

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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- - -

February 27, 2014

- - -

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 11:10 a.m., before MARGARET  
M. REIHL, a Certified Realtime Reporter, Certified  
Court Reporter and Notary Public for the State of New  
Jersey.

GOLKOW TECHNOLOGIES, INC.

877.370.3377 ph | 917.591.5672 fax

deps@golkow.com

Page 2

1 APPEARANCES:  
2  
3 WEITZ & LUXENBERG P.C.  
BY: ELLEN RELKIN, ESQUIRE  
700 Broadway  
4 New York, New York 10003  
(212) 558-5500  
5 Representing Plaintiffs  
6  
7 ANAPOL SCHWARTZ  
BY: THOMAS R. ANAPOL, ESQUIRE  
1710 Spruce Street  
8 Philadelphia, Pennsylvania 19103  
(215) 790-4572  
9 tanapol@anapolschwartz.com  
Representing the Plaintiffs  
10  
11 LYNCH DASKAL EMERY LLP  
BY: SCOTT A. HARFORD, ESQUIRE  
264 West 40th Street  
12 New York, New York 10018  
(212) 302-2400  
13 harford@lawlynch.com  
Representing the Plaintiffs  
14  
15 POGUST BRASLOW & MILLROOD, LLC  
BY: TOBIAS L. MILLROOD, ESQUIRE  
161 Washington Street, Suite 1520  
17 Conshohocken, Pennsylvania 19428  
(610) 941-4204  
18 tmillrood@pbmattorneys.com  
Representing the Plaintiffs  
19  
20 SCHENCK PRICE SMITH & KING LLP  
BY: STEPHEN A. GEFFNER, ESQUIRE  
21 JAMES A. KASSIS, ESQUIRE  
220 Park Avenue  
22 P.O. Box 991  
Florham Park, New Jersey 07932  
23 (973) 539-1000  
sag@spsk.com  
24 jak@spsk.com  
Representing the Plaintiffs  
25

Page 4

1 WILENTZ GOLDMAN & SPITZER, P.A.  
2 BY: DANIEL R. LAPINSKI, ESQUIRE  
90 Woodbridge Center Drive, Suite 900  
3 Woodbridge, New Jersey 07095  
(800) 864-6652  
4 dlapinski@wilentz.com  
5  
6 GIBBONS P.C.  
BY: KIM M. CATULLO, ESQUIRE  
SAMANTHA L. SPICER, ESQUIRE  
7 One Gateway Center  
Newark, New Jersey 07102  
8 (973) 596-4500  
kcatullo@gibbonslaw.com  
9 sspicer@gibbonslaw.com  
Representing the Defendant  
Howmedica Osteonics Corporation  
10  
11 ---  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Page 3

1  
2 KEEFE BARTELS LLC  
BY: JOSHUA S. KINCANNON, ESQUIRE  
170 Monmouth Street  
3 Red Bank, New Jersey 07701  
(732) 224-9400  
4 jkincannon@keefebartels.com  
Representing the Plaintiffs  
5  
6 ROBINS KAPLAN MILLER & CRESI, LLP  
BY: HOLLY H. DOLEJSI, ESQUIRE  
7 800 Lasalle Avenue, Suite 2800  
Minneapolis, Minnesota 55402  
8 (612) 349-8452  
Representing the Plaintiffs  
9  
10 ROBINS KAPLAN MILLER & CRESI, LLP  
BY: HILLEL I. PARNES, ESQUIRE  
11 601 Lexington Avenue, 34th Floor  
New York, New York 10022-4611  
12 (212) 980-7400  
Representing the Plaintiffs  
13  
14 SULLIVAN PAPAIN BLOCK MCGRATH & CANNAVO, P.C.  
BY: FRANK V. FLORIANI, ESQUIRE  
15 120 Broadway  
New York, New York 10271  
16 (212) 732-9000  
Representing the Plaintiffs  
17  
18 HOOK, SMITH & MEYER  
BY: WILLIAM SMITH, ESQUIRE  
19 851 Franklin Lakes Road  
Franklin Lakes, New Jersey 07417  
20 (201) 81-1900  
wsmith@lawflnj.com  
21 Representing the Plaintiffs  
22  
23  
24  
25

