

November 18, 2013

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - BERGEN COUNTY

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

- - -

November 18, 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 10:59 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 THE COURT: Good morning, everyone.
 2 You can be seated. We are actually on the record.
 3 (Pause.)
 4 THE COURT: Good morning, counsel
 5 that are appearing telephonically. You know the
 6 procedure that needs to be followed, and you will
 7 notice that we are on the record at 11:00 a.m. and I
 8 want to thank both counsel for their cooperation.
 9 We devised a new protocol that
 10 obviously has worked very well which gets us on the
 11 record at the designated time. That being said,
 12 counsel in the courtroom, your appearances for the
 13 record, please.
 14 - - -
 15 (All live and telephonic plaintiff
 16 counsel appearances are noted on the appearance
 17 page.)
 18 - - -
 19 THE COURT: Counsel, thank you. We
 20 had our usual conference --
 21 MS. CATULLO: Your Honor?
 22 THE COURT: I forgot about defense
 23 counsel. Sorry, Ms. Catullo. It's so much easier
 24 without defendants here, though, I must admit.
 25 - - -

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1 (All live and telephonic defense
 2 counsel appearances are noted on the appearance
 3 page.)
 4 - - -
 5 THE COURT: Thank you. My apologies.
 6 Again, I want to thank Ms. Relkin and
 7 Ms. Catullo for corresponding to my weekend e-mails,
 8 and we had devised a new system which has made our
 9 pretrial conference a lot easier, a lot smoother,
 10 and a lot more efficient, and I thank you for same.
 11 We have prepared a new order, as is
 12 my practice. I'm just going to highlight some of
 13 the important parts of the order, I think, and it's
 14 so nice to hear new counsel joining as we speak.
 15 Counsel have been continuing to meet
 16 and confer and I appreciate that; and as a result of
 17 those meetings, much of the information -- or much
 18 of the requirements under our prior case management
 19 conference order have been met.
 20 Counsel will by -- use their best
 21 efforts, defendants, to produce by November 27th
 22 fact sheets related to the ten mediated cases. By
 23 January 31st, defendants' fact sheets regarding the
 24 first set of plaintiffs' fact sheets received prior
 25 to November 18th shall be produced.

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1 By March 31st, defendants' fact
 2 sheets related to the second set of plaintiffs' fact
 3 sheets received prior to November 18th shall be
 4 produced. Again, defendants will be using their
 5 best efforts to comply with this order.
 6 At the next case management
 7 conference, I hope to have a schedule for the
 8 rollout of fact sheets received after November 18th.
 9 Regarding the protective order, the
 10 parties have met and conferred. There will be
 11 exchanges regarding the protective order, and the
 12 parties shall exchange revised drafts regarding
 13 paragraph 14B.
 14 If they are unable to agree, then the
 15 parties will submit to me a letter brief in addition
 16 to their proposed order by December 10th. If I can
 17 not resolve that, at the next case management
 18 conference, I will set forth a formal briefing
 19 schedule to address that issue.
 20 I am happy to report that there are
 21 scheduled mediations beginning December 3rd through
 22 January of 2014 on a variety of cases. I look
 23 forward to a report regarding those mediations as I
 24 see fit.
 25 Counsel, I'm going to throw a curve

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1 ball at you. This wasn't discussed in chambers.
 2 Does anybody have any objection if I talk to the
 3 mediator just to see how things are going, not
 4 necessarily specifics of any particular case, but
 5 just to get a general sense?
 6 MS. CATULLO: No objection.
 7 MS. RELKIN: No objection.
 8 THE COURT: Could you do me a favor,
 9 could you e-mail me then at some point contact
 10 information for the mediators, even though I have
 11 it, but this way it's right on my computer? I'd
 12 appreciate it.
 13 MS. RELKIN: Sure.
 14 THE COURT: Regarding Phase II
 15 eligible cases, there are 42 matters. There were 21
 16 cases prior to April 2nd and served between April
 17 2nd and July 26th. There were 21 cases filed after
 18 April 2nd and served between April 2nd and July
 19 26th.
 20 In addition to the ten cases that
 21 will be selected for Phase II set forth in sections
 22 A and B of this order, the parties have agreed to
 23 include up to five cases where plaintiff is
 24 presently over 80 years old for Phase II mediation.
 25 We will discuss the selection process

