

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: AMERICAN MEDICAL SYSTEMS, INC.
PELVIC REPAIR SYSTEMS PRODUCTS LIABILITY
LITIGATION

THIS DOCUMENT RELATES TO ALL CASES

MDL No. 2325

PRETRIAL ORDER # 172
THIRD AMENDED DOCKET CONTROL ORDER RE:
PATTISON (THIRD ROUND BELLWETHER CASE)

The parties jointly submit this proposed Docket Control Order amending PTO # 150 (entered on March 20, 2014) with respect to the *Pattison* case only. It is **ORDERED** as follows:

1. This order shall govern the Pelvic Organ Prolapse (“POP”) case *Pattison v. AMS, Inc.* 2:12-cv-07154.

2. Expert Reports

- a. Plaintiffs shall serve expert reports by **March 7, 2014**.
- b. AMS shall serve expert reports by **March 28, 2014**.
- c. Plaintiffs shall serve rebuttal expert reports by **June 9, 2014**.

3. On or before **June 4, 2014**, Plaintiffs and Defendants will identify three (3) dates between **June 11, 2014** and **July 9, 2014** on which each expert witness is available for deposition. Plaintiffs and defendants shall have five (5) days to confirm dates of deposition for each expert witness they intend to depose in this litigation. Absent agreement of the parties, depositions shall not be taken outside of this time frame and expert witnesses who are not available to be deposed in that time frame will not be eligible to testify at trial.

4. Written Discovery. Parties shall serve any and all final, non-duplicative written discovery no later than **June 11, 2014**.

5. Discovery. All discovery, including depositions of all company witnesses and third parties, shall be completed by **July 14, 2014**. AMS shall make every effort possible to present all company witnesses by July 14, 2014 and will commence scheduling of those depositions immediately. The parties may agree to take company witness and/or third party depositions outside of this designated period.

6. Expert Discovery shall commence on **June 11, 2014** and be completed by **July 9, 2014**. Plaintiffs and Defendants can supplement reports within three weeks of receiving new information obtained through discovery (including pathology) after the dates set forth in Paragraph 2. Any supplement must be strictly tied to the new information obtained through discovery in the *Pattison* case only. In the event that fact witness depositions occur within two weeks before or at any time after the expert deposition, experts shall be permitted to supplement their reports out of time to account for information obtained through those depositions, and supplemental expert depositions will be allowed on the newly added opinions.

7. Motion Practice

a. *Daubert* Motions and Dispositive Motions.

- i. *Daubert* Motions and non-*Daubert*-dependent Dispositive Motions shall be filed and served by **July 30, 2014**.
- ii. All Responses to *Daubert* Motions and non-*Daubert*-dependent Dispositive Motions shall be filed and served by **August 14, 2014**.
- iii. All Replies to *Daubert* Motions and non-*Daubert*-dependent Dispositive Motions shall be filed and served by **August 21, 2014**.

b. Motions in Limine.

- i. Motions in Limine shall be filed and served by **August 14, 2014**.
- ii. Responses to Motions in Limine shall be filed and served by **August 25, 2014**.
- iii. All Replies to Motions in Limine shall be filed and served by **September 1, 2014**.

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

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

9. 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 **August 29, 2014**. The Court requests that the parties email the proposed jury instructions to the court's law clerk in Word format.

10. *Deposition designations*. Deposition designations shall be exchanged by **August 20, 2014**. Any objections to an opposing party's designations and any counter-designations shall be exchanged by **August 29, 2014**. Any objections to the counter-designations and any counter-designations to an opposing party's counter-designations shall be exchanged by **September 8, 2014**. Any objections not resolved through the meet and confer process shall be submitted to the Court by September 8, 2014, along with all the deposition designations that have been agreed to.

11. *Exhibit and Witness Lists*. The parties will exchange exhibit and witness lists by **September 8, 2014**.

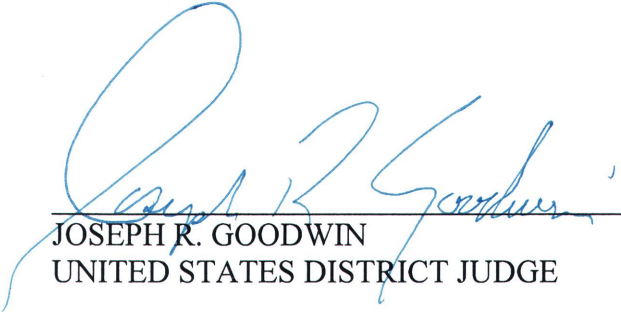
12. The parties shall file a proposed integrated pretrial order pursuant to Fed. R. Civ. P. 16 3-days prior to the pretrial conference. The proposed integrated pretrial order, signed by all counsel and unrepresented parties, shall set forth the matters listed in Local Civil Rule 16.7(b).

13. Pretrial and Final Settlement Conferences. The Court shall conduct pretrial and final settlement conferences at dates to be determined at an upcoming status conference. The Court will issue future orders related to conduct of the pretrial conference and submission of a Proposed Pretrial Order.

14. Trial. The August 19, 2014 trial date shall be vacated. Subject to the Court's availability, a new trial date shall be determined at an upcoming status conference.

The Court **DIRECTS** the Clerk to file a copy of this Order in 2:12-md-2325 and in *Pattison v. AMS, Inc. 2:12-cv-07154* 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 2-12-cv-~~16533~~¹⁶⁵³⁸. 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: May 16, 2014



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE