

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

IN RE: STRYKER REJUVENATE)
AND ABG II HIP IMPLANT) Case No. 13-MD-2441 (DWF/FLN)
PRODUCTS LIABILITY LITIGATION)
_____)
_____) St. Paul, Minnesota
This Document Relates to) November 3, 2014
All Actions) 2:57 p.m.
_____)

BEFORE **THE HONORABLE DONOVAN W. FRANK**
UNITED STATES DISTRICT COURT JUDGE AND

SETTLEMENT PROCEEDINGS

APPEARANCES:

FOR THE PLAINTIFFS:

Plaintiffs' Lead Counsel
Committee Chairperson: Meyers & Flowers
PETER J. FLOWERS, ESQ.
225 West Wacker Drive, Suite 1515
Chicago, Illinois 60606

Plaintiffs' Lead Counsel
Committee Members: Meshbeshher & Spence, Ltd.
GENEVIEVE M. ZIMMERMAN, ESQ.
1616 Park Avenue South
Minneapolis, Minnesota 55404

Official Court Reporter: JEANNE M. ANDERSON, RMR-RPR
Suite 146 U.S. Courthouse
316 North Robert Street
St. Paul, Minnesota 55101

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transcript produced by computer.

1 **APPEARANCES (Continued):**

2 **For the Plaintiffs:**

3 Plaintiffs' Lead Counsel
4 Committee Members (Continued):

5 Zimmerman Reed, PLLP
6 CHARLES S. ZIMMERMAN, ESQ.
7 1100 IDS Center
8 80 S. 8th Street
9 Minneapolis, Minnesota 55402-2015

10 Levin Papantonio Thomas Mitchell
11 Rafferty & Proctor, P.A.
12 BEN GORDON, JR., ESQ.
13 316 S. Baylen Street, Suite 600
14 P.O. Box 12308
15 Pensacola, Florida 32591

16 Cory Watson Crowder & DeGaris, PC
17 ANNESLEY H. DeGARIS, ESQ.
18 2131 Magnolia Avenue South
19 Birmingham, Alabama 35205

20 Leiff, Cabraser,
21 Heimann & Bernstein, LLP
22 WENDY R. FLEISHMAN, ESQ.
23 250 Hudson Street, Eighth Floor
24 New York, New York 10013

25 Weisman, Kennedy & Berris Co., LPA
 ERIC KENNEDY, ESQ.
 1600 Midland Building
 101 Prospect Avenue West
 Cleveland, Ohio 44115

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APPEARANCES (Continued):

For the Plaintiffs:

Plaintiffs' Liaison Counsel:

Liaison Counsel to the
District of Minnesota: Meshbeshier & Spence, Ltd.
ANTHONY J. NEMO, ESQ.
1616 Park Avenue South
Minneapolis, Minnesota 55404

Liaison Counsel to
The State Courts: Kelley Bernheim Dolinsky, LLC
MICHAEL E. GALLANT, ESQ.
2200 Pennsylvania Avenue, N.W.
4th Floor
Washington, D.C. 20037-1701

1 **APPEARANCES (Continued):**

2 **FOR THE DEFENDANTS:**

3 Defendants' Lead Counsel:

4 Sedgwick Law LLP
5 KAREN E. WOODWARD, ESQ.
6 RAFAEL A. CAMPILLO, ESQ.
7 801 S. Figueroa Street, 19th Floor
8 Los Angeles, California 90017-5556

9 Defendants' Liaison Counsel:

10 Stinson Leonard Street LLP
11 TIMOTHY P. GRIFFIN, ESQ.
12 150 S. 5th Street, Suite 2300
13 Minneapolis, Minnesota 55402

14 ALSO PRESENT:

15 ALEXIS MacDOWALL, ESQ.
16 Chief Legal Counsel
17 Stryker Corporation

P R O C E E D I N G S

IN OPEN COURT

1
2
3 THE HONORABLE JUDGE FRANK: You may be seated,
4 thank you.

5 I believe, Counsel, before I begin, I am trying to
6 coordinate this to begin promptly at 4:00. And I believe
7 the time is, well, 3:00 Central Time. I guess we are there.

