

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF INDIANA
3 SOUTH BEND DIVISION

4 IN RE: BIOMET M2a-MAGNUM CAUSE NUMBER
5 HIP IMPLANT PRODUCTS LIABILITY 3:12MD02391
6 LITIGATION

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8
9 THURSDAY, JULY 14, 2016

10 TRANSCRIPT OF PROCEEDINGS
11 BEFORE THE HONORABLE ROBERT L. MILLER, JR.

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INDEX

APPEARANCES:

FOR PLAINTIFFS:

MR. NAVAN WARD

MS. BRENDA FULMER, by tx

MR. AHMED DIAB, by tx

FOR BIOMET:

MS. ERIN HANIG

MR. JOHN WINTER, by tx

(see docket for addresses.)

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1 **THE COURT:** This is our Cause Number 3:12MD2391, **In**
2 **Re: Biomet M2a Magnum Hip Implant Products Liability**
3 **Litigation.**

4 We are gathered for our regular status conference.
5 We have, in court, for the Plaintiffs, Mr. Navan Ward, and, for
6 the Defense, Ms. Erin Hanig, and I understand we probably have
7 some people on the phone.

8 If you folks could state your appearances, for the
9 record, please.

10 **(No response.)**

11 **THE COURT:** Anybody there?

12 **(No response.)**

13 **THE COURT:** Well, this is going to move quickly.

14 **MR. WARD:** Well, Your Honor, I'm not positive of
15 this, but I'm not sure if the call-in number allows the
16 majority of people to speak, maybe the person that set it up,
17 which may be Ahmed Diab, but I'm not exactly sure if it's set
18 up to where everyone can speak, and I could be completely wrong
19 with that.

20 **THE COURT:** Do you know who all was going to be on
21 and speaking from your end of it because we can place our own
22 call?

23 Right?

24 **MR. WARD:** I will just be speaking for the Plaintiff.

25 **THE COURT:** You're it for the Plaintiff.

1 Should we get Mr. Winter on?

2 **MS. HANIG:** I know Mr. Winter was calling in, as
3 well, and I believe, the e-mail that I saw from Ahmed this
4 morning, that there was a separate set of instructions for
5 speaking parties.

6 **MR. WARD:** Uh-huh.

7 **MS. HANIG:** But they're, very closely, the same
8 number, so there could be an issue where we might need to call
9 John, if he's not on.

10 **THE COURT:** Okay.

11 **COURTROOM DEPUTY:** I just dialed into the regular
12 number on the order.

13 **THE COURT:** Oh, really?

14 **COURTROOM DEPUTY:** I didn't receive any other phone
15 number.

16 **MS. HANIG:** Well, it would be for the parties that
17 want to speak. They have to dial a different code number.

18 **THE COURT:** Well, somehow, we need to get Mr. Winter
19 on.

20 **MS. HANIG:** So, we could call him. He may be on the
21 phone and just can't speak.

22 **THE COURT:** Yeah, but I'm not sure we can call, if
23 our line -- do we have a second line in here?

24 **COURTROOM DEPUTY:** I could use the regular telephone.

25 **THE COURT:** Okay. Do you have his number? I didn't

1 bring the docket sheet out.

2 So, Mr. Winter, if you are listening, please hang up.

3 Oh, I've got the number here.

4 **MR. DIAB:** Just bear with us for one second. We're
5 getting a busy line from the Court, and we're contacting him.
6 We'll keep you updated. Hold on.

7 **MR. WARD:** Yeah, that's Mr. Diab, and it sounds like
8 they're trying to give him the code for this call in order to
9 be able to speak.

10 **THE COURT:** Oh, okay. Okay.

11 So we can gum this up real well if we get him off
12 that line.

13 **MR. WARD:** Yeah. So, hopefully, he hasn't hung up.

14 **(Discussion held outside stenographer's hearing.)**

15 **COURTROOM DEPUTY:** That was Mr. Diab's office. He
16 says that he has everyone on the line, and then he's going to
17 conference us in.

18 **THE COURT:** Oh, okay.

19 **(Incoming call.)**

20 **COURTROOM DEPUTY:** Judge Miller's courtroom.

21 **MR. DIAB:** Hi.

22 This is Ahmed Diab, Plaintiffs' liaison counsel, and
23 you're live with all other counsel on the phone.

24 **THE COURT:** Okay. Then, why don't we start from the
25 top here.

1 This is Judge Miller.

2 This is our Cause Number 3:12MD2391, **In Re: Biomet**
3 **Hip Implant Products Liability Litigation**, the M2a Magnum Hip.

4 We are gathered for our regularly-scheduled status
5 conference. We have present, in court, live, Navan Ward, for
6 the Plaintiffs, and Erin Hanig, for the Defense.

7 Could the rest of you, who are on the phone, please,
8 state your appearances, for the record?

9 **MS. FULMER:** Good afternoon, Your Honor.

10 This is Brenda Fulmer, on behalf of the Plaintiffs'
11 Steering Committee.

12 **THE COURT:** Ms. Fulmer.

13 **MR. DIAB:** Good afternoon, Your Honor.

14 Ahmed Diab, on behalf of the Plaintiffs' Steering
15 Committee.

16 **THE COURT:** Mr. Diab.

17 Anyone else for Plaintiff?

18 **MR. WINTER:** Good afternoon, Your Honor.

19 John -- I'm sorry.

20 **THE COURT:** That's okay.

21 Mr. Winter, for the Defense?

22 **MR. WINTER:** Yes.

23 Good afternoon, Your Honor.

24 **THE COURT:** Anybody else?

25 Good afternoon.

1 Anybody else on the line for the Plaintiffs, besides
2 Mr. Diab and Ms. Fulmer?

3 Okay. I guess --

4 **MR. DIAB:** Your Honor, this is Ahmed Diab.

5 And Justin Presnal wanted us to let you know that he
6 was actually going to be, unfortunately, in the air, due to a
7 flight delay, at this time.

8 **THE COURT:** Oh. Oh, I'm sorry to hear that.
9 Although, it doesn't look like we've got a great deal of
10 contentious matter to address today, unless there's some that
11 comes in that I was unaware of.

12 I do have the agenda that Ms. Hanig sent over, the
13 joint status conference agenda. Item 1 was the active case
14 count.

15 Where do we think we stand now?

16 **MS. HANIG:** I can address that, Your Honor.

17 **THE COURT:** Okay. Let me ask, for those of you who
18 are here in court, if you could pull the microphone over to you
19 and then just remain seated or you may have to change seats.

20 **MS. HANIG:** Okay. So, there are approximately
21 three hundred cases, give or take, pending, unsettled, right
22 now, and there are three cases pending in state or federal
23 courts that are being removed and transferred, on their way.

24 **THE COURT:** Okay. By "state or federal," you mean
25 just going through the Panel then?

1 **MS. HANIG:** Correct.

2 So, there are two that are in the Northern District
3 of Illinois that are going through the Panel, one in Louisiana
4 state court that's in the process of removal and then transfer.

5 **THE COURT:** Okay. I did want to talk about the
6 request that Biomet made for the issuance of a state court
7 coordination letter, and I'll invite the Plaintiffs' comment on
8 that, as we move along.

9 But about how many cases are there in the state
10 courts that are not on their way?

11 **MS. HANIG:** So, there are approximately thirty-five
12 cases in state courts, the bulk of which are pending in Florida
13 state court; there's one case in Montana; two cases, I believe,
14 in Missouri; and the rest are in -- well, correction. There
15 are maybe eight cases in Indiana state court.

16 There are also ten cases that are in Florida, have
17 been removed, are in the Middle District of Florida, pending
18 remand motions or briefs, but there are also pending
19 objected-to motions to transfer and vacate the CTO pending
20 before the JPML.

21 **THE COURT:** Okay. So, ten or so from the Middle
22 District of Florida that the Panel is going to be dealing with?

23 **MS. HANIG:** Correct, unless the Middle District of
24 Florida happens to rule first.

25 **THE COURT:** Okay. Let me ask, as long as we're on

1 it.

2 The Defense included the letter -- and I, apparently,
3 didn't bring it out. Oh, no, I've got it -- the letter
4 proposed to be sent to the state court judges. And, I guess,
5 if we're in four different states, that's different. My
6 understanding is we were mostly in Indiana before now.

7 Does the Plaintiff have any objection to my sending
8 that out?

9 **MR. WARD:** Yes, Your Honor.

10 I think that we are in the midst of -- Your Honor
11 provided a due date for us to respond, and we are in the midst
12 of responding to it.

13 **THE COURT:** Okay.

14 **MR. WARD:** I think that there are areas or issues in
15 there that we agree to, but there are some that we do not, and
16 we were wanting to be able to provide something to the Court.

17 **THE COURT:** That's fine. If there was not an
18 objection, I could go ahead and jump on it, without waiting for
19 the due date. But if there is, I'll wait to see the response.

20 We had the joint status -- Item Number 2 is the joint
21 status reports on the cases that I asked about, and I have
22 looked at that, and I do have a question.

23 On several of these, you folks refer to funding
24 reports, mostly Number 21, I guess, 14, and 22, and 18C, as
25 well. I did not get a chance to do any cross referencing.

1 What would that tell us, if I looked at those?

2 **MS. HANIG:** So, Mr. Winter can correct me if I'm
3 wrong, but the funding report means that a case is settled, a
4 release is in and is being funded through Garretson, so the
5 money is in motion. So, from Biomet's end, everything is done.

6 **THE COURT:** Okay. So everything --

7 **MR. WINTER:** Your Honor, John Winter.

8 **THE COURT:** Yeah. Go ahead.

9 **MR. WINTER:** Just, for the chronology, which I think
10 may have been what you were asking about, Funding Report 21 was
11 funded at the end of February of this year. So, when we
12 submitted the proposed order to show cause on cases that were
13 funded, it's been our experience, it takes sixty to ninety days
14 for Garretson to work out all the liens to the satisfaction of
15 the particular Plaintiff and her counsel. So, 21 and 22 were
16 not on the order to show cause list because, just temporally,
17 we didn't think that made sense, but, obviously, these all
18 should be dismissed with prejudice relatively soon.

19 Sometimes -- as you can see, there's two cases, **Smith**
20 and **Chauncey**. Funding Report 14 was done in -- both 14 and 18
21 were done in 2015. So, they're individual cases where there's
22 some issue as to why it hadn't gotten taken care of, and it
23 looks like, in hindsight, those two cases should have been on
24 the order to show cause.

25 **THE COURT:** Okay. So, as far as Biomet can tell, all

1 of these things went to Garretson; and, normally, it would be
2 sixty to ninety days, so that time has passed; but you don't
3 know whether the individual Plaintiffs have received their
4 money; is that right?

5 **MR. WINTER:** We have to doublecheck, Your Honor. You
6 know, we found where these were. We'll take the next step back
7 to Garretson on any case that's already on a funding report to
8 see if the money's been released.

9 **THE COURT:** Okay. Because I don't think I would want
10 to do any orders to show cause until the money had been
11 released. Obviously, I might have to, eventually, but, at
12 least for now, I think that's where it should stay.

13 So, with those, with the funding report, I'll await
14 further news from Biomet when you're able to determine if
15 Garretson has forwarded the proceeds, and then I'll pause after
16 I get that to let the Plaintiffs' Steering Committee look it
17 over to see if there's any reason I shouldn't dismiss those
18 where the monies have been released.

19 Okay. Update on discovery. I know we have some
20 deadlines that are looming near. And with the statute of
21 limitation cases, I think we've got -- the responses to the
22 summary judgment motion are due, I guess, two weeks from today.
23 And the spoliation cases, we're still about six weeks out from
24 even having the motions filed.

25 So where do we stand on everything, from the

1 Plaintiffs' standpoint?

2 **MR. WARD:** Yes, Your Honor.

3 As you mentioned, with regards to the summary
4 judgment on the statute of limitations cases, individual
5 counsel for Plaintiffs are in the process of responding to
6 those particular motions. The Plaintiffs' Steering Committee
7 is assisting them from the aspect of providing them with
8 information that may be helpful to their case from discovery or
9 general information that we've been able to accumulate as the
10 PSC. And, again, the individual counsel for each of those
11 cases are moving forward with responding to those particular
12 motions since these are fact-specific cases or fact-specific
13 issues for each of the different cases.

