

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - BERGEN COUNTY

- - -

IN RE: STRYKER REJUVENATE :Case No. 296  
& ABG II :  
: MODULAR HIP IMPLANT :  
LITIGATION :  
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- - -

January 28, 2014

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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 11:06 a.m., before MARGARET  
M. REIHL, a Certified Realtime Reporter, Certified  
Court Reporter and Notary Public for the State of New  
Jersey.

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29 Representing Plaintiff

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1 ---  
2 THE COURT: Good morning everyone. You  
3 can be seated. We are on the record. Call-in number.  
4 (Pause.)  
5 THE COURT: Counsel on the telephone, I  
6 appreciate your patience. We had a little glitch with  
7 our phone in the courtroom.  
8 We are on the record. For those of you  
9 on the telephone please recall the protocol that is in  
10 place regarding getting your appearance noted for the  
11 record.  
12 That being said, those in the courtroom,  
13 your appearances for the record, please.  
14 MR. MILLROOD: Tobi Millrood, Pogust  
15 Braslow & Millrood for Plaintiffs.  
16 MS. RELKIN: Ellen Relkin, Weitz &  
17 Luxenberg for plaintiffs.  
18 MR. ANAPOL: Anapol Schwarz for the  
19 plaintiff.  
20 MR. TESCHON: Russ Teschon for Laauwe.  
21 MR. SMITH: William Smith for Carol  
22 Myer.  
23 MR. GEFFNER: Steve Geffner from  
24 Schenck, Price, Smith and King for Rizzo.  
25 MS. FULMER: Brenda Fulmer from Searcy

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<p>1 Law on behalf of MDL plaintiffs.                  2 MS. MATARAZZO: Hadley Matarazzo from                  3 Faraci Lange on behalf of plaintiffs.                  4 MS. STERN: Felicia Stern from Bernstein                  5 Liebhard on behalf of multiple plaintiffs.                  6 MR. CARBOY: Andrew Carboy from Sullivan                  7 Papain Block McGrath &amp; Cannavo on behalf of plaintiffs.                  8 MR. KINCANNON: Good morning, Your                  9 Honor. Josh Kincannon from Keefe Bartels on behalf of                  10 plaintiffs.                  11 THE COURT: Okay.                  12 MR. SZERLAG: David Szerlag, Pritzker                  13 Olsen for the plaintiffs.                  14 MS. CATULLO: Good morning, Your Honor.                  15 Kim Catullo from Gibbons PC on behalf of defendant                  16 Howmedica Osteonics.                  17 MS. SPICER: Samantha Spicer, Gibbons,                  18 on behalf of defendant and Howmedica.                  19 THE COURT: Okay. Counsel, welcome.                  20 Also seated to my left for the record is Judge                  21 Matsunami. The judge is from Japan. He has spent the                  22 past several months in New Jersey observing our court                  23 system. He has been in several counties. This is his                  24 second visit to Bergen County, a second opportunity to                  25 view a mass tort conference. He was here a couple of</p>	<p>1 last page of the Order, or second to last page.                  2 Apparently, we have been engaged in mediation. There                  3 has been some success with the mediation. I just want                  4 to remind counsel that as a requirement to participate                  5 in the mediation, you must notify defense counsel                  6 within 30 days of the service of your complaint.                  7 Apparently, that has not been done. Some complaints                  8 have -- some individuals have asked for mediation and                  9 they have not complied with the original order, which                  10 was dated April 2nd, 2013. If you fall into that                  11 category that you have not yet complied, I am going to                  12 permit you to advise defense counsel by February 4 of                  13 your desire to participate in the mediation program and                  14 that will be -- that's reflected in Number 9 in the                  15 last section of our Order, but please comply with that.                  16 I'm also going to ask the web master or,                  17 Stephanie, if you can have under notices or notes to                  18 defense counsel to just to put that in there, to remind                  19 them that they have to request mediation within 30 days                  20 or else they can't participate.                  21 Talking about mediation, I'm happy to                  22 report that the Murray matter has resolved, that was                  23 mediated by Judge Welch and that is the fifth                  24 resolution out of the eight cases that went to                  25 mediation.</p>
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<p>1 weeks ago. We welcome the judge, we thank him for                  2 coming. We look forward to him maybe coming back again                  3 in the upcoming months. And I appreciate counsel's                  4 candor and cooperation with the judge in conference, as                  5 the judge did sit in during our pretrial conference,                  6 just not that we need to put it on the record, but,                  7 obviously, the judge is well aware that what happens in                  8 conference is confidential and does in a certain                  9 respect border on some settlement, but the judge is                  10 well aware of that. So welcome, Your Honor, it's our                  11 pleasure to have you here in Bergen County.                  12 As we have done in the past, we had a                  13 conference in chambers. An Order has been generated.                  14 I just want to highlight some important parts of that                  15 Order, some changes and some reminders of where we were                  16 and where we're going.                  17 Regarding the discovery, just a reminder                  18 to the defendants to, please, if there is a                  19 to-be-supplied regarding sales representative and sale                  20 rep information, please provide same as soon as                  21 possible if, again, it wasn't included in your fact                  22 sheet. That would be appreciated by all parties and                  23 The Court and will make the litigation move a bit                  24 smoother.                  25 In the Order -- I'm going to jump to the</p>	<p>1 I'm also happy to report that the                  2 plaintiff in Murray was represented by a different firm                  3 that hadn't participated in mediation before and it is                  4 a good sign that we have a diversity of firms                  5 participating in mediation with, I dare say, great                  6 results at this juncture.                  7 The goal with the mediation, aside from                  8 having a variety of cases and a different array of                  9 cases and a unique universe of cases to give us certain                  10 parameters, is to also get more law firms involved.                  11 Everybody represents their clients a bit differently,                  12 everybody has a different pool of cases and we feel and                  13 The Court feels that it would be a better process if we                  14 could get more law firms involved, and we have                  15 attempted to do that and encourage the firms to                  16 participate in the mediation. And one of the ways that                  17 we have attempted to do that is in the prior order we                  18 were going to have an 80 and older group of plaintiffs.                  19 I have reduced the age to 78 years old and, again, that                  20 is to increase the law firm participation.                  21 I have reviewed the selection -- the                  22 cases that fit into that category and The Court's                  23 choice to participate in the mediation is a plaintiff                  24 J. Geisler, Docket is 503513 and that firm will be --                  25 I'm sorry -- that case will be in the mediation in the</p>

