

September 24, 2013

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - BERGEN COUNTY

- - -

IN RE: STRYKER REJUVENATE & ABG II	:Case No.
MODULAR HIP IMPLANT	:296
LITIGATION	:
	:Master
	:Docket No.
	:BER-L-936-
	:13

- - -

September 24, 2013

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BEFORE: HON. BRIAN R. MARTINOTTI, JSC

- - -

Transcript of Case Management Conference
held at Bergen County Courthouse, 10 South Main
Street, Room 359, Hackensack, New Jersey, on the
above date, beginning at approximately 11:21 a.m.,
before KIMBERLY A. CAHILL, a Federally Approved
Registered Merit Reporter, Certified Court Reporter,
and Notary Public for the State of New Jersey.

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1 - - -
2 THE COURT: Okay. Welcome, everyone.
3 You can be seated.
4 (Pause.)
5 THE COURT: Counsel on the telephone,
6 welcome and please accept my apologies. We were
7 working diligently trying to move this matter along.
8 I appreciate the fact that you may have been hanging
9 on and I again apologize for that. We'll try to
10 perhaps adjust our earlier conference time so that
11 you're not on the phone that long.
12 Counsel in court, welcome to New
13 Jersey. For those of you that are new to our state
14 -- Cal, is this the first time it hasn't been
15 raining since you've been here?
16 MR. WARRINER: Yes, Your Honor, it is
17 truly the Garden State.
18 THE COURT: This is the other option.
19 MR. WARRINER: It was a fake-out for
20 a long time. I thought it should be renamed the
21 Precipitation State, but now I can see --
22 THE COURT: Yeah, and for those of
23 you who read the Farmers' Almanac, we will not have
24 a snowball here in February. This will probably be
25 the way the weather is.

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1 Unfortunately, the Giants and Jets
2 will not be in the Super Bowl. Anybody from a state
3 that may have a contender?
4 VOICE ON PHONE: Florida.
5 THE COURT: Where are you from?
6 VOICE ON PHONE: Florida.
7 THE COURT: Florida?
8 VOICE ON PHONE: Florida's going to
9 have a contender.
10 THE COURT: Which of your
11 professional teams? And don't include Florida
12 State, Florida, or Miami.
13 VOICE ON PHONE: The Dolphins are 3
14 and 0.
15 THE COURT: Okay. All right.
16 How about over here?
17 MR. WARD: Chicago.
18 THE COURT: Chicago? All right.
19 That's it? Okay. Anybody care about baseball? We
20 don't either. We don't care about that either.
21 Anyway, welcome. I did speak to
22 Judge Frank this morning for about 40 minutes. He
23 sends his regards and apparently the temperature in
24 Minnesota is about 70 degrees, which is a little
25 warmer than it is here.

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1 We did, as has been our protocol,
2 have a conference in chambers. Now, it's just, for
3 the record, appearances for those that are in the
4 courtroom, please.
5 Counsel?
6 MS. RELKIN: Ellen Relkin, Weitz &
7 Luxenberg, for plaintiffs.
8 MR. WARRINER: Cal Warriner, Searcy
9 Denney, for the plaintiffs.
10 MR. MILLROOD: Tobi Millrood, Pogust
11 Braslow & Millrood, for the plaintiffs.
12 MR. ANAPOL: Tom Anapol, Anapol
13 Schwartz, for the plaintiffs.
14 MS. SUTTON: Tara Sutton from Robins,
15 Kaplan, Miller & Ciresi for plaintiffs.
16 MR. SMITH: William Smith, Carol
17 Meyer.
18 MR. McGLAMRY: Mike McGlamry, Pope
19 McGlamry, for plaintiffs.
20 MR. GEFFNER: Steve Geffner, Schenck
21 Price Smith & King, for plaintiff.
22 MS. FULMER: Brenda Fulmer, Searcy
23 Denney, for plaintiffs.
24 MS. DOLEJSI: Holly Dolejsi, Robins,
25 Kaplan, Miller & Ciresi, for the plaintiffs.

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1 MS. HAZAM: Lexi Hazam, Lieff
2 Cabraser Heimann & Bernstein, for the plaintiffs.
3 MR. LEATHERS: Dan Leathers, also
4 from Lieff Cabraser Heimann & Bernstein, for the
5 plaintiffs.
6 MR. SZERLAG: David Szerlag, Pritzker
7 Olsen, for the plaintiffs.
8 MR. BELL: Bobby Bell, Hollis,
9 Wright, for the plaintiffs.
10 MR. WARD: Navan Ward, Beasley Allen,
11 for the plaintiffs.
12 MR. CARBOY: Andrew Carboy, Sullivan
13 Papin Block McGrath & Cannavo, for plaintiffs.
14 MR. HICKEY: Mike Hickey, Teschon
15 Riccobene, for the plaintiffs.
16 MS. FRIEDHOLD: Vanessa Friedhold,
17 Gricco & DeFilippo, for the plaintiffs.
18 MR. DiCELLO: Mark DiCello, The
19 DiCello Firm, for the plaintiffs.
20 MR. KINCANNON: Good morning, Your
21 Honor. Josh Kincannon, from Keefe Bartels, for
22 plaintiff.
23 THE COURT: Who's here from Alabama?
24 Auburn or Alabama?
25 MR. BELL: Alabama.

