

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - BERGEN COUNTY

- - -

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

- - -

December 16, 2013

- - -

BEFORE: HON. BRIAN R. MARTINOTTI, JSC

- - -

Transcript of Case Management Conference  
held at Bergen County Courthouse, 10 South Main  
Street, Room 342, Hackensack, New Jersey, on the  
above date, beginning at approximately 11:20 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. Good morning,  
 3 counsel on the telephone. We are on the record in  
 4 court. You know from prior orders what you need to  
 5 do to have your attendance noted on the record.  
 6 That being said, counsel in the room,  
 7 your appearances for the record, please.  
 8 - - -  
 9 (All live and telephonic counsel  
 10 appearances are noted on the Appearance page.)  
 11 - - -  
 12 THE COURT: Okay. Counsel, welcome.  
 13 We did have our usual preconference meeting in  
 14 chambers. We've been running better as far as  
 15 getting on the record by 11 o'clock. My apologies  
 16 to those on the telephone who may have been waiting  
 17 for us. I am relocated today and it's --  
 18 logistically, it's a challenge for us because we  
 19 don't have all of our equipment here, so I apologize  
 20 for the delay.  
 21 That being said, I am happy that we  
 22 had a chance to go over the order; but before I get  
 23 into the requirements for our upcoming order, I am  
 24 happy to report, of the six matters that have been  
 25 referred to mediation, four are settled. I would

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1 like to thank all counsel for their efforts in  
 2 bringing those matters to conclusion.  
 3 Specifically -- I'm just going to name the firms --  
 4 Weitz & Luxenberg had a plaintiff that resided in  
 5 Florida. Searcy Denney had a plaintiff that resided  
 6 in Minnesota.  
 7 Just to show you the diversity of our  
 8 group, Weitz & Luxenberg has offices in New York and  
 9 New Jersey and, again, their plaintiff was from  
 10 Florida. Searcy Denney has offices in Florida.  
 11 Their plaintiff was from Minnesota. Anapol Schwartz  
 12 has offices in Pennsylvania. They had a client from  
 13 Pennsylvania. Robins, Kaplan from Minnesota had a  
 14 client from North Dakota.  
 15 And those matters were resolved  
 16 through mediation with Judges Hamlin and Welsh and,  
 17 of course, Kim Catullo from Gibbons representing the  
 18 defendants. They worked hard; and as a result of  
 19 that hard work, they brought those matters to  
 20 conclusion. The Court is much appreciative of their  
 21 efforts. Hopefully this can set the stage for  
 22 future resolution.  
 23 We had a nice variety of plaintiffs,  
 24 different type of injuries, and through the  
 25 cooperation of counsel, with the good efforts of our

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1 retired jurists, the matters have been resolved. I  
 2 dare say this is probably one of the few times that  
 3 mediation has brought a resolution this early in a  
 4 litigation.  
 5 We are still in the litigation stage.  
 6 We will -- the Court encourages further discussion,  
 7 further mediation. We'll get to that in a few  
 8 moments; but even though we are settling and  
 9 resolving cases, we're still going to go forward  
 10 with our discovery and with the litigation. So we  
 11 are running parallel tracks, and kudos to counsel  
 12 for bringing the matter to resolution earlier rather  
 13 than later.  
 14 I think it's in everyone's best  
 15 interests to resolve these cases at this stage  
 16 rather than years and years of protracted litigation  
 17 and, hopefully, this can form the basis moving  
 18 forward of additional settlements. So, counsel,  
 19 thank you very much for a job well done. Much  
 20 appreciated by the Court.  
 21 That being said, because you have  
 22 seen the success of mediation, we need you to  
 23 complete your fact sheets with records on those  
 24 cases that are mediation eligible. Candidly, we  
 25 need them on all cases, but really if the mediation

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1 is going to be successful, please get your records  
 2 to the defendants sooner rather than later so that  
 3 packets can be completed, it can be evaluated, and  
 4 the mediation process can continue with resolution.  
 5 So, again, I thank you and it's  
 6 really in everyone's best interest to cooperate with  
 7 the discovery moving forward, with the complete  
 8 responses to discovery, so that cases can be  
 9 evaluated and hopefully resolved.  
 10 In that vein, a response to an  
 11 Interrogatory or a request for documents,  
 12 specifically an Interrogatory, that says "See  
 13 medical records" is not appropriate. You know, if  
 14 you take the time to answer the Interrogatory, to  
 15 look at the question and answer it, it may take you  
 16 an extra five minutes. It may take you an extra ten  
 17 minutes, but a more complete responsive answer to an  
 18 Interrogatory is better than a "See medical records"  
 19 or "See attached."  
 20 First of all, that's not what the  
 21 rule contemplates. Second of all, all that's going  
 22 to do is give you a letter which is going to say,  
 23 "Please forward more responsive Answers to  
 24 Interrogatories at" 1, 2, or 3 and then you're going  
 25 to have to respond to that letter. And as my