Page 5

1 APPEARANCES TELEPHONICALLY:  
ZELE HUBER TRIAL ATTORNEYS, P.A.  
2 BY: GREGORY P. HUBER, ESQUIRE  
4600 Military Trail, Suite 212  
3 Jupiter, Florida 33458  
561.630.9700  
4 ghuber@MylInjuryJustice.com  
Representing Plaintiffs, Thomason  
5  
6 SEEGER WEISS, LLP  
BY: ASIM M. BADARUZZAMAN, ESQUIRE  
550 Broad Street, Suite 920  
7 Newark, New Jersey 07102  
973.639.5318  
8 ABadaruzzaman@seegerweiss.com  
Representing Plaintiff  
9  
10 ARONFELD TRIAL LAWYERS  
BY: DOMENICK GIOVANNI LAZZARA, ESQUIRE  
3132 Ponce de Leon Boulevard  
11 Coral Gables, Florida 33134  
305.441.0440  
12 dlazzara@aronfeld.com  
Representing Plaintiff, Grossman  
13  
14 KELLEY BERNHEIM & DOLINSKY, L.L.C.  
BY: MICHAEL E. GALLANT, ESQUIRE  
2200 Pennsylvania Avenue, N.W.  
15 Suite 400, East Tower  
Washington, D.C. 20037  
16 202.379.0680  
mgallant@KBDattorneys.com  
17 Representing Plaintiffs, Morse, Baham, Shea and Vetere  
18 TRIEF & OLK  
BY: JORDAN RUTSKY, ESQUIRE  
19 150 East 58th Street  
New York, New York 10155  
20 212.486.6060  
jrutsky@triefandolk.com  
21 Representing Plaintiff  
22 BEASLEY ALLEN CROW METHVIN PORTIS & MILES, P.C.  
BY: NAVAN WARD, JR., ESQUIRE  
23 218 Commerce Street  
Montgomery, Alabama 36104  
24 800.898.2034  
Navan.Ward@BeasleyAllen.com  
25 Representing Plaintiff, Oetgen

Page 6

1 HOLLIS WRIGHT CLAY & VAIL, P.C.  
 BY: TYLER C. VAIL, ESQUIRE  
 2 BOBBY J. BELL, ESQUIRE  
 2201 Morris Avenue  
 3 Birmingham, Alabama 35203  
 205.324.3600  
 4 tylerv@hollis-wright.com  
 bobbyb@hollis-wright.com  
 5 Representing Plaintiff, Bridgman, et al.  
 6 FLEMING NOLEN & JEZ, L.L.P.  
 BY: G. SEAN JEZ, ESQUIRE  
 7 2800 Post Oak Boulevard, Suite 4000  
 Houston, Texas 77056  
 8 713.621.7944  
 Sean\_jez@fleming-law.com  
 9 Representing Plaintiff, Rathbum  
 10 VAN WEY LAW, P.L.L.C.  
 BY: KAY L. VAN WEY, ESQUIRE  
 11 12720 Hillcrest Road, Suite 725  
 Dallas, Texas 75230  
 12 214.329.1350  
 kay@vanweylaw.com  
 13 Representing Plaintiffs, Rieger  
 14 TESCHON RICCOBENE and SISS, P.A.  
 BY: MICHAEL HICKEY, ESQUIRE  
 15 327 Godwin Avenue  
 Midland Park, NJ 07432  
 16 201.670.4400  
 mike@trslawfirm.com  
 17 Representing Plaintiffs, Laauwe  
 18 VONACHEN LAWLESS TRAGER & SLEVIN  
 BY: M. MICHAEL WATERS, ESQUIRE  
 19 456 Fulton Street, Suite 425  
 Peoria, Illinois 61602  
 20 309.676.8986  
 mwaters@vltslaw.com  
 21 Representing Plaintiffs, Moushon  
 22 PRITZKER OLSEN, P.A.  
 BY: DAVID SZERLAG, ESQUIRE  
 23 45 South Seventh Street, Suite 2950  
 Minneapolis, Minnesota 55402  
 24 612.338.0202  
 david@pritzkerlaw.com  
 25 Representing Plaintiff