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1 over 78 group. Ms. Geisler is represented by the  
 2 Rheingold firm.  
 3 The parties are in the process of  
 4 finalizing the Phase II eligible matters for mediation  
 5 as identified in CMO Number 11. The parties will  
 6 submit a list of eligible cases by February 4. I will  
 7 announce my selection by February 11 and we'll move on  
 8 from there.  
 9 The Court is also mindful and wants to  
 10 remind counsel that the settlements in the mediation  
 11 are confidential, that is a requirement and a condition  
 12 of settling that the defendants are insisting on and,  
 13 candidly, at this stage of the litigation this court  
 14 feels that the confidentiality is crucial. It's  
 15 reasonable and at this stage the Court is in agreement  
 16 with counsel that it should be kept confidential, at  
 17 least at this phase of the litigation.  
 18 Discovery has been proceeding. There  
 19 have been some modifications to the committees. I'm  
 20 going to ask Ms. Relkin to submit an order to the Court  
 21 which will memorialize the structure of the committees  
 22 that were set by prior Order of the Court, as well as  
 23 memorialize those members of the various committees.  
 24 There have been -- two individuals have been  
 25 substituted in since our last Order.

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1 There has been an issue with respect to  
 2 Broadspire, payment for the Broadspire related files in  
 3 conjunction with defendants fact sheet shall be made by  
 4 check in the amount of \$50 payable to Broadspire, with  
 5 an indication in the memo field of both the plaintiff's  
 6 name and the Broadspire claim number. The checks will  
 7 be mailed to Nora Wolf at Gibbons, who will then  
 8 forward same to Broadspire.  
 9 Counsel, I appreciate your cooperation  
 10 with The Court, with each other. I'm encouraged by the  
 11 fact that the mediation process has begun and is  
 12 continuing and I am very pleased with the results of  
 13 the mediation and I would like to thank the judges that  
 14 have mediated our cases for us.  
 15 Anything further, counsel?  
 16 MS. RELKIN: No, Your Honor.  
 17 MS. CATULLO: No, Your Honor.  
 18 THE COURT: Did I hit on everything?  
 19 MS. CATULLO: You did.  
 20 THE COURT: That being said, we will  
 21 have our next Case Management Conference on February 26  
 22 at 11:00 a.m. Again, liaison counsel will meet prior  
 23 thereto, at 10:00 or earlier, subject to the agenda  
 24 that we can foresee.  
 25 Also, there have been dates set for

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1 subsequent mediations toward the end of March and  
 2 during the month of April and I'm encouraged and hope  
 3 those slots get filled and we can have more good news  
 4 as the litigation progresses.  
 5 Again, anything further? Anything  
 6 further from anyone telephonically?  
 7 That being said, counsel, thank you very  
 8 much. Enjoy this balmy weather. I'm glad to see  
 9 Mr. Warner did not decide to join us, it's way too cold  
 10 for him, is that what's happening.  
 11 MS. RELKIN: He doesn't own a winter  
 12 coat, apparently.  
 13 THE COURT: Okay. We're going to  
 14 disconnect and thank you and have a good day.  
 15 (Off the record at 11:21 a.m.)  
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1 CERTIFICATION  
 2 I, MARGARET M. REIHL, a Registered  
 3 Professional Reporter, Certified Realtime Reporter,  
 4 Certified Shorthand Reporter, Certified LiveNote  
 5 Reporter and Notary Public, do hereby certify that the  
 6 foregoing is a true and accurate transcript of the  
 7 testimony as taken stenographically by and before me at  
 8 the time, place, and on the date hereinbefore set  
 9 forth.  
 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 that  
 13 I am neither a relative nor employee of such attorney  
 14 or counsel, and that I am not financially interested in  
 15 the action.  
 16  
 17  
 18 -----  
 19 Margaret M. Reihl, RPR, CRR, CLR  
 20 CSR #XI01497 Notary Public  
 21  
 22  
 23  
 24  
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