

June 23, 2014

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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.
MODULAR HIP IMPLANT LITIGATION :296
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June 23, 2014

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BEFORE: HON. BRIAN R. MARTINOTTI, JSC

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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 1:20 p.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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Page 2	Page 4
<p>1 APPEARANCES: 2 WEITZ & LUXENBERG, P.C. BY: ELLEN RELKIN, ESQUIRE 3 700 Broadway, 5th Floor New York, New York 10003 (212) 558-5500 erelkin@weitzlux.com 4 Representing the Plaintiffs 5 6 KEEFE BARTELS LLC BY: JOSHUA S. KINCANNON, ESQUIRE 7 170 Monmouth Street Red Bank, New Jersey 07701 (732) 224-9400 8 jkincannon@keefebartels.com 9 Representing the Plaintiffs 10 11 SULLIVAN PAPAIN BLOCK McGRATH & CANNAVO P.C. BY: ANDREW J. CARBOY, ESQUIRE 12 120 Broadway New York, New York 10271 (212) 732-9000 13 ACarboy@TrialLaw1.com 14 Representing the Plaintiffs 15 16 PARNES LAW FIRM, PLLC BY: HILLEL PARNES, ESQUIRE 17 136 Madison Avenue Sixth Floor New York, New York 10016 (646) 526-8261 18 hip@hiplaw.com 19 Representing the Plaintiffs 20 21 GIBBONS P.C. BY: KIM M. CATULLO, ESQUIRE BY: SAMANTHA L. SPICER, ESQUIRE 22 One Gateway Center Newark, New Jersey 07102-5310 (973) 596-4500 23 kcatullo@gibbonslaw.com 24 sspicer@gibbonslaw.com Representing the Defendant, Howmedica Osteonics 25 Corp.</p>	<p>1 RHEINGOLD, VALET, RHEINGOLD, McCARTNEY & GIUFFRA LLP BY: MELISSA MENDOZA, ESQUIRE 2 113 East 37th Street New York, New York 10016 (212) 684-1880 3 mmendoza@rheingoldlaw.com 4 Representing the Plaintiffs, Buechele, et al 5 6 COZEN O'CONNOR BY: DIANA LIN, ESQUIRE 7 1900 Market Street Philadelphia, Pennsylvania 19103 (215) 665-2000 8 dlin@cozen.com Representing the Plaintiffs, Moore and Decker 9 10 POPE McGLAMRY KILPATRICK MORRISON & NORWOOD, P.C. BY: CLARK ROSENGARTEN, ESQUIRE BY: CAROLINE McGLAMRY, ESQUIRE The Pinnacle 12 3455 Peachtree Road, N.E. Suite 925 P.O. Box 191625 Atlanta, Georgia 30326 (404) 523-7706 14 clarkrosengarten@pmkm.com 15 carolinemcglamry@pmkm.com Representing the Plaintiffs 16 17 ALTENPOHL LAW FIRM BY: MICHELLE ALTENPOHL, ESQUIRE 18 8001 Second Avenue Suite 411 Stone Harbor, New Jersey 08247 (609) 408-5726 20 altenpohl@altenpohllawfirm.com Representing the Plaintiff, Donna Freeman, et al 21 22 TRIEF & OLK BY: JORDAN RUTSKY, ESQUIRE 23 150 East 58th Street New York, New York 10155 (212) 486-6060 24 jrutsky@triefandolk.com 25 Representing the Plaintiff, Nancy Gomez</p>
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 23 Representing the Plaintiffs
 24
 25

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1 - - -
 2 THE COURT: Okay. Counsel on the
 3 telephone, welcome. You know the protocol that
 4 needs to be followed to make sure your appearances
 5 are noted. We are on the record.
 6 Just for the record, I would like to
 7 note that our Polycom is not working. Ms. Relkin
 8 was kind enough to loan her cell phone so that the
 9 counsel that are appearing telephonically can listen
 10 and participate if need be in this proceeding.
 11 Again, the Polycom is not working.
 12 That being said, counsel, your
 13 appearances for the record, please?
 14 MS. RELKIN: Ellen Relkin from Weitz
 & Luxenberg for the plaintiffs.
 15 MR. PARNNESS: Hillel Parness, Parness
 16 Law Firm, for the plaintiffs.
 17 MR. KINCANNON: Josh Kincannon, Keefe
 18 Bartels, for the plaintiffs.
 19 MR. CARBOY: Andrew Carboy, Sullivan
 20 Papain Block McGrath & Cannavo, for the plaintiffs.
 21 THE COURT: Telephone, you'll know
 22 how to get your appearance.
 23 Go ahead.
 24 MS. CATULLO: Kim Catullo for the
 25

