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May 5, 2015

Via Federal Express

Honorable Robert L. Miller
U.S. District Court for the Northern District of Indiana
204 South Main Street
South Bend, IN 46601

Re: *Nicole Murphy, et al. v. Biomet Inc., et al.*
U.S. District Court, N.D. Indiana, South Bend Division
Case No. 3:13-cv-284 (MDL-2391)

Dear Judge Miller:

My firm represents Nicole Murphy, a plaintiff in the Biomet MDL. Like many other plaintiffs who are presently raising issues with the Court regarding Biomet's adherence to the MSA, Ms. Murphy sought an enhancement of her agreed upon $190,000 base award under the MSA due to (1) an pubis ramus fracture she suffered during her revision, and (2) a post-operative staph infection that she sustained. Upon requesting that enhancement, Biomet reversed course and reduced its offer to a small percentage of that base award.

To provide some context, pursuant to section 2(b)(1) of the MSA, my client and Biomet had provisionally agreed to a base settlement amount of $190,000. Biomet then challenged Ms. Murphy's base award. Per John Winter, the basis for the challenge was that, in Ms. Murphy's revision surgery operative report, her metallosis was designated as "suspected." Hence, as stated in Mr. Winter's November 20, 2014 e-mail, to determine whether or not a plaintiff suffered from a metal-on-metal injury, "Biomet goes by the descriptions in the revision operative report and confirmed pathology and there is no metallosis or pseudotumor described in the revision operative report. And the pre-op and post-op diagnosis for the revision procedure itself on Jan.11, 2013 say suspected."

I responded to Mr. Winter by explaining that, contrary to the suggestion in his email, the surgeon did note in his operative report that Ms. Murphy had evidence of foreign body reaction in her tissue. I also explained that the diagnosis on the operative report - that the metallosis was only suspected - was so because that foreign body reaction had not yet been tested to evaluate its nature. The pathological study of that tissue confirmed metallosis, and the surgeon's discharge diagnosis was confirmed metallosis. That explanation fell on deaf ears; Biomet would not change its position.

Mr. Winter and I discussed Ms. Murphy's case further in subsequent weeks. He suggested that I obtain a narrative report from Ms. Murphy's surgeon, to assist in Biomet's evaluation of the cause of Ms. Murphy's hip implant failure. At our cost, I obliged that request, and produced Dr. Timothy

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Conlan's report. Dr. Conlan confirmed what I had previously told Mr. Winter, that "[t]he diagnosis for the cause of the early failure of the metal on metal hip is metal[l]osis." Biomet still refused to change its position. Simply put, though Biomet's alleged "good cause" to challenge Ms. Murphy's case was facially precarious and has been more than thoroughly disproven, Biomet continues to fail to adhere to the MSA.

I take note of Gregg Borri's letter April 24, 2015. Like Mr. Borri, I believe further investigation into Biomet's processing of plaintiffs' claims is very much warranted. Neither Mr. Anapol's April 27st letter to the Court, nor Mr. Winter's letter of May 1st, addresses the concern of Biomet's automatic challenge of any plaintiff who sought enhancement. Moreover, while my ability to address this issue fully in this medium is constrained due to confidentiality concerns, I would like to convey further, either via sealed briefing or in chambers, why I believe that Biomet's processing of my client's case was in bad faith and not in keeping with the negotiations leading to the MSA.

I greatly appreciate your consideration of this issue, and would gladly provide more information to assist the Court further in its evaluation.

Very truly yours,

Scott D. Perlmuter

PI12070

cc: Thomas Anapol, John Winter