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1 MR. WARD: Alabama.
2 THE COURT: Okay.
3 MR. WARRINER: Hey, three kids at
4 Auburn.
5 THE COURT: Really?
6 MR. WARRINER: Yes, sir.
7 THE COURT: Presently?
8 MR. WARRINER: Adoptive school.
9 THE COURT: Presently?
10 MR. WARRINER: The one in the middle
11 is still there. One's graduated, and one's going
12 next year.
13 THE COURT: Okay. My son's
14 girlfriend is going to Auburn and he will be going
15 there rather than seeing his mother for his spring
16 break -- his fall break in a couple of weeks.
17 Anyway, okay. We did have a -- I
18 think a rather productive -- oh, I haven't done
19 defendants.
20 MS. CATULLO: Oh, yeah.
21 THE COURT: Sorry.
22 MS. CATULLO: I was waiting.
23 THE COURT: It's so much easier when
24 it's just one side that shows up.
25 MS. CATULLO: I don't know. Kim

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1 Catullo from the Gibbons PC firm on behalf of the
2 defendant, Howmedica Osteonics Corp.
3 MS. SPICER: Samantha Spicer from
4 Gibbons, Howmedica Osteonics Corp.
5 THE COURT: Counsel, again, I
6 apologize for overlooking the defense.
7 I understand and I appreciate the
8 fact that you've all been diligently working, which
9 is reflective in the case management order as well
10 as the conference that we had.
11 As I indicated, I have been in
12 contact with Judge Frank. He does send his regards
13 and I look forward to continuing to work with the
14 judge as we move through this matter together. For
15 those of you that are involved in other litigation,
16 you know I'm a proponent of state and federal
17 cooperation, so this case will be no different.
18 We have begun the mediation process
19 with some cases. I'm going to ask that anyone who
20 has a case that's Phase I mediation-eligible to
21 please get your medical authorizations to the
22 defendant as soon as possible, but in any situation,
23 not later than October 4th.
24 The defendants will have a -- have
25 some time to select the cases that they want to add

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1 into the mediation process for their selections.
 2 For Phase II mediation, an order will
 3 be entered, but just moving forward -- and I lost my
 4 notes -- the case management order will reflect the
 5 following language: The pool of Phase II mediation
 6 cases will consist of all cases and serve -- filed
 7 and served after April 2nd, 2013, but prior to July
 8 26, 2013, in which a plaintiff has opted to be
 9 included in the mediation process, has complied with
 10 the plaintiffs' preliminary disclosure, and fact
 11 sheet deadlines.
 12 So we'll begin with another phase --
 13 that'll be reflective in the order and a more formal
 14 order will be submitted moving forward.
 15 Just remember, for those of you that
 16 have authorizations out there, please complete the
 17 defendant's form, or the form that's provided by the
 18 defendant, if you're in mediation by August -- I'm
 19 sorry -- by October 4th. If you're not in mediation
 20 and you have a fact sheet that's out there, by
 21 October 15th; and all other authorizations will be
 22 completed in due course with the fact sheets as per
 23 prior orders.
 24 The parties are working on a fact
 25 sheet and they'll continue to meet and confer on

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1 that moving forward --
 2 MS. RELKIN: Defense fact sheet.
 3 THE COURT: Defense fact sheet,
 4 yeah -- you're going to continue to meet and confer
 5 regarding a final protective order.
 6 What else do we need to stress on the
 7 record that will be included in the -- I know you're
 8 continuing to meet and confer regarding the
 9 exemplars. Our next case management conference will
 10 be October 23rd at 10:30 a.m.
 11 Counsel, you wanted to add some other
 12 information to the record or do you need to add some
 13 other information to the record?
 14 MS. RELKIN: Yeah, there was also --
 15 it didn't get in the draft order -- the rolling
 16 production.
 17 THE COURT: Got it.
 18 MS. CATULLO: Can I just see that?
 19 MS. RELKIN: We worked out some
 20 deadlines on the rolling production. Ms. Catullo's
 21 checking one thing.
 22 (Pause.)
 23 THE COURT: Phase I by October 10th?
 24 MS. CATULLO: It actually should be
 25 the 11th. We had said two weeks from Friday, so it