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1 Defendant, Howmedica Osteonics Corp., from Gibbons
 2 P.C.
 3 MS. SPICER: Samantha Spicer for
 4 Howmedica Osteonics Corp. from Gibbons, P.C.
 5 THE COURT: Counsel on the telephone,
 6 you're to e-mail the court reporter afterwards and
 7 your appearances will be noted. I assume in light
 8 of the -- someone trying to talk on the phone that
 9 you can hear me.
 10 That being said, counsel, I'd like
 11 you -- I'd like to thank you for your efforts. We
 12 did review the agenda that was submitted. We did
 13 work in chambers regarding an order, and I'm going
 14 to just highlight some of the important parts of our
 15 new order, which is Case Management Order No. 17.
 16 Counsel have been meeting and
 17 conferring, trying to arrive at an agreement
 18 regarding a protective order. I'm going to order
 19 the parties to continue to meet and confer and to
 20 submit a final protective order to me by 4:00 p.m.
 21 on July 2nd.
 22 If they cannot meet this deadline,
 23 the Court shall be advised and I will schedule a
 24 conference call for July 7th. In the meantime, the
 25 interim protective order shall remain in full force

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1 and effect.
 2 Since our last case management
 3 conference regarding mediation, I'm happy to report
 4 that five additional Phase II matters have been
 5 resolved: Jeannita Gaudet or Gaudet, L -- excuse me
 6 -- 1188-13. Plaintiff resides in Massachusetts,
 7 represented by Lynch Daskal and Pritzker -- Pritzker
 8 Olsen.
 9 Next is Doris Smith, L-3488-13.
 10 Plaintiffs reside in New York, represented by
 11 Bernstein Liebhard. Next is Beard. Docket is
 12 L-3665-13. Plaintiffs reside in Arkansas,
 13 represented by Weitz & Luxenberg and the Bohrer Law
 14 Firm.
 15 Next is Betty White, not the
 16 celebrity. Docket is L-2501-13. She resides in
 17 Minnesota, represented by Robins Kaplan. Next is
 18 Renee Tanitsky. Docket is L-8615-13, resides in
 19 Pennsylvania, represented by Williams Cuker &
 20 Berezofsky.
 21 And, unfortunately, one case did not
 22 settle and I believe it's our -- our first failure
 23 -- it's not a failure, let me just say that -- first
 24 unsuccessful mediation and it's Connie Stevens,
 25 again, not the celebrity, Docket 2323-13,

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1 represented by Weitz & Luxenberg.
 2 And I want to give special shout-out
 3 to counsel who were -- and Judge Welsh, who were
 4 actually mediating cases this past Saturday, and I
 5 would encourage, in a case that didn't settle, the
 6 dialogue to continue and perhaps we can bring it
 7 home, so to speak.
 8 Of the 18 mediated cases in Phase I
 9 and II, 17 of 18 have settled. Three are scheduled
 10 for mediation in the short term. A matter that was
 11 originally scheduled for Phase I, the Grossman
 12 matter, was removed due to continued treatment and
 13 shall be scheduled and mediated within the next 60
 14 days.
 15 There was a final mediation pick,
 16 which is Ursula Wistehuff, Docket L-6645-13, a
 17 resident of Illinois, represented by Beasley Allen.
 18 Just counsel, as we move forward,
 19 please remember if your case is selected for
 20 mediation or if you want your case to be selected
 21 for mediation, comply with all prior orders. Make
 22 sure all pertinent medical records for the selected
 23 matters, to the extent not already provided pursuant
 24 to the plaintiff's fact sheet process, be provided
 25 to counsel within ten days of the selection of the

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1 case for mediation.
 2 Counsel shall also secure and
 3 disclose all third-party lien information relating
 4 to any settlement not later than 30 days prior to
 5 mediation. If the deadlines are not met, counsel
 6 for the defense does have the option of removing or
 7 adjourning the scheduled mediation date. It
 8 certainly does not work in anyone's best interest if
 9 you do not comply.
 10 Regarding Phase III, I am going to
 11 select ten cases for Phase III mediation that fall
 12 within the following criteria: Specifically, the
 13 case needs to be filed and served by January 1st,
 14 2014 with completed fact sheets served in accordance
 15 with prior orders or as extended by counsel and who
 16 shall submit consent to mediation.
 17 I'm going to ask counsel to submit to
 18 me a list of cases that fall within those parameters
 19 by July 14th, and I will announce my selection at
 20 our next case management conference, which will be
 21 August 4th.
 22 Regarding discovery, the order is
 23 self-explanatory. Counsel will continue to meet and
 24 confer and exchange discovery in accordance with
 25 prior orders of this Court and present orders of