14 With regards to the spoliation, the parties have met
15 and conferred and have selected the ten bellwether cases that
16 we've provided to Your Honor, and the deadline for the
17 additional witnesses that either party has the opportunity to
18 depose is on August 12th. For those ten cases, again,
19 discovery is moving forward with regards to completing the
20 depositions to the extent they're necessary for each of those
21 ten cases, as well as, of course, the motion for summary
22 judgment and the Plaintiffs' response that are due late in
23 August and the response due late in September, so those are
24 going forward as contemplated by the scheduling order.

25 With regards to the Group 1 and Group 2 depositions,

1 the Plaintiffs and surgeons, these two are moving forward, per
2 the scheduling order. The various Group 1 Plaintiff cases,
3 they've been going forward with discovery, with a due date,
4 discovery due date, per the order, of April -- excuse me --
5 September 26th, 2016. And the Group 2 cases have been
6 selected, and the discovery due date for that particular group
7 is December 26th, 2016.

8 Again, Plaintiffs' Steering Committee has been
9 holding frequent calls with individual counsel who have cases
10 in both groups and providing information, as we obtain it, to
11 the greater numbers of the counsel, individual counsel for the
12 cases. And, as we understand it, again, the discovery is going
13 forward. As issues come up or if issues come up, those
14 individual issues, we would be able to have -- that can be one
15 of the things that we can discuss in our every-other-week
16 discovery calls, to the extent any come up, moving forward.

17 **THE COURT:** Okay.

18 **MR. WARD:** With regards to the Biomet employee
19 depositions, there's a deadline for the initial list of
20 witnesses. We've requested sixteen witnesses, deponent
21 witnesses, to be deposed. So far, we've been able to depose
22 three. The Defendants are obtaining additional dates for a
23 number of additional witnesses within that sixteen.

24 And with regards to the supplemental list, we've
25 provided a list of eighteen witnesses that we would like to

1 depose. The Defendants have had some objections to some of
2 those. I anticipate having a meet-and-confer with the
3 Defendants to see if we would be able to work out some of those
4 issues with either the initial group and/or the group of
5 eighteen. Hopefully, I can get with Erin today and set up
6 something for next week so, if there are any outstanding
7 issues, we can address them in the discovery call that we'll
8 have, the telephonic discovery call that Your Honor has set up
9 for us to have going forward.

10 **THE COURT:** Okay. On the first three here on the
11 agenda -- well, I guess -- well, yeah, the three -- the summary
12 judgment motions on the statute of limitations, the depositions
13 in the spoliation bellwethers, and the Group 1 and 2
14 depositions, I understand you're primarily backstopping
15 original counsel of record on those.

16 Are you aware of any issues that have arisen with
17 respect to those or do they seem to be either moving along fine
18 or people aren't sharing problems with you?

19 **MR. WARD:** Well, we have at least one to two
20 telephone calls with all counsel every month, and sometimes we
21 set up special calls. And to the extent -- and outside of
22 that, the PSC -- Mr. Diab, Ms. Fulmer, myself -- field a lot of
23 either calls and/or e-mails with particular issues. To the
24 extent we can address them directly, we certainly do. And to
25 the extent there are things that we can address with

1 Defendants, we do that. And to the extent there are things
2 that -- those individuals can't be worked out, then that's when
3 we bring those issues to the Court.

4 **THE COURT:** Are there any of that last group that you
5 think you're going to have reach me? Are you aware of any of
6 those or has everything been headed off at the pass, so far?

7 **MR. WARD:** Well, there are some that are -- there are
8 only a couple that I can think of that may or may not need the
9 Court's assistance and we're still, you know, working those
10 out. Some of them, because of the deadlines that occur, may or
11 may not have already extinguished and made the issues moot.
12 But to the extent that there are -- there are some, and I can't
13 tell you, off the top of my head, if all of those --

14 **THE COURT:** No, that's fine.

15 **MR. WARD:** -- case-specific issues have been
16 addressed or not.

17 **THE COURT:** Okay. And what is Biomet's view of these
18 four topics: The motions on statute of limitations or
19 briefing; the depositions on spoliations; the depositions,
20 Group 1 and 2; and the employee depositions?

21 **MS. HANIG:** So, there's one issue that I'd like to
22 bring to the Court's attention because we may need your
23 assistance, and that's on the spoliation bellwether cases.