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1 should be the 11th.
 2 THE COURT: Okay. By October 11th.
 3 Phase II by October 25th; correct?
 4 MR. MILLROOD: Correct.
 5 THE COURT: And Phase III by October
 6 25th.
 7 MR. MILLROOD: Correct.
 8 MS. CATULLO: Your Honor, there's
 9 other language associated with that, that if you
 10 want, I can just read this into the record?
 11 THE COURT: Okay. Why don't you do
 12 that.
 13 MS. CATULLO: The parties have met
 14 and conferred and continue to meet and confer
 15 regarding discovery generally and also specifically
 16 on defendant's rolling production of documents.
 17 The parties have agreed as follows:
 18 Defendants will produce Phase I documents by October
 19 11, 2013. Defendants will produce Phase II by
 20 October 25, 2013 and Phase III by November 25, 2013.
 21 These production dates are based upon
 22 the entry of the ESI protocol on 9/27/13. If the
 23 ESI protocol is not entered by that date, the Court
 24 will adjust the production dates upon request from
 25 counsel.

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1 THE COURT: Right. Agreed?
 2 MS. RELKIN: Yes.
 3 MR. MILLROOD: Yes, Your Honor.
 4 THE COURT: Anything else that we
 5 need to address on the record today? Plaintiffs?
 6 MS. RELKIN: I think that covers it,
 7 Your Honor.
 8 THE COURT: Anybody need to be heard
 9 on the plaintiffs' side?
 10 MS. RELKIN: I mean, the only other
 11 item, I think it's addressed in the draft order, is
 12 that we're -- the insurance issues, we've met and
 13 conferred and that's ongoing as to --
 14 THE COURT: And you're going to
 15 continue to meet and confer --
 16 MS. RELKIN: -- as to supplemental
 17 production.
 18 THE COURT: -- if you can't, then you
 19 can tee it up and I'll address it.
 20 MS. RELKIN: Yeah, and the same with
 21 the native -- with the virgin devices.
 22 THE COURT: Correct.
 23 Ms. Catullo, anything further?
 24 MS. CATULLO: Nothing further, Your
 25 Honor.

