

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

CHARLESTON DIVISION

IN RE: C. R. BARD, INC.,
PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION

MDL No. 2187

THIS DOCUMENT RELATES TO ALL CASES

**PRETRIAL ORDER # 72
(FOURTH AMENDED Discovery Scheduling Order for Group 1A Cases)**

For good cause shown, the court adopts the following amended schedule (where applicable) for pretrial deadlines in the Group 1A cases, and **ORDERS** as follows:

1. General Provisions

- a. *Applicability of Rules.* Except as otherwise stated herein and in prior case management orders, the Federal Rules of Civil Procedure and Local Rules of this court shall apply.
- b. *Applicability of Pretrial Orders.* Unless modified by the terms of this Pretrial Order (“PTO”), all previously entered pretrial orders shall remain in effect, including but not limited to, PTO # 7 (Stipulated Protective Order) and PTO # 8 (Proposed Discovery, Scheduling, and Case Management order – Initial Discovery Group).

2. Motion Practice

- a. *Daubert* motions shall be filed by defendant by **March 21, 2013**. It would be the court’s preference that defendant file a *Daubert* motion addressing all experts in one motion. Response briefs shall be filed by **April 4, 2013**. Reply briefs shall be filed by **April 11, 2013**. However, the deadlines for any *Daubert* motion related

to the plaintiffs' experts, Ahmed El-Ghannam, Ph.D. and Dr. Anthony Brennan, shall be extended by seven (7) days. The deadline for the submission of any *Daubert* motion related to Dr. Julia Babensee, whose deposition has been delayed because of illness, shall be extended until **March 28, 2013**, or seven (7) days after the completion of her deposition, whichever is later.

- b. Non *Daubert-based* dispositive motions and motions pertaining to the application of a specific state's laws to a case or the appropriate venue for trial shall be filed by **April 1, 2013**. Response briefs shall be filed by **April 15, 2013**, and any reply briefs shall be filed by **April 22, 2013**.
- c. *Daubert* motions shall be filed by plaintiffs by **April 22, 2013**. It would be the court's preference that plaintiffs file a *Daubert* motion addressing all experts in one motion. Response briefs shall be filed by **May 6, 2013**. Reply briefs shall be filed by **May 13, 2013**. If any of the depositions of the defendant's experts exceed 1 day and cannot be scheduled within the designated period under the schedule for those experts, then the plaintiff's may seek additional time for filing *Daubert* motions, if necessary.
- d. *Daubert-* based dispositive motions shall be filed by **June 1, 2013** with opposition briefs filed by **June 15, 2013**. No replies to those motions will be permitted, unless ordered by the court.
- e. Dates for summary judgment and *Daubert* hearings will be set at an upcoming status conference.
- f. 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.

- g. Motions *in Limine* shall be filed by **June 3, 2013**. Responses shall be filed by **June 17, 2013**, and any replies shall be filed by **June 24, 2013**. Such motions are limited to three pages each, including supporting memoranda. Responses and replies are limited to 2 pages each.

3. Other Deadlines

- a. Deposition designations shall be filed by **June 3, 2013**. Any objections to an opposing party's designations, and any counter-designations shall be filed by **June 17, 2013**. Any objections to the counter-designations, and any counter-designations to an opposing party's counter-designations, shall be filed by **June 24, 2013**.
- b. The parties will exchange exhibit and witness lists by **June 3, 2013**.
- c. 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).
- d. 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 **July 1, 2013**. The court requests that the parties email the proposed jury instructions to the court's law clerk in Word format.

4. **Pretrial**

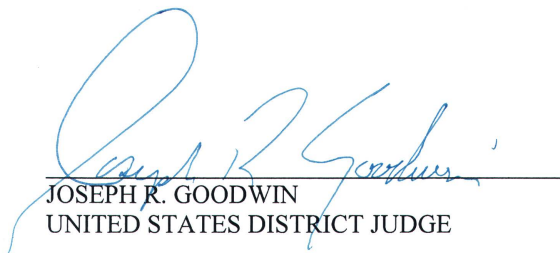
The court shall conduct pretrial and final settlement conferences at dates to be determined at an upcoming status conference.

5. **Trial**

The court shall begin trial on the Group 1A cases, beginning with *Cisson, et al. v. C. R. Bard, Inc.*, 2:11-cv-00195 on **Monday, July 8, 2013, at 8:30 a.m.** Should the *Cisson* case not be ready or have resolved, the court will proceed with the remaining cases identified in PTO # 71 in the order identified in the PTO. **Trial will be limited to 12 days (excluding jury selection and jury deliberation time) to be divided equally between the parties with the court exercising discretion to adjust the time allotted.**

The Court **DIRECTS** the Clerk to file a copy of this order in 2:10-md-02187 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 2:13-cv-4278. 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.wvsc.uscourts.gov.

ENTER: March 12, 2013



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE