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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 * 1:16-md-02753-LM
MESH PRODUCTS LIABILITY LITIGATION * March 17, 2022
* 2:07 p.m.
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TRANSCRIPT OF SPECIAL HEARING
HELD VIA VIDEO CONFERENCE
BEFORE THE HONORABLE LANDYA B. McCAFFERTY

Appearances:

For the Plaintiffs:

Jonathan D. Orent, Esq.
Fred Thompson, Esq.
Motley Rice LLC

David Selby II, Esq.
D. Todd Mathews, Esq.
Bailey & Glasser LLP

Adam M. Evans, Esq.
Hollis Law Firm PA

Anne W. Schiavone, Esq.
Holman Schiavone LLC

Russell F. Hilliard, Esq.
Upton & Hatfield LLP

For the Defendants:

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

Special Master:

Ellen Reisman
Reisman Karron Greene

Court Reporter:

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P R O C E E D I N G S

THE CLERK: For everybody who's just joined us, we'll get started in one moment.

All right. Good afternoon, your Honor. Can you hear me?

THE COURT: Yes. Can you guys hear me? What a frustrating existence here. All right. I've got my computer on a stand and hopefully this'll stay put.

And can you hear me okay?

THE CLERK: Yes, Judge.

THE COURT: All right. Well, let's -- let's do it and let's hope this sticks.

And my apologies, everybody.

THE CLERK: I will announce the case, your Honor. Good afternoon to everybody --

THE COURT: All right.

THE CLERK: Good afternoon to everybody who's joined us. This is an informational hearing in the Atrium MDL, which is 16-md-2753-LM, in Re: Atrium Medical Corporation C-Qur Mesh Products Liability Litigation.

THE COURT: All right. Good afternoon, everyone.

I am Judge Landya McCafferty. I'm the presiding judge in this MDL case and I decided to have and schedule this hearing so that plaintiffs and individual plaintiffs' counsel across the country could hear from the attorneys in this case

1 about the case and about the settlement, the settlement
2 process. This hearing will begin with counsel addressing you
3 and introducing themselves, the special master, Attorney
4 Reisman, and then we'll get into describing the settlement
5 process.

6 Let me start by having Attorney Orent, who is lead
7 counsel for the plaintiffs, introduce his team and then I'll
8 have Attorney Cheffo, lead counsel for the defense team,
9 introduce the lawyers that are on the screen for him.

10 Let me also just let folks know that you're looking
11 at a screen and I -- and there are court rules that prohibit
12 any sort of recording or broadcasting of this hearing, and the
13 last thing I want to do is run afoul of any of those rules or
14 have any of you run afoul of any of those rules. So please
15 don't do any sort of screenshot or screen-recording or posting
16 of any sort because then I won't be able to have hearings like
17 this in the future and I certainly don't want that to happen.

18 All right. Attorney Orent, would you please
19 introduce the plaintiffs' team.

20 MR. ORENT: Good afternoon. And thank you, your
21 Honor. I'm very excited and pleased to be here today.

22 Joining me today is Attorney David Selby, one of the
23 members of the plaintiffs' executive committee; Attorney Adam
24 Evans, another member of the plaintiffs' executive committee;
25 Todd Mathews, the fourth member of the plaintiffs' steering

1 committee; and Anne Shiavone, the fifth member of our
2 plaintiffs' steering committee; Russ Hilliard, who is liaison
3 counsel and a member of the New Hampshire Bar, is also present,
4 and my partner, Fred Thompson, is also here today.

5 We're also joined by Attorney Reisman. And she
6 will, during the course of our presentation, provide a lot of
7 details as to who she is and what she does and how this process
8 works.

9 But for now, for all of the counsel I've identified,
10 thank you for having us.

11 THE COURT: All right. And now for defense counsel.
12 Attorney Cheffo, go ahead.

13 MR. CHEFFO: Thank you, your Honor.

14 My name is Mark Cheffo and I represent Atrium, as
15 her Honor indicated. I'm also joined by Katherine Armstrong,
16 who you see on the screen, and we're both from the Dechert law
17 firm.

18 And those are -- those will be our team, your Honor.

19 THE COURT: Okay. All right. Thank you very much.

20 Now, I am going to have plaintiffs' counsel begin
21 the hearing by describing what he's done, what his team has
22 done throughout the litigation, giving you a sense of the case
23 and also then addressing the settlement process and how that's
24 going to work.

25 After he and his team are finished, then I will ask

1 counsel the questions that you have submitted to the Court. I
2 will not ask each individual question because many of them are
3 asking for the same information, basically, so I'll put them
4 into categories, but I promise that I am going to try to touch
5 on each question that was asked.

6 We even got this morning, I think, another set of
7 ten questions or so, again, many of those asking for the same
8 information. Attorney Orent is aware of the nature of these
9 questions and is prepared, probably, to address these questions
10 in a very general sense as he goes through his summary.

11 Now, this is a public hearing and I wanted
12 plaintiffs across the country to be able to have an opportunity
13 to see counsel and learn about the settlement and ask
14 questions, but if -- because this is a public hearing, there
15 are certain questions that you might ask that would call on
16 Attorney Orent to perhaps answer in a way that would give you
17 legal advice, which would really cross into an area that he's
18 not going to get into because he doesn't want to ruin and
19 destroy the attorney-client privilege. There are
20 confidentiality between you and your counsel and he is not
21 going to be permitted, really, to get into that today.

22 Obviously he's going to give you much of an overview
23 and answer questions as close to that line as we can get but
24 without crossing over that line, and he'll have to simply tell
25 me and tell you when he feels he can't really answer that

1 without violating the attorney-client privilege. And I'll try
2 not to ask questions that would tend to implicate that.

3 Now, during this hearing, you might have a question.
4 You might hear something that generates a question. When you
5 registered, I gave you instructions with respect to how to ask
6 me a question. During this hearing, we won't have a live mic
7 or live chat, but you can get online and you can ask a
8 question. And if you look at the top of your screen, Tracy
9 Uhrin is my chief deputy court clerk. She is going to be
10 governing this for me and getting me your questions during this
11 hearing that you might want to post.

12 Tracy, is there -- are there any instructions you
13 want to give them to do that, make that a little easier for
14 them?

15 DEPUTY CLERK UHRIN: Sure. So the same website
16 where you registered for this hearing had a link where you
17 could submit questions. That link is still live. So if you
18 want to submit a question the same way you would have submitted
19 a question in advance, I'll be monitoring the results of that
20 website and sharing them with the judge.

21 THE COURT: And while you're saying and talking
22 about the court's website, I want to make sure that all
23 plaintiffs know about the court's website which I established
24 very early on in this case to post all of the public orders and
25 documents, key documents in the case, transcripts of all of our

1 hearings, so that you could go to one spot and find all the
2 relevant orders that you might want to look at. And I want to
3 make sure everyone knows about that website and can find it.

4 And you go to the court, New Hampshire -- just
5 federal district court website and you will find it on our
6 front page, the Atrium MDL case.

7 Tracy, can you give more specific instructions on
8 that?

9 DEPUTY CLERK UHRIN: Sure. So I can -- I should
10 share -- so our website is [www.nhd.uscourts](http://www.nhd.uscourts.gov), with an S, .gov.
11 The question submission page I was just telling you about is
12 that website, /atrium-questions.

13 And then if you are trying to find the actual MDL
14 page, there is a tab for case management. And under that list
15 there's a -- under that menu option there's an option for
16 multidistrict litigation. That will take you right to the
17 Atrium website.

18 THE COURT: Okay. And on that website, you will
19 find the original case management order and we had our first
20 case management conference in this case in February of 2017.
21 And after that original case management conference, then I
22 issued a series of case management orders. All of them are on
23 the website there for you to see.

24 And I call your attention to case management order
25 number 3 specifically, which -- that's where I approved the

1 national leadership team for plaintiffs' counsel and you can
2 see the leadership structure there and how it is laid out.

3 And the Court has had status conferences with
4 counsel on this screen the second Thursday of every month since
5 that status conference and you will see in case management
6 order number 4 that there is a common benefit fee that's been
7 established by the Court. It explains how these lawyers who
8 have been working, frankly, tirelessly on this case for all the
9 plaintiffs and it explains how the fee and expenses will work
10 in the end because I know some of your questions address that.
11 That order is available for you, obviously, to read and review.
12 Attorney Orent may describe more specifically how that might
13 work.

14 We had three days of a motion to dismiss hearing.
15 All the transcripts are on that website. We -- there were
16 multiple bellwether trials that were scheduled in this case and
17 several were going to trial and we had multiple hearings on
18 expert witnesses and motions in limine and all those rulings
19 are also on that website as well as transcripts of those
20 hearings.

21 Many of the rulings I actually issued orally from
22 the bench to keep the trials on track and to keep the case
23 moving. There were many, many, many motions to rule on. So I
24 did that via transcripts and so you -- those transcripts and my
25 rulings are on the Web page as well. To the extent you want to

1 look over any of that, that's available to you. I want to make
2 sure you have access to it.

3 I asked four questions in my order that I thought,
4 you know, would be questions I would definitely ask Attorney
5 Orent and his team today for your benefit and I'm just going to
6 repeat the four questions. I have a feeling Attorney Orent has
7 structured his presentation with it in mind to answer these
8 four basic questions. Your questions actually repeated some of
9 these, or at least the theme of some of these questions, but
10 let me just ask them again.

11 One, how does the special master decide how much a
12 case is worth; two, what is the process if a plaintiff
13 disagrees with her assessment; three, when will a plaintiff
14 know if the global settlement is successful; four, what happens
15 if a global settlement is not achieved.

16 Now, further hearings might be scheduled on this
17 case as well, but I'm hopeful that this hearing will help
18 answer many of the questions that plaintiffs may have about
19 this settlement process.

20 Attorney Orent, take it away.

21 MR. ORENT: Thank you very much, your Honor.

22 Ladies and gentlemen plaintiffs, it's really my
23 honor to come here and speak with you today as lead counsel.
24 It is rare to have the opportunity to speak directly to the
25 hundreds and thousands of people who have been hurt who we've

1 had the honor of fighting for over the last five years.

2 It really has been an honor and I am really excited
3 to talk to you all today, particularly about the creation of
4 this global settlement program that I'll talk about in a few
5 moments.

6 But before I do, I want to just explain who I am,
7 what it is that we, plaintiffs' leadership, have done, and give
8 you a little bit more on my background.

9 So as lead counsel, we were charged with
10 coordinating and formulating litigation strategy, working up
11 experts, conducting general merit discovery, conducting oral
12 and written arguments and working up plans for the prosecution
13 of these cases. I worked with a team of lawyers from my firm
14 as well as five other firms in what was called a plaintiffs'
15 executive committee and we together prosecuted these cases over
16 the last five years.

17 Personally and professionally, I work for a law firm
18 called Motley Rice. I'm based out of Providence, Rhode Island.
19 And, importantly, I have been involved in mesh litigation for
20 almost 15 years. I began litigating hernia mesh cases in
21 around 2007, 2008, in a product called the Bard Composix Kugel
22 litigation.

23 Following that, I was heavily involved and
24 court-appointed into lead counsel positions in Massachusetts
25 and New Jersey in transvaginal mesh litigation against several

1 defendants.

2 And then following that, as hernia mesh litigation
3 started emerging, I was appointed by this court in 2017 as lead
4 counsel.

5 In 2018, I was appointed lead counsel against
6 C.R. Bard in litigation in state court in Rhode Island and I
7 was -- I was recently appointed lead counsel in the Covidien
8 litigation in Massachusetts.

9 So as you all can see, I've represented, over the
10 last 15 years, tens of thousands of individuals who have been
11 harmed by mesh and I have worked tirelessly, along with this
12 team of lawyers, to put forward the best case we possibly could
13 on your behalves.

14 And, again, it is very exciting for us to have this
15 opportunity, which we don't ordinarily, get to get to speak to
16 you all directly about something of this magnitude.

17 And as I said earlier, we are here today to announce
18 that we have negotiated a global settlement program that we
19 think is going to be a fair resolution to these cases. We
20 think that each one of you, when given the full information,
21 will want to participate in this voluntary program.

22 And, quite frankly, having fought this battle over
23 the last five years, we are convinced that this is the very
24 best deal that is available and that we left no money on the
25 table, quite frankly.

1 My colleagues will talk in a few moments about the
2 actual litigation process itself, but I want to go back to a
3 comment I made a few moments ago, and that is why I called this
4 a voluntary program.

5 Unlike a class action, where one or more plaintiffs
6 represent the interests of all of the plaintiffs, this is
7 what's called a mass tort action. And what that means is each
8 one of you, each plaintiff, has their own individual lawsuit
9 with their own individual name on it. Each one of you has your
10 own burden of proof and your own right of recovery.

11 Likewise, in the settlement of a class action, the
12 court approves a settlement where it is based on those facts
13 presented by an individual as a representative of a larger
14 group and the Court approves the allocation methodology. Here
15 it means that each one of you must decide individually, along
16 with your individual case counsel, whether or not you want to
17 participate in the settlement and whether or not it is right
18 for you.

19 I want to pause for a moment and just talk about the
20 difference between lead counsel in this litigation and my
21 plaintiffs' steering committee, plaintiffs' executive
22 committee, and your individual case counsel.

23 Throughout the course of today, you will hear me
24 draw a distinction between the two. I am not here to tell you
25 about the individual impacts of your case or provide individual

1 legal advice to you. What I am able to do is to arm you with
2 information related to the overall settlement structure as well
3 as the litigation process that brought us here and to provide
4 your case lawyers with the best information to make an
5 individual recommendation to you.

6 So as I sit here, this is just the beginning of a
7 process for resolution or, in the words of Winston Churchill,
8 this is the end of -- excuse me -- this is the beginning of the
9 end.

10 Now, settlements like this can take quite a long
11 time. And, in fact, we are thinking if all goes well that
12 plaintiffs who participate would be able to be paid in early
13 2023. So as you can see, that's a long time. But this Court
14 in its foresight has provided plaintiffs with all assistance to
15 move this case along as quickly as possible and the Court has
16 done that in two ways: First by allowing the use of DocuSign
17 to sign the paperwork necessary for each person to opt in to
18 the settlement process; and, second, by appointing what's
19 called a lead resolution administrator to facilitate the
20 resolution of medical claims that might be outstanding.

21 And we'll talk about that separately in a minute, so
22 I want to put that aside now.

23 So as I said, this is the beginning of a process and
24 our job is to arm each of you through your case counsel with
25 the information that you need to make a decision and

1 participate and we hope that you all will once you hear all of
2 it.

3 Now, again, you might be asking, well, why aren't
4 you giving me advice directly. And the answer, put more
5 simply, is that because unless I and my law firm directly
6 represent you as your lawyer, I cannot jump into and get
7 between you and your individual case counsel. My job is to
8 make sure that your lawyer, armed with the overall information,
9 can then take the facts and circumstances specific to your case
10 and make a recommendation with you along the way. And, of
11 course, we are here, all of us, to answer any individual
12 questions to case counsel or provide assistance to them as we
13 go through this process and we will continue in the coming
14 weeks to provide information sessions, webinars, emails, and
15 guidance documents as we have since this process first began.

16 And I'm happy to report that as of last night, the
17 originating -- excuse me, the case counsel involved in these
18 cases have already entered into just the initial data to get
19 the claim process started on 2,630 cases in this MDL out of a
20 pool of about 3,000.

21 So all of your lawyers have already begun this long
22 process of completing it. And what we do is we're going to be
23 training your case lawyers, providing them additional
24 information each step of the way through trainings and the
25 provision of additional information.

1 Most importantly, before any of you are asked to
2 accept a resolution for your particular case, you will be
3 individually provided key information relative to the
4 settlement and that includes things that I can't say in a
5 public forum like the total number, the total number of dollars
6 that are being provided by the defendant.

7 You will also receive the specifics of the
8 conditions and manner and method of evaluation of your case.

9 You will see in that document a letter describing
10 the release and -- as well as a medical summary with your
11 claims packet where you will be asked to verify that your
12 lawyer has it right as to the injuries that you're claiming so
13 that there is absolute clarity to make sure that you and your
14 lawyer are on the same page when you're saying that you deserve
15 to be credited for a particular injury.

16 We've designed in a number of protections along the
17 way and most importantly we've been working with someone called
18 an ethicist since day one on this resolution.

19 Now, some of you, but not all of you, may know that
20 the field of law is governed by a series of rules of
21 professional conduct. One of the things that we did is we
22 hired an expert on those rules of professional conduct to make
23 sure that the settlement is aboveboard, that it's a good
24 document, to make sure that we have provided you and are
25 providing you with the proper information for you to make a

1 decision, but also to make sure that the individual actions
2 that are taken in the processing of these claims are conducted
3 with the best practices in the law.

4 So I'm really happy and I'm excited to share this
5 settlement with you. And, again, to counsel out there, I
6 invite any of you to call me at any time. As I have met with
7 numerous of you over the last five years, I will continue to
8 make myself available, as will every member here. And we are,
9 again, very happy about this settlement.

10 Now I'm going to turn it over to David Selby and
11 Todd Mathews, who are going to talk through the last five years
12 of litigation. They're going to walk everyone through the
13 process as to how we got here. And, quite frankly, when I made
14 that statement earlier about how we know that that big number
15 didn't leave any money on the table, why we feel so confident
16 and why we feel so good about this, Todd and David are going to
17 describe in detail the litigation that we've gone through,
18 those steps that we've taken, the due diligence that we've
19 performed.

20 Then the special master, Ellen Reisman, is going to
21 talk about, first of all, who she is, her job as a neutral in
22 assigning individual values to cases, and -- and the process in
23 case someone disagrees with her -- with her review of a case.

24 Finally, we're going to talk about one of my least
25 favorite subjects, which is medical liens. And I will talk

1 about what those project -- what those are, why they exist, and
2 the efforts that we've taken, and I'm really happy to report on
3 some of them, to move that process along so that you all can
4 ultimately receive payment as quickly as possible, which is the
5 aim here.

6 So without further adieu, I'm going to turn it over
7 to my colleague and friend, David Selby, who I've had the
8 pleasure of working with over these last five years.

9 And, again, I can't say enough how pleased we are to
10 be able to speak with you all today and really talk about the
11 details of this resolution process.

12 So thank you, your Honor, for providing us this
13 time.

14 Mr. Selby, I'm going to turn it over to you.

15 MR. SELBY: Thank you.

16 Your Honor, can you hear me? Am I good?

17 So my name is David Selby. I'm with the law firm of
18 Bailey Glasser, along with my law partner, Todd Mathews, who's
19 also at Bailey Glasser, and I'm going to go through -- as Jon
20 mentioned, I just kind of want to go through the history of the
21 litigation so everybody understands, you know, how did we get
22 to this point, what it took to get here, and I want to kind of
23 give you a 60,000-foot view, if you will, first, to give you
24 the big picture so everybody can appreciate how -- you know,
25 what's been put into this.

1 And for those folks who may not realize, I mean,
2 there's been a tremendous team of not only the executive
3 committee law firms, but the plaintiffs' steering committee law
4 firms, and then vendors, third parties that we've had the
5 pleasure of working with, that have made this successful. This
6 was without a doubt -- and I know it's said a lot, but it truly
7 was a team effort by a lot of people bringing in a lot of
8 expertise from a lot of different areas and from a lot of
9 different firms.

10 To give you an idea of kind of how -- the scope of
11 this, there's approximately 30,000 hours of work submitted by
12 all the law firms. Those from the very beginning have been
13 submitted to audits, to an independent auditor monthly and
14 independently audited based on approved guidelines.

15 Approximately \$3 million in expenses have been
16 incurred and carried by the executive committee firms and the
17 steering committee firms.

18 As far as what goes into all that -- those numbers
19 that I just described, to give you the big picture on the kind
20 of the -- what we call the discovery metrics, if you will,
21 approximately 60 fact and expert depositions have been taken,
22 including those of 30(b)(6) corporate representatives, millions
23 of documents have been reviewed, coded, and prepared for use in
24 depositions and motion practice and trial workup.

25 There was an extensive discovery fight over 160,000

1 documents that we had to battle over.

2 There's been experts across medical, pathology,
3 engineering, regulatory and other disciplines, have been
4 researched, vetted, interviewed, hired, consulted, prepared,
5 and defended for depositions.

6 21-plus experts have been interviewed throughout
7 this process; retaining and consulting experts, 12.

8 We had early on made -- as some of you may know and
9 were either present for or were made aware of by your
10 attorneys, we had Science Day early on and the preparation and
11 presentation for our Science Day which was of benefit to the
12 Court in identifying the developing key elements of the
13 liability and damage themes in this litigation. There was a
14 lot of work that went into that involving everything from
15 experts and the lawyers preparing for those -- for Science Day.

16 There has been a continually monitoring and
17 marshalling of the development of scientific literature
18 relative to this MDL, relative to the product, and relevant to
19 prosecuting these cases.

20 Throughout the discovery process, there has been
21 everything in the beginning from negotiating what we call ESI,
22 which is part of the electronic discovery protocols,
23 confidentiality and protective orders, and other forms and
24 procedures utilized in this MDL, including pathology protocols.

25 Part of our job has always been to -- in providing,

1 you know, an in-depth analysis of case-specific information by
2 way of fact sheets and disclosure forms to help determine the
3 demographics of all the MDL cases and prepare for the
4 bellwether trial process.

5 Early on in this case, you know -- well, within the
6 year of this litigation beginning, we had a -- a very well
7 fought jurisdictional fight. This took a lot of resources and
8 a lot of time on behalf of the plaintiffs. That jurisdictional
9 fight actually lasted a total of about three years and the
10 jurisdictional fight was, very simply, over whether we could
11 keep one of the main defendants in the case.

12 The jurisdictional fight involved, actually, a full
13 trial, if you will. We had trial -- a trial in which -- before
14 Judge McCafferty. It involved a number of motions and a lot of
15 briefing, a lot -- preparing of witnesses. It was right at a
16 three-day trial. That required a lot of resources and, again,
17 a lot of participation by a lot of different lawyers of who
18 you've met today on -- on the call, on the video, but also a
19 lot of people who are not being shown on the video participated
20 and helped with that a lot. There was, again, a very large
21 team effort there.

22 It started out with an initial motion to dismiss
23 that the defendants filed based on personal jurisdiction. That
24 involved basically just that along six different pleadings or
25 steps, if you will, which involved extensive briefing,

1 extensive research, depositions.

2 There was a defendant's motion that was filed in
3 June of 2017. We had -- we filed an opposition, the plaintiffs
4 did, in July of 2017; there was a defendant's reply to that in
5 July of 2017, then a plaintiffs' surreply to that in July as
6 well.

7 Following up with that was a plaintiffs'
8 supplemental objection in November of 2017 and then a
9 defendant's motion to strike that supplemental objection in
10 that same month.

11 There was then a renewed motion to dismiss based on
12 personal jurisdiction and again this jurisdictional fight
13 pulled a lot of resources. It took us a lot of effort to get
14 where we ended up getting with it.

15 The defendants' renewed motion was filed in October
16 of 2018. The plaintiffs' opposition we filed in that same --
17 the next month, in November of 2018. There was a defendant's
18 briefing and reply done in December of 2018, and a plaintiffs'
19 surreply in January of 2019.

20 There was also a lot of effort and work put in --
21 there was a motion for leave to conduct jurisdictional
22 discovery that was very important in -- from the plaintiffs'
23 perspective in getting to where we got with -- eventually on
24 the jurisdictional issue. There was a years-long extensive
25 engagement in discovery, including multiple depositions of

1 parties' experts, multiple rounds of propounded written
2 discovery including interrogatories, document requests, and
3 admission requests. Substantial documents were produced by the
4 defendants and then reviewed in detail by document review teams
5 and tagged and coded through vendor software that we utilized
6 for this case.

7 There were several motions that were pivotal motions
8 in the jurisdictional fight, including motions to exclude
9 certain affidavits and other jurisdictional motions that came
10 along with what we faced.

11 The jurisdictional trial itself, going back to that,
12 was a multiple-day evidentiary hearing structured in a trial
13 format, as I mentioned before. That was conducted over several
14 days. That was in 2019.

15 There was a posthearing motion in further support of
16 our -- the defendant's renewed motion to dismiss and that was
17 done in October of 2019.

18 So what was the result of this three-year
19 jurisdictional fight? The result was for the plaintiffs; that
20 there was successful negotiation and papering of the foreign
21 parent defendant guaranteed to ensure available funds for the
22 plaintiffs' recoveries.

23 So that's why the jurisdictional fight was so
24 important in this litigation; helps explain, too, when you
25 understand the end result of why it took the time it did and

1 the effort it did to get where we were.

2 We also had a bellwether process. The bellwether
3 process is, as Judge McCafferty actually explained earlier,
4 alluded to this in the docket and the number of cases that were
5 selected for the bellwether plaintiff cases and defendant --
6 the bellwether selection process, that is. It led to one
7 particular bellwether plaintiff to the eve of trial eliciting
8 settlement with the defendants.

9 Through the bellwether process there were workups
10 for eventual trial, including extensive and exhaustive
11 evidentiary and motion practice that involved Daubert and
12 motions in limine, preparation of exhibit lists, exhibit and
13 meet-and-confers as to jury instructions, verdict forms,
14 briefing on trial dates and many others.

15 The meet-and-confers for resolution of pending and
16 overlapping issues between bellwether cases occurred. That,
17 again, on behalf of the plaintiffs in preparing those
18 bellwether cases.

19 The overall, overarching legal issues that we faced,
20 there was not just counting the jurisdictional that I've
21 described, jurisdictional briefing and the bellwether, but
22 there's -- there was also an exorbitant amount of legal
23 briefing and oral arguments on pivotal issues that were
24 required, including successful oppositions to the dispositive
25 motions against the bellwether plaintiffs, motions to dismiss

1 and motions for summary judgment, and large volumes of legal
2 briefing and argument on a number of contested and factual
3 issues.

4 So all that to say that's how we got to where we are
5 today. All of that was the global resolution efforts through
6 negotiation and preparation and eventually to the master
7 settlement agreement.

8 And I'm now going to turn it over -- back over to
9 Mr. Orent.

10 MR. ORENT: Thank you, David.

11 One of the challenges, as my colleague, David Selby,
12 meant or mentioned, is that we had to keep pressure on the
13 defendants throughout this entire process.

14 While we were litigating, a negotiation like this
15 can take months and months and, in fact, this negotiation ended
16 up taking the better part of a year to reach agreement.

17 And so the way we organized things within the
18 plaintiffs' steering committee was that my partner, Fred
19 Thompson, also with Motley Rice, he led the negotiation efforts
20 where we had a firewall set between the litigation team that I
21 led and the negotiations that Fred led. It allowed us to put
22 continuous pressure with a real genuine threat of trial on
23 these defendants while we advanced both a settlement
24 negotiation and fought for your best interests.

25 So at this point I'm going to turn it over to the

1 special master to introduce herself and to provide a little bit
2 of detail as to who she is and the methodology that she's going
3 to be using with regard to the specific facts and details to
4 each one of your cases so that ultimately you all will have
5 a -- a case offer value that is assigned to you and that you
6 will get a recovery based upon your own individual injuries.

7 So with that, Ellen, thank you for all your work.

8 MS. REISMAN: Okay. Hi. Can everybody hear me?
9 Okay. Good.

10 First, my name's Ellen Reisman and I want to thank
11 the Court for giving me this opportunity to speak to you all
12 about the C-Qur global settlement program.

13 As Mr. Orent mentioned, this is a very unique
14 opportunity for plaintiffs' counsel and for me to communicate
15 directly with a number of plaintiffs -- it looks like the
16 number is quite high, and that's great -- and their counsel.

17 I'm honored to serve as special master for this
18 settlement program. I wanted to start by telling you a little
19 bit about who I am.

20 I'm a lawyer at a Washington, D.C. firm, Reisman
21 Karron Greene, and I was recommended for this role as special
22 master by the lead lawyers, the plaintiffs' leadership lawyers
23 in this case, and I was appointed by the Court.

24 I have nearly 40 years of experience practicing law
25 and most of it has been spent, in one way or another, working

1 on settlements of large mass tort litigation involving
2 pharmaceutical products and medical devices.

3 I have been appointed as special master for
4 settlement in other matters. I have been -- I was appointed
5 special master by Judge Goodwin in the transvaginal mesh matter
6 involving Bard and I have been working on transvaginal mesh
7 stuff for I guess close to nine years now.

8 I'm also appointed as special master for settlement
9 in the Combat Arms earplugs case before Judge Rodgers in
10 Florida, and in the Proton Pump Inhibitor case which is in
11 New Jersey, and another hernia mesh case involving Ethicon
12 Physio.

13 I'm very familiar with cases involving complex
14 medical issues. I did defense side work for many years. I was
15 involved in the Fen-Phen litigation for many, many years. I've
16 done heart valve cases.

17 I also have a team at my firm, including my partner,
18 Adriane Theis, who's with me today, who are also experienced in
19 evaluating and analyzing cases involving complex medical
20 issues.

21 To be clear, I am a neutral here. I don't
22 represent -- it's like a mediator. I don't represent any of
23 the individual plaintiffs and -- nor do I represent the
24 defendant.

25 So what's my job here? I have been appointed to

1 administer a private settlement that is governed by a private,
2 confidential, aggregate settlement agreement. That's what's
3 been negotiated and that is the -- the settlement program that
4 each one of you is going to have to decide -- each one of you
5 plaintiffs, working with your individual counsel, is going to
6 have to decide whether to participate in.

7 My task, put simply, is to decide how to allocate
8 the money that Atrium has agreed to pay to settle the C-Qur
9 cases that are before this Court. That's going to involve
10 deciding how particular injuries claimed by individual
11 plaintiffs that are attributable to the C-Qur mesh should be
12 valued.

13 My job is to create a uniform, fair, and consistent
14 approach to valuing particular types of injuries attributable
15 to C-Qur mesh. My team and I are going to review every claim
16 submitted by each individual plaintiff and the medical records
17 supporting that claim to determine how much of the total amount
18 of money in the settlement should be allocated to that
19 plaintiff. As I'm sure many of the lawyers out there know, but
20 the plaintiffs may not, this is a method frequently used to
21 settle aggregate mass torts -- aggregate settlements of mass
22 torts. It's designed to ensure that, unlike in a class action
23 setting, as Mr. Orent referenced, that each plaintiff's case is
24 evaluated by someone who's neutral and that plaintiffs with
25 similar product-related injuries are compensated similarly.

1 There's certain guiding principles that I want you
2 to know that I'm going to follow in performing this role.

3 First of all, the identity of plaintiff's counsel,
4 who your individual counsel is, is completely irrelevant to my
5 determination of the allocation to your case. So, in other
6 words, if your lawyer is one of the lead lawyers or just
7 someone who you've worked with before in your hometown, it
8 doesn't matter. Your case will be evaluated based on the
9 injuries that you have -- you are claiming relating to the
10 C-Qur and that are supported by the medical records that you're
11 going to provide.

12 I'm going to use a uniform and neutral set of
13 criteria. In other words, the same set of criteria is going to
14 be applied to everyone's case. The plaintiffs who are most
15 injured by the C-Qur mesh are going to receive the higher
16 dollar amounts. And that's a judgment call I'm going to be
17 making, but making it based upon the medical facts of your
18 case.

19 Notwithstanding that this is an aggregate
20 settlement, I will have processes in place that assure that
21 each individual plaintiff's case will be analyzed on its -- and
22 evaluated on its own merits and each plaintiff is entitled to a
23 confidential evaluation of his or her claims to protect their
24 privacy and medical information.

25 So let me tell you about -- a little bit about what

1 I've done so far. As Mr. Orent said, we're in the early stages
2 here, but I've reviewed a significant amount of scientific and
3 other data related to the C-Qur product. I've also met with
4 the lead plaintiffs' counsel who've been introduced today to
5 get their understanding and for them to educate me some on the
6 type and severity of injuries relating to this product.

7 As I mentioned, I've worked on transvaginal mesh
8 cases which are different, but -- but have some similarities to
9 these cases and I'm also working on a another Physiomesh
10 settlement as well. So I am familiar to some extent with the
11 medical issues that are going to be raised in these cases.

12 I have begun to identify the medical factors that I
13 think will be relevant to the evaluation of individual cases
14 and to consider the relative importance of those factors in
15 assessing value.

16 To be clear, I am starting the process. I have not
17 arrived at values for any particular conditions or injuries
18 attributable to C-Qur mesh other than my previously mentioned
19 belief that plaintiffs who have been more seriously injured by
20 the product will get more money.

21 I want to talk for a minute about how the claims
22 will be made, and I think Mr. Orent alluded to this earlier as
23 well.

24 So we have developed a system for submitting claims.
25 And I understand that the vast majority, it sounds like, of

1 lawyers representing claimants have started entering the basic
2 demographic data, if you will, relating to those claims.

3 Each claim is going to be --

4 THE COURT: Can I ask you --

5 MS. REISMAN: -- submitted by plaintiff's counsel --

6 THE COURT: -- a quick question, Attorney Reisman?

7 Can I ask you a quick question?

8 Can you hear me?

9 MS. REISMAN: I'm sorry?

10 THE COURT: This is the judge. Can you hear me? I
11 just think --

12 MS. REISMAN: It's too soft? Oh.

13 THE COURT: Can you hear me? I'm sorry to interrupt
14 you. I know you're going to get right back on track.

15 I had -- can you hear me? I'm sorry to interrupt.
16 I'll let you keep going then. I wanted to ask you a quick
17 question.

18 MS. REISMAN: Okay. Can you hear me?

19 THE COURT: It's a very big echo. Believe me, I'm
20 sympathetic, having had some computer problems myself before we
21 got on. So don't worry.

22 MS. REISMAN: I'm sorry, your Honor. Could you
23 repeat that? We had a little technical issue.

24 THE COURT: No problem. No problem.

25 Can you hear me okay?

1 MS. REISMAN: I can hear you. Can you hear me?

2 THE COURT: Yes.

3 I just thought, you know, there's so many questions
4 that have been asked ahead of time that deal with your role in
5 this process and I thought it might be helpful just to stop you
6 along the way and ask some of these questions. The plaintiffs
7 are watching and they've submitted the questions to me and it
8 fit in with your presentation and I just thought maybe it would
9 give you an opportunity to specifically address.

10 MS. REISMAN: Yes.

11 THE COURT: A number of these plaintiffs have future
12 injuries or anticipate even having to have future surgery and
13 so their question was do you take that into consideration,
14 their future suffering, future surgeries, as you value the
15 claim.

16 MS. REISMAN: Yeah. That's a good -- it's a good
17 question. I mean, obviously you're going to settle as of a
18 date, right? I mean, the settlement will be done as of a date
19 and they will get whatever dollars that they get.

20 But I will be looking at the medical conditions that
21 they have as of that date and I think the way I would look at
22 it is I'm going to be making judgments about severity, right?
23 And to the extent that they have a condition that appears more
24 likely to recur in the future, a condition related to the
25 C-Qur, of course, but to the extent they have those kinds of

1 issues supported by their medical records, I think that will go
2 to my evaluation of the severity of that particular claim.

3 Now, I want to make -- I'm going to jump ahead to
4 something here. Ten percent of the total fund that has been --
5 will be created here is going to be -- I'm going to hold back
6 and not allocate it in the -- as I'm allocating money to these
7 claims. That's called an extraordinary injury fund. And the
8 purpose of that fund is to allow me to look at a particular
9 case and, you know, maybe it has the injuries, the particular
10 kinds of injuries, you know, the surgery to remove the C-Qur,
11 bowel involvement, that kind of thing, but it's -- they're
12 different in kind. And I think something like this would fit
13 into that category.

14 Or something's happened to this person that -- you
15 know, we will find cases where something has happened that just
16 doesn't fit neatly on a matrix or grid and that's what the
17 extraordinary injury fund is going to allow me to do, to make a
18 judgment that that person has some extraordinary injuries, some
19 injury over -- above and beyond what a matrix would or a grid
20 would provide for. So there's, I think, how I will deal with
21 those kinds of things.

22 THE COURT: That's great. Thank you so much.

23 What -- do you ever consider someone's spouse, a
24 person asked, because the spouse suffered as a result of the
25 harm.

1 MS. REISMAN: Yeah, I had -- that's an issue. I'm
2 glad someone raised it. I want to give it some thought. I
3 haven't decided on that one yet. We haven't decided on --

4 THE COURT: All right. Thank you. Sorry to
5 interrupt. I hope you don't mind if I --

6 MS. REISMAN: No, that's okay.

7 THE COURT: -- if I unmute occasionally and I'll
8 just pop in and ask you one of plaintiffs' questions.

9 Go ahead.

10 MS. REISMAN: Great. Okay.

11 So I think I was starting to talk about how you're
12 going to make your claims and many of you may -- the lawyers
13 may know this already and some of the plaintiffs may also know
14 this, but your claim is going to be submitted through an online
15 portal by your lawyer. And as I said, I think demographic-type
16 information, case information, is already in for most of the
17 plaintiffs at this point.

18 But what -- what your lawyer will also have to do is
19 identify what claims you -- what injuries you are claiming that
20 are attributable to the C-Qur and they will also upload and
21 link the medical records to -- to -- so if you're claiming you
22 had surgery to remove it, there'll be a link probably to an
23 operative report that will show that surgery.

24 And that is what we're going to use, my team and me,
25 we're going to use to evaluate these claims. We can go in, we

1 can look at what's in the system, and we will be able to say,
2 yup, that -- that sure happened, okay, they get -- that's --
3 that claim is legit.

4 As Jonathan mentioned earlier, too, the process is
5 going to use DocuSign, which I think is a really good thing in
6 terms of efficiency. And it will make it possible for you, the
7 plaintiff, to review, verify, make sure your lawyer got it
8 right, and then return the required settlement documentation.

9 But --

10 THE COURT: Another quick question.

11 MS. REISMAN: Sure.

12 THE COURT: Do you ever have a plaintiff and their
13 counsel on a Zoom or is it all done via paper submissions?

14 MS. REISMAN: It's generally going to be done via
15 paper submissions, but I -- my -- my own view is I -- if
16 somebody wants to talk to me, if a lawyer wants to call me and
17 ask me a question or however, I'm going to listen. I mean,
18 that's -- I think that's an important part of the process.

19 And, you know, I -- sometimes in other cases I've
20 been special master, I have had conversations with individual
21 plaintiffs when I thought and they thought that would be
22 helpful. So I'm willing to do that.

23 Okay. I want to talk a little bit about how -- how
24 the claims are going to be evaluated. And, like I said, I'm in
25 the beginning stages of developing this, but each claim is

1 going to be separately and thoroughly reviewed.

2 As I mentioned, I have a team. I don't do
3 everything myself. But I am going to look at every single one
4 of these. There may be preliminary review done by my partner
5 Adriane or by someone else on our team, but I'm going to look
6 at them and make the final decision on them.

7 I'm working on developing a valuation system, but
8 here are a few examples I thought it would be helpful to give
9 you of the factors that I'm going to consider. And I have
10 mentioned some of them already.

11 Was there a surgery to remove the C-Qur mesh or is
12 there some other kind of mesh-related surgery, lysis of
13 adhesion, something like that; did the plaintiff experience an
14 infection or wound care issues, you know, was there wound
15 debridement; were they on antibiotics; is there a hospital
16 stay, how long, were they in the ICU, those kinds of things;
17 was there a bowel injury. And I know in a fair number of these
18 cases that you have a bowel obstruction or bowel resection or
19 colostomy is required.