24 So, of those ten, Biomet is going to take a 30(b)(6)
25 chain-of-custody deposition of the hospitals where the revision

1 surgery was performed. We have reached out to all of those
2 providers, given them 30(b)(6) notices. We're in the process
3 of reaching out to the individual Plaintiffs' counsel and
4 coordinating with them.

5 At least two of those providers have said to us, "We
6 need an authorization that's more current."

7 The authorizations that were provided with the
8 initial Plaintiff Fact Sheets are now one to two-years-old.

9 So, with that deadline coming up August 12th, while
10 Biomet is prepared to take these depositions right now, all the
11 pieces moving, we might not be able to get that done.

12 So, I would suggest that I work with Navan and
13 counsel in those individual ten cases, and then we come back to
14 you, say, in two weeks. And if we're thinking that we're not
15 going to be able to get it done by the 12th, then we tell you
16 then.

17 **THE COURT:** Okay. Otherwise, nothing to add to what
18 Mr. Ward said about those topics?

19 **MS. HANIG:** I don't have anything to add, unless
20 Mr. Winter does.

21 **THE COURT:** Mr. Winter?

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

23 **THE COURT:** Okay. I'd like to talk about the pro se
24 cases.

25 I know that -- I can't remember who from the Steering

1 Committee told me that Mr. Diab was trying to coordinate the
2 possibility of other attorneys taking up some of the pro se
3 cases.

4 I don't want to do a premature Lone Pine order. It
5 seems that, somewhere down the road, we may have to find out
6 what the pro se Plaintiffs' intentions are.

7 But can anybody, from the Plaintiffs' side, whether
8 Mr. Diab or anybody else, fill me in on where we stand, because
9 the percentage of pro ses, obviously, is growing?

10 **MS. FULMER:** Your Honor, this is Brenda Fulmer, on
11 behalf of the Steering Committee. I'm probably the best person
12 to address that issue for the Court.

13 On April 21st, I wrote to every pro se Plaintiff that
14 we had identified in the MDL and expressed to them that the
15 Court was contemplating a Lone Pine order, what that might mean
16 to them, and I encouraged them, if they, you know, were wanting
17 to prosecute their case and looking for counsel, that they do
18 so very soon.

19 We also provided them with a list of all the
20 attorneys who had pending cases in the MDL to help assist them
21 in finding new counsel, so that's already happened.

22 A number of those Plaintiffs did contact my office
23 and said that they were working on that process. I just don't
24 know how long the Court wants to allow them to do that.

25 **THE COURT:** Well, it's not -- my sense is it's not

1 holding us up any, at this point, with the cases -- with the
2 cases that are moving forward, but, on the other hand,
3 somewhere along the way, as we move along -- so I'm not
4 chomping at the bit to do a Lone Pine order, but, on the other
5 hand, once we can figure out who is going to be representing
6 themselves, to at least find out who, among those people, are
7 serious about moving forward, as well. I'm not in a hurry.

8 You said several of them did contact you and other
9 attorneys, though?

10 **MS. FULMER:** Yes, Your Honor.

11 And, so, I mean, on behalf of the Plaintiffs, I would
12 ask that you give these individuals as much time as possible
13 because we certainly agree that there's not -- there doesn't
14 appear to be a real sense of urgency, at this point. Perhaps
15 it's an issue that we might re-address towards the end of this
16 year when we're looking, you know, kind of, at a turning point
17 in the litigation.

18 **THE COURT:** Yeah, I was thinking October, November.

19 That time frame, October, December, is that workable
20 for Biomet?

21 **MS. HANIG:** I believe so, Your Honor.

22 **THE COURT:** Okay.

23 **MR. WINTER:** Yes, Your Honor.

24 **THE COURT:** Okay. I think that covers everything on
25 my agenda.

1 I note we have a case management order for Group 3
2 due toward the end of next month, on August 26th, which seems
3 to be a date when we have a lot of things due.

4 **MR. WARD:** Well, Your Honor, if I'm not mistaken, I
5 think there's only Group 1 and Group 2. August, I think,
6 27th -- but I think it was moved to the 26th -- I think that is
7 a day for the Court and the parties to meet and confer with
8 regards to moving forward, the MDL moving forward.

9 **THE COURT:** But weren't we working on a case
10 management order for the other cases, as well?

