

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

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IN RE: ATRIUM MEDICAL CORP.  
C-QUR MESH PRODUCTS LIABILITY  
LITIGATION

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1:16-md-02753-LM  
March 14, 2019  
2:04 p.m.

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\* \* \* \* \*

TRANSCRIPT OF STATUS CONFERENCE  
BEFORE THE HONORABLE LANDYA B. McCAFFERTY

Appearances

Via Telephone:

For the Plaintiffs:

David Selby, II, Esq.  
Bailey & Glasser LLP

Susan A. Lowry, Esq.  
Upton & Hatfield LLP

Anne W. Schiavone, Esq.  
Holman Schiavone LLC

For the Defendants:

Enjoliqué D. Aytch, Esq.  
Akerman LLP

John E. Friberg, Esq.  
Wadleigh, Starr & Peters PLLC

Katherine Armstrong, Esq.  
Mark S. Cheffo, Esq.  
Dechert LLP

Court Reporter:

Liza W. Dubois, RMR, CRR  
Official Court Reporter  
U.S. District Court  
55 Pleasant Street  
Concord, New Hampshire 03301  
(603) 225-1442

## P R O C E E D I N G S

1  
2 THE COURT: Good afternoon, counsel. This is  
3 Judge McCafferty. Can everybody hear me?

4 MR. SELBY: Yes, your Honor.

5 THE COURT: Okay. All right. Let me just  
6 begin. I've got the court reporter here, of course.  
7 I'm going to state the name of the case. It's docket  
8 number -- and then I'm going to have counsel just  
9 introduce themselves, spell your last name, and then  
10 from here on out, when you speak, just identify yourself  
11 quickly for our court reporter.

12 And if -- and I'd request that nobody use the  
13 hold feature. You can use mute, but -- but please do  
14 not use the hold feature on your phones.

15 Okay. This is In Re: Atrium Medical Corp.,  
16 C-Qur Mesh Products Liability Litigation, MDL number  
17 16-md-02753-LM. This is our status conference for this  
18 month.

19 Let me hear counsel who are on the call and  
20 then we'll begin. If you could identify yourself --

21 MR. SELBY: Your Honor, this is --

22 THE COURT: Go ahead.

23 MR. SELBY: Your Honor, this is David Selby on  
24 behalf of the plaintiffs.

25 MS. LOWRY: And Susan Lowry is also here for

1 the plaintiff.

2 MS. SCHIAVONNE: And Anne Schiavonne is also  
3 here for the plaintiffs, S-c-h-i-a-v-o-n-n-e.

4 MS. AYTCH: Good afternoon, your Honor. This  
5 is Enjoliqué Aytch, A-y-t-c-h, last name, for the  
6 defendant.

7 MR. FRIBERG: Good afternoon, your Honor.  
8 Jack Friberg, F-r-i-b-e-r-g, for the defendants.

9 MR. CHEFFO: Mark Cheffo, C-h-e-f-f-o, for the  
10 defendants.

11 MS. ARMSTRONG: Katherine Armstrong,  
12 A-r-m-s-t-r-o-n-g, for the defendants.

13 THE COURT: Okay. I think that is everybody.

14 This looks like it might be a fairly brief  
15 status conference, at least that's the feeling that I  
16 get from reading the agenda.

17 It looks like you're working -- continuing to  
18 work out details with respect to some of the remaining  
19 issues.

20 Let me just ask counsel -- bring up an issue  
21 right at the beginning here. April 11th is our next  
22 status conference -- and I think somebody just was added  
23 to the call. Please do not put this call on hold.

24 The next status conference is April 11th and I  
25 will be at a judicial conference that day. And I'm

1 wondering if we could move our status conference to the  
2 next Thursday, April 18. Would that work for folks?

3 MR. SELBY: Your Honor, on behalf of the  
4 plaintiffs, I don't see any issue why that would not  
5 work.

6 THE COURT: Okay.

7 MR. CHEFFO: Same for the defendants, your  
8 Honor.

9 THE COURT: Okay. Well, we're going to go  
10 ahead then and make that change now and that takes care  
11 of just one minor procedural issue.

12 So let's look now at the agenda. And agenda  
13 item I is a summary of the status of depositions.

14 Somebody was just added to the call, so I want  
15 to tell that individual to please not put their phone on  
16 hold.

17 All right. Anything you want to add to agenda  
18 item number I?

19 MR. SELBY: No, your Honor. This is on  
20 behalf -- this is David Selby on behalf of the  
21 plaintiffs.

22 Just from a simple housekeeping matter, the --  
23 where the parties have indicated witness number 8, Keith  
24 Faucher, for March 19, that's being rescheduled to a  
25 later date. But all the others, everything else on here

1 remains the same and we're working through dates with  
2 the defendants on witnesses 16 through 22.

3 THE COURT: Okay. Excellent. All right.

4 Anything else from the defendants on agenda  
5 item number I?

6 MS. ARMSTRONG: Katherine Armstrong for the  
7 defendants, your Honor. No, we have nothing else.

8 THE COURT: Okay. Agenda item number II,  
9 Pending Motions.

10 All right. Parties are going to submit a  
11 joint proposal for the hearing on the motion.

12 Anything to add to item II(A)?

13 MR. SELBY: Your Honor, the only thing I would  
14 add -- and this is nothing really to add, just to give  
15 your Honor kind of a sense of where we are.

16 We're pretty much -- the parties are all in  
17 agreement on trying to figure out a schedule. We've  
18 just got one issue we're working out with regard to  
19 rebuttal experts. Nothing to be discussed on this call  
20 today, but just that's what we're working through.

21 THE COURT: Okay. Excellent.

22 Attorney Armstrong, did you want to add  
23 anything to II(A)?

24 MS. ARMSTRONG: No, that was an accurate --

25 THE COURT: Okay.

1 MS. ARMSTRONG: -- description of our status.

2 THE COURT: Okay. II(B) -- and these are the  
3 pending motions to dismiss and I will notify the parties  
4 if I need to schedule oral argument on any one of those.

5 Anything need to be added to II(B)?

6 MR. SELBY: Not from the plaintiffs, your  
7 Honor.

8 MS. ARMSTRONG: Not from the defendants, your  
9 Honor.

10 THE COURT: All right. Someone was just added  
11 to the call. I'm going to reiterate; please do not put  
12 your phone on hold.

13 All right. Now we are at agenda item number  
14 III, Outstanding Meet and Confer Issues, and it looks  
15 like under III(1) you're working out the protocol with  
16 regard to the virtual data room.

17 Anything to add to III(1)?

18 MS. ARMSTRONG: Your Honor, this is Katherine  
19 Armstrong --

20 MR. SELBY: No, your Honor.

21 MS. ARMSTRONG: -- we've agreed on the  
22 protocols, just -- but both sides are reserving the  
23 right in case any issue comes up --

24 THE COURT: Okay.

25 MS. ARMSTRONG: -- during the actual

1 production process.

2 THE COURT: Okay.

3 MR. SELBY: That's correct, your Honor.

4 That's right. And I believe the documents are being --  
5 some documents are being produced as of tomorrow. I  
6 don't think we have that on here. That was worked out  
7 since the agenda. But that's -- there's nothing else to  
8 add.

9 THE COURT: Okay. All right. III(2) deals  
10 with a joint request that the parties will be moving  
11 forward with respect to extending deadlines in Case  
12 Management Order 3H regarding the selection of trial  
13 pool cases.

14 So as soon as you file that joint request to  
15 extend those deadlines and extend Case Management Order  
16 3H, I will grant that.

17 Anything to add to --

18 MR. SELBY: Thank you, your Honor.

19 THE COURT: -- to III(2)?

20 MR. SELBY: No, your Honor, not on behalf of  
21 the plaintiffs.

22 THE COURT: All right.

23 MS. ARMSTRONG: Not for defendants, your  
24 Honor.

25 THE COURT: Okay. And agenda item 3 under III

1 is Amendment of CMO 2 and it looks like you're  
2 requesting that I amend it just to reflect where -- how  
3 service is effectuated. And I will make those changes  
4 and amend CMO 2 accordingly.

5 Any -- that looks to be the end of the agenda.  
6 Any other items that need to be discussed?

7 MR. SELBY: Not from the plaintiffs, your  
8 Honor.

9 MR. CHEFFO: And not from the defendants, your  
10 Honor.

11 THE COURT: All right then.

12 Well, it was as brief as I thought it might  
13 be. I'm glad to hear counsel moving the case along and  
14 I'm glad to hear you've reached agreement on some of  
15 these discovery issues.

16 And I will speak to you next, presumably, on  
17 April 18.

18 MR. CHEFFO: Thank you, your Honor.

19 MR. SELBY: Thank you, your Honor.

20 THE COURT: Thank you, counsel.

21 MS. ARMSTRONG: Thank you, your Honor.

22 (Proceedings concluded at 2:12 p.m.)  
23  
24  
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## C E R T I F I C A T E

I, Liza W. Dubois, do hereby certify that the foregoing transcript is a true and accurate transcription of the within proceedings, to the best of my knowledge, skill, ability and belief.

Submitted: 3/25/19

Liza W. Dubois  
Liza Dubois, RMR, CRR  
Licensed Court Reporter No. 104  
State of New Hampshire