

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN RE: BIOMET M2a MAGNUM HIP)
IMPLANT PRODUCTS LIABILITY)
LITIGATION (MDL 2391)) CAUSE NO. 3:12-MD-2391
)
)
)

This Document Relates to All Cases)

MEMORANDUM OF SEPTEMBER 23, 2013
CASE MANAGEMENT CONFERENCE

The plaintiffs were represented at the September 23, 2013 case management conference by Thomas Anapol, Mark Lanier, Frederick Hovde, Robert Dassow, Anne Andres, Richard Arsenault, Daniel Burke, Larry Boyd, Shelly Hutson, Douglass Kreis, Daniel Robinson, Alex Brown, Todd Campbell, and John Thornton. Defendants were represented by John Winter, John LaDue, Erin Linder Hanig, and Blaine Dart.

The court related that in its meeting with counsel prior to the status conference, (i) the parties noted some potential discovery disputes that are being discussed by counsel and so aren't yet ripe for the court's intervention, (ii) the plaintiffs believe a special master would be helpful for discovery disputes, but the defendants disagree, (iii) the defendants believe scheduling bellwether trials and related deadlines is in order, while the plaintiffs said those settings would be premature.

Counsel for the plaintiffs indicated that while some of the non-revision cases have no apparent injury, others need to move forward; the parties have agreed to

continue to work out an agreement that any dismissals would be without prejudice to address statute of limitations concerns.

Counsel for the defendants discussed the pending motions to dismiss cases where no plaintiff fact sheets have been submitted, stating that fourteen of those motions will be withdrawn and fifteen cases are still unresponsive. Counsel indicated that unless responses are timely filed, defendants will submit proposed forms of order dismissing those cases without prejudice and giving the parties 90 days to cure any deficiency before the actions are dismissed with prejudice.

Counsel for the defendants also informed the court that they are hopeful of having fruitful discussions with the plaintiffs relating to bellwether trial scheduling and statute of limitations motions. Counsel for plaintiffs indicated that they believe the statute of limitations issue would be better addressed by the remand court.

The court adjourned the conference to **Monday, November 18, 2013, at 9:00 a.m. (E.S.T.)** to be held telephonically unless the parties request that an in-person conference be conducted. The court indicated that it would issue an order relating to the issues of the bellwether trial process and the appointment of a discovery master prior to the next conference.

ENTERED: September 24, 2013

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