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1 THE COURT: Okay. We will see you
 2 then at our next case management conference, which
 3 is October 23rd at 10:30. Liaison counsel will be
 4 here at 9:30.
 5 And we're going to put together a
 6 form of order. We've had a little computer glitch,
 7 which is why we weren't able to produce a form now.
 8 I'm going to e-mail it to Ms. Catullo and Ms. Relkin
 9 just for form only and then it'll be distributed and
 10 posted on the website.
 11 I appreciate the fact counsel has
 12 been working diligently. I look forward to
 13 continuing to work with all of you and I think we're
 14 going in the right direction, and I know Judge Frank
 15 feels that things are moving in the right direction
 16 in most areas.
 17 That being said, enjoy this nice
 18 weather and we'll see you in a month or so. Thank
 19 you.
 20 (Case Management Conference adjourned
 21 at approximately 11:32 a.m.)
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1 LAWYER'S NOTES
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1 CERTIFICATE
 2
 3 I, KIMBERLY A. CAHILL, a Notary
 4 Public and Certified Court Reporter of the State of
 5 New Jersey, do hereby certify that the foregoing is
 6 a verbatim transcript of the conference as taken
 7 stenographically by and before me at the time, place
 8 and on the date hereinbefore set forth, to the best
 9 of my ability.
 10 I DO FURTHER CERTIFY that I am
 11 neither a relative nor employee nor attorney nor
 12 counsel of any of the parties to this action, and
 13 that I am neither a relative nor employee of such
 14 attorney or counsel, and that I am not financially
 15 interested in the action.
 16
 17
 18
 19 _____
 20 KIMBERLY A. CAHILL, CCR, RMR
 21 Notary Number: 2160369
 22 Notary Expiration: February 6, 2014
 23 CCR Number: 30XI00188400
 24 Dated: October 4, 2013
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<p style="text-align: center;">A</p> <p>abg 1:4 ability 19:9 able 18:7 acarboy 3:18 accept 8:6 action 19:12,15 add 13:25 15:11,12 address 17:5,19 addressed 17:11 adefilippo 5:10 adjourned 18:20 adjust 8:10 16:24 adoptive 12:8 agreed 16:17 17:1 al 7:5 alabama 3:22 4:7 11:23,24,25 12:1 allen 4:6 11:10 almanac 8:23 anapol 2:19,20 10:12,12,12 anapolschwartz 2:22 andrew 3:16 11:12 angel 5:7 anne 6:22 anybody 9:2,19 17:8 anyway 9:21 12:17 apologies 8:6 apologize 8:9 13:6 apparently 9:23 appearances 2:2 6:1 10:3 appreciate 8:8 13:7 18:11 approved 1:18 approximately 1:17 18:21 april 14:7 areas 18:16 associated 16:9 associates 6:13 atlanta 5:4 atlas 6:3,6</p>	<p>attorney 19:11,14 auburn 11:24 12:4 12:14 august 14:18 authorizations 13:21 14:16,21 avenue 3:3,8 4:2 5:8,14 6:4 7:8</p> <p style="text-align: center;">B</p> <p>baham 7:10 bank 3:13 barbara 6:16 barnhart 2:8 bartels 3:11 11:21 baseball 9:19 based 16:21 beach 2:10,10 6:14 beasley 4:6 11:10 beasleyallen 4:8 beginning 1:17 begun 13:18 behalf 13:1 bell 3:21 11:8,8,25 bergen 1:2,15 berkowitz 6:18 ber1936 1:7 bernard 7:13 bernheim 7:7 bernlieb 7:4,4 bernstein 4:10 7:1 11:2,4 best 19:8 birmingham 3:22 block 3:16 11:13 blume 6:18 bob 3:23 bobby 3:21 11:8 boulevard 2:10 6:14 bowl 9:2 box 4:2 5:3 braslow 2:14 10:11 break 12:16,16 brenda 2:9 10:22 brian 1:12</p>	<p>bridge 2:15 broadway 2:5 3:17 bsf 2:12</p> <p style="text-align: center;">C</p> <p>c 2:4,9 3:16,20 5:17 7:9 cabraser 4:10 11:2 11:4 cahill 1:18 19:3,19 cal 8:14 10:8 calvin 2:9 cannavo 3:16 11:13 cant 17:18 carboy 3:16 11:12 11:12 care 9:19,20 carluccio 6:21 carol 10:16 case 1:4,14 13:9,17 13:20 14:4 15:9 18:2,20 cases 13:19,25 14:6 14:6 catullo 5:18 12:20 12:22,25 13:1 15:18,24 16:8,13 17:23,24 18:8 catullos 15:20 ccr 19:19,20 ccw 2:11 center 3:21 5:19 certificate 19:1 certified 1:19 19:4 certify 19:5,10 chambers 10:2 charles 6:14 chatham 6:19 checking 15:21 cherry 2:21 6:9 chicago 9:17,18 ciresi 3:1 10:15,25 com 1:24 2:6,11,12 2:17,22 3:4,5,9,14 3:18,23 4:4,8,13 4:14,19,23 5:5,10</p>	<p>5:11,15,20,21 6:6 6:10,20 7:4,4,10 7:15 commerce 4:7 complete 14:16 completed 14:22 complied 14:9 computer 18:6 confer 14:25 15:4,8 16:14 17:15 conference 1:14 8:10 10:2 13:10 15:9 18:2,20 19:6 conferred 16:14 17:13 conshohocken 2:16 consist 14:6 contact 13:12 contd 6:1 contender 9:3,9 continue 14:25 15:4 16:14 17:15 continuing 13:13 15:8 18:13 cooperation 13:17 corp 5:22 13:2,4 correct 16:3,4,7 17:22 couch 3:20 counsel 8:5,12 10:5 13:5 15:11 16:25 18:3,11 19:12,14 county 1:2,15 couple 12:16 course 14:22 court 1:1,19 8:2,5 8:12,18,22 9:5,7 9:10,15,18 11:23 12:2,5,7,9,13,21 12:23 13:5 15:3 15:17,23 16:2,5 16:11,23 17:1,4,8 17:14,18,22 18:1 19:4 courthouse 1:15 courtroom 10:4</p>	<p>covers 17:6 cozen 6:8,10 curtis 7:10</p> <p style="text-align: center;">D</p> <p>d 3:1 7:9,11 dan 11:3 daniel 4:11 daskal 7:12,13,15 date 1:17 16:23 19:8 dated 19:21 dates 16:21,24 david 4:16,19 11:6 deadlines 14:11 15:20 decker 6:11 defendant 5:21 13:2,22 14:18 defendants 12:19 13:24 14:17 16:16 16:18,19 defense 13:6 15:2,3 defilippo 5:7,7 11:17 degrees 9:24 denney 2:8 10:9,23 deps 1:24 devices 17:21 diana 6:8 diane 7:10 dicello 3:7,7 11:18 11:18,19 dicellolaw 3:9 didnt 15:15 different 13:17 diligently 8:7 13:8 18:12 direction 18:14,15 disclosure 14:10 discovery 16:15 distributed 18:9 division 1:2 dleathers 4:13 dlin 6:10 docket 1:6</p>
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