Page 8

1 WILLIAMS CUKER BEREZOFOSKY, L.L.C.  
 BY: MARIA JANOSKI, ESQUIRE  
 2 210 Lake Drive East, Suite 101  
 Cherry Hill, New Jersey 08002  
 3 856.667.0500  
 MJanoski@wcblegal.com  
 4 Representing Plaintiff  
 5 KOPELOWITZ OSTROW FERGUSON WEISELBERG KEECHL  
 BY: JAN D. ATLAS, ESQUIRE  
 6 ANDREW NORDEN, ESQUIRE  
 200 S. W. 1st Avenue, 12th Floor  
 7 Fort Lauderdale, Florida 33301  
 954.525.4100  
 8 atlas@kolawyers.com  
 norden@kolawyers.com  
 9 Representing Plaintiff, Blankman  
 10 THE LAW OFFICES OF ROBERT J. FENSTERSHEIB &  
 ASSOCIATES, P.A.  
 11 BY: CHARLES MINDLIN, ESQUIRE  
 520 West Hallandale Beach Boulevard  
 12 Hallandale, Florida 33009  
 954.456.2488  
 13 cm@fenstersheib.com  
 Representing Plaintiff, Doneson  
 14  
 15 PRITZKER OLSEN, P.A.  
 BY: KELLY McNABB, ESQUIRE  
 45 South 7th Street  
 16 Suite 2950 Plaza VII Building  
 Minneapolis, Minnesota 55402  
 17 612.338.0202  
 Kelly@pritzkerlaw.com  
 18 Representing Plaintiffs, Anderson, Berg, Bouras, Bowe,  
 Cimperman, Cotone, Crawford, Douty, Gaudet, Gehweiler,  
 19 Hemmesch, Kosloskey, Linn and Wakefield  
 20 SCHLESINGER, P.A.  
 BY: JEFFREY L. HABERMAN, ESQUIRE  
 21 1212 Southeast Third Avenue  
 Fort Lauderdale, FL 33316  
 22 954.3209507  
 JHberman@schlesingerlaw.com  
 23 Representing Plaintiffs  
 24  
 25

Page 7

1 RHEINGOLD VALET RHEINGOLD MCCARTNEY & GIUFFRA, L.L.P.  
 BY: DAVID B. RHEINGOLD, ESQUIRE  
 2 MELISSA MENDOZA, ESQUIRE  
 113 East 37th Street  
 3 New York, New York 10016  
 212.684.1880  
 4 drheingold@rheingoldlaw.com  
 mmendoza@Rheingoldlaw.com  
 5 Representing Plaintiffs, Buechele, Geisler,  
 Krempsi-Jones, Moushon, Sturgess, Tompkins, Lominski,  
 6 Milne, Beahan, Schubert, Bitzko and Carr  
 7 ALTENPOHL LAW FIRM  
 BY: MICHELLE ALTENPOHL, ESQUIRE  
 8 328 Sweetbriar Road  
 King of Prussia, Pennsylvania 19406  
 9 609.408.5726  
 altenpohl@altenpohllawfirm.com  
 10 Representing Plaintiff, Freeman  
 11 GURFEIN DOUGLAS, L.L.P.  
 BY: PRESTON J. DOUGLAS, ESQUIRE  
 12 11 Park Place, Suite 1100  
 New York, New York 10007  
 13 212.406.1600  
 pdouglas@gurfeindouglas.com  
 14 Representing Plaintiff, Sample  
 15 POPE MCGLAMRY KILPATRICK MORRISON & NORWOOD, P.C.  
 BY: KIM JOHNSON, ESQUIRE  
 16 CAROLINE McGLAMRY, ESQUIRE  
 CLARK ROSENGARTEN, ESQUIRE  
 17 3455 Peachtree Road, NE  
 The Pinnacle, Suite 925  
 18 Atlanta, Georgia 30326  
 404.523.7706  
 19 clarkrosengarten@pmkm.com  
 KimJohnson@pmkm.com  
 20 CarolineMcGlamry@pmkm.com  
 Representing Plaintiffs, Brodie, Clark,  
 21 Darche, Harp, Knott, Spooner, Sticher, Waddell,  
 Wright, Lowe, Stephens, Burroughs, Coltrane,  
 22 Patterson, Whitlock, et al.  
 23  
 24  
 25

