

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

IN RE: BIOMET M2a MAGNUM HIP )  
IMPLANT PRODUCTS LIABILITY ) CAUSE NO. 3:12-MD-2391  
LITIGATION (MDL 2391) )  
\_\_\_\_\_)  
This Document Relates to All Cases )  
\_\_\_\_\_)

MEMORANDUM OF JULY 14, 2016 STATUS CONFERENCE

The court held a status conference July 14, 2016, at which Navan Ward appeared in person and Ahmed Diab and Brenda Fulmer appeared telephonically for the plaintiffs; Erin Hanig appeared in person and John Winter appeared telephonically for the defendants. Topics addressed at the conference included the number of active cases remaining in this MDL, Biomet's request that the court issue a letter to state courts encouraging coordination of state cases with this MDL, the status of certain cases listed on Biomet's July 13, 2016 status report, the progress of discovery, and the possibility of the court issuing a Lone Pine order in the near future.

Counsel for Biomet reported that roughly 300 cases remain active and have not settled in principle, and Biomet anticipates three additional cases will soon be transferred to this MDL by the Panel for Multidistrict Litigation. Roughly 35 M2a-Magnum cases are currently pending in state courts, chiefly in Florida and Indiana. Biomet is seeking consolidation of roughly 10 cases currently pending in Florida state courts.

PSC II indicated that it doesn't agree with Biomet's proposal that the court send a letter to state court judges encouraging coordination with this MDL. PSC II is preparing a written response to Biomet's motion.

Counsel for Biomet explained that the term "Funding Report" on Biomet's July 13, 2016 status report (Doc. No. 3180) represents cases that Biomet has fully funded but that have not yet been dismissed, generally because settlement proceeds haven't yet been released to plaintiffs by Garretson Resolution Group. Most of these cases were funded recently, and should move for dismissal soon. With regards to cases 3:13-cv-226 and 3:13-cv-744, Biomet represented that it will investigate these cases further and determine why funds haven't been released to the plaintiffs.

PSC II reported that preparation of responses to summary judgment motions in statute of limitations cases, identification of additional witnesses in spoliation cases, and depositions in Group 1 and 2 cases are moving forward on schedule. PSC II and Biomet are attempting to resolve disputes about supplemental depositions of additional Biomet employees, and will bring the matter to the court at a future conference if they are unable to reach agreement. Biomet reported that some problems have arisen in taking chain-of-custody depositions of hospital representatives in spoliation cases, because the hospitals insist on more current patient releases than the ones Biomet provided.

Counsel for PSC II reported that they have written to all plaintiffs currently proceeding pro se, advising them about the possibility of a Lone Pine order and

providing a list of attorneys who may agree to take on their cases. Several pro se plaintiffs have begun contacting PSC II attorneys seeking representation. PSC II asked the court to defer issuing a Lone Pine order until the end of 2016 to give pro se plaintiffs a chance to find counsel, and Biomet agreed.

Following discussion, the court:

(1) set telephonic hearings on **July 28, 2016 at 2:00 p.m. (E.D.T.)** and **August 10, 2016 at 1:30 p.m. (E.D.T.)** to resolve any discovery-related issues that may arise<sup>1</sup>; and

(2) set a telephonic status conference for **August 29, 2016 at 11:30 a.m. (E.D.T.)**.

SO ORDERED.

ENTERED: July 18, 2016

\_\_\_\_\_/s/ Robert L. Miller, Jr.  
Judge  
United States District Court

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<sup>1</sup> The July 28 and August 10 hearings are tentative, and will be vacated unless the parties notify the court at least 48 hours in advance that a hearing is necessary and identify what the issues will be. Biomet and PSC II will each be responsible for notifying their side's attorneys of record about the conference and arranging for the telephonic participation of those attorneys.