

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

In Re: COOK MEDICAL, INC., IVC FILTERS
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

Case No. 1:14-ml-2570-RLY-TAB
MDL No. 2570

This Document Relates to All Actions

THIRD AMENDED CASE MANAGEMENT ORDER # 19
(THIRD AMENDED BELLWETHER TRIAL PLAN)

This Order supersedes all prior versions of Case Management Order No. 19 (and any amendment to CMO 19) and Case Management Order No. 17.

1. Motions for Leave to Amend: All motions for leave to amend the pleadings or to joining additional parties in bellwether trial cases shall be filed on or before the dates identified below:

Brand: March 14, 2017 (*past*)

2. Bellwether Depositions: Case-Specific Fact Deposition in Bellwether Cases shall be limited to (1) Plaintiff(s), (2) Plaintiff's treating physicians, (3) sales representatives directly associated with the sale of the specific product implanted in the Plaintiff, and (4) two additional fact witnesses. The Parties agree that the sales representatives' depositions will generally occur prior to implanting/retrieval physician depositions. If the Parties disagree regarding the proper sequencing of depositions and the sequence of questions in depositions in a specific Bellwether Case, they will meet and confer prior to contacting the Court for assistance in resolving the issue. Additional Case-Specific Fact Depositions may be taken by agreement or by leave of Court upon good cause shown.

3. Expert Disclosures: Plaintiffs and Defendants shall make the disclosures required by Fed. R. Civ. P. 26(a)(2) on or before the date(s) identified below. The Parties agree to provide the dates each of their experts are available for deposition with their expert disclosures.

Brand: Non-Retained Expert Disclosures – March 21, 2018 (*past*)
Plaintiff Retained Expert Reports – April 30, 2018 (*past*)
Defendant Retained Expert Reports – May 30, 2018 (*past*)
Plaintiff Rebuttal Expert Reports – June 13, 2018 (*past*)

4. Independent Medical Examinations: Any independent medical examinations of the Plaintiff shall be requested by Defendants on or before the date(s) identified below. The Parties shall work together to establish a protocol for IMEs.

Brand: February 2, 2018 (*past*)

5. Close of Discovery: Discovery must be completed by the dates identified below. Extensions may be granted by agreement or by leave of Court upon good cause shown.

Brand: Non-Expert Discovery – February 26, 2018 (*past*)
Expert Discovery – June 29, 2018 (*past*)

6. Preliminary Witness & Exhibit Lists: Preliminary witness and exhibit lists are due on or before the date(s) identified below. The lists should reflect the specific potential witnesses and exhibits at each bellwether trial. It is not sufficient for a Party to simply incorporate by reference “any witnesses listed in discover” or such general statements.

Brand: Preliminary Witness List – July 2, 2018 (*past*)
Preliminary Exhibit List – July 2, 2018 (*past*)

7. Motions for Summary Judgment and Daubert Motions: Motions for summary judgment and *Daubert* motions regarding the limitation or exclusion of expert testimony are due on or before the dates identified in Exhibit A. Responses to motions for summary judgment and *Daubert* motions are due on or before the dates identified in Exhibit A. Replies are due on or before the dates identified in Exhibit A. A hearing on *Daubert* motions and motions for summary judgment will be set by a separate order.

8. Summary Judgment Requirements: Absent prior leave of the Court, and for good cause shown, all issues raised in a motion for summary judgment under Fed. R. Civ. P. 56 must be raised by a Party in a single motion.

9. Bifurcation: Any Party who believes that bifurcation of trial is appropriate with respect to any issue or claim shall notify the Court as soon as practicable and no later than the date(s) identified below. The deadlines for motions filed in response or reply to any bifurcation motion are further identified in Exhibit A.

Brand: July 23, 2018 (*past*)

10. Motions in Limine: Motions *in limine*, responses, and replies (if permitted), shall be filed in accordance with the dates identified in Exhibit A. A hearing on motions *in limine* will be set by a separate order.

11. Deposition Designations: The Parties shall exchange deposition designations in a form that lists the portions of the deposition(s), including the specific page and line numbers, that the Party intends to offer as evidence at trial. Deposition designations, counter designations, and

redirect designations and related objections shall be filed in accordance with the dates identified in Exhibit A. A hearing on deposition designations will be set by a separate order.

