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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

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IN RE: ATRIUM MEDICAL CORP. *
C-QUR MESH PRODUCTS LIABILITY * 16-md-02753-LM
LITIGATION * May 9, 2019
* 2:00 p.m.
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TRANSCRIPT OF TELEPHONE CONFERENCE
BEFORE THE HONORABLE LANDYA B. MCCAFFERTY

APPEARANCES:

For the Plaintiffs: Jonathan D. Orent, Esq.
Motley Rice, LLC

Susan A. Lowry, Esq.
Upton & Hatfield, LLP

For the Defendant: Enjolique D. Aytch, Esq.
Akerman, LLP

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

Court Reporter: Susan M. Bateman, LCR, RPR, CRR
Official Court Reporter
United States District Court
55 Pleasant Street
Concord, NH 03301
(603) 225-1453

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

2 THE COURT: Good afternoon, counsel. This is Judge
3 McCafferty. I'm here with a court reporter and my law clerk,
4 Dan Fisher.

5 I am going to just give the name of the case and
6 the docket number for the record to start.

7 In Re: Atrium Medical Corp. C-Qur Mesh Products
8 Liability Litigation, docket number MDL 16-md-02753-LM.

9 Let me have counsel go ahead and identify
10 themselves for the record, and then we'll move along as I
11 think this may be a brief status conference.

12 So go ahead and introduce yourselves.

13 MR. ORENT: Good afternoon, your Honor.

14 Jonathan Orent for the plaintiffs.

15 MS. LOWRY: And Susan Lowry for the plaintiffs.

16 MR. CHEFFO: Good afternoon, your Honor.

17 It's Mark Cheffo for the defendants.

18 MS. ARMSTRONG: Good afternoon, your Honor.

19 Katherine Armstrong also for the defendants.

20 MS. AYTCH: Good afternoon, your Honor.

21 Enjolique Aytch, last name A-Y-T-C-H, for the
22 defendants.

23 THE COURT: Excellent. And good afternoon to each
24 of you as well.

25 I want to just begin by indicating for the record

1 that next month's status conference has been rescheduled to
2 June 20 at 2:00 p.m. by agreement of counsel. I appreciate
3 that.

4 All right. Now, I'm looking at document 1098 which
5 is the joint agenda for this status conference.

6 I've gone through this, read through it, and it
7 looks as though everything is moving along and you're working
8 things out. You've been able to meet and confer and resolve
9 most issues.

10 Is there anything that I need to do specifically?
11 Now, I know you want to amend CMO 3G, and I'm obviously going
12 to do that. Everybody is in agreement with it. It makes
13 perfect sense. So that will happen.

14 Everything else is more by way of updating the
15 Court. Is there anything else that you need to bring to my
16 attention right now?

17 MR. ORENT: Your Honor --

18 MS. ARMSTRONG: Your Honor, this is -- I'm sorry,
19 Jonathan. You can go ahead.

20 MR. ORENT: No, no. Why don't you go first.

21 MS. ARMSTRONG: I suspect we were going to raise
22 the same thing.

23 Your Honor, this is Katherine Armstrong for the
24 defendants.

25 We wanted to check the Court's schedule. We've

1 been having conversations about proposing a schedule for the
2 jurisdictional hearings, and Mr. Orent will correct if I'm
3 wrong, but I think we are looking in terms of completing the
4 expert discovery that needs to get done and then doing the
5 preliminaries leading up to the hearing.

6 What we were going to propose to the Court is
7 August 27th for a final conference to resolve any disputes
8 over evidence that we want to introduce, deposition
9 testimony, that type of thing, and then the week of September
10 9th -- three days the week of September 9th for the actual
11 hearing.

12 We can submit the proposal to you in written form,
13 but those were the dates that we wanted to check and see if
14 those would work for the Court.

15 THE COURT: It does work. I'm just looking at my
16 calendar right now. August 27th for sort of the final
17 pretrial. August 27th, that is fine. My case manager won't
18 be here, but I think we can fill her in adequately. She'll
19 probably know ahead of time via e-mailing with counsel.
20 August 27th works.

21 And then have you already set a time for that or
22 you just wanted to run the dates by me?

23 MS. ARMSTRONG: I think we just wanted to run the
24 dates by you.

25 THE COURT: Okay. Because the sooner I get

1 those -- I'll give this to my judicial assistant and have
2 this in my calendar right away. August 27th. We'll put a
3 hold on it.

4 Is there a time that works for counsel for that
5 hearing because I'm looking at the 27th and I am clear, which
6 is rare.

7 MS. ARMSTRONG: I think any time that works for the
8 Court. I think if we got started in the morning that would
9 leave time to work through whatever things needed to be
10 worked through.

11 THE COURT: Does 10:00 a.m. work?

12 MS. ARMSTRONG: Yes, your Honor.

13 MR. ORENT: That works for plaintiffs as well.

14 THE COURT: All right. Let's say August 27th at
15 10:00 a.m. and then September 9th I'll let you work out with
16 Attorney Esposito, my case manager, the details and timing.
17 September 9th, and you're thinking three days? You want to
18 reserve three days?

19 MS. ARMSTRONG: That's what we were thinking. We
20 were thinking one day for the -- I think we were
21 contemplating plaintiffs going first since they have the
22 burden of proof. So one day for them to put on their
23 evidence, a day for us to put on our evidence, and then, you
24 know, a day for rebuttal and argument.

25 THE COURT: Got you. Okay.

1 MS. ARMSTRONG: It may go faster than that and we
2 may not need all three days, but we thought it might be best
3 to reserve three days.

4 THE COURT: All right. Start on September 9th
5 then. I'm looking at those three days. They're all clear
6 for me right now. So September 9th at 9:00 a.m.?

7 MS. ARMSTRONG: That's fine, your Honor.

8 MR. ORENT: That works for plaintiffs, your Honor.

9 THE COURT: That works for everybody. And we'll
10 start each day at 9:00 a.m. unless something comes up and we
11 need to start earlier for some reason, but we'll go from 9:00
12 to 4:00. Again, we'll stay beyond 4:00 if necessary, but
13 that's going to be the preliminary schedule, 9:00 a.m. to
14 4:00 o'clock on those three days.

15 MS. ARMSTRONG: Thank you, your Honor.

16 MR. ORENT: Thank you, your Honor.

17 THE COURT: Okay. Terrific. Anything else?

18 MR. ORENT: Just a housekeeping item, your Honor,
19 with regard to I guess two of the depositions that we've
20 requested. The former owner of Atrium, Steve Herweck and Joe
21 Depaolo. Back in February we had asked for dates. I know
22 defendants -- at one point prior counsel had advised us that
23 they were not represented and that we should go ahead and
24 subpoena.

25 I'm just unclear whether we should be going

1 forward. So if counsel could just get back to me and let me
2 know if they were able to secure dates or if we should be
3 independently seeking a subpoena, I would just like that
4 clarification.

5 MS. ARMSTRONG: We will do so.

6 MS. AYTCH: Your Honor, this is Enjolique Aytch.

7 Just to clarify for the record, I think prior
8 counsel previously made that representation concerning Steve
9 Herweck.

10 THE COURT: Okay. All right. Then I'll let you
11 work that last detail out over the phone with each other.

12 Is there anything else we need to do today?

13 MR. CHEFFO: Not here, your Honor.

14 MR. ORENT: Not from the plaintiffs, your Honor.

15 THE COURT: Okay. Excellent. I'll talk to you on
16 August 27th and see you in September.

17 MR. ORENT: Thank you, your Honor.

18 MS. ARMSTRONG: Thank you, your Honor.

19 THE COURT: Thank you very much. Court's
20 adjourned.


21 (Conclusion of hearing 2:12 p.m.)
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C E R T I F I C A T E

I, Susan M. Bateman, 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: 5-14-19


SUSAN M. BATEMAN, LCR, RPR, CRR
LICENSED COURT REPORTER, NO. 34
STATE OF NEW HAMPSHIRE