20 So those are the -- those are the sorts of things
21 and -- that we're going to look at that I'm going to -- and
22 those are going to be the factors; what do I see in your
23 records in those kinds of categories.

24 Now, that's just -- those are just examples. I
25 don't want somebody to say, oh, I have something else and I

1 didn't hear that. But, I mean, I'm working through the science
2 and the literature and trying to come up with what I think are
3 going to be the most common factors. And, again, as I said,
4 there's this extraordinary injury fund if there's something I
5 didn't anticipate.

6 So a dollar amount will be awarded to each plaintiff
7 participating in the settlement. Now, if you think I've done
8 something -- I've goofed somehow or another, that, you know, I
9 made -- I was wrong -- I make mistakes. I'm human like
10 everybody else. I might have missed something in the medical
11 records or maybe your lawyer forgot to attach one of your
12 medical records. We'll have an opportunity to correct that.
13 Okay?

14 You are going to receive, as Mr. Orent mentioned, an
15 informed consent package that you will be able to review, you
16 will be able to see what -- what was considered, what claims
17 you're being awarded compensation for, and you will be able to
18 at that point say, well, wait a minute, no, no, you missed
19 this.

20 I think the informed compensation -- informed
21 consent package is a very important document, I want everybody
22 to keep that in mind, because that's going to provide detail
23 about the settlement, it's going to provide detail about your
24 individual claim, and it's going to provide an opportunity for
25 you to discuss case-specific questions.

1 I know in the questions that the Court has collected
2 there's a lot of what if I have this or what if I have that,
3 how does that work, you know, individual injury claims. But
4 there'll be an opportunity for you to discuss those with your
5 individual counsel and that -- that, I think, is -- I'm not
6 trying to avoid the questions, but that's the time for an
7 individual -- if I have this injury, what does it mean.

8 So I'm really looking forward to doing this. It's
9 interesting medically, and I think it's a great settlement that
10 these folks have achieved.

11 And just a little bit about my own view, I used to
12 do litigation years and years and years ago, but I -- I -- I do
13 think settlements are the right way to resolve these mass tort
14 cases and I think -- I hope to do this as expeditiously as
15 possible so that injured people are compensated promptly.

16 Thank you, your Honor.

17 THE COURT: Thank you.

18 Go ahead, Attorney Orent. And this is very helpful.

19 I know one question, Attorney Orent, that plaintiffs
20 certainly had and they asked many different ways, when will
21 they know if, in fact, the settlement has been reached? How
22 will they know that? And Attorney Reisman will give them, you
23 know, a number and they will talk to their lawyers and decide
24 whether or not, you know, they want to challenge that or go
25 through the process with her.

1 But then how do we know, how does the group know,
2 that settlement has been reached? How will that be
3 communicated? That question's been asked in many different
4 ways, so I want to make sure that you get a shot at answering
5 that for folks.

6 MR. ORENT: Absolutely. So -- okay. Thank you,
7 your Honor.

8 The -- the short answer is we have compiled as part
9 of this demographic information the email addresses of every
10 counsel and we provide regular communications to them, right
11 now through a LISTSERV, and as this process goes along, we will
12 continue to provide information, including a notice once we --
13 we hit all of the triggers for the settlement. And,
14 conversely, if we are unable to, we would let them know as
15 well. Under that worst case scenario, either we would try and
16 renegotiate with the defendants or we would begin litigating
17 again.

18 Most importantly, though, again, I -- I feel that --
19 confident that based on all of the information and the analysis
20 that we performed that this is a very good deal and that when
21 plaintiffs talk to their individual case counsel, they will
22 agree.

23 One of the things that the special master does is
24 she views this settlement in a neutral way. However, that
25 doesn't provide guidance to people when filling out the forms

1 who need to be advocates. And so one of the things that I
2 wanted to do is to talk about for a moment -- and I'm going to
3 turn it over to my friend and colleague, Adam Evans, who's
4 going to actually talk about how to do that and our ability to
5 consult with you on that between the -- that is, the case
6 lawyers offer that, because there are some lawyers on here that
7 specialize in mesh litigation that know these injuries really
8 well and know how to pinpoint things in the medicals and make
9 their case on the forms, but there are some that, quite
10 frankly, don't.

11 And throughout the five years of this litigation,
12 one of the things that we've done is we've numerously consulted
13 with lawyers on whether or not they should take a case, whether
14 or not we think that you can prove an injury on this case. And
15 so one of the things that we're going to do is we're going to
16 be available to help you complete these forms with your
17 clients.

18 And so my friend and colleague, Adam Evans, is going
19 to talk about some of the things that we understand from the
20 science and some of the things that he's seen in the medicals
21 that are going to help point you in that right direction now in
22 terms of more of an advocacy approach to claiming these
23 injuries. But, of course, any of the facts and specifics of an
24 individual case, obviously your case lawyer will handle them,
25 but we are available to assist with that process and we do

1 encourage people to come and communicate with us through their
2 case counsel.

3 So, Adam, I'm going to turn it over to you now.

4 THE COURT: Attorney Orent, let me just ask you a
5 quick question while Attorney Evans is getting ready.

6 You said when the things that happen that trigger
7 the settlement, can you describe that more specifically without
8 revealing, you know, confidential matters?

9 MR. ORENT: I will -- I will attempt to, your Honor.

10 The -- the -- as part of a large settlement, it
11 requires a certain percentage of individuals to agree to
12 participate. This is an entirely voluntary process and it is
13 not the intent of anyone to twist anyone's arms.

14 So, simply put, if we hit this particular numeric
15 threshold, we have a deal, and if we don't, we don't have a
16 deal. At that point, we would see what happens next; either we
17 would try and negotiate for the people who want to participate
18 or we just continue litigating.

19 So that's what I mean by that. The actual --

20 THE COURT: Okay.

21 MR. ORENT: -- specifics of it will be in the
22 informed consent letter, so I can't say them in a public forum.

23 THE COURT: Okay. Understood.

24 MR. ORENT: We would have the information available
25 to them in writing as they make their decisions.

1 THE COURT: And you thought early 2023. I think you
2 said that. Is that what you said in terms of when you think
3 this might be done if it's successful?

4 MR. ORENT: So assuming we're successful, I think
5 that clients will likely get paid or beginning to get paid in
6 2023. I think we'll know --

7 THE COURT: Okay.

8 MR. ORENT: -- towards the third and fourth quarter
9 of this year whether or not we actually do achieve the magic
10 numbers.

11 You know, I'm a pessimist in terms of time frames.
12 I've never been a part of a settlement, unfortunately, that
13 moved -- that moves on schedule. And so when we give
14 expectations, I would rather give a pessimistic view than a --
15 than an overly optimistic view.

16 And one of the things that I will talk about after
17 Mr. Evans speaks is the fact that there are certain federal
18 obligations and state obligations that plaintiffs will have
19 towards certain medical providers and that can drag the process
20 out, unfortunately.

21 And we'll talk about that in a moment, but the goal
22 is to get folks paid beginning in 2023.

23 THE COURT: Okay. That's great. There must have
24 been 25 questions just on that; Judge, please tell us, when is
25 it we will see some payment. And I'm not asking, you know, how

1 long from the date I file, I want how long from the date of
2 this hearing. And you've been very specific, so I think that's
3 really helpful to them.

4 Attorney Evans, I interrupted you. Go right ahead.
5 Sorry about that.

6 MR. EVANS: All right, your Honor. I appreciate the
7 time and thank you to you and the rest of your team for
8 facilitating this glimpse into all the work that's been done in
9 the case and, you know, how that work has led to this potential
10 settlement. And also thanks to Special Master Reisman for
11 shedding light on the allocation process, and that's what I
12 want to talk about a little bit more.

13 I want to take just a few minutes to provide some
14 additional context to Attorney Reisman's remarks by going over
15 how the evidence that we've collected, particularly the
16 scientific and the medical evidence, have set the stage for
17 settlement and how that evidence will influence the process
18 that she's going to use that she just described. And the goal
19 is to better help everyone understand the process better and
20 also, importantly, to have a better idea of what to expect from
21 it.

22 This is, in all likelihood, the first mass tort, the
23 first lawsuit, that a lot of these people have gone through and
24 it is -- it is a mystery in a lot of ways and so I want to shed
25 as much light on that process as we can and help guide those

1 expectations.

2 So as Mr. Orent and Mr. Selby indicated, a very
3 large part of the work that has been done is what we've broadly
4 described as discovery, including obtaining facts and
5 information in the possession of the manufacturer and
6 individual plaintiffs, as well as developing scientific and
7 medical evidence for these cases.

8 And that includes things like searching and
9 reviewing and gradually developing an understanding of the
10 medical literature and those medical concepts as well as
11 identifying, hiring, and consulting with various types of
12 medical and scientific experts to understand what the case is
13 all about so that we can better represent our clients and help
14 the case counsel throughout the country to represent their
15 clients.

16 It helps to keep in mind that one of the primary
17 goals of this years-long discovery process in this MDL is to
18 identify and develop the evidence that your lawyers would need
19 in order to prove to a jury that the properties of the C-Qur
20 mesh was the cause of your injuries. This concept of causation
21 is not only critical to proving up a case that goes to trial,
22 but it's also central to case evaluation and settlement such as
23 this one.

24 So throughout this litigation, the plaintiffs'
25 leadership team has, as you said, tirelessly gathered

1 information and consulted experts to get a thorough
2 understanding of which types of complications are caused by the
3 unique design the C-Qur mesh and which ones aren't.

4 And this involves investigation into the raw
5 materials of the C-Qur mesh, what it's made of, including the
6 polypropylene that forms the basis of the mesh itself as well
7 as the fish oil used to coat it, how those materials are
8 processed, assembled, how they're sterilized and packaged, and
9 also what the experts and medical literature say about how this
10 particular product performs once it is implanted in a person.

11 And the discovery that we have done regarding these
12 issues over the course of this MDL has not only served to
13 prepare the lawyers to prove these cases at trial, but also has
14 prepared us to evaluate cases for a potential settlement in a
15 general sense and also collaborate with the special master to
16 develop a settlement evaluation process that's what she
17 described, which is I think it's clear that it's uniquely
18 tailored to the evidence that we have developed in this
19 litigation. That not all cases, not all settlements, are the
20 same. They're all very unique and have their own facts and
21 circumstances. And Attorney Reisman's work reflects that in
22 light of the work that we have done and information that we
23 have provided to her. And so she already gave a good, detailed
24 rundown of how cases will be evaluated as well as her team's
25 process for developing that evaluation method.

1 I think it's also important to give the plaintiffs a
2 realistic conceptual framework for understanding how the
3 special master will be evaluating those cases. And so I'll
4 leave the details to her from her description, but to put it
5 simply, whether it's a settlement or a jury verdict, a
6 plaintiff in a medical device case can really only expect to be
7 compensated for the injuries and other bad medical outcomes
8 that can be causally connected to the properties of the medical
9 device.

10 And so, for example, a plaintiff who develops --
11 I'll use an example that comes to us from our discovery and
12 educating ourselves in this case in consulting with our
13 clients.

14 Just imagine a plaintiff who developed an infection
15 of their C-Qur mesh six months after it was implanted. If
16 everything else is equal, that plaintiff can be reasonably
17 confident that they will be eligible for compensation under
18 this settlement.

19 On the other hand, a plaintiff who suffers an
20 infection one year after a C-Qur mesh is removed -- I don't
21 think that we have that case in this litigation, but for the
22 example -- that plaintiff should be much more cautious with
23 their expectations and make sure to discuss those facts with
24 their attorney to flesh out what the facts of the case are and
25 what the theory of that injury is.

1 And, likewise, a plaintiff who underwent a bowel
2 resection, which is one of the factors that Attorney Reisman
3 mentioned, if they underwent a bowel resection after the C-Qur
4 mesh detached from the abdominal wall, they can also be
5 reasonably confident that they'll be eligible for some sort of
6 allocation under the settlement because it is very consistent
7 with the theories that we developed in consultation with our
8 experts.

9 On the other hand, someone who had a bowel resection
10 due to a flare-up of Crohn's disease or some other illness,
11 they should have an honest conversation with their lawyer about
12 what they can realistically expect from the settlement,
13 particularly whether what they went through medically, those
14 complications and that treatment, is -- can be expected to be
15 compensated under the settlement construct.

16 And all of those conversations, they will have to
17 happen with that individual and their counsel because they have
18 the records and they have been studying and reviewing that case
19 and working that case for the last several years.

20 Maybe a more likely scenario that we're, I think,
21 likely to encounter or that Special Master Reisman is likely to
22 encounter is plaintiffs who've had complications from a C-Qur
23 mesh and also complications from a mesh that is manufactured by
24 a company other than Atrium.

25 We know that people who have had a revision

1 procedure are more likely to require future interventions and
2 future hernia repair. Oftentimes that involves placement of
3 another mesh, sometimes of a different make and model.

4 So although there may be some profound complications
5 and injuries for that person, their attorney, along with them,
6 will have to parse out what complications are eligible for
7 compensation under this settlement and which complications are
8 best left to claims in other forums.

9 So no one should be discouraged by any of these
10 facts that -- or these scenarios we're putting out in order to
11 help temper expectations and you shouldn't be discouraged
12 because all the plaintiffs in this litigation, by and large,
13 are represented by skilled, experienced lawyers throughout the
14 country that have taken their time to investigate the facts of
15 your case and make the determination that it was appropriate to
16 file and move your case forward and they will walk you through
17 the process as it unfolds and counsel you through it and help
18 you make that decision.

19 Because as Mr. Orent said, throughout that entire
20 process, you'll be speaking with your attorney, but we are also
21 available to give our thoughts on which medical facts should or
22 shouldn't be included, which types of records can be used to
23 substantiate the claims that the claimant is making, and we
24 intend to be available and just very accessible resources for
25 that purpose.

1 And so that's the remarks that I had.

2 THE COURT: Attorney Evans, a couple of the
3 questions dealt with whether or not plaintiffs or their lawyers
4 would have access to discovery. And obviously, you know,
5 Attorney Orent and Attorney Selby both described the massive
6 discovery that's been done in this MDL.

7 Is that something that you could make available to
8 an individual plaintiff's counsel if they asked for it?

9 MR. EVANS: Yes, your Honor. That -- that work
10 product, that discovery, is available now, has been available
11 for a very long time. Individual case counsel just need to
12 reach out to us and ask for it.

13 It is a -- if we're talking about the documents, it
14 is millions of pages and so we don't send out millions of pages
15 sua sponte, but all of that work product, all of the -- the
16 white papers, the expert reports, those are now and have been
17 available and any case counsel who's listening should
18 absolutely reach out if and when they want those materials or
19 want consultation for what to do with it and how to evaluate it
20 in light of the facts of any particular case that they'd like
21 to use it on.

22 THE COURT: Thank you.

23 MR. EVANS: I'll turn it back to Mr. Orent.

24 MR. ORENT: Thank you, Adam.

25 And just to reiterate again, we've heard two

1 different aspects of this claim process. One is the neutral
2 process that the special master is going to be utilizing, but
3 we have advocates. We are your advocates. And our job is to
4 argue for as much compensation as possible for each one of you
5 and we are here to assist your lawyers in doing that through
6 this process and, again, invite everyone to reach out.

7 As I -- as I indicated earlier, one of the things
8 that -- that slows the progress of any settlement in a mass
9 tort world or even in an individual lawsuit is something called
10 liens. And in a moment I'm going to turn it over to my friend
11 and colleague, Anne Shiavone, who's going to talk about our
12 efforts here.

13 The Court has, at our request, appointed a lien
14 resolution administrator. And one of the things that we're
15 excited about is the fact that we are able to take the numbers
16 of plaintiffs in this litigation and bulk discount, that is,
17 negotiate a gigantic decrease in what are called liens. And so
18 that there is a -- there is an economy of scale, both in terms
19 of the discount that plaintiffs get from working in a -- a big
20 number like this and then there's also a discount in the cost
21 associated with the work of the lien resolution administrator
22 working on a global scale like this.

23 So we're really excited about this program. I do
24 think that it's going to trim many months off of the back end
25 of this and allow each one of you to get your money sooner

1 which, at the end of the day, is what you all care about and
2 should care about, quite frankly.

3 And so I'm going to --

4 THE COURT: Attorney Orent --

5 MR. ORENT: Yes?

6 THE COURT: -- before you turn it over to Attorney
7 Shiavone -- and Attorney Shiavone's topic probably covers about
8 30 percent of the questions that we got about liens and those
9 bills. And so that's very good news, I'm sure, to many
10 plaintiffs' ears.

11 I've been getting questions while this is going on
12 and one -- one I thought was -- was good and probably worth
13 your giving a sense of, you've talked about this informed
14 consent packet. What's the time line on them getting that?
15 People are interested in knowing that.

16 MR. ORENT: Thank you. And, actually, that is a
17 great point and it is something I did miss earlier in the
18 presentation.

19 It is our hope that it will go out this spring and
20 that we are getting close to it. That package involves
21 multiple parts. So, ultimately, the package is generated off
22 of the information that is input by the individual case lawyer
23 as to the claims. It then gets vetted, verified, by that case
24 lawyer, then gets sent to the plaintiff to review.

25 And so we think that that process will start very

1 soon, in probably, I would guess, the next month or so, and
2 will run through the spring and into the summer of this year.

3 Again, we want to move this as quickly as possible,
4 but we want to make sure that we're doing it right and that
5 we're doing it subject to the clearance of our ethicist, the
6 person who's looking over and making sure that all the
7 documents not only meet but exceed the high standards of our
8 profession. And so sometimes that adds just a little bit of
9 time on to it. So I don't want to be held to that date, but
10 that is, I think, the reasonable time frame that folks can
11 expect, certainly the spring into the summer.

12 THE COURT: Another question that we've gotten since
13 this started that is a good one, what about people whose claims
14 were filed after the settlement cutoff? What happens with
15 those?

16 MR. ORENT: So right now those individuals are not
17 eligible to participate in this agreement.

18 One of the things that I have been doing is I have
19 been querying case counsel and I have a sense as to who those
20 people are, who the lawyers are, and we have had --

21 THE COURT: Okay.

22 MR. ORENT: -- confidential discussions.

23 I really don't want to go any further than that in
24 terms of strategy --

25 THE COURT: That's fine.

1 MR. ORENT: -- but that is something that has been
2 on our mind and I've consulted with a number of lawyers on.

3 THE COURT: Okay. Good. Thank you, Attorney Orent.
4 Go ahead, Attorney Shiavone. Sorry to interrupt.

5 MS. SHIAVONE: Thank you, your Honor.

6 Good afternoon, everyone.

7 With respect to a resolution of any claims, there
8 has to be verification of any health care liens as part of the
9 process before final payment is made. In an effort to expedite
10 that process, as indicated by Mr. Orent, we have contracted
11 Epiq, who has -- it's a company with many years of experience
12 dealing with lien resolution, including in cases involving
13 multiple plaintiffs.

14 Epiq is working through or will be working through
15 the lien resolution process with respect to Medicare Parts A
16 and B, Medicaid, private lien resolution programs, Veteran
17 Affairs and benefits, and also for any other potential
18 lienholders that may be other private plans who have asserted a
19 lien or an entity such as TRICARE for current or retired
20 military service members.

21 The Court entered an order which allowed --
22 essentially a HIPAA order that is in place that allows for
23 information on the individuals to be transmitted to Epiq
24 without having each individual sign a separate HIPAA
25 authorization, which will expedite the process.

1 There will be, however, and it will be an exception
2 as opposed to the general rule, there may be situations or
3 instances where an individual is required to do a separate or
4 execute a separate individual health authorization for the
5 transmission of certain information as it relates to trying to
6 resolve the liens.

7 I think what most people are probably interested in
8 is what does the time frame look like. I know Mr. Orent
9 touched upon what the end time frame looks like. In the
10 meantime, with respect to Epiq's efforts, typically for a
11 Medicare verification of entitlement as it relates to a lien,
12 that process is essentially 30 days or so.

13 With respect to Medicaid, that will vary, depending
14 on the state, the state-certain nuances or procedures, as well
15 as what the state's docket or caseload looks like in trying to
16 process any such liens and verifications of liens.

17 With respect to that, we may be looking at,
18 depending on the state at issue, some may be 30 days for
19 verification of entitlement as it relates to the liens, some
20 may be 90 days, some may be 120 days, and some may be an even
21 greater period of time. One that stands out, I know that
22 California seems to be one that takes a significant amount of
23 time beyond the 90 days.

24 Again, this is dependent on what that state may
25 require in terms of its own specific nuances for its Medicaid

1 program and verification of any lien.

2 In addition to the Medicare Parts A and B and
3 Medicaid, with respect to the private lien resolution program,
4 which is essentially private health care entities that may be
5 asserting a lien, again, Epiq is working through those or will
6 be working through those as well. And that time frame is also
7 going to vary depending on the entity that's involved with that
8 private lien resolution program.

9 The other one that may -- many people may be
10 interested in knowing about is with respect to Veterans Affairs
11 and the timing for their verification of liens. That time
12 frame looks like that with respect to Veterans Affairs and
13 benefits that approximately 90 percent of the liens will be
14 verified as to whether or not -- verification as to whether or
15 not there's a lien will be completed within approximately 30 to
16 60 days of initiation. Some could take longer, such as
17 90 days, but with Epiq we are confident that we will
18 expeditiously resolve the process and get that information as
19 needed to be able to have a final settlement and pay out as
20 we're required to do.

21 MR. ORENT: Thank you, Anne.

22 Again, I want to just emphasize a couple things here
23 for folks to understand and maybe I -- I don't think I did a
24 good job explaining what a lien is.

25 Under federal law, if you accept certain

1 governmental benefits for the treatment of a condition that you
2 allege was caused by the wrongful act of another, you have a
3 legal obligation to repay that amount for the health care that
4 you received. So that's the injuries that you're being paid
5 for.

6 And so what we're doing is this private lien
7 resolution company is actually negotiating that dollar amount
8 down on your behalf. That's really what this amounts to is
9 fulfilling your obligation under both federal and state law as
10 well as contract law with private health insurers. And what we
11 really want to do is make sure that you end up with as much of
12 this settlement in your pocket as humanly possible by
13 negotiating these numbers way down.

14 One of the downsides of this process, unfortunately,
15 is, really, the resolution has to be basically done before we
16 can start a lot of this process because they want to know that
17 you've signed off on a release and they want to know how much
18 money you're getting. All of the things that -- that we're
19 actually waiting on now, we need to wait on to start the
20 process really moving forward beyond what Anne was talking
21 about, which is the verification of entitlement, which is do
22 you have this type of benefit or not.

23 And so some of these do drag out, but as I said
24 earlier, it is our hope that we're going to get to start paying
25 you all at the beginning of next year.

1 Interestingly, one of the things, and your informed
2 consent package will explain this even further, is it used to
3 be that we wouldn't be able to pay you anything right away
4 because of these liens. We'd have to hold all of the money.
5 But we have arranged through this process to be able to hold
6 back a percentage while this process is happening, again, the
7 goal being to move you money as quickly as we can once this
8 case becomes finally settled.

9 So that is -- that's the objective number one and to
10 do it in a -- in a ripe manner and to make sure that as much
11 money ends up as possible in each of your pockets as being
12 injured folks.

13 I'm -- I want to wrap up and then sort of open it up
14 to additional questions that the Court may have, but before I
15 do, I know that my colleague and friend, Todd Mathews, has some
16 comments that he'd like to make.

17 And just like Mr. Selby and Adam and Anne, Todd has
18 been working tirelessly on these cases, many late nights, and
19 it's really been a pleasure to work with him.

20 So, Todd, I'm going to turn this over to you now.
21 Thank you.

22 MR. MATHEWS: All right. Thank you, Jon.

23 So I'm going to attempt to land this plane from the
24 plaintiffs' side here, your Honor.

25 And first I want to say that Judge McCafferty should

1 really be commended in the way she has moved this case along
2 through the trial.

3 One thing you haven't heard --

4 THE COURT REPORTER: Excuse me. Excuse me.

5 This is the court reporter. There is some feedback.
6 Is there someone else's microphone on in your room maybe?

7 MR. MATHEWS: I don't believe so. Is that better?

8 THE COURT REPORTER: A little maybe.

9 MR. MATHEWS: All right. How about that? Is that
10 better?

11 THE COURT REPORTER: Yes. Thank you.

12 MR. MATHEWS: All right.

13 So one thing Judge McCafferty has done well and one
14 thing that has not been mentioned a single time today is COVID.
15 And I understand, as I talk to clients every day, that, you
16 know, how long does this take and why is it taking so long.

17 Judge McCafferty did a fabulous job keeping this
18 case on track throughout the COVID crisis. And if it weren't
19 for Judge McCafferty and her efforts, we would be talking an
20 even lengthier process than we've dealt with so far. So I need
21 to point that out first.

22 Second, there's things that you can do as clients
23 and attorneys to help this process go faster: One, respond to
24 your lawyers quickly whenever they reach out to you; two, make
25 sure your lawyers have good contact information for you; three,

1 on the lien issue, those liens will not go away if you don't
2 mention them to someone. Those liens will be there. They will
3 be known. If they don't get dealt with now, you will have to
4 deal with them after the recovery and it will complicate your
5 life and you will likely not get the benefit of the reduction
6 that will be negotiated for you now. So you can do that.

7 There are 370-plus cases that have not begun the
8 administration process so far. If you are one of the attorneys
9 that has one of those 370 cases, start that process now. That
10 will help us get these informed packets out quicker.

11 The last thing that I would say to all of you is we
12 have taken our best efforts and attempted to arrive at a
13 settlement package that recovered every single possible dollar
14 we could for you, the plaintiffs, and we have brought in a
15 special master that is at the top of her field to make certain
16 that you're getting every single possible dollar individually
17 that you can out of this settlement while providing parity so
18 that my clients don't get a benefit that some other attorneys'
19 clients -- clients would not. It allows and assures that
20 everybody is compensated fairly, equally, and efficiently. And
21 to that end, it's a product of all of these five years, of all
22 the hard work that's been done by this group, both on the
23 plaintiff and the defense side.

24 Thank you, your Honor.

25 THE COURT: Attorney Mathews, I -- the nuts and

1 bolts were great. Thank you. I'm sure plaintiffs appreciated
2 that approach. So thank you.

3 I've had about 25 questions also about the fees, the
4 attorneys' fees, and how that works. And if somebody on this
5 screen is just brave enough to simplify that into really basic
6 language for these plaintiffs, I would very much appreciate it.

7 You were very nuts and boltsy there, Attorney
8 Mathews, so if you want to give this a shot, just summarize it,
9 and then we can move on to other questions. Thank you.

10 MR. MATHEWS: I'll give it my best shot, your Honor.

11 So every client, whenever they first hired a lawyer,
12 signed a contingency fee contract. That contingency fee
13 contract was for a percentage. That is the maximum amount that
14 you will be charged in this case.

15 So if your recovery was a hundred dollars and you
16 had a 33 and a third percent contract, \$33.33 of that -- of
17 that amount will go to attorneys' fees.

18 Out of that amount, the common benefit amount, that
19 amount that -- that this group, the leadership group, will
20 receive comes out of that amount. So if you see something
21 about a common benefit fee, it is included in the total
22 contingency fee amount from the initial contract you signed.
23 You will not be paying additional to what your contract was
24 with your attorney.

25 There are also expenses that will come out of the

1 settlement. Those expenses cover what the leadership has paid.
2 Mr. Selby referenced \$3 million. That's an approximate number,
3 the amount of money that we as leadership have paid out of our
4 money, out of our pocket, to pay for experts, depositions, any
5 case expenses. That will also come out on a pro rata basis.

6 So, again, if your recovery was a hundred dollars,
7 \$2 of that will come to cover those expenses. That is a
8 dollar-for-dollar expense coverage. So if it comes out and we
9 have \$3 million in the pot and it was 2.9 million, a hundred
10 thousand of that will be -- will go back to the clients pro
11 rata.

12 How'd I do, Judge?

13 THE COURT: That was an A+. Thank you very much.

14 And I'm getting questions from folks about the
15 liens, so this would be Attorney Shiavone, perhaps, or any one
16 of you to jump in.

17 But one person asked, how do I know if I have a
18 lien, which I thought was a pretty basic and maybe important
19 question.

20 How do they know that? Obviously if they have a
21 lawyer, the lawyer can help them with that, but maybe somebody
22 could jump in and explain the basics of that. I think you
23 tried to allude to that, but I just want to make sure
24 plaintiffs understand that.

25 MS. SHIAVONE: Between their individual -- the

1 treatment they received, which would get -- be knowledge that
2 their individual lawyer would have and the documents they'll be
3 executing as it relates to us working with Epiq to run all the
4 traps on that, that should yield the results as to whether or
5 not there's a lien out there that needs to be satisfied as part
6 of this process.

7 MR. MATHEWS: And, your Honor, just to follow up on
8 that, I think what -- more completely.

9 So the client's social security numbers will be run
10 through the systems that Epiq has and that should, should, key
11 on to whether they have a private insurance lien -- I think the
12 companies are usually about 99 percent of the -- 90 to 99
13 percent of the private health insurance companies out there in
14 the world run through that filter, so that catches almost all
15 of them.

16 If you get a letter in the mail from one of your
17 medical providers that says, this is a lien, give it to your
18 attorney as soon as possible.

19 THE COURT: Someone asked an interesting question,
20 and this might be something Attorney Reisman or Attorney Orent
21 would answer.

22 But do you have any references to things like the
23 statute of limitations, legal issues that might weaken a claim?
24 Are there any -- does the valuation of the claim take into
25 account something like that?

