

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

**IN RE DIGITEK®
PRODUCT LIABILITY LITIGATION**

MDL NO. 1968

THIS DOCUMENT RELATES TO ALL CASES

**PRETRIAL ORDER #43
(Order re Request for *Lone Pine* Order)**

Pending before the court is the defendants' Motion for Entry of a *Lone Pine*¹ Case Management Order [Docket 200] and their subsequent Supplemental Motion Modifying Requested Relief Sought in the *Lone Pine* Order [Docket 205]. The plaintiffs have filed a timely response in opposition [Docket 214] and the defendants have filed a timely reply [Docket 217].

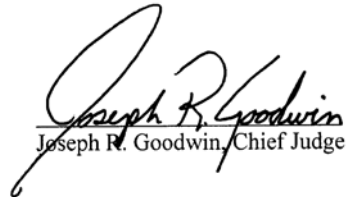
At this point in this litigation it is my desire to maintain focus on the discovery currently proceeding. I, therefore, **ORDER** that the motion is taken under advisement pending completion of basic fact discovery of Group 1 cases according to the revised schedule in PTO #38.

The court **DIRECTS** the Clerk to file a copy of this memorandum opinion and order in 2:08-md-1968 which shall apply to each member Digitek-related case previously transferred to, removed to, or filed in this district, which includes counsel in all members cases up to and including civil action number 2-09-cv-01085. In cases subsequently filed in this district, a copy

¹ *Lone Pine* orders, derived from *Lore v. Lone Pine*, No. L-336006-85, 1986 WL 637507 (N.J. Super. Ct. Nov. 18, 1986), are pre-discovery orders designed to handle complex issues by requiring plaintiffs to produce some evidence of certain elements of their claims, e.g. medical causation, to support a credible claim.

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 6, 2009



Joseph R. Goodwin
Joseph R. Goodwin, Chief Judge