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1 at our next case management conference, but the
 2 plaintiff and the defendant will meet and confer
 3 prior to that to see how we're going to address that
 4 issue.
 5 With regard to the exemplars, I know
 6 that you're still meeting and conferring and I
 7 encourage you to try to come up with a solution to
 8 that issue.
 9 With respect to the Phase II cases,
 10 please, plaintiffs, get your fact sheets in and the
 11 medical information in -- not authorizations, the
 12 medical information -- so that we can -- or the
 13 defendants can start to evaluate those cases. It's
 14 imperative that that information be produced.
 15 Candidly, it's in your own best
 16 interest. It's in your client's own best interest
 17 to get that information to the defendants sooner
 18 rather than later.
 19 The rolling productions have been
 20 rolling along, I guess, and I know counsel have been
 21 meeting and conferring. Phase I was completed on
 22 October 11th. Phase II was completed on October
 23 25th. Phase III will be completed by November 25th.
 24 The records authorization, I believe
 25 that speaks -- that speaks for itself. There is a

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1 issue regarding the Court. Apparently our
 2 authorizations did not make it to the website. I am
 3 assured that they will be posted on the website by
 4 Wednesday? By Wednesday.
 5 So they will be on the website. We
 6 have them. There was just a little logistics
 7 problem, for lack of a better word.
 8 Anything further, counsel? Our next
 9 conference is going to be December 16th at 11:00?
 10 MS. CATULLO: Correct.
 11 THE COURT: Correct?
 12 MS. CATULLO: Yes.
 13 THE COURT: Miss Gibson is looking at
 14 me because it's my first day of vacation. I told
 15 you I was going to be here.
 16 Ms. Relkin?
 17 MS. RELKIN: Clarification on the
 18 medical records and authorizations. I believe
 19 everybody's supposed to provide authorizations, but
 20 also we need to provide the actual medical records
 21 It's both.
 22 THE COURT: I thought I said that,
 23 yes.
 24 MS. CATULLO: Yeah, you said not just
 25 authorizations --

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1 THE COURT: Right.
 2 MS. CATULLO: -- you said not
 3 authorizations, but, yeah, they should send the
 4 authorizations. The problem has been, they're not
 5 sending the records.
 6 THE COURT: Right.
 7 MS. CATULLO: Some people seem to be
 8 under the impression that authorizations are fine
 9 alone, and that's not the case.
 10 THE COURT: Right.
 11 MS. RELKIN: And just one other item,
 12 Your Honor. In chambers, we talked about a
 13 bellwether trial process and that, in January, we
 14 will --
 15 THE COURT: We will discuss that in
 16 January. I thought it made -- did that make it?
 17 MS. GIBSON: It did. It's in case
 18 management number 6.
 19 THE COURT: Case management number 6.
 20 Yep, under case management number 6, preliminary
 21 discussions relative to issues involving bellwether
 22 trials will be discussed at the January case
 23 management conference.
 24 That's in the order. I missed it
 25 when I went through the order. My apologies.

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1 Counsel, anything further?
 2 MS. RELKIN: That's all.
 3 MS. CATULLO: No, Your Honor.
 4 THE COURT: Okay. We'll use the same
 5 format for our upcoming case management conference
 6 as we did today?
 7 MS. CATULLO: Yes.
 8 MS. RELKIN: Yes.
 9 THE COURT: I thank you for your
 10 cooperation with each other and the Court. We look
 11 forward to seeing you in December. My best wishes
 12 for a happy, healthy Thanksgiving. Enjoy your
 13 well-deserved rest and we will see you in December,
 14 on December 16th. Counsel, thank you very much.
 15 Those on the phone, you know how to
 16 proceed. We're going to disconnect now. Thanks.
 17 MS. CATULLO: Thank you.
 18 MS. RELKIN: Thank you.
 19 (Case Management Conference concluded
 20 at approximately 11:08 a.m.)
 21
 22
 23
 24
 25

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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.
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KIMBERLY A. CAHILL, CCR, RMR
 Notary Number: 2160369
 Notary Expiration: February 6, 2014
 CCR Number: 30XI00188400
 Dated: November 22, 2013

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