1 MR. ORENT: So -- okay. Thank you, your Honor.

2 It may. It depends on the certain facts and
3 circumstances. Part of the informed consent process will
4 involve an explanation as to my -- my sort of nonanswer there,
5 but there is some detail there that I can't talk about
6 specifically. It is, though, an item that will be highlighted
7 in that informed consent letter and your lawyers are well aware
8 of that already.

9 As I indicated earlier today, we've held a series of
10 meetings to everyone we were aware of that had filed cases --
11 of the lawyers, that is -- and that is something that we
12 disclosed very early in this process, how the mechanics of the
13 legal issues work. And so -- but the clients will certainly --
14 if they have a question, their lawyer probably has most of that
15 information now, but the -- the balance of it will be coming
16 and they will definitely get guidance on that issue in writing
17 as part of their informed consent process.

18 THE COURT: Excellent. Thank you. I know some of
19 these questions you didn't have any warning and I appreciate
20 the way you're able to just jump in and answer them.

21 We have had a quiet member on the screen, Attorney
22 Armstrong. And she's not usually quiet, let me just tell you.
23 I've been dealing with litigation with Attorney Orent and his
24 team and Attorney Armstrong and her team for many years now, so
25 I've gotten very familiar with the folks on the screen and I

1 can tell you they've been just an amazingly talented group of
2 people.

3 And the plaintiffs have fought relentlessly
4 litigating, you know, so many issues on behalf of the
5 plaintiffs and Attorney Armstrong's been right there defending
6 her client, Atrium, as she is required to do as an attorney,
7 and she's done a very good job. Obviously she and her team
8 have reached some sort of agreement with Attorney Orent's team
9 and I commend everybody for that.

10 There were some questions, Attorney Armstrong, that
11 were really probably best suited for you to answer that went to
12 whether or not your client is still manufacturing hernia mesh
13 product and whether or not the C-Qur mesh is still something
14 that is in production, has it been changed, has there been a
15 recall, is it -- is it terminated for future use.

16 These were the questions, and I thought I'd give my
17 plaintiffs' counsel a little break and give you an opportunity
18 just to answer that series of questions for the plaintiffs who
19 are interested in sort of what's going on now with C-Qur mesh.

20 Attorney Armstrong.

21 MS. ARMSTRONG: Thank you, your Honor.

22 I -- let me preface my remarks by saying that I
23 think both sides that are speaking here today want to avoid
24 getting into the merits of the litigation. I mean, part of
25 reaching a settlement is to put that behind us. And so

1 obviously we had many, many, many disagreements in this
2 litigation and I'm not going to get into those today.

3 The one thing that I can say without getting into
4 the merits is that Atrium did make the decision, I think in
5 2019, but don't hold me to any specifics, but I think they made
6 the decision and have stopped manufacturing -- and they did it
7 for business reasons -- stopped manufacturing and selling C-Qur
8 mesh.

9 THE COURT: All right. Thank you. That takes care
10 of about, you know, 10 percent of the questions that were
11 asked. So thank you, Attorney Armstrong.

12 Attorney Orent, I know we're -- you know, you're
13 near the end of your -- what you had planned on sharing. I'm
14 going to just ask some of these questions that are still
15 hanging out there that have come in.

16 What -- what happens if this global settlement is
17 not reached? What would be the next thing that happens in the
18 case?

19 MR. ORENT: The first thing, your Honor, would be
20 that we would let everyone know. You know, information,
21 sharing information, is such a valuable and important thing and
22 we will share that information with all of plaintiffs' counsel,
23 alert the Court as well.

24 Then it's really -- we retain the ability to try
25 cases. You know, one of the things that I am is a trial lawyer

1 and we were prepared to try some bellwethers and we would be
2 ready to start trying cases, you know, if that eventuality
3 happens. But as I indicated earlier, we are optimistic that
4 this will and so -- but we'll see what happens.

5 THE COURT: All right. So basically that puts it
6 back at the bellwether stage is what it does, although at that
7 point, bellwethers are used in an effort to reach a settlement,
8 so it -- if settlement is not reached, then ultimately these
9 cases that are in New Hampshire and -- would go to trial in
10 New Hampshire and I might send back for trial other cases.

11 Is that sort of a big picture answer to that
12 question?

13 MR. ORENT: It could be. I mean, your Honor, it
14 really depends in terms of what the basis for the deal not
15 being formed is and whether there's a workaround.

16 One of the things, and I do want to commend my
17 colleague across the -- across the aisle. These folks are --
18 are serious in wanting to resolve these cases and put forth
19 good faith in the negotiation and I believe that they will
20 continue to work with us as they have.

21 So I have every reason to believe that everyone
22 wants this to work, but if it doesn't, you know, we -- we're
23 trial lawyers, and that's what we do.

24 THE COURT: Another question was rather nuts and
25 boltsy, which was does there -- do the proceeds to the

1 individual plaintiffs come in a lump sum or monthly, yearly
2 disbursements, or is that an it depends.

3 MR. ORENT: That is an it depends that I can answer,
4 actually.

5 It depends on what the plaintiff wants, in some
6 sense, in that some people will sit with their individual case
7 counsel and understand that their facts and circumstances
8 perhaps require the money to be put into a trust. Others might
9 decide based on their facts and circumstances that it needs to
10 be put into some sort of annuity. So it -- it depends on those
11 individual facts and circumstances.

12 The vast majority of plaintiffs will receive one or
13 two payments. One payment would be -- really, it depends on
14 the lien situation. So we're going to be holding some money
15 back. If the liens are resolved by the time we have notices
16 to -- you know, all the money comes in and all of that, then it
17 would be one payment, but, if not, it would be two payments,
18 one for the bulk of your settlement and then one for the
19 balance between what is held aside to pay those liens and then
20 what is ultimately owed. The difference gets refunded to the
21 plaintiffs.

22 THE COURT: All right. Another question about the
23 process. And this was asked: Will there be another hearing
24 where an individual disagrees with the special master's ratings
25 be able to petition the Court to continue in the case

1 separately?

2 And I think that sort of goes to what happens if the
3 global settlement isn't reached, but I also just want to be
4 clear in case the person's asking whether they could petition
5 the Court for some sort of appeal of the special master's
6 decision.

7 The answer to that is no. This is a settlement
8 process. Attorney Reisman is -- is going to handle this by
9 herself as a neutral and there won't be an appeals process to
10 me. I just want to make that clear to folks.

11 Attorney Reisman did describe an appellate process
12 of sorts that is sort of a motion to reconsider is how I would
13 call that. You just let Attorney Reisman know that you really
14 do want to challenge how she's rated something and I think she
15 described that she would -- she would listen and reconsider if
16 that -- if that were to happen.

17 Attorney Reisman, is -- do you also consider --
18 somebody asked noneconomic harm and economic harms, do you
19 consider emotional harm, that kind of thing.

20 MS. REISMAN: No, I don't think we're going to be
21 looking at that kind of stuff. I -- it's -- it's so -- it's
22 very subjective, first of all, and, I mean, I think as I think
23 about this, I think the way we have to value these cases is
24 along the lines that Adam described, which is we have to look
25 at what the product-related injuries are.

1 And, I mean, I suppose in any compensation award
2 there's an assumption that there's been emotional harm as well,
3 but I -- I just don't -- I think it's -- yeah, it's too hard to
4 quantify in a settlement program like this.

5 So it would -- my focus will be on what injuries can
6 you show that are related to the product.

7 THE COURT: All right. That's very straightforward
8 and clear and helpful, I'm sure, to many plaintiffs who asked
9 me that question.

10 I think that I have covered the bulk of the
11 questions that were submitted to me in advance and I've been
12 looking over the questions during this hearing. I'm not the
13 best multitasker, but I think I've asked those that really
14 could be asked.

15 And I just want to give anybody on the screen an
16 opportunity for last words or things that you want to say to
17 these plaintiffs before we adjourn this hearing.

18 Attorney Orent, do you have anything more?

19 MR. ORENT: I do, your Honor.

20 I just want to say again that it's been an honor to
21 represent the leadership here today, but more importantly to
22 fight the fight for you all over the last five years.

23 I also want to just note again and reinforce that
24 this is the beginning of our education or, really, the
25 continuation of our education efforts. This is not the end of

1 those education outreach efforts to individual members of the
2 bar. We have an active LISTSERV through the database. There
3 will be communications. And every time we have additional
4 functionality or requirements on any counsel, there will be a
5 training, as has been the case; a written script will be
6 transmitted to case counsel following that, as has been the
7 case; and any PowerPoints that are utilized will be distributed
8 to counsel so that you have the best information to guide your
9 clients. And we'll be working with you hand in hand.

10 You all should have my phone number and contact
11 information. Please reach out anytime. And I know, speaking
12 on behalf of the rest of the leadership, we all feel the same
13 way.

14 And so, really, just, your Honor, thank you for this
15 opportunity here today to present this to the plaintiffs
16 directly.

17 Does anyone else have anything?

18 Fred, do you want to say anything?

19 Okay. I think on behalf of everyone, your Honor,
20 again, thank you very much. That'll --

21 THE COURT: All right.

22 MR. ORENT: -- conclude our preparation. Thank you.

23 THE COURT: Excellent. Somebody did ask, will there
24 be a list of things that we spoke about.

25 And this is -- there's a stenographer here and we're

1 treating this as a hearing and there will be a transcript if
2 you would like a copy. So if you would like that level of
3 detail, you can certainly get that in that way. So --

4 MR. ORENT: One other thing --

5 THE COURT: Thank you all.

6 Go ahead, Attorney Orent.

7 MR. ORENT: One other thing that we provided to
8 counsel and we will again provide with updated dates. We have
9 a flow chart that actually walks through each of these steps
10 along the way that obviously are a little bit confidential.

11 But that has been provided to case counsel and --
12 and if you have questions, that sort of goes to that last
13 question.

14 THE COURT: Excellent. Okay. Thank you, everybody.
15 I appreciate this.

16 And court is adjourned.

17 (Proceedings concluded at 3:51 p.m.)
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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: 4/4/22

/s/ Liza W. Dubois
LIZA W. DUBOIS, RMR, CRR