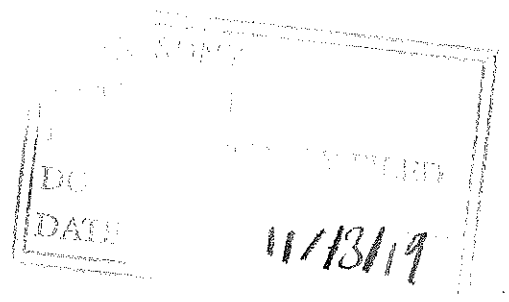


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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IN RE: ZIMMER M/L TAPER HIP	:
PROSTHESIS OR M/L TAPER	:
HIP PROSTHESIS WITH KINECTIV	:
TECHNOLOGY AND	:
VERSYS FEMORAL HEAD PRODUCTS	:
LIABILITY LITIGATION	:
	:
<i>This Document Relates to All Cases</i>	:
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MDL NO. 2859

18-md-2859-PAC

18-mc-2859-PAC

ORDER NO. 30

Regarding the Second Amended Schedule

Defendant Zimmer and the Plaintiffs' Executive Committee ("PEC"), pursuant to Order No. 29, prepared a Second Amended Schedule for approval by the Court. Dkt. 170, at 1. In so doing, they found themselves unable to reach agreement on three dates: (1) the Deadline for the Parties to Provide the Court with the Second Bellwether Selection Pool; (2) the Deadline to Complete Non-Case Specific Written Discovery and Document Production Related to the Products, Including Production of Email from the Custodians; and (3) the MDL Bellwether Trial #1 Start Date.

The Court last approved an Amended Schedule in Order No. 26, on July 18, 2019. Dkt.

139. The Proposed Second Amended Schedule submitted by the Parties is to adjust for delays experienced in the Bellwether Selection Process. *See* Dkt. 170; Dkt. 163.

The Court accepts November 19, 2019 as the Deadline for the Parties to Provide the Court with the Second Bellwether Selection Pool List. The Defendants asks the Court to require the PEC to provide the bases for any *Lexecon* objections for cases eligible for the Second Bellwether Selection Pool. Dkt. 171, at 2–3. The Court is disinclined to impose a requirement now that was not provided for by the Parties in Order No. 19, the lodestar for this Bellwether Selection Process. *See* Dkt. 102. The Court remains alert to the potential for *Lexecon* objections

to be used to remove disfavored cases, and reminds all Parties of Order No. 19's admonition that the Parties participate in the Bellwether Selection Process "in good faith" and with the goal of selecting cases that are "representative," and not those that "present[] unique or idiosyncratic facts or law." *Id.* at 5.

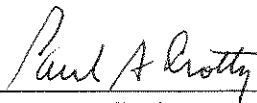
The Court selects December 20, 2019 for the Deadline to Complete Non-Case Specific Written Discovery and Document Production Related to the Products, Including Production of Email from the Custodians. Dkt. 171, Attachment 1, at 1. This represents an approximately two-month adjustment, which adequately reflects the delay in bellwether selection. The Court will not interpose a new Deadline to File Motion to Compel on Non-Case Specific Written Discovery and Document Production Related to the Product. As the Parties note, this "deadline was not previously part of the Scheduling Order." *Id.* at 2.

Finally, the Court adopts January 25, 2021, as the revised MDL Bellwether Trial #1 Start Date. *Id.* at 4. This date similarly reflects an adjustment of about two and a half months from the date previously agreed to in Order No. 26, *see* Dkt. 139, at 3, and accounts for the holiday season and New Year.

The Parties will submit a finalized Second Amended Schedule reflecting these dates by November 16, 2019, for approval by the Court.

Dated: New York, New York
November 13, 2019

SO ORDERED



PAUL A. CROTTY
United States District Judge