

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**BARBARA SMITH, and GARY SMITH,**

Plaintiffs,

v.

No. 3:20-cv-00851-AC

**ETHICON, INC., and JOHNSON &  
JOHNSON,**

OPINION AND ORDER

Defendants.

**MOSMAN, J.,**

On October 13, 2020, Magistrate Judge John V. Acosta issued an Opinion and Order [ECF 128] granting in part and denying in part Defendants’ Motion to Enforce MDL Order [ECF 116]. Plaintiffs Barbara and Gary Smith filed objections [ECF 129]. Upon review, I agree with Judge Acosta and DENY Plaintiffs’ Objections [ECF 129].

**DISCUSSION**

A magistrate judge in a civil action is permitted “to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, . . . to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action.” 28 U.S.C. § 636(b)(1)(A); *see also* Fed. R. Civ. P. 72(a) (“When a pretrial matter not dispositive of a party's claim or defense is referred to a magistrate judge to hear and decide, the

magistrate judge must promptly conduct the required proceedings and, when appropriate, issue a written order stating the decision.”); LR 72-1. When a magistrate judge decides a matter under § 636(b)(1)(A), a district judge may reconsider the magistrate’s order if the order is “clearly erroneous or contrary to law.” 28 U.S.C. § 636(b)(1)(A). Similarly, under Rule 72(a), “[t]he district judge in the case must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.”

Upon review, I agree with Judge Acosta’s Opinion and Order [ECF 128] and I ADOPT it as my own opinion. Defendants’ Motion to Enforce MDL Order [ECF 116] is GRANTED IN PART and DENIED IN PART. Plaintiffs’ Objections [ECF 129] are DENIED.

IT IS SO ORDERED.

DATED this 17<sup>th</sup> day of December, 2020.



MICHAEL W. MOSMAN  
United States District Judge