

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

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

:
: **Case No. 2:20-md-02973 (BRM)(ESK)**
: **MDL No. 2973**
:
:

**THIS DOCUMENT RELATES TO:
ALL CASES**

: **JUDGE BRIAN R. MARTINOTTI**
: **JUDGE EDWARD S. KIEL**
:
:
:

MDL CASE MANAGEMENT ORDER NO. 5

The Court, having held an MDL Case Management Conference (“CMC”) on March 10, 2021, and for good cause shown, enters the following Order:

I. STATUS OF LITIGATION AND COORDINATION

As of March 10, 2021, 196 cases alleging products liability claims relating to use of Elmiron have been filed and served (171 federal and 25 in New Jersey and Pennsylvania state courts).

II. ORDERS ENTERED SINCE LAST CASE MANAGEMENT CONFERENCE

One Case Management Order (“CMO”) has been entered on the MDL docket since the last CMC (February 10, 2021):

1. MDL Case Management Order No. 4. This CMO confirmed the issues discussed during the February 10, 2021 telephonic CMC.

In addition, the parties have submitted a proposed CMO addressing the direct filing of complaints in this MDL, which Order will be discussed with the clerk’s office and any necessary adjustments will be made in advance of the next regularly scheduled CMC.

III. PROPOSED CASE MANAGEMENT ORDERS

The parties shall continue to meet and confer and actively discuss proposed orders and stipulations to advance the litigation, including:

- A. An Order addressing plaintiff fact sheets (“PFS”), defense fact sheets (“DFS”), and a corresponding electronic vendor;
- B. A Scheduling Order, including future trial date; and
- C. A protocol governing remote depositions.

IV. DISCOVERY

The parties shall continue to meet and confer regarding all discovery issues and provide an update to the Court at the next CMC. The parties will file a joint Rule 26(f) Report on or before April 7, 2021.

V. STATUS OF TEVA DEFENDANTS

Teva and Plaintiffs’ Leadership have announced that they are negotiating a CMO and stipulation that will result in the potential dismissal, without prejudice, of a number of Teva-related entities, and will report on the status of their discussions at the next CMC.

VI. SCIENCE DAY

The Court raised *sua sponte* the scheduling of a Science Day and state-federal coordination of the event. The parties shall meet and confer regarding any issues and logistics, as well as a proposed CMO to govern Science Day.

VII. EXTENSION AND STAY

Defendants’ initial entries of appearance and deadlines to answer or otherwise plead remain tolled until further Court order.

VIII. MOTION PRACTICE

MDL CMO No. 1 administratively terminated all pending motions, except for *pro hac vice* admission motions, so that the parties could meet and confer regarding the dismissal of claims and certain named defendants.

IX. PLAINTIFF LEADERSHIP

Scott Morgan, of Schlichter Board & Denton, LLP, is withdrawing from the Plaintiffs' Steering Committee. So Ordered.

X. FUTURE CASE MANAGEMENT CONFERENCE DATES

The next case management conference is scheduled for **Wednesday, April 14, 2021**. For the April 14, 2021 conference, Liaison Counsel, Lead Counsel for Plaintiffs, and Lead Counsel for Defendants shall appear via Zoom at 11:00 a.m. All other counsel shall appear via dial-in (to be circulated) at 12:00 p.m., unless otherwise provided by the Court. Counsel shall email their intention to attend the conference to Mr. Zogby, at michael.zogby@faegredrinker.com, by April 9, 2021. Mr. Zogby and Ms. Anello shall meet and confer regarding submission of the proposed agenda and logistics for the conference.

