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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products Liability
Litigation,

No. MDL 15-02641-PHX DGC

**CASE MANAGEMENT ORDER
NO. 22**

The Court held an 8th case management conference on February 17, 2017. The conference addressed ongoing matters identified in the parties' joint report (Doc. 4948), and was followed by an *ex parte* meeting with Plaintiffs' counsel, on the record, regarding leadership, accounting, and audit issues related to Plaintiffs' management of this MDL. The following matters were decided during the case management conference.

A. Defense Summary Judgment Motion.

By **March 17, 2017**, Defendants shall file a motion for summary judgment arguing that Plaintiffs' claims are pre-empted. The parties shall then confer about whether Plaintiffs can respond immediately to the motion or whether Plaintiffs need time to prepare expert responses or conduct other discovery. (The Court is not implying that other discovery will be permitted.) The parties shall address their respective positions on this issue in their joint report for the next status conference. If Plaintiffs believe that additional factual or expert development is needed, they shall attach to the joint report an affidavit or declaration that complies with Rule 56(d) of the Federal Rules of Civil Procedure. At the status conference, the Court will determine whether additional factual

1 or expert development is required and will set a schedule to complete briefing.

2 **B. Plaintiffs' Expert Reports on Meridian and Denali Filters.**

3 Plaintiffs seek additional time to produce reports from their experts on Meridian
4 and Denali filters. Plaintiffs explained that the volume of discovery over the last few
5 months has made it difficult for them to complete expert reports on these filters by the
6 current deadline of March 3, 2017. To allow additional time for these reports while
7 maintaining the overall discovery schedule, the Court will permit Plaintiffs to make
8 expert disclosures on the Meridian and Denali filters by **April 7, 2017**. Defense
9 responsive expert reports will be due **May 12, 2017**. Any rebuttal reports from Plaintiffs
10 will be due **June 9, 2017**. The terms of Case Management Order No. 8 (Doc. 519) apply
11 to these expert reports. The experts who produce these reports will be deposed between
12 June 9 and the expert deposition cut-off date of July 14, 2017.

13 **C. Further Deposition of Michael Randall.**

14 The Court will not grant additional deposition time for Michael Randall. The
15 Court reviewed relevant portions of his previous deposition transcript and concludes that
16 he was not being evasive or answering improperly. Mr. Randall has been deposed for
17 seven hours as a fact witness and seven hours as a Rule 30(b)(6) witness, and the Court
18 views this time as sufficient.

19 **D. Production of Documents for Specific Employees.**

20 With respect to the six employees listed on page 14 of the joint report (Doc. 4948),
21 Defendants need not produce entire employment files, but shall produce, under the
22 protective order if necessary, documents from the employment files relating to any
23 internal discipline, reprimands, adverse consequences, negative employment reviews, or
24 comparable information, taken against any of these employees on the basis of off-label
25 promotion of Bard IVC filters.

26 **E. Outstanding Discovery Disputes.**

27 The fact discovery period for the MDL has closed. The parties shall continue to
28 confer about any remaining discovery disputes. On or before **March 10, 2017**, the

1 parties shall jointly submit to the Court a matrix setting forth any unresolved discovery
2 issues.

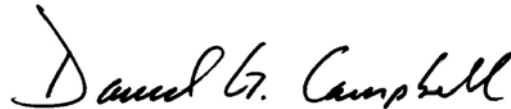
3 **F. Future Joint Submissions.**

4 In the future, as the parties prepare joint reports for status conferences, the parties
5 shall exchange drafts of the joint reports at least **four business days** before the filing
6 deadline and responses to each side's proposed submissions **two days** before the
7 deadline. Additional matters may be included in the joint report if exceptional
8 circumstances arise.

9 **G. Next Status Conference.**

10 The Court will hold the next status conference on **May 3, 2017 at 3:00 p.m.** The
11 parties shall provide a joint status report by **April 28, 2017.**

12 Dated this 17th day of February, 2017.

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17 David G. Campbell
18 United States District Judge
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