8 I want to welcome everyone to this proceeding,
9 this proceeding regarding the Stryker Rejuvenate and ABG II
10 Modular Hip Implants Litigation. This multi litigation has
11 been pending, as many of you in the room know, since June of
12 2013. And it has been proceeding, what I will call, in
13 tandem with the multi-county litigation commenced in January
14 of 2013 before Judge Brian R. Martinotti in the Superior
15 Court of New Jersey, Bergen County, as well as some other
16 jurisdictions around the country. And I have had, myself,
17 contact with not just Judge Martinotti, but other Judges
18 around the country.

19 We have scheduled this proceeding, as I think most
20 of you know in the room, to occur simultaneously to maximize
21 fairness and transparency with the hearing in New Jersey
22 before Judge Martinotti to announce an agreement between the
23 parties in the various coordinated proceedings to settle
24 what I believe to be thousands of cases brought by
25 individuals implanted with Stryker's ABG II and Rejuvenate

1 Modular Hip Stems.

2 As you will hear today, a global settlement
3 program, comprehensive in approach, has been developed for
4 all claimants who have had these products removed. My own
5 observations are that the parties engaged in an early
6 mediation process that allowed both sides to gain a better
7 understanding of the nature of the injuries and the
8 valuation of the claims.

9 While I would suggest to the credit to the lawyers
10 and the intent of such litigation like this, whether it is
11 the case in New Jersey, or the MDL here, and with the help
12 of Retired Federal Magistrate Judge Arthur Boylan, a Special
13 Master here in the MDL, and former Federal Magistrate Judge
14 Diane Welsh, and former New Jersey Superior Court Mass Tort
15 Judge Judson Hamlin, the parties successfully settled many
16 cases. Through what I will refer to as this parallel
17 mediation process, counsel for the parties and Stryker
18 sought to get a well thought out and fair settlement, in my
19 view, without the need for lengthy and expensive pretrial
20 proceedings, and without the need for very costly and
21 oftentimes uncertain trials.

22 I will, of course, leave the details to counsel
23 who are here today to lay out the specifics of what they
24 have been able to accomplish. But, before I begin, I want
25 to first thank my colleague who has managed this litigation

1 with me, Magistrate Judge Frank Noel, who is out of the
2 country, but who was included in the phone call earlier
3 today, and I am hopeful is listening in today, otherwise,
4 he, of course, would not be here today.

5 I would also like to thank Judge Martinotti, as
6 well as Judges Boylan and Welsh for their hard work and
7 dedication and being accessible at all times since the
8 inception of this mediation process, including of course
9 managing and coordinating the parties in achieving the
10 agreement being announced today.

11 Now, I would also like to thank the leadership on
12 both sides of this case. These things don't happen without
13 well-prepared and the best lawyers working on these cases.
14 And for approximately two years, as I see it, and I know the
15 other Judges involved, all of you -- these lawyers have not
16 only labored diligently and consistently on discovery and
17 the coordination of litigation, but also while all that is
18 going on, trying to look to mediate cases, and most recently
19 engaging in negotiations and doing all of this at the same
20 time. And again, consistent with the overall goal to be
21 fair, but to try to realize economies of scale, it benefits
22 all parties. I would especially like to thank the lawyers
23 who led this litigation on behalf of the Plaintiffs here,
24 and that includes Mr. Pete Flowers, Eric Kennedy, Genevieve
25 Zimmerman, Annesley DeGaris, Wendy Fleishman, Bucky

1 Zimmerman and Ben Gordon. And I will be put on probation if
2 I forgot anyone, so I hope I didn't, but somebody will soon
3 remind me.

4 I would like to thank all of you on both sides for
5 all of your laborious cooperation and working with us to try
6 to carry out the goals of this litigation. With that, I
7 will call upon Mr. Pete Flowers.

8 MR. FLOWERS: Thank you, Your Honor. As you
9 indicated, I am Pete Flowers here on behalf of the
10 Plaintiffs. We also have here, just for the record, Ms.
11 Genevieve Zimmerman, Ben Gordon, Wendy Fleishman, Bucky
12 Zimmerman, Annesley DeGaris, Eric Kennedy, Tony Nemo, and
13 Mike Gallant who is here for Jesse Bernheim as Liaison
14 Counsel.

