

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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**IN RE: ALLERGAN BIOCELL TEXTURED** :  
**BREAST IMPLANT PRODUCTS LIABILITY** : **Case No. 2:19-md-02921 (BRM)(JAD)**  
**LITIGATION** : **MDL NO. 2921**  
: **JUDGE BRIAN R. MARTINOTTI**  
: **JUDGE JOSEPH A. DICKSON**

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**THIS DOCUMENT RELATES TO: ALL CASES**

**CASE MANAGEMENT ORDER # 11  
(Science Day)**

On August 14, 2020<sup>1</sup>, the Court will hold a “Science Day” for the Parties to provide the Court with an overview of general medical and scientific issues in this litigation, presented in an objective format without advocacy for the sole purpose of educating the Court. Given the early stage of the litigation and discovery and to avoid duplication in presentation, the Parties have agreed to the following ground rules in order to educate the Court on the basic issues in a non-adversarial manner that will govern Science Day:

A. The parties will meet and confer regarding the topics to be addressed at Science Day. The presentations will include scientific and medical issues related to Allergan Biocell Textured Breast Implants and Breast Implant Associated Anaplastic Large Cell Lymphoma (“BIA-ALCL”) and will not address liability or attempt to establish claims or defenses in the litigation.

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<sup>1</sup> Pursuant to the Case Management Conference conducted by the Court on May 18, 2020, the parties agree that this is a target date for Science Day and subject to change depending on the circumstances and conditions relating to COVID-19.

**B.** Each side will make presentations of no more than 90 minutes. The presentations may be made by the Parties' attorneys and/or experts or a combination.<sup>2</sup> The presenters will not be under oath and not examined except by producing counsel and the Court. There will be no cross-examination of any expert witness used by either Party.

**C.** Science Day will follow the approximate schedule below. The Court will have the opportunity to ask questions of the Parties' attorneys and/or experts during or after each presentation:

- Plaintiffs' presentation – 1.5 hours
- Defendants' presentation – 1.5 hours

**D.** The format will be lecture-style presentations that may incorporate the use of PowerPoint presentations or other demonstrative aids that are not to be considered evidence in the case at any point and that will not be exchanged by the Parties. To the extent any expert presents, that Party's attorney will be allowed to lead the expert through a modified direct examination format to focus the presentation. The Federal Rules of Evidence will not be enforced during the presentations or during the questioning of experts by the Court.

**E.** The Science Day presentations will be transcribed by a court reporter to be supplied by the Parties for the Court's use only, with costs to be split by the Parties. The Parties may move to request a copy of the transcript and will have to establish good cause for their request. The transcript, if released, will be treated as confidential and will be subject to the Confidentiality Order in this case. The Court and the parties may determine that it is appropriate to invite state court judges who are presiding over Allergan Biocell Textured Breast Implant Product Liability cases to attend Science Day. Science Day will be otherwise closed to the

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<sup>2</sup> Nothing in this Order should be read to mean that the Parties are required to present with an expert and the Parties may also, at their discretion, present an expert via videotape or remotely via Zoom or other method as approved by the Court.

public and open only to attorneys who have appearances on file in this MDL, as well as their presenting expert (if any), the Court, and its staff. The Court may also have the proceedings videotaped for its own purposes, which shall not be provided to either Party.

**F.** Neither the PowerPoints nor other demonstrative aides, nor any statement or presentation by any expert or by counsel during Science Day, shall be discoverable; admissible; used in any fashion for impeachment purposes or cross examination or for collateral attack on any presenter, expert, or other witnesses; shared beyond the counsel of record in this litigation and their staff; attached to any public filing; or used for any purpose other than for the Court's benefit to gather knowledge informally at Science Day regarding BIA-ALCL.

**G.** The participation of any expert or other witness in Science Day shall not be an independent basis for subjecting him or her to discovery and shall not waive any consulting expert privilege. No party shall conduct discovery of the presenting experts regarding their presentations or Science Day itself, whether or not later designated as a testifying expert.

**Date: May 22, 2020**

*/s/Brian R. Martinotti*

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**HON. BRIAN R. MARTINOTTI**  
**UNITED STATES DISTRICT JUDGE**