11 I can't read my handwriting half the time so I may be
12 mistaken on that.

13 **MR. WARD:** To my understanding, from the order,
14 there's a Group 1 and a Group 2 --

15 **THE COURT:** Yeah.

16 **MR. WARD:** -- the general case track, the general
17 discovery case track with several different deponents and
18 discovery, written discovery that goes along with that, the
19 expert case track.

20 But I think, here, August 27th, it was contemplated
21 by the parties and the Court, at this point in time, after
22 we've had an opportunity to get farther along with the general
23 discovery, along with the other various tracks, Group 1, Group
24 2, as well as the spoliation, Exhibit A and Exhibit B cases,
25 that, at that point in time, the parties and the Court would

1 pick some time, either on that date, probably more so -- that's
2 a Saturday, so it's probably going to be more so the 26th or
3 some date before then -- to start a dialogue with regards to
4 the future of the MDL.

5 It's been our understanding that we've been doing the
6 Group 1, Group 2, and the general discovery, in order to
7 prepare these cases to be remanded back, and it's been the
8 Plaintiffs' anticipation that, as that dialogue occurs, we
9 would be able to discuss the method and the timing and how
10 these particular cases would, essentially, start the process of
11 being remanded.

12 And so I'm not aware of a Group 3.

13 **THE COURT:** Yeah, that may have been something I was
14 thinking about and moved a note over, as though we had done it,
15 so that's fine.

16 Well, then that covers everything that I have on the
17 agenda.

18 Is there anything further that the Plaintiffs wanted
19 to talk about today, other than scheduling?

20 Obviously, we need to pick the optional discovery
21 issue dates and then a date for the next status conference.

22 But anything, other than those scheduling matters,
23 that the Plaintiffs wish to address?

24 **MR. WARD:** Not that I'm aware of, Your Honor.

25 I do know that there are a couple issues that were

1 pulled off of this agenda because they weren't ripe to be
2 brought forward to Your Honor, and they would likely be in a
3 better position to be brought up at either the next discovery
4 call conference and/or a series of the next one or two
5 discovery call conferences.

6 **THE COURT:** Okay. Anything further for Biomet?

7 **MS. HANIG:** No, Your Honor, unless Mr. Winter -- I'll
8 let him chime in.

9 **THE COURT:** Mr. Winter, anything to add?

10 **MR. WINTER:** No, Your Honor.

11 **THE COURT:** Well, let's look --

12 **MR. WINTER:** No, Your Honor.

13 **THE COURT:** Thank you, sir.

14 Let's look about two weeks down the road, given the
15 concern about the releases or authorizations that Ms. Hanig
16 talked about. Let's see here.

17 How about 2:00 on the 28th -- I've got a 1:15
18 sentencing, and I don't want to -- for the discovery
19 conference? 2:00 on the 28th; would that work for you,
20 2:00 Eastern Time?

21 I know we're hitting vacation periods. I'm not going
22 to give you a time in my vacation and don't expect you to
23 accept one in yours.

24 **MR. WARD:** That works for me, Your Honor.

25 Brenda or Ahmed, do you have a --

1 **THE COURT:** Does that work for you folks, Ms. Fulmer
2 or Mr. Diab?

3 **MR. DIAB:** Yes, Your Honor.

4 **MS. FULMER:** Yes. Yes, Your Honor.

5 **THE COURT:** Ms. Hanig and Mr. Winter?

6 **MS. HANIG:** That works for me, Your Honor.

7 **MR. WINTER:** Yes, Your Honor.

8 **THE COURT:** Okay. So then this will be the optional.
9 So if nobody tells me -- what are we working on -- forty-eight
10 hours in advance, we'll cancel it, and that would be
11 anticipated by telephone.

12 The next week is the week you're not getting anything
13 out of me in the way of a schedule.

14 How about 1:30 on August 11th then for our next one?

15 And we can look about --

16 **MR. WARD:** Your Honor, I know that I will be in a
17 pretrial conference on that date, and the time has not been
18 given for that particular pretrial conference, though.

19 **THE COURT:** How about the 10th at 1:30?

20 **MR. WARD:** That works for me.

21 **THE COURT:** Ms. Fulmer, Mr. Diab?