12. Final Witness Lists: All Parties shall file and serve their final witness list, which identifies and notifies the other Party of the identity of all witnesses who will attend the trial, on or before the date(s) identified in Exhibit A. It is not sufficient for a Party to simply incorporate by reference “any witness listed in discovery” or such general statements. The list of final witnesses shall include a brief synopsis of the expected testimony.

13. Final Exhibit List: All Parties shall file and serve their final exhibit list on or before the date(s) identified in Exhibit A.

14. Jury Instructions and Verdict Forms: All Parties shall file and serve their proposed jury instructions and verdict forms on or below the date(s) identified in Exhibit A.


15. Stipulations of Fact, Trial Briefs, and Notice to Court of Use of Evidence Presentation Equipment: The Parties shall file their stipulations of fact, file and serve their trial briefs, and submit their Notice to Court of use of Evidence Presentation Equipment, on or before the date(s) identified in Exhibit A.

16. Final Pretrial Conference: A final pretrial conference will be set by a separate order.

17. Trial Date: Trial in *Brand* will begin **January 14, 2019**.

18. Additional Deadlines: Any additional deadlines not specifically referenced above are set forth in Exhibit A.

SO ORDERED this 13th date of December, 2018.


RICHARD L. YOUNG, JUDGE
United States District Court
Southern District of Indiana

Distributed Electronically to Registered Counsel of Record.

EXHIBIT A
BRAND TRIAL DEADLINES

DEADLINE	TASK
6/29/18 (<i>past</i>)	Affirmative Deposition Designations for all witnesses except those identified separately below
7/20/18 (<i>past</i>)	Daubert and Summary Judgment Motions
7/23/18 (<i>past</i>)	Counter Deposition Designations and Objections for all witnesses except those identified separately below
8/6/18 (<i>past</i>)	Motions in Limine
8/27/18 (<i>past</i>)	Affirmative Depo Designations for depositions of Drs. Uberoi and Ferrante
8/28/18 (<i>past</i>)	Deadline for Plaintiffs to file Daubert Motion as to Dr. Renkens
8/29/18 (<i>past</i>)	Plaintiff's response to Cook's motion to bifurcate
8/31/18 (<i>past</i>)	Cook's response to Plaintiff's 510(k) MIL and Foreman Daubert
9/04/18 (<i>past</i>)	Plaintiff's reply in support of Daubert Motion as to Dr. Robertson
9/4/19 (<i>past</i>)	Deadline for Plaintiffs to file Daubert Motion as to Raman Uberoi
9/05/18 (<i>past</i>)	Plaintiff's Reply in support of motion to exclude testimony by Drs. Reisman/Thai
9/06/18 (<i>past</i>)	Plaintiff's Rely in support of motion to exclude testimony by Dr. Keller
9/12/18 (<i>past</i>)	Cook's reply in support of motion to bifurcate
9/14/18 (<i>past</i>)	Responses to Daubert motions filed by 7-20 and Motions for Summary Judgment
9/14/18 (<i>past</i>)	Plaintiff's reply in support of Daubert motion as to Ms. Foreman
9/17/18 (<i>past</i>)	Counter Depo Designations and Objections for depositions of Drs. Uberoi and Ferrante
9/18/18 (<i>past</i>)	Cook's response to Plaintiff's Daubert Motion as to Dr. Renkens
9/21/18 (<i>past</i>)	Responses to Motions in Limine
9/25/18 (<i>past</i>)	Cook's response to Plaintiff's Daubert Motion as to Dr. Uberoi
10/2/18 (<i>past</i>)	Plaintiff's reply in support of Daubert Motion on Dr. Renkens
10/5/18 (<i>past</i>)	Replies to Daubert's filed by 7-20 and Motions for Summary Judgment
10/9/18 (<i>past</i>)	Re-direct Depo Designations, Responses to Objections, and Objections to Counter Designations for all witnesses
10/9/18 (<i>past</i>)	Plaintiff's reply in support of Daubert Motion as to Dr. Uberoi
10/10/18 (<i>past</i>)	Final witness list due
10/10/18 (<i>past</i>)	Final exhibit list
10/30/18 (<i>past</i>)	Objections to Re-direct and Responses to Objections to Counter Designations for all witnesses
11/6/18 (<i>past</i>)	Responses to Objections to Re-direct Designations and Submit to Court for Rulings for all witnesses
12/3/18	Parties to submit notice to Court of use of evidence presentation equipment
12/10/18	Jury Instructions & Verdict Forms due
12/17/18	Parties to submit stipulations of facts and trial briefs