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1 grandmother used to say, haste makes waste, so if  
 2 you do it right the first time, you don't have to do  
 3 it the second time.  
 4 If you do get a letter because there  
 5 is a discovery deficiency, I'm going to order that  
 6 that deficiency be responded to or the deficiency be  
 7 corrected within 21 days of receipt of that letter,  
 8 though counsel will continue to work together so  
 9 that we do have no motions for discovery, because  
 10 the Court disfavors discovery motions.  
 11 We do have an order moving forward.  
 12 I'm just going to highlight those portions of the  
 13 order that have modified or updated our prior order,  
 14 specifically under -- and if you have a prior order,  
 15 you'll know how we track the orders.  
 16 Under section 1, subsection A, we  
 17 have a new -- small 3, which is, defendant shall  
 18 serve responses to all plaintiff fact sheets  
 19 received between November 18th and December 31st by  
 20 April 30th, 2014.  
 21 Under "Protective Order," apparently  
 22 there's been a recent development and the parties  
 23 have been working on a form of protective order. On  
 24 my own motion, I've extended the times to, plaintiff  
 25 shall submit a revised draft regarding paragraph

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1 14(b), based upon recent developments, to the  
 2 defendants by January 10th. Thereafter, the parties  
 3 will meet and confer and the parties will submit a  
 4 final form of protective order or competing forms  
 5 with a letter summarizing each party's position by  
 6 January 20th. If the matter cannot be resolved by  
 7 the next case management conference, I'll set a  
 8 briefing schedule. So you have a little work to do  
 9 on the protective order.

10 I've spoken about the Phase I  
 11 mediations that have settled. Again, I thank  
 12 counsel for the settlements. Just for the record,  
 13 the four settlements are Mergel versus -- I'm sorry  
 14 -- the Mergel matter, which is Docket L-1022-13; the  
 15 Seely matter, which is Docket 850-13; the Seeman  
 16 matter, which is Docket L-6878-12; and the Dixon  
 17 matter, no relation to my court clerk, which is  
 18 1744-13.

19 There are three additional matters  
 20 which are scheduled for mediation in 2014; and one  
 21 matter, the Singh matter, has been withdrawn from  
 22 mediation because of the plaintiff's ongoing medical  
 23 treatment.

24 Regarding the Phase II mediation,  
 25 there are 42 cases that are eligible. I'm asking

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1 counsel to submit an updated list to the Court no  
 2 later than January 10th so that I -- just to confirm  
 3 of the 42 matters. The parties will meet and confer  
 4 regarding the selection of Phase II eligible matters  
 5 as identified in Case Management Order No. 11 and  
 6 will advise the Court prior to the next case  
 7 management conference.

8 The matters that will be in  
 9 mediation, there will be ten. I'll select four.  
 10 Plaintiff will select three and then the defendant  
 11 will select three. I'm going to select my four  
 12 prior to the next case management conference.

13 In addition, pursuant to prior  
 14 orders, the insurance policies were produced by  
 15 November 22nd -- on November 22nd. I'm sorry. And  
 16 the additional discovery, the Phase III production,  
 17 was completed on November 25th.

18 With respect to plaintiffs' fact  
 19 sheets, another important requirement that the Court  
 20 is imposing, just to make the matter more efficient,  
 21 when plaintiffs serve their fact sheets, please --  
 22 you'll serve them on Ms. Catullo from Gibbons, but  
 23 also please serve them on Ms. Spicer from Gibbons,  
 24 Ms. Gugg from Gibbons, and a copy to Ms. Relkin, so  
 25 that everyone is on the same page, rather than have

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1 Ms. Catullo take the completed fact sheets and have  
 2 to forward them. If you serve them simultaneously  
 3 on those four individuals, it'll make life easier  
 4 and make the process more efficient.

5 Lastly, our next conference is  
 6 scheduled for January 28th at 11:00 a.m. Liaison  
 7 counsel will be here at 10:00 for a preconference  
 8 conference.

9 That being said, anybody need to  
 10 address anything for the record? Ms. Relkin?

11 MS. RELKIN: No, Your Honor. That  
 12 covers it. Thank you.

13 THE COURT: Okay. Anybody on the  
 14 plaintiffs' side of the V?

15 How about defense side?

16 MS. CATULLO: No, Your Honor. Just  
 17 to point out that the service of the PFSs that we're  
 18 asking to just change a little bit, that listing of  
 19 e-mails, I believe, is in the order that allows for  
 20 alternative service of the complaint. So if anyone  
 21 needs that information, I'll send it to Ellen as  
 22 well, but it is also in that order.

23 THE COURT: Okay. Anything further?  
 24 Anyone on the telephone need to state  
 25 anything for the record?

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1 Okay. Hearing none, counsel, again,  
 2 I commend you and I thank you for your cooperation  
 3 with each other in settling some matters with the  
 4 Court, in moving this matter so efficiently,  
 5 expeditiously and civilly, yet everybody's client is  
 6 being well served.

7 Also, on behalf of the Court and  
 8 everyone that works here, please accept my best  
 9 wishes for a continued happy, healthy holiday  
 10 season. Best wishes for a happy, healthy -- and on  
 11 your side of the bench anyway -- prosperous New  
 12 Year. It's been an absolute joy and pleasure  
 13 working with you.

14 I hope you get to spend some time  
 15 with your family, friends, and relax. I know you  
 16 all work very, very hard on all your cases for all  
 17 your clients. So maybe take a deep breath, smell  
 18 the roses, enjoy the sunshine if you're lucky enough  
 19 to have that, and we look forward to seeing you in  
 20 January.

21 Again, thank you for all your  
 22 efforts. It's much appreciated by the Court. We're  
 23 off the record.

24 - - -  
 25 (Case Management Conference concluded)

<p style="text-align: right;">Page 18</p> <p>1 at approximately 11:41 a.m.)  2 - - -  3  4  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p style="text-align: right;">Page 20</p> <p>1 LAWYER'S NOTES  2 PAGE LINE  3 _____  4 _____  5 _____  6 _____  7 _____  8 _____  9 _____  10 _____  11 _____  12 _____  13 _____  14 _____  15 _____  16 _____  17 _____  18 _____  19 _____  20 _____  21 _____  22 _____  23 _____  24 _____  25 _____</p>
<p style="text-align: right;">Page 19</p> <p>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: December 16, 2013  25</p>	

<b>A</b>	<b>aspector</b> 4:9 <b>associates</b> 6:17 <b>atlanta</b> 6:13 <b>attached</b> 12:19 <b>attendance</b> 9:5 <b>attorney</b> 19:11,14 <b>avenue</b> 3:7 4:2,7 7:2	<b>B</b>	<b>b</b> 3:11 6:1 14:1 <b>bank</b> 3:22 <b>barnhart</b> 2:8 <b>bartels</b> 3:20 <b>based</b> 14:1 <b>basis</b> 11:17 <b>beach</b> 2:9,10 6:18 <b>beasley</b> 8:1 <b>beasleyallen</b> 8:6 <b>beginning</b> 1:19 <b>behalf</b> 17:7 <b>believe</b> 16:19 <b>bench</b> 17:11 <b>berezofsky</b> 5:15 <b>bergen</b> 1:3,17 <b>berl936</b> 1:9 <b>bernlieb</b> 5:3 <b>bernstein</b> 5:1,10 <b>best</b> 11:14 12:6 17:8,10 19:8 <b>better</b> 9:14 12:18 <b>bit</b> 16:18 <b>block</b> 5:6 <b>boulevard</b> 2:9 6:18 6:22 <b>box</b> 3:2 4:2 6:13 <b>braslow</b> 2:13 <b>breath</b> 17:17 <b>brian</b> 1:14 <b>bridge</b> 2:14 <b>briefing</b> 14:8 <b>bringing</b> 10:2 11:12 <b>broad</b> 4:20 <b>broadway</b> 2:5 5:7 <b>brought</b> 10:19 11:3	<b>C</b>	<b>buechele</b> 6:4	<b>D</b>	<b>daniel</b> 3:1 5:11 <b>dare</b> 11:2 <b>date</b> 1:19 19:8 <b>dated</b> 19:23 <b>david</b> 6:1 <b>days</b> 13:7 <b>de</b> 6:22 <b>december</b> 1:12 13:19 19:23 <b>decker</b> 6:9 <b>deep</b> 17:17 <b>defendant</b> 4:15 13:17 15:10 <b>defendants</b> 10:18 12:2 14:2 <b>defense</b> 16:15 <b>deficiency</b> 13:5,6,6 <b>defilippo</b> 4:6 <b>delay</b> 9:20 <b>denney</b> 2:8 10:5,10 <b>deps</b> 1:25 <b>development</b> 13:22 <b>developments</b> 14:1 <b>diana</b> 6:6 <b>different</b> 10:24 <b>discovery</b> 11:10 12:7,8 13:5,9,10 15:16 <b>discussion</b> 11:6 <b>disfavors</b> 13:10 <b>diversity</b> 10:7 <b>division</b> 1:3 <b>dixon</b> 14:16 <b>dlapinski</b> 3:4 <b>dlazzara</b> 6:24 <b>dleathers</b> 5:13 <b>dlin</b> 6:8 <b>docket</b> 1:8 14:14,15 14:16 <b>documents</b> 12:11 <b>dolejsi</b> 3:6 <b>domenick</b> 6:22 <b>donna</b> 5:4 7:4 <b>dont</b> 9:19 13:2 <b>draft</b> 13:25 <b>drheingold</b> 6:3
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