Page 9

1 BLUME DONNELLY FRIED FORTE ZERRES & MOLINARI  
 BY: JEFFREY J. ZENNA, ESQUIRE  
 2 One Main Street  
 Chatham, New Jersey 07928  
 3 973.635.5400  
 jzenna@njatty.com  
 4 Representing Plaintiffs, Carluccio, Fierro, Mercadantem  
 Press, Gumnitz, Proctor, Roberts and Wilson  
 5  
 6 DEAN LAW FIRM  
 BY: J. CHRISTOPHER DEAN, ESQUIRE  
 17225 El Camino Real, Suite 190  
 7 Houston, Texas 77058  
 281.280.8900  
 8 Dean@jamesdeanlaw.com  
 Representing Plaintiffs, Cornelius  
 9  
 10 ROBINS, KAPLAN, MILLER & CIRESI, LLP  
 BY: TARA D. SUTTON, ESQUIRE  
 800 LaSalle Avenue, 2800 LaSalle Plaza  
 11 Minneapolis, Minnesota 55402  
 612.349.8577  
 12 TDSutton@rkmc.com  
 Representing Plaintiff, Rubald  
 13  
 14  
 15 ---  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
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1 THE COURT: You can all be seated.  
 2 We are on the record in court. Counsel  
 3 on the telephone, I'm sure you remember the protocol  
 4 that needs to be followed.  
 5 That being said, counsel, your  
 6 appearances, please.  
 7 MS. RELKIN: Good morning, Your Honor,  
 8 Ellen Relkin from Weitz and Luxenberg for the  
 9 plaintiffs.  
 10 MR. MILLROOD: Tobi Millrood, Pogust  
 11 Braslow & Millrood for the plaintiffs.  
 12 MR. ANAPOL: Good morning, Your Honor.  
 13 Tom Anapol, Anapol Schwartz for the plaintiffs.  
 14 MR. SMITH: William Smith for plaintiff  
 15 Carol Myer.  
 16 MR. LAPINSKI: Good morning, Your Honor  
 17 Dan Lapinski, the Wilentz firm, plaintiffs.  
 18 MR. PARNES: Hillel Parnes, Robins,  
 19 Kaplan, Miller & Cresi, plaintiffs.  
 20 MR. FLORIANI: Frank Floriani --  
 21 (Phone interruption.)  
 22 THE COURT: Yeah, we don't need you to  
 23 put your appearance on the phone if you are appearing  
 24 telephonically, counsel. There is an order in place  
 25 and a protocol in place that you can follow so why

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1 don't you look on the website and you can see the  
 2 telephonic requirement. Thank you.  
 3 Counsel in chambers, in court.  
 4 MR. FLORIANI: Did you want me to  
 5 repeat, Your Honor?  
 6 THE COURT: Please.  
 7 MR. FLORIANI: Frank Floriani, Sullivan,  
 8 Papain, Block, McGrath & Cannavo.  
 9 MR. CARBOY: Andrew Carboy, Sullivan,  
 10 Papin, Block, McGrath & Cannavo, counsel for  
 11 plaintiffs.  
 12 MS. DOLEJSI: Holly Dolejsi, Robins,  
 13 Kaplan, Miller & Cresi, for the plaintiffs.  
 14 MR. GEFFNER: Steve Geffner, Schenck,  
 15 Price, Smith & King, for plaintiffs.  
 16 MR. KASSIS: James Kassis, Schenck,  
 17 Price, Smith & King on behalf of Michael Rizzo.  
 18 MR. KINCANNON: Josh Kincannon, Keefe  
 19 Bartels, for the plaintiffs.  
 20 MR. HARFORD: Scott Harford, Lynch,  
 21 Daskal, Emery, for the plaintiffs.  
 22 THE COURT: Anyone else here that needs  
 23 to put an appearance on the record for the plaintiffs?  
 24 No.  
 25 MS. CATULLO: Good morning, Your Honor

