

UNITED STATES DISTRICT COURT
THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: DAVOL, INC./C.R. BARD,
INC., POLYPROPYLENE HERNIA
MESH PRODUCTS LIABILITY
LITIGATION

Case No. 2:18-md-2846

Judge Edmund A. Sargus, Jr.
Magistrate Judge Kimberly A. Jolson

This document relates to:
ALL CASES.

PRETRIAL ORDER NO. 10

October 1, 2019 Status Conference

On October 1, 2019, the Court held an in-person status conference with counsel for the Plaintiffs' Steering Committee (the "PSC") and counsel for Defendants. This Pretrial Order memorializes the conference as follows:

Case Filings Update: The parties provided the Court with an update regarding filings. The PSC indicated there are currently 4,069 cases filed. The PSC estimates the current pace of filing at roughly 400 cases per month.

Defendants' Motions to Compel: The parties provided the Court with an update regarding Defendants' Motions to Compel Delinquent Plaintiff Profile Forms. Defense counsel represented that twelve motions have been filed to date. The Court will rule on the papers of each motion as they become ripe in accordance with the parties' briefing schedule as set forth in Case Management Order ("CMO") No. 8.

Discovery Update: The parties provided the Court with an update regarding a number of discovery issues, including: Defendants' production of custodial and non-custodial files,

deposition scheduling, privilege logs for this case and MDL 1842, written discovery, and bellwether discovery.

Document Productions: The PSC raised an issue with the date range of Defendants' production from its Adverse Event Database (Trackwise). The parties provided their positions regarding the PSC's requests and Defendants' productions. Defense counsel agreed to provide information to the PSC regarding its EasyTrack database by the end of the week. The parties are therefore **DIRECTED** to meet and confer regarding the EasyTrack database. The parties are also **DIRECTED** to provide the Court with an update regarding this issue before the next status conference.

Deposition Scheduling: The parties provided their positions regarding a previous dispute over time limitations for depositions. To the extent any specific disputes arise during future depositions regarding time limitations, the parties may seek the Court's intervention at that time. To the extent the parties believe they are not receiving timely responses to requests for deposition scheduling, they may request a status conference with the Court.

Privilege Logs Reevaluation: The parties indicated review of Defendants' privilege logs is ongoing and that some issues have been resolved. The parties are **DIRECTED** to meet and confer regarding any remaining issues over Defendants' privilege logs in accordance with the guidance provided by the Court during the status conference.

Written Discovery: The parties provided their positions regarding the deadline for responses to contention interrogatories and accompanying requests for production served by both Defendants and the PSC. The parties are **ORDERED** to provide responses to the contention interrogatories and accompanying requests for production served by the opposing party on or before December 16, 2019.

Bellwether Case Discovery Update: The parties provided the Court with an update regarding the status of discovery for the Bellwether Trial Pool cases.

Bellwether Selection Process and Timing: The parties informed the Court that they would prefer to follow the procedure set forth in prior versions of CMO 10 for selecting three of the Bellwether Trial Pool cases for bellwether trials. Accordingly, the Court will select three of the Bellwether Trial Pool cases for bellwether trials following briefing by the parties. The parties will simultaneously submit their respective briefs of no more than 10 pages setting forth which three cases they submit the Court should select by January 15, 2020. Thereafter, the parties shall be permitted to respond to the other's proposed cases via a simultaneous submission of no more than 5 pages that shall be submitted by January 29, 2020. The Court will select the three cases for bellwether trials by February 14, 2020.

Expert Discovery: The parties agreed to meet and confer on modifications to the deadlines for Expert Discovery for Bellwether Trial Pool Plaintiffs as set forth in Section VII of CMO 10-B consistent with the deadlines for Daubert Motions for Bellwether Trial Pool Plaintiffs as set forth in Section IX of CMO 10-B. The parties are **DIRECTED** to submit modifications to those deadlines in the proposed CMO discussed below.

Proposed CMO Finalizing the Bellwether Process: The parties are **DIRECTED** to submit to the Court via email a proposed CMO that contains a schedule finalizing the Bellwether process. The proposed CMO shall incorporate the deadlines and procedures set forth in this Order and in CMO 10-B for the Bellwether Trial Cases.

Scheduling: The next status conference is scheduled for November 14, 2019 at 12:00 P.M.

IT IS SO ORDERED.

10-3-2019
DATE

Oct 3, 2019
DATE



EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE



KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE