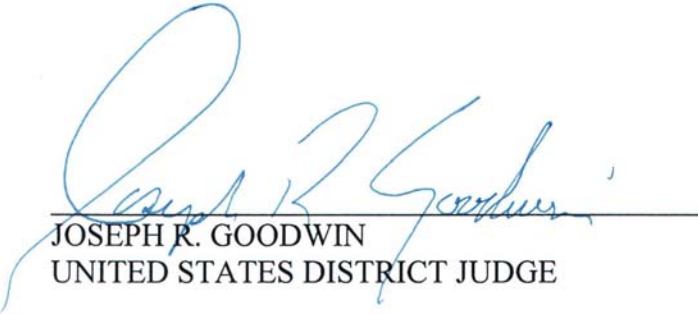
7. Defendant Fact Sheets. By **April 8, 2013**, Defendants shall serve a substantially completed Defendant Fact Sheet (DFS) for each case in the Discovery Pool.
8. Discovery Pool Cases Case – Specific Discovery. Case-Specific Discovery for Discovery Pool cases may commence as soon as those cases are identified. Case-Specific Depositions ordinarily shall be limited to: (1) Plaintiff(s); (2) one additional fact witness, which may include an additional physician, if the case involves a single Plaintiff; (3) implanting physician; (4) explanting physician; (5) sales representative or distributor directly associated with the sale of the product to implanting physician; and (6) any representative or any Defendant who was present in the operating room during the implantation or explantation surgeries.
9. Trial Pool Cases. By **July 8, 2013**, the parties shall each submit a list of a total of sixteen (16) cases per MDL, eight (8) for each side, to be included in the Trial Pool.
10. Bellwether Cases. Parties will make presentations to the Court on **July 18, 2013** on all Trial Pool cases, and the Court shall select five (5) cases to be Bellwether trial cases. The Court shall complete its selection for the final five (5) Bellwether trial cases no later than **July 25, 2013**.
11. Expert Reports. Plaintiffs shall serve expert reports by **August 22, 2013**. Defendants shall serve expert reports by **September 12, 2013**. Plaintiffs shall serve rebuttal expert reports by **September 23, 2013**.
12. Written Discovery. Parties shall serve any and all final, non-duplicative written discovery no later than **September 15, 2013**.
13. Expert Discovery. Expert Discovery for Bellwether cases shall be completed by **October 25, 2013**.

14. Case-Specific Discovery. Discovery on all Bellwether cases shall be completed by **November 15, 2013.**
15. Motion Practice.
 - a. Daubert Motions shall be filed by **November 4, 2013.** Response briefs shall be filed by **November 18, 2013.** Reply briefs shall be filed by **November 27, 2013.**
 - b. Dispositive motions and motions in limine shall be filed by **November 18, 2013.** Response briefs shall be filed by **December 2, 2013.** Reply briefs shall be filed by **December 9, 2013.**
16. 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 conference and submission of a Proposed Pretrial Order.
17. Trial. The first trial shall commence on **January 14, 2014.**

The court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-2327 and it shall apply to each member related 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 2:13-cv-00785. 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: January 18, 2013



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE