

1 **THE COURT:** Good morning.

2 This is our regularly-scheduled status conference in
3 our Cause Number 3:12md2391 and Multi-District Litigation Cause
4 Number 2391, **In Re: Biomet M2a Magnum Hip Implant Products**
5 **Liability Litigation.**

6 We are fewer in number. I understand there's some
7 weather issues that kept one anticipated participant from
8 getting here and another one that made the trip very difficult
9 for an anticipated participant who is here.

10 So if I could ask you to state your appearances for
11 the record.

12 **MR. WARD:** Yes, Your Honor. Navan Ward for the
13 Plaintiffs' Steering Committee.

14 **THE COURT:** Mr. Ward.

15 **MS. HANIG:** And Erin Hanig for the Defendants.

16 **THE COURT:** Ms. Hanig.

17 I have the agenda. I just want to be sure I know.
18 Mr. Ward, apparently, was traveling for a goodly part of
19 yesterday and today.

20 And you got copies -- we gave you physical copies of
21 the orders that went out yesterday?

22 **MR. WARD:** Yes, Your Honor. Ms. Potts was kind
23 enough to provide me with copies of those this morning.

24 **THE COURT:** Okay. Oh, I'm sorry. Mr. Winter, who is
25 the person who couldn't get here, is on the phone.

1 Is he able to speak to us or is he just listening?

2 **COURTROOM DEPUTY:** He can speak.

3 **THE COURT:** Are you there or just listening?

4 **MR. WINTER:** No, I can speak, Your Honor. Good
5 morning.

6 **THE COURT:** Good morning. Welcome, sort of.

7 Ms. Hanig, you saw the orders that went out
8 yesterday?

9 **MS. HANIG:** I did, yes, Your Honor.

10 **THE COURT:** I apologize for getting them out on the
11 eve of the conference; but on the other hand, we got them out
12 so I guess that's better than zero.

13 Ms. Hanig, most of the at least early agenda items
14 are usually yours, so let me start with you on active case
15 count.

16 **MS. HANIG:** Sure.

17 By my count, we're around 138 that are still pending.
18 I know a number of those are having settlement discussions, but
19 the docket is 138.

20 And if we skip down to Item Number 4, we're going to
21 jointly propose to the Court another one of those orders to
22 show cause for dismissal of settled cases. There's only about
23 10 to 15 that we have different between what's showing on ECF
24 and what's showing on our records. And once we agree on that
25 with the PSC, we'll get that to you hopefully tomorrow or by

1 Monday.

2 **THE COURT:** Okay. Perhaps we can send you our list,
3 to both of you, because we show about 25 that were reported
4 settled but not dismissed, and it may be -- usually your
5 numbers are better than ours because things just haven't gotten
6 to the Court, but we'll let you know what we show so we can
7 maybe all be on the page for one brief, shining moment.

8 **MS. HANIG:** That would be helpful. Thank you.

9 **THE COURT:** Discovery update.

10 **MS. HANIG:** Yeah, not much to update. Groups 8(a)
11 and 8(b) --

12 **(Telephone interruption.)**

13 **MS. HANIG:** Groups 8(a) and 8(b) --

14 **THE COURT:** Hold on just a moment.

15 **MS. HANIG:** Oh, sorry.

16 **THE COURT:** Who just joined the conference?

17 **COURT REPORTER:** It said, "Anonymous."

18 **THE COURT:** I'm sorry?

19 **COURT REPORTER:** It said, "Anonymous."

20 **THE COURT:** Anonymous, okay.

21 **MS. HANIG:** Mystery.

22 **(Telephone interruption.)**

23 **THE COURT:** We will see all these records on the
24 Internet somewhere.

25 Go ahead.

1 **MS. HANIG:** Nothing really to update for
2 case-specific discovery other than it is moving as expected.

3 **THE COURT:** So it's on time?

4 **MS. HANIG:** Yes.

5 **THE COURT:** Anything to add to that, Mr. Ward?

6 **MR. WARD:** Nothing additional, Your Honor.

7 **THE COURT:** Okay. Remaining remands.

8 **MS. HANIG:** On that point, Your Honor, for --

9 **(Telephone interruption.)**

10 **THE COURT:** Can we cut off the voice? We'd cut off
11 Mr. Winter if we did that, wouldn't we?

12 **COURTROOM DEPUTY:** Yes, we would.

13 **THE COURT:** Okay. Well, we'll just have to put up
14 with it.

15 Go ahead. I'm sorry.

16 **MS. HANIG:** Per the order, the Court's order, we're
17 going to give you the proposed remand group list from Discovery
18 Group 7 tomorrow.

19 And then I think there's already a process laid out
20 in your order to deal with the remaining remands. But if
21 there's something we need to discuss today, we'd be happy to do
22 so.

23 **MR. WARD:** Yes, we're in the process of making sure
24 that that number is correct, and we've already exchanged a
25 couple go-rounds with those numbers, and by tomorrow we should

1 hopefully have the concise, correct number as far as the
2 different plaintiffs that should be remanded for this round.

3 **THE COURT:** Okay. And, again, I will not be
4 surprised if there was some necessary item left out of the
5 order that we did on July 2nd, so don't hesitate to tell us if
6 there's some other aspect that you need covered.

7 The proposed order you already discussed.

8 I can address the pending motions overview.

9 Within the last 24 hours --

10 **(Telephone interruption.)**

11 **THE COURT:** They usually are busy calling my house.

12 The motion to modify future remand transfer orders
13 was ruled on yesterday. The spoliation motions in **Bruton** and
14 **Babcock** were ruled on yesterday. The motion to compel just
15 fell ripe, and, frankly --

16 **(Telephone interruption.)**

17 **THE COURT:** -- we were focusing on the motion to
18 modify and the spoliation motions and haven't really gotten too
19 far into it, but I will pledge to you, you will get a ruling
20 more than 24 hours before the next status conference.

21 Boy, we zipped through that.

22 Anything further from the Plaintiffs' standpoint that
23 you need to raise?

24 **MR. WARD:** Nothing from the Plaintiffs' standpoint.

25 **THE COURT:** Anything for the Defendant, Ms. Hanig?

1 **MS. HANIG:** Just on that pending motion to compel
2 discovery. In the **Annette Williams** case, I know there is a
3 motion from the Plaintiff for hearing, so I'm not sure whether
4 you're going to --

5 **(Telephone interruption.)**

6 **MS. HANIG:** I'm not whether the Court wants a hearing
7 or not, but wanted to point that out.

8 **THE COURT:** Yeah, I appreciate that. I saw that.
9 We're not far enough into it to know whether the hearing would
10 be helpful.

11 Mr. Winter, anything to add?

12 **MR. WINTER:** No, Your Honor, other than apologies.
13 The weather just really got the best of getting out of New York
14 yesterday.

15 **THE COURT:** That's what Mr. Ward was explaining,
16 although he was able to get out and arrive at 3:00 a.m. in
17 Chicago.

18 **MR. WARD:** Yes. But even though I don't like to
19 agree with my colleague, Mr. Winter, I was thinking about him
20 while I was in that, the midst of everything going on, and I'm
21 surprised I got out, and I'm not surprised that he was not able
22 to.

23 **THE COURT:** What was the issue?

24 **MR. WARD:** Apparently, weather. It seemed as if it
25 was a regular rain to me, but there were a bunch of

1 cancellations, and somehow or another I was able to make it
2 here.

3 **THE COURT:** Well, I appreciate the efforts to get
4 here and the yeoman effort of having been in a place where the
5 planes would fly and getting here late.

6 Let's look at a time for our next status conference.
7 Assuming I get that discovery -- that motion to compel done
8 within the next 30 days, would 60 days be appropriate for a
9 status conference? It seems like things are moving fairly
10 well. Obviously, if you need something before then, I'm here
11 for most of that time, anyway. Do you think we need it more
12 frequently or does 60 days sound like a good target?

13 **MR. WARD:** I think within 60 days should be fine.

14 **THE COURT:** Okay. Let's see what I've got. Wow.
15 I'm sharing a courtroom and trying to figure out how I can be
16 the least intrusive.

17 How about 1:00 on Monday, October 7th? Would that
18 work for you?

19 **MR. WARD:** Yes. Yes, it would for Plaintiff.

20 **MS. HANIG:** That should work, too, for Defendant,
21 depending on what Mr. Winter's calendar is.

22 **THE COURT:** Mr. Winter, October 7 -- that's a
23 Monday -- at 1:00 work for you?

24 **MR. WINTER:** It will, Your Honor. Thank you.

25 **THE COURT:** If I don't have a courtroom, we'll either

1 do it in a conference room or, if all is going along
2 swimmingly, I suppose we could do it by telephone. I will be
3 fighting for courtroom space from here on out.

4 **MR. WARD:** Looks like they're fighting for courtroom
5 space and parking space out here.

6 **THE COURT:** But this is a good thing that I'm
7 fighting for courtroom space. We got another judge confirmed.

8 All right. Well, thank you very much, and I will see
9 or speak or be with you in October, and we'll get the ruling
10 out on the motion to compel.

11 Nobody anticipates anything coming in, in the next
12 couple weeks, for my ruling?

13 **MR. WARD:** Well, there may be, one of the Plaintiff's
14 counsel who has been having issues with getting information
15 regarding a sales representative that they're seeking to
16 depose, prior to -- or at least information, get the
17 information in, production in prior to the remainder of the
18 case specific discovery that's going on, and so I anticipate
19 that there may be a motion in that capacity from that
20 particular Plaintiff --

21 **THE COURT:** Okay.

22 **MR. WARD:** -- Plaintiff's counsel.

23 **THE COURT:** You're still working with each other, but
24 it might happen?

25 **MR. WARD:** Yes. I think it's -- T.J. Preuss is the

1 Plaintiff's counsel. I'm not familiar with the name of the
2 Plaintiff, though.

3 **THE COURT:** Me either.

4 Okay. All right. Well, I'll be here. I will be
5 gone the first two weeks of September. When I keep saying,
6 "I'll be here," more or less. So, thank you, folks.

7 **MR. WARD:** Thank you, Your Honor.

8 **MS. HANIG:** Thank you, Your Honor.

9 **LAW CLERK:** All rise.

10 **MS. HANIG:** Thank you, Your Honor.

11 **THE COURT:** Thank you, Mr. Winter.

12 **(Proceedings concluded.)**

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