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1 this Court.
 2 I just want to highlight some
 3 specific areas regarding, plaintiffs have served a
 4 fifth request for production of documents. The
 5 deadline for service of plaintiffs' responses to
 6 same is extended till August 24th -- 21st.
 7 The Court wants to apologize to Ms.
 8 Gugg, who has been erroneously noted on our order as
 9 Cynthia. She is really Cindy, so the Court extends
 10 my apologies to her. Kimberly Catullo informed me
 11 of that misstatement on our order.
 12 I'm going to order that the parties
 13 both in the MDL have and are continuing to meet and
 14 confer regarding a deposition schedule and
 15 protocols. Reminder, our discovery end date is
 16 March 31st, 2015.
 17 There's an issue regarding a
 18 plaintiff who undergoes a revision. The Court's
 19 going to order that any plaintiff who undergoes
 20 revision surgery after the filing of his or her
 21 short form complaint shall file with the Court a
 22 notice of revision setting forth the details of the
 23 revision surgery without the need to seek consent
 24 from the Court or defense counsel.
 25 Counsel can meet and confer regarding

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1 a form to be discussed with respect to the notice of
 2 revision surgery. The notice shall be deemed an
 3 amendment to the complaint and service of same will
 4 be consistent with prior orders regarding amendment
 5 -- regarding the amended order regarding alternative
 6 option for service of complaints.
 7 Just as a status, as of today, there
 8 are 1,616 cases filed in New Jersey. In a prior
 9 order, I required counsel to set forth their unfiled
 10 cases. All counsel who has not advised the Court
 11 and provided liaison counsel a list of their
 12 inventory of unfiled retained matters as ordered in
 13 CMO No. 16 shall due so by June 30th.
 14 Just, please, when notifying the
 15 Court, notices shall be sent to Kelly Gibson --
 16 that's Kelly, K-E-L-L-Y dot Gibson, G-I-B-S-O-N --
 17 at judiciary.state.nj.us. Please make sure Ms.
 18 Gibson gets the notices. Our next case management
 19 conference will be August 4th, and I believe that
 20 sets forth where we are.
 21 Counsel, again, I want to thank you
 22 for your efforts, thank Judge Welsh and the other
 23 mediators for their efforts in bringing so many of
 24 our cases to conclusion. I believe the process is
 25 working and really is a model, not only for New

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1 Jersey, but for all multicounty and multidistrict
 2 litigation. I believe these mediations early on is
 3 really proving very fruitful and benefiting all the
 4 parties and counsel.
 5 Anything else for the record? Ms.
 6 Relkin?
 7 MS. RELKIN: No, Your Honor. Thank
 8 you.
 9 THE COURT: Ms. Catullo?
 10 MS. CATULLO: No, Your Honor. Thank
 11 you.
 12 THE COURT: Anybody in the courtroom?
 13 MR. PARNES: Is that 1 o'clock on
 14 August 4th?
 15 THE COURT: Yes, 1 o'clock.
 16 Counsel, thank you. For those on the
 17 phone, I apologize if you were unable to hear me.
 18 Again, my Polycom is not working. I appreciate Ms.
 19 Relkin letting us use her cell phone.
 20 That being said, everyone enjoy the
 21 beginning of summer. Have a happy 4th of July and
 22 we will reconvene in August. Thank you. We're off
 23 the record.
 24 (Case Management Conference concluded
 25 at approximately 1:39 p.m.)

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CERTIFICATE

I, KIMBERLY A. CAHILL, a Notary
 Public and Certified Court Reporter of the State of
 New Jersey, do hereby certify that the foregoing is
 a verbatim transcript of the conference as taken
 stenographically by and before me at the time, place
 and on the date hereinbefore set forth, to the best
 of my ability.
 I DO FURTHER CERTIFY that I am
 neither a relative nor employee nor attorney nor
 counsel of any of the parties to this action, and
 that I am neither a relative nor employee of such
 attorney or counsel, and that I am not financially
 interested in the action.

 KIMBERLY A. CAHILL, CCR, RMR
 Notary Number: 2160369
 Notary Expiration: February 20, 2019
 CCR Number: 30XI00188400
 Dated: June 24, 2013

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LAWYER'S NOTES

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