

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

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

ORDER

By email with copies to the Plaintiffs' Steering Committee, counsel for Biomet have notified me of, first, the intent to file a motion with the Judicial Panel on Multidistrict Litigation and second, a copy of the memorandum filed with that motion. Those communications are ordered to be filed in this court's docket. I understand that the Plaintiffs' Steering Committee intends to respond to both the letter and the motion, and I might tweak this order after reviewing their response. But because today's order places obligations on the attorneys, including travel obligations, I want to announce what I can without delay.

No motion is before me, and this order isn't meant to be a prediction or belief in how the Panel should or might rule on Biomet's motion. But Biomet describes circumstances that might affect the cases still in this docket and expected to be remanded or transferred in the next few months. I think it would be wise for us to discuss those circumstances at our March 9 conference with an eye toward any action I might take now as transferee judge. To maximize the

potential benefits from that conference, **I am converting it from one to be held telephonically to one to be held in person.**

The parties have put some of their concerns about post-remand/transfer discovery before me in past motion practice, but I'm not confident that I have a full grasp on the arguments now being made to transferor/post-transfer courts. Accordingly, I ask that Biomet file with the court, by February 28, a **list of all federal post-remand or post-transfer cases in which non-case-specific discovery has been allowed over Biomet's opposition.** That list will allow me to review the requests being made and the reasons given for those requests, the reasons given in opposition, and the reasoning of the federal judges who have allowed additional non-case-specific discovery.

Biomet's filing with the Panel makes reference to bellwether trials, so I also ask that Biomet file with the court, by February 28, a list of **any cases now pending in this docket that this court would have jurisdiction to try** consistent with Lexecon Inc. v. Millberg Weiss, 523 U.S. 26 (1998).

SO ORDERED.

ENTERED: February 7, 2020

/s/ Robert L. Miller, Jr.
Judge, United States District Court
Northern District of Indiana