

The Honorable Robert L. Miller, Jr.
Judge, United States District Court
Northern District of Indiana

February 3, 2020

Re: MDL 2391

Dear Judge Miller:

I wanted to alert you that the Biomet Defendants are requesting that the JPML vacate its August 27, 2018 Order, which suspended further transfer of tagalong cases to the MDL. If the Panel grants the Motion, the Biomet Defendants will seek retransfer of previously remanded cases back to the MDL and transfer of newly filed M2a cases, which were not previously part of the MDL.

The Biomet Defendants believe that the MDL's previous work was thorough, and its Orders were clear, including this Court's conclusion that, as of August 2018, the "plaintiffs had a full opportunity to seek discovery from Biomet." Based on the extensive and successful work completed in the MDL, the Biomet Defendants reasonably anticipated that discovery in remanded cases would focus on case-specific discovery. But our experience in remanded and newly filed M2a cases has demonstrated that: (1) plaintiffs are seeking, and courts are allowing, extensive additional common issue discovery of Biomet; and (2) settlement negotiations have been unsuccessful based on impassioned disputes about settlement value.

Based on these unfortunate events, the Biomet Defendants believe that the parties in the remanded and newly filed M2a cases could benefit from further, centralized, litigation in the MDL, including Bellwether trials. The Biomet Defendants are confident that further litigation in the MDL will promote just and efficient litigation of the remaining M2a cases and eliminate, or reduce, the duplicative discovery and inefficiencies that the parties are currently experiencing in the remanded and newly filed cases.

Thank you for your hard work and guidance in this MDL. We will send you a courtesy copy of the motion when it is filed. If the Panel and this Court will allow it, we look forward to continued work with this MDL.

Respectfully,

A handwritten signature in cursive script, appearing to read "John D. LaDue".

John D. LaDue

Copy to:
Plaintiffs Steering Committee