15 I am very pleased to be here today, Your Honor.
16 It has been a long two years, especially for our clients,
17 who have been waiting eagerly for this day. And I am
18 pleased that we are here today earlier than, frankly, anyone
19 could have expected. When negotiating a deal like this, it
20 is important that the interests of all Plaintiffs are
21 represented, regardless of where they are and who their
22 attorneys are and where they have chosen to file their
23 lawsuit.

24 The ultimate goal, as you pointed out is to create
25 a program that will resolve most of the lawsuits filed in

1 the country by providing fair compensation in a timely
2 manner, given the need of our aging client population.
3 Along with our colleagues in the MCL, we are confident that
4 the terms of the agreement that will be discussed today are
5 reasonable and balanced and will provide compensation to a
6 large number of patients who have been implanted with these
7 products, while also resolving a majority of the currently
8 pending lawsuits.

9 Your Honor, I encourage everyone listening or
10 attending today or those who will read the transcript later
11 to listen carefully to what everyone has to say as to the
12 terms of this agreement and the upcoming deadlines that are
13 discussed. We have really tried to do our best to make this
14 a fair and just result for affected patients.

15 As a final note, Your Honor, I want to thank you,
16 as well as Judge Noel, and Judge Boylan, who have all been
17 instrumental in allowing us to reach this process. Also,
18 the lovely lady that introduces us and gets everything set
19 up all of the time, Brenda, and the rest of your staff has
20 been very accommodating and very helpful and we appreciate
21 it and thank you, as well.

22 THE HONORABLE JUDGE FRANK: Thank you.

23 MS. ZIMMERMAN: Good afternoon, Your Honor.
24 Genevieve Zimmerman on behalf of the LCC. And I did want to
25 take just a minute to note that a large number of the

1 Plaintiffs' Steering Committee members have also traveled
2 and are present here in the courtroom on very short notice.

3 THE HONORABLE JUDGE FRANK: Yes, I kind of assumed
4 that.

5 MS. ZIMMERMAN: The room is packed.

6 THE HONORABLE JUDGE FRANK: As I looked out into
7 the room, yes.

8 MS. ZIMMERMAN: That is right. Well, I have been
9 asked today to speak about the Settlement Oversight
10 Committee. And I would like to echo Mr. Flowers' comments
11 to say that it has been a personal pleasure of mine to work
12 on this case with this team, including the people in the
13 room, and some great attorneys on the other side of the "V"
14 so to speak, and particularly in my home district.

15 With respect to the Settlement Oversight
16 Committee, early on in negotiations with Stryker, the
17 parties were in agreement that we wanted the administration
18 of this settlement programmed to be a collaborative process.
19 Stryker has taken the responsibility of hiring, and also
20 paying for the claims processor. And Mr. Campillo and Mr.
21 Kennedy will discuss that in greater detail yet this
22 afternoon. Stryker is also overseeing the day-to-day
23 operations of the program, but they have expressed to us on
24 multiple occasions that they want this to be a collaborative
25 process where we all benefit from the knowledge and

1 experience that our teams possess, in an effort to create a
2 program that is efficient, transparent and fair.

3 It is also a testament to the parties' shared goal
4 of including as many eligible patients as possible and
5 providing patients with settlement awards in a timely
6 fashion. The Settlement Oversight Committee includes
7 representatives from the MDL, including each member of the
8 Lead Counsel Committee, as well as attorneys in New Jersey
9 who will act as the liaisons between the Committee, the
10 claims processor and Stryker. The Committee has been tasked
11 with the responsibility of making sure this resolution
12 proceeds efficiently and justly, which we are all committed
13 to doing. We realize that this is going to be a big job and
14 we are committed to doing it for the betterment of the
15 parties, and of course, the Court.

