

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

IN RE: ETHICON, INC., PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL No. 2327
THIS DOCUMENT RELATES TO ALL CASES	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

**PRETRIAL ORDER # 135
(FIRST AMENDED DOCKET CONTROL ORDER – *Bellew*)**

It is **ORDERED** that PTO # 110 is amended to (1) remove deadlines related to plaintiff Brenda Lehrer, whose case (*Lehrer v. Ethicon, Inc., et al.* 2:12-cv-8157) has been dismissed; (2) to revise paragraph 5.e.; and (3) to reschedule the pretrial. All other deadlines remain in force and effect.

1. *Plaintiffs' Expert Reports.* Plaintiffs shall serve expert reports by **July 7, 2014.**
2. *Defendants' Expert Reports/Rebuttal Expert Reports.* Defendants shall serve expert reports by **August 6, 2014.** Plaintiffs shall serve any rebuttal expert reports by **August 13, 2014.**
3. *Expert Discovery.* Expert Discovery for the *Bellew* bellwether case, including the deposition of any rebuttal experts, shall be completed by **September 12, 2014.**
4. *Case-Specific Discovery.* Discovery on the *Bellew* bellwether case shall be completed by **September 5, 2014.**

5. *Motion Practice.*

a. Daubert Motions and Non-Daubert based Dispositive Motions shall be filed by **September 19, 2014**. Response briefs shall be filed by **October 3, 2014**.

Reply briefs shall be filed by **October 10, 2014**.

b. Daubert based dispositive motions and motions in limine shall be filed by **October 24, 2014**. Response briefs shall be filed by **October 31, 2014**.

Motions in Limine are limited to 3 pages each, responses are limited to 2 pages each.

c. Dates for summary judgment and *Daubert* hearings, if any, will be set at an upcoming status conference.

d. Local Rule of Civil Procedure 7.1(a)(2) applies regarding the page limits on memoranda in support of dispositive motions as well as responses and replies.

The court will not be inclined to grant motions to exceed the page limit. The court requests that the parties abide by Local Civil Rule 7.1(a)(5) regarding courtesy copies.

e. In the past, the court has permitted parties to file placeholder exhibits in support of *Daubert*, dispositive and other motions, responses and replies in the place of confidential documents that may be sealed and then, within five days, redact/dedesignate the documents or file a motion to seal. Moving forward, the court will no longer permit this practice. Parties may no longer file placeholder exhibits. The court expects counsel for plaintiffs and defendants to resolve issues

related to confidential designations well before the filing of the above motions.

Filings containing placeholder exhibits will be struck.

6. *Pretrial and Final Settlement Conferences.* The Court shall conduct a pretrial Conference on **November 24, 2014, at 2:30 p.m.** and will notify the parties as to the date of a final settlement conference.

7. *Designation of counsel:* By **October 23, 2014**, Plaintiffs shall designate counsel authorized to meet and confer with Defendants' counsel, and to bind Plaintiffs by his/her agreement, on matters related to the conduct of the trial including the resolution of deposition designations.

8. *Deposition Designations.* Deposition designations shall be filed by **October 24, 2014**. The designations shall specifically identify exhibits to be offered through the deposition testimony. Any objections to an opposing party's designations and the accompanying exhibits, and any counterdesignations and accompanying exhibits, shall be filed by **November 7, 2014**. Any objections to the counter-designations and exhibits, and any counter-designations to an opposing party's counterdesignations, shall be filed by **November 14, 2014. No additional testimony may be designated after November 14, 2014 absent leave of Court.** The parties shall meet and confer no later than **November 21, 2014** to resolve objections to testimony and exhibits and to resolve any proposed redactions to exhibits. Any unresolved objections shall be presented to the Court for resolution at a hearing to be held **November 25, 2014**. The parties consent to the determination of the objections by the Magistrate Judge.

9. *Exhibit and Witness Lists.* The parties will exchange exhibit and witness lists by

October 24, 2014. Any objections to an opposing party's exhibits and witness list shall be filed by **November 14, 2014.**

10. The parties shall file a proposed integrated pretrial order pursuant to Fed. R. Civ. P. 16 three days prior to the pretrial conference. The proposed integrated pretrial order, signed by all counsel and unrepresented parties, shall set forth the matters listed in Local Civil Rule 16.7(b).

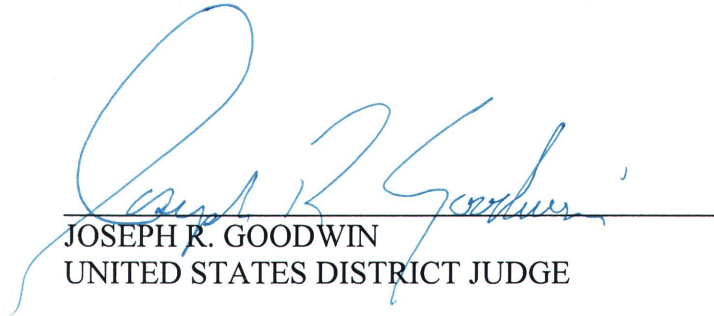
11. The parties shall file proposed jury instructions in charge form on substantive theories of recovery or defense, on damages and on evidentiary matters peculiar to the case, and special interrogatories, if any be appropriate to the case, along with a proposed verdict form on **November 21, 2014.** The court requests that the parties email the proposed jury instructions to the court's law clerk in Word format.

12. *Trial.* The *Bellew* trial as identified in PTO # 98 shall commence on **December 4, 2014.**

The court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-2327 and **in the following case:** 2:13-cv-22473 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 2:14-cv-12261. 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: October 15, 2014



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE