

1 **THE COURT:** Good afternoon.

2 This is our Cause Number 12MD2391,

3 MDL Docket Number 2391, in **Re: Biomet M2a-Magnum Hip Implant**
4 **Products Liability Litigation.**

5 *(Telephone interruption.)*

6 **THE COURT:** These are the folks coming in to monitor?

7 **LAW CLERK:** Yes. Yes.

8 **THE COURT:** Can we cut off our speaker?

9 **COURTROOM DEPUTY:** It will cut off all incoming
10 audio.

11 **LAW CLERK:** Is anybody going to speak?

12 **THE COURT:** Including who?

13 Are any counsel going to be attending remotely?

14 **MS. FULMER:** I don't believe so, Judge.

15 Jessica Williams that just came in, I believe she's
16 the moderator of the call. She's with the Gomez firm from
17 San Diego.

18 **THE COURT:** Okay.

19 **MS. FULMER:** So I don't think you'll hear any more
20 sound on the phone.

21 **THE COURT:** Okay. Anybody from Biomet?

22 **MR. LaDUE:** No, Your Honor.

23 **THE COURT:** So, yeah, we can go ahead and cut off the
24 sound, at least, as long as they can still hear.

25 So, we have, for the Plaintiffs' Steering Committee,

1 co-lead counsel, Brenda Fulmer, and, for the Defendant,
2 Attorney John LaDue.

3 I'm not sure there's a great deal to really do today,
4 but I appreciate your presence.

5 I guess, number one on our agenda is: Active case
6 count.

7 **MR. LaDUE:** I've got that one, Your Honor.

8 We're at 286 that are pending and unsettled at this
9 point. We have two cases pending transfer into the MDL.

10 And, if you'd like, Your Honor, I can keep cruising
11 because we'll get through the rest of the agenda, I think, here
12 pretty quickly.

13 **THE COURT:** Okay.

14 **MR. LaDUE:** On the discovery update, we've begun --
15 well, we're well underway with the Group 4 discovery. We've
16 got the majority of the Plaintiffs' depositions done, and we're
17 finishing up the surgeons' depositions. On target to have all
18 of that work done before January 8th, 2018.

19 We're still talking about Group 5. I think the
20 ball's in our court to finalize the last proposal that we've
21 had, and we should be able to wrap that up fairly quickly, as
22 well.

23 Your Honor, there's a note on the agenda about the
24 testimony of a consulting expert, Dr. Jamie Williams. I think
25 it's premature to involve the Court in that discussion at this

1 point. The parties are still meeting and conferring. It's
2 possible it could end up and be the subject of a motion to
3 compel at some point, but we don't know yet.

4 **THE COURT:** It's bubbling under the surface at this
5 point; is that where we stand?

6 **MS. FULMER:** That's correct, Your Honor.

7 **THE COURT:** Okay.

8 **MR. LaDUE:** And then the last thing on our agenda
9 today, Your Honor, is just a list of the pending motions that
10 we're aware of.

11 There's a motion, I think, fully briefed, in the
12 **Beltran** case, based on Plaintiffs' request for additional
13 depositions.

14 We have cross motions for summary judgment in the
15 **Eastman** case, which, I believe, that briefing is closed, as
16 well.

17 And then Your Honor also has the **Daubert** and some
18 general summary judgment motions that are on your plate.

19 That's all we've got, Your Honor.

20 **THE COURT:** Okay. We've been focusing in chambers,
21 mostly, on the **Daubert** and the general summary judgment motions
22 just because those seem to affect so many people, but I'll try
23 to get a look at the **Beltran** and **Eastman** files and see if,
24 perhaps, we can get something out quickly, at least on the
25 motion for additional depositions.

1 And I wish I could give you a timetable on **Daubert**
2 and summary judgment, but you folks have probably noticed, you
3 filed a lot of paper.

4 Anything further then, Ms. Fulmer, from the Steering
5 Committee's position --

6 **MS. FULMER:** I don't believe so, Your Honor.

7 **THE COURT:** -- that I can help with?

8 **MS. FULMER:** I don't believe so.

9 **THE COURT:** So I gather the main help I can give you
10 is to rule on those listed in Item 4.

11 We probably should set another status conference.
12 This time -- let me go ahead and include it, at this point. I
13 don't want to see people have to come to South Bend if it's
14 just everybody to come to tell me that I haven't ruled yet. I
15 hope I will have a ruling out. But why don't we leave it
16 understood that, if I have not gotten the rulings out on
17 those -- and, again, I hope to -- but, if I'm not able to, and
18 you folks don't have anything to add, other than telling me how
19 many cases there are, I think we could probably just adjourn it
20 to a different date.

21 Well, I just scheduled myself -- and I would think,
22 unless I get a ruling out, to the point where an in-person
23 conference would be useful, why don't I go ahead and schedule
24 it as a telephonic conference; and if somebody thinks it should
25 be in-person in light of rulings, we can do that.

1 So how would you look for 1:30 on December 19th?

2 **MR. LaDUE:** Good on our end, Your Honor.

3 **MS. FULMER:** That's okay with the Plaintiffs.

4 **THE COURT:** Okay. Okay. So we will show that
5 parties inform the Court as to the current case count and the
6 status of discovery and the motions that are pending and
7 awaiting ruling.

8 The Court adjourns the joint status conference to
9 December 19th, at 1:30 p.m., to be conducted by telephone,
10 unless either side requests otherwise.

11 Anything else for the Plaintiff?

12 **MS. FULMER:** No, Your Honor.

13 **THE COURT:** Or for the Defense?

14 **MR. LaDUE:** Nothing, Your Honor.

15 **THE COURT:** Okay. Thanks, folks.

16 **MS. FULMER:** Thank you.

17 **LAW CLERK:** All rise.

18 **(All comply; proceedings concluded.)**

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