16 THE HONORABLE JUDGE FRANK: Thank you.

17 MR. CAMPILLO: Good afternoon, Your Honor.

18 THE HONORABLE JUDGE FRANK: Good afternoon.

19 MR. CAMPILLO: And co-counsel. On behalf of
20 Stryker here today, Your Honor, other than myself, we have
21 Mr. Tim Griffin, Karen Woodward, that you are accustomed to
22 seeing on events in this MDL, as well as our client, Alexis
23 MacDowall, who is the Chief Legal Counsel for Stryker.

24 Your Honor, on behalf of all of us and Howmedica
25 Osteonics Corporation, and the Stryker Corporation, our

1 legal teams, and the thanks that we owe to you, Magistrate
2 Noel, and your staff, as has been echoed by others, as well
3 as Mr. Flowers, and here in the MDL, Ms. Relkin in New
4 Jersey and their leadership teams, as well as Judge Diane
5 Welsh, we are pleased to advise Your Honor that the parties
6 have indeed reached a private settlement agreement that
7 creates a settlement program for patients who are U.S.
8 citizens and residents, who have either had an ABG Modular
9 Neck System or Rejuvenate Modular Neck System implanted here
10 in the United States and who have had a qualified surgery to
11 replace that device or those devices before today, November
12 3rd, 2014.

13 The settlement program is also open to certain
14 patients who have been deemed, as of today, to be too infirm
15 to undergo an otherwise necessary revision surgery. So,
16 they also will be covered.

17 This has been a thorough and complete process that
18 got us here today. The efforts were intended to create, as
19 others have already said, a settlement program that provides
20 a fair and reasonable settlement for affected patients, and
21 to do so at a relatively early stage of litigation, thus
22 resulting in payments being available to affected patients
23 without enduring prolonged litigation, indeed the primary
24 purpose of an MDL process like this. We believe the
25 settlement agreement reached here does exactly that.

1 Now, I am going to cover in broad strokes some of
2 the key details of the settlement program: Eligibility,
3 registration, enrollment, settlement awards and the claims
4 process. I will take each one of those separately --

5 THE HONORABLE JUDGE FRANK: All right.

6 MR. CAMPILLO: -- and make some brief comments on
7 each one. With regards to eligibility, in order to be
8 eligible for the settlement program, you must as of today:
9 Be a U.S. citizen or a legal resident; be implanted with
10 either an ABG II Modular Neck System, or a Rejuvenate
11 Modular Neck System, what the settlement agreement refers to
12 as "Affected Products" here in the United States or in the
13 U.S. military hospital; and then you have to have undergone
14 a qualified revision surgery to remove the Affected Product
15 prior to today. In order for the revision surgery to be
16 considered qualified you must have had both the stem and the
17 neck removed during a revision surgery that also took place
18 in the United States or in any U.S. military hospital.

19 You may also be eligible for the settlement
20 program if, as of today, your treating orthopaedic surgeon
21 has recommended a revision surgery, but for reasons
22 underlying -- excuse me -- revision surgery for reasons
23 underlying the voluntary recall, but has been medically
24 determined that you are too infirm to undergo the procedure.

25 Second area is registration. In the coming days

1 the parties will file a motion with the Court seeking
2 implementation of a registration process. This registration
3 order will allow the parties and the Court to get more
4 information and to make more informed decisions about the
5 future. Importantly, the registration process requires the
6 registration of all claims and all lawsuits, whether the
7 patient is revised or unrevised, represented or
8 unrepresented by an attorney, and whether the patient has
9 decided to file a lawsuit. Registration is required to
10 participate in the settlement program, but does not mean
11 that the individual must participate and enroll in the
12 settlement program. This registration process is going to
13 help the parties and the Court manage this large litigation
14 and also allow the parties to set their expectations for the
15 settlement program.

16 The steps and procedures for registration will be
17 set forth in the registration order to come, but the parties
18 intend to have the deadline for registration to be set for
19 December 14, 2014. The claims processor, the Garden City
20 Group, will be assisting with the registration process and
21 all of the resources that you will need to register will be
22 available on the settlement program's website in the near
23 future at StrykerModularHipSettlement.com. I will repeat
24 that, StrykerModularHipSettlement.com. So, everyone should
25 keep checking back in that website and the information will

1 be posted as available.

2 The third area I want to address is the
3 enrollment, which is something different than the
4 registration process. You