

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

**In Re: Atrium Medical Corp. C-Qur Mesh
Products Liability Litigation (MDL No. 2753)**

**MDL Docket No. 16-md-2753-LM
ALL CASES**

**CASE MANAGEMENT ORDER 3A
RESPONSIBILITIES OF DESIGNATED COUNSEL**

1. Plaintiffs' Lead Counsel

**Jonathan D. Orent
Motley Rice LLC
55 Cedar Street, Suite 100
Providence, RI, 02903
Tel. (401) 457-7723**

1.1 Duties of Lead Counsel. Plaintiffs' Lead Counsel shall be generally responsible for coordinating the activities of plaintiffs during pretrial proceedings and shall:

- 1.1.1 Determine (after such consultation with other members of Plaintiffs' Executive Committee and other cocounsel as may be appropriate) and present (in briefs, oral argument, or such other fashion as may be appropriate, personally or by a designee) to the court and opposing parties the position of the plaintiffs on all matters arising during pretrial proceedings;
- 1.1.2 Coordinate the initiation and conduct of discovery on behalf of plaintiffs consistent with the requirements of Fed. R. Civ. P. 26(b)(1), 26(2), and 26(g), including the preparation of joint interrogatories and requests for production of documents and the examination of witnesses in depositions;
- 1.1.3 Conduct settlement negotiations on behalf of plaintiffs, but not enter binding agreements except to the extent expressly authorized;
- 1.1.4 Delegate specific tasks to other counsel or committees of counsel, as authorized by the court, in a manner to ensure that pretrial preparation for the plaintiffs is conducted efficiently and effectively;

- 1.1.5 Enter into stipulations with opposing counsel as necessary for the conduct of the litigation;
- 1.1.6 Prepare and distribute periodic status reports to the parties;
- 1.1.7 Maintain adequate time and disbursement records covering services as lead counsel;
- 1.1.8 Monitor the activities of cocounsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided; and
- 1.1.9 Perform such other duties as may be incidental to proper coordination of plaintiffs' pretrial activities or authorized by further order of the court.

1.2 Disagreements with Lead Counsel. Counsel for plaintiffs who disagree with Lead Counsel (or those acting on behalf of Lead Counsel) or who have individual or divergent positions may present written and oral arguments, conduct examinations of deponents, and otherwise act separately on behalf of their clients as appropriate, provided that in doing so they do not repeat arguments, questions, or actions of Lead Counsel.

2. Plaintiffs' Liaison Counsel

**Russell Hilliard
Upton & Hatfield, LLP,
159 Middle Street
Portsmouth, NH 03801
Tel. (603) 436-7046**

2.1 Duties of Liaison Counsel. Plaintiffs' Liaison Counsel shall:

- 2.1.1 Communicate with the court about all administrative and procedural matters regarding hearings and conferences before the court, and act as "a single cohort coordinating efforts of the individual plaintiffs," as described in document no. 35.
- 2.1.2 Maintain and distribute to cocounsel and to defendants' liaison counsel an up-to-date service list;
- 2.1.3 Receive and, as appropriate, distribute to cocounsel orders from the court and documents from opposing parties and counsel; and

- 2.1.4 Maintain and make available to cocounsel at reasonable hours a complete file of all documents served by or upon each party (except those made available via a document depository); and
- 2.1.5 Perform such other duties as may be incidental to proper coordination of plaintiffs' pretrial activities or authorized by further order of the court.

3. Plaintiffs' Executive Committee

Jonathan D. Orent, Esq.

D. Todd Mathews, Esq.

David L. Selby II, Esq.

Adam M. Evans, Esq.

Anne Schiavone, Esq.

3.1 Duties of Plaintiffs' Executive Committee. The members of plaintiffs' executive committee shall from time to time consult with plaintiffs' lead and liaison counsel in coordinating the plaintiffs' pretrial activities and in planning for trial. Plaintiffs' executive committee will be responsible for the major decision-making in the litigation, oversight of spending, supervision and approval of common benefit hours, and organizing the greater plaintiffs' steering committee into working committees. Plaintiffs' executive committee will assign the plaintiffs' steering committee with the various tasks essential to the litigation.

4. Plaintiffs' Steering Committee

4.1 Duties of Plaintiffs' Steering Committee. Plaintiffs' Steering Committee will assist with preparing briefs, conducting discovery, and various other necessary tasks required in this litigation. Plaintiffs' Executive Committee will organize Plaintiffs' Steering Committee and appoint additional members to Plaintiffs' Steering Committee in their discretion, as needed.

5. State Liaison Counsel

**James B. Matthews, III
Blasingame Burch Garrard & Ashley
440 College Avenue
PO Box 832
Athens, GA 30630
Tel. (706) 354-4000**

5.1 Duties of State Liaison Counsel. State Liaison Counsel will assist in coordinating this MDL, to the extent appropriate, with the related state-court litigation before New Hampshire Superior Court Judge Charles S. Temple. State Liaison Counsel will inform the court of relevant developments in the state-court litigation.

6. Privileges Preserved

6.1 Communication Between Plaintiffs' Counsel. No communication among plaintiffs' counsel shall be taken as a waiver of any privilege or protection to which they would otherwise be entitled.

7. Modification

7.1 Court's Authority to Modify. The court retains direction to modify plaintiffs' national leadership structure in the future. Any such modification will take place only after notice and consultation between the court and counsel.

SO ORDERED.



Landya McCafferty
United States District Judge

March 13, 2017

cc: All Counsel of Record