

- d. Manuals, labeling;
- e. Training, proctoring, credentialing, certifications of surgeons;
- f. Regulatory—FDA;
- g. Complaints, injuries, MAUDE, data bases;
- h. Sales, promotion, advertising, doctors, hospitals and consumers;
- i. Research, in house or outside;
- j. Information relating to Plaintiff's Decedent's August 12, 2010 surgery at Montefiore Medical Hospital and the surgeons who performed the surgery.

The Defendant believes that the discovery it seeks will generally focus on, among other things, Plaintiff's Decedent's medical history, including any preexisting medical conditions; information regarding Plaintiff's Decedent's August 12, 2010 surgery that utilized the *da Vinci* Surgical System; information regarding Plaintiff's Decedent's requisite personal history, including her educational, employment, and income history, and Plaintiff's alleged damages.

The parties agree that fact and expert discovery may occur concurrently but that expert discovery should be completed prior to the conclusion of fact discovery. Additionally, to the extent practicable, the parties agree to coordinate discovery among other pending related actions that involve personal injuries purportedly arising from alleged defects in the *da Vinci* Surgical System. The parties further agree to make efforts to avoid undue costs and expense on both sides by coordination.

Consistent with these agreements, the parties contemplate the following schedule for completion of discovery and trial readiness:

EVENT	ANTICIPATED TIMEFRAME
All discovery concluded by:	October 7, 2013
Reports from Plaintiff's retained expert(s) due by:	June 17, 2013
Reports from Defendant's retained expert(s) due by:	August 5, 2013
Plaintiff's retained expert(s) to be deposed by:	July 22, 2013
Defendant's retained expert(s) to be deposed by:	September 3, 2013
Dispositive Motions to be submitted by:	November 4, 2013
Pretrial conference in:	February 2014
Trial commencing by:	March 2014

3. Any issues about disclosure or discovery of electronically stored information, including the form or forms in which it should be produced

At this time, the parties do not anticipate that the discovery of electronically stored information (“ESI”) will present any significant issues in this action. The parties agree that if relevant, discoverable ESI that is responsive to requests for production, is reasonably related to Plaintiff’s claims or Defendant’s defenses, is reasonably accessible, and is maintained in the ordinary course of business, will be produced in PDF or TIFF format. The parties will address any further issues regarding ESI during the normal course of discovery. The parties acknowledge that Fed. R. Civ. P. 26(a)(1)(A)(ii) contemplates that ESI will be provided (either by copy or by a description of category and location) with each parties’ initial disclosures; however, the parties agree, as a matter of economy not to require disclosure of ESI until requests for production or interrogatories are served, and then only as responsive to those requests or interrogatories.

4. Changes that should be made in the limitations on discovery imposed under these rules or local rule, and what other limitations should be imposed

The parties agree that each party will be limited to: a maximum of 20 depositions; a maximum of 30 interrogatories pursuant to Local Civil Rule 33.3; a maximum of 40 requests for production; and a maximum of 20 requests for admission.

5. Any other orders that should be entered by the Court under Rule 26(c) or under Rule 16(b) and (c)

On August 22, 2012, the Court entered a Protective Order regarding the handling of confidential material in this Action. The parties agree that no other Orders are necessary at this time.

Date: October 12, 2012

/s/ Paul D. Rheingold

Paul D. Rheingold
Rheingold, Valet, Rheingold,
Shkolnik & McCartney, LLP
113 East 37th Street
New York, NY 10016-3042
Tel.: (888) 335-9457
Counsel for Plaintiff

/s/ Mark S. Cheffo

Mark S. Cheffo
Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, NY 10036
Tel.: (212) 735-3000
Counsel for Defendant