22 **MR. DIAB:** Works for me, Your Honor.

23 **MS. FULMER:** I'm sorry, Your Honor. I'll be out of
24 the country, but I'm certain that Navan and Ahmed can cover for
25 it.

1 **THE COURT:** Okay. I will not set it if you're not
2 available, if you would prefer. I'll do it at a different
3 time.

4 **MS. FULMER:** That's not necessary, Your Honor.

5 **THE COURT:** Okay. And, for the Defendants,
6 Ms. Hanig, Mr. Winter?

7 **MS. HANIG:** That works for me, Your Honor.

8 **MR. WARD:** And I apologize, Your Honor.

9 **MR. WINTER:** Works for me, Your Honor. Thank you.

10 **THE COURT:** 1:30 on August 10th.

11 And then for the status conference -- and, again,
12 that August 10th, if nobody tells me forty-eight hours before
13 that there's something that needs to be talked about, we'll
14 cancel it.

15 For the status conference -- let's see -- I was
16 looking at the week of the 22nd, but I've got a jury trial that
17 looks very likely to go. So, how about the following Monday,
18 the 29th, at, say, 1:00? No -- I'm sorry -- 1:30. If we do it
19 live, we would do a 1:00 chambers conference.

20 **MS. HANIG:** Your Honor, I think both myself and
21 Mr. Ward -- we have a motion for summary judgment hearing in
22 one of the Indiana state court cases that day.

23 **THE COURT:** Oh, okay.

24 **MR. WARD:** And it's right down the street here, so,
25 to the extent you would want to do it that morning or

1 afternoon --

2 **THE COURT:** Yeah.

3 Do you want to do it at 11:00 that morning?

4 **MS. HANIG:** That would work, and that would be good
5 for Mr. Ward.

6 **THE COURT:** Sure, one trip.

7 Does 11:00 on August 29th work for everybody?

8 **MR. DIAB:** I can make that work, Your Honor.

9 This is Ahmed Diab.

10 **THE COURT:** Okay.

11 **MS. FULMER:** Yes, Your Honor.

12 Is 11:00 for the hearing or for the pre-conference?

13 **THE COURT:** I guess the pre-conference would be at
14 that time, and then 11:30 would be the conference.

15 Mr. Winter?

16 **MR. WINTER:** It will work for me, Your Honor.

17 **THE COURT:** Okay. So, we've got the potential
18 discovery hearings on July 28th at 2:00, and, again, these are
19 telephonic, and August 10th at 1:30.

20 Are we getting down -- well, actually, I guess we
21 would be about time to set hearings, so let's plan on the
22 telephonic conference -- give everybody a telephonic option. I
23 understand Mr. Ward and Ms. Hanig will be here, and everybody
24 else can participate by telephone, if you would like, because,
25 I think, at that point, we'll probably be scheduling some

1 things where people will have to be here.

2 **MR. WARD:** And, Your Honor, with regards to the
3 August 26th meet-and-confer with the parties and the Court
4 regarding the remainder of the cases, is that something that
5 you would want for the parties to --

6 **THE COURT:** Yeah, why don't we take that up on the
7 29th. I hesitate to give you the 26th, actually, because I
8 just did a -- this week, I had a companion trial of a criminal
9 case that's set on the 22nd, and I can see it going through the
10 week, and I would hate to have you all get to watch a final
11 argument. Your time can probably be spent better doing other
12 things. So, we'll plan to talk about it then on the 29th.

13 Anything further for the Steering Committee?

14 **MR. WARD:** That's it for the Steering Committee,
15 Your Honor.

16 **THE COURT:** Anything further for Biomet?

17 **MS. HANIG:** No, Your Honor. Thank you.

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

19 **MR. WINTER:** Thank you, Your Honor.

20 **MR. DIAB:** Thank you, Your Honor.

21 **MS. FULMER:** Thank you, Your Honor.

22 **(Proceedings concluded.)**

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CERTIFICATE

I, DEBRA J. BONK, certify that the foregoing is a true and correct transcript from the record of proceedings in the above-entitled matter.

DATED THIS 15TH DAY OF JULY, 2016.

S/S DEBRA J. BONK

DEBRA J. BONK
FEDERAL CERTIFIED REALTIME/REGISTERED MERIT REPORTER