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1 Kim Catullo from Gibbons PC on the behalf of the  
 2 defendant, Howmedica Osteonics Corporation.  
 3 MS. SPICER: Samantha Spicer, Gibbons,  
 4 for the defendant.  
 5 THE COURT: Welcome, Counsels. I  
 6 appreciate your agenda we did have a brief  
 7 conference -- actually, a not so brief conference -- in  
 8 chambers regarding case management. I will briefly  
 9 summarize what occurred. There will be an Order  
 10 generated that will be posted on our website. Okay.  
 11 I'm happy to report since our last conference several  
 12 cases have been resolved.  
 13 Did I forget the Order again? Why do I  
 14 always do this? I always grab the wrong notes. Just  
 15 bear with me, I think I left it on my desk. I'm sorry.  
 16 See if there is an order on my desk. I found it. I'm  
 17 sorry. I got it.  
 18 Since our last conference the only  
 19 amendment to compliance would be that we're going to  
 20 redact on Page 2 a prior CMO, a date of January 31st,  
 21 because that's moot.  
 22 The meet and confer regarding the  
 23 Protective Order will be extended until March 21st,  
 24 which is the date that if there is issues, parties will  
 25 submit their dueling proposals, if you will.

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1 Again, I'm happy to report since our  
 2 last conference several other cases have resolved in  
 3 mediation, specifically Singh, and that was done with  
 4 the assistance of Judge Welsh and the plaintiff was a  
 5 Florida resident.  
 6 Cotone, with the assistance of Judge  
 7 Hamlin, plaintiff was a Wisconsin resident.  
 8 And Cook, with Judge Hamlin's  
 9 assistance, and the plaintiffs appeared in court on the  
 10 24th, that was settled last Monday with Judge Hamlin's  
 11 assistance again and the Court's assistance.  
 12 I'm happy to report out of the Phase I  
 13 mediations Grossman has been postponed, but eight of  
 14 the nine have been resolved through mediation and the  
 15 Court is very appreciative of the work of the  
 16 mediators, as well as the lawyers representing their  
 17 clients' interests. One case is still outstanding and  
 18 has not been postponed, which is Magi case.  
 19 Counsel, I will make myself available if  
 20 you so desire to have me conduct a settlement  
 21 conference in that matter, if you think it would be  
 22 beneficial to come to court rather than to continue  
 23 with the mediator, though I'm confident in the  
 24 abilities of the mediator.  
 25 We're moving into Phase II mediation now

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1 and I just want to go over those cases that are in  
 2 Phase II. Again, I think it is a very good overview, a  
 3 very good sampling of the various jurisdictions,  
 4 various law firms and it is certainly forming the  
 5 basis, hopefully, of ranges of value.  
 6 Phase II, 78 and older: Geisler is a  
 7 New Jersey resident under the general list. Conklin is  
 8 a New Jersey resident represented by Anapol Swartz.  
 9 Jeannita Gaudet is a Massachusetts resident,  
 10 represented by Pritzker Olsen. Krempski-Jones, a New  
 11 Jersey resident, represented by Rheingold Valet.  
 12 Watskin, a New Jersey resident, represented by Lief  
 13 Cabrasher.  
 14 Plaintiffs selections, Phase II, 78 or  
 15 older: Kile is an Arizona resident represented by  
 16 Searcy and Denney. De La Fuente is a Florida resident  
 17 represented by Pogust Braslow. Dlutkowski is an  
 18 Indiana resident, represented by Anapol Schwartz.  
 19 Beard is an Arkansas resident represented by the Bohrer  
 20 Law Firm. And Stevens, an Illinois resident,  
 21 represented by Weitz & Luxenberg.  
 22 Defendants have until March 14th to make  
 23 their selection. Please, just a reminder to have the  
 24 appropriate discovery and fact sheets provided to  
 25 defense counsel in order to make the mediation sessions

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1 more fruitful and secure and disclose third party meet  
 2 information 30 days prior to the mediation.  
 3 With respect to the exemplars, we've  
 4 been talking about this for several months now.  
 5 Defendant has been searching and I'm going to order  
 6 that defendant shall have all the information relating  
 7 to plaintiff's inquiry about the inventory within the  
 8 next 30 days.  
 9 Please note there will be an Order  
 10 posted on the website dealing with an amended  
 11 alternative option for the service of complaints. Note  
 12 there is a new e-mail address in that. The e-mail  
 13 address is rejabg\_newjerseycomplaints@gibbonslaw. I am  
 14 signing an Order to that effect. It will be posted on  
 15 the website. It will be segregated from all the other  
 16 Orders on the website. So you can go to the Order to  
 17 see how to properly serve complaints, and it's also  
 18 referenced in the Case Management Order today.  
 19 Discovery is proceeding. There's an  
 20 ongoing production, there's rolling productions. I  
 21 understand that another custodial file of some  
 22 magnitude was produced yesterday. I thank counsel for  
 23 their continuing exchange of discovery and that the  
 24 meet and confers and the cooperation between counsel is  
 25 much appreciated by the Court.

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1 Please note I am putting a discovery end  
 2 date of March 31st, 2015 into this Order, that is for  
 3 calendar control purposes only. Candidly, if it is not  
 4 in the Order, if it is not -- if there isn't a date set  
 5 out and the date -- if it was not in the Order and not  
 6 extended and the date passes, the computer starts  
 7 generating and spitting out all kinds of notices so to  
 8 avoid computer-generated notices at the calendar  
 9 control March 31st is the discovery end date of 2015.  
 10 There was a spirited discussion in  
 11 chambers regarding the selection of Bellwether trial  
 12 dates. I'm going to defer that to subsequent case  
 13 management conferences, though I did enjoy counsel's  
 14 discussion a couple of moments ago.  
 15 Our next case management conference will  
 16 be April 1st at 11:00 and the liaison counsel will be  
 17 here at 9:30. I expect and I appreciate the fact that  
 18 the agenda has been submitted. I think that covered  
 19 everything we discussed, did it?  
 20 MS. RELKIN: Two minor things. Just a  
 21 minor correction. The Geisler case, which was  
 22 selected, I believe, is a New York plaintiff, not New  
 23 Jersey. It's not really consequential.  
 24 THE COURT: Okay.  
 25 MS. RELKIN: And on the service of

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1 complaints, the Amended Order that you described that  
 2 there is the new e-mail address, which is important,  
 3 but the other news on that is the prior service  
 4 Complaint Order, which with Your Honor's help you  
 5 persuaded defendants to allow alternative service, at  
 6 that point it was only for cases -- firms that had 25  
 7 or more cases. Now, in further negotiations, defendant  
 8 has agreed that for all cases. So if somebody is  
 9 filing their first case, they do not need to do the  
 10 formal service of process, they need to comply with  
 11 that Order instead.  
 12 THE COURT: Right. That's appreciated.  
 13 MS. CATULLO: Judge, if I could just  
 14 add, you mentioned the folks who had been selected for  
 15 mediation should make sure their PFSes were in. That  
 16 was what qualified them to be included. From our  
 17 perspective the medical records that were supposed to  
 18 be provided with those PFSes are the issue that we're  
 19 having. So if I could just encourage folks, as Your  
 20 Honor did, to please get in the very basic medical  
 21 records that we need to proceed with mediation. There  
 22 are a few of the cases that were selected that are not  
 23 in the best shape, but we did not bounce them for that  
 24 reason alone, so I do ask folks do that as well.  
 25 THE COURT: And the lien information as

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1 well.  
2 MS. CATULLO: Correct.  
3 THE COURT: Anything further from  
4 counsel? Okay. We have our next conference date.  
5 Just to let you know, I have been in  
6 contact with judge frank. We've spoken and we will  
7 continue, hopefully, to coordinate our efforts.  
8 Anything further? Okay. Counsel, see you in April.  
9 Off the record.  
10 (Hearing adjourned at 11:23 a.m.)  
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25

Page 19

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  
25

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