

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE: ELMIRON (PENTOSAN
POLYSULFATE SODIUM)
PRODUCTS LIABILITY
LITIGATION

THIS DOCUMENT RELATES TO:
ALL ACTIONS

Case No. 2:20-md-02973 (BRM)(ESK)

MDL No. 2973

JUDGE BRIAN R. MARTINOTTI
JUDGE EDWARD S. KIEL

THIS MATTER is before the Court on separate submissions filed by Defendants and Plaintiffs via letters dated April 19, 2022, concerning bellwether selection, pursuant to Case Management Order (“CMO”) No. 17.¹ Having reviewed the parties’ submissions, including letters in response, and having declined to hold oral argument pursuant to Federal Rule of Civil Procedure 78(b);

IT APPEARING THAT:

1. In November 2021, the parties each selected 10 cases (a total of 20 cases) for inclusion in the Bellwether Discovery Pool.
2. The parties have conducted case-specific fact discovery in those cases; and the parties each selected one case. Plaintiffs selected *Manning*, Civ. A. No. 21-11942. Defendants selected *Broussard*, Civ. A. No. 21-2028.
3. The parties each submitted their proposed case for a third bellwether trial. Defendants proposed *Windham*, Civ. A. No. 20-cv-14670. Plaintiffs proposed *Ferguson*, Civ. A. No. 21-17138, *Foster*, Civ. A. No. 21-11933, and *Smith*, Civ. A. No. 21-12070.

¹ See (CMO No. 17, Bellwether Selection and Scheduling Order, (ECF No. 93).)

4. Pursuant to CMO No. 17, the Court has discretion to select a third bellwether trial case. To that end, the Court selects *Windham*, Civ. A. No. 20-cv-14670.

Accordingly, for the reasons set forth above and for good cause appearing,

IT IS on this 9th day of May, 2022,

ORDERED that the following three (3) cases are selected for bellwether trials: *Manning*, Civ. A. No. 21-11942; *Broussard*, Civ. A. No. 21-2028; and *Windham*, Civ. A. No. 20-cv-14670.

/s/ Brian R. Martinotti
BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE