

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE: ETHICON PHYSIOMESH
FLEXIBLE COMPOSITE HERNIA
MESH PRODUCTS LIABILITY
LITIGATION,

Plaintiffs,

v.

ETHICON, INC. and JOHNSON &
JOHNSON,

Defendants.

Civil Action No.

1:17-MD-2782-RWS

[Lead Case MDL 2782]

ORDER

This case is before the Court for consideration of Plaintiffs' Motion to Amend Expert Disclosure and Discovery Deadlines in the Unscheduled Trial Pool Cases [[Doc. 682](#)]. After considering the submissions of the parties, the Court enters the following Order.

This motion presents the critical question of whether the parties should be allowed to modify their positions as evidence in the case evolves. The Court recognizes the importance of deadlines and getting a case to trial. For that reason, in the first two trial cases the Court is limiting the opportunities for such modifications. However, for cases that have not been set for trial, other

considerations must be taken into account. The Court wishes to conduct bellwether trials that provide meaningful direction to the parties. This goal is best accomplished by allowing the parties to present their best cases. Assuring that cases representing the actual merits of both the Plaintiffs' and Defendants' cases is, in the Court's view, good cause for permitting parties to modify their cases as warranted by developments in the case. Granting the motion will help to assure that the greatest benefit can be derived from the trial of these cases.

Therefore, Plaintiffs' Motion [[Doc. 682](#)] is **GRANTED**. Plaintiffs may identify one new polypropylene degradation and mesh failure expert in the Franklin and Murray cases and may amend the expert report of Dr. Bruce Crookes in the Keup case.¹ Defendants will be permitted to depose these witnesses and submit amended responsive reports from their experts. The parties are directed to confer in an effort to agree upon a schedule for addressing these issues that will not delay a potential January 2022 trial date should these cases be included in that trial.²

¹ See Connie Franklin and Marvin Franklin v. Ethicon, Inc., et al., 1:17-CV-2080-RWS; Terrance Murray v. Ethicon, Inc., et al., 1:17-CV-4885-RWS; and Rick Keup v. Ethicon, Inc., et al., 1:18-CV-675-RWS.

² Counsel for Plaintiffs requested that the third trial be scheduled in November 2021. However, in light of the Court's decision to allow modifications by the parties, the Court finds that the additional discovery required thereby makes it unlikely that these cases

SO ORDERED this 24th day of February, 2021.



RICHARD W. STORY
United States District Judge

could be ready for trial in November. Therefore, they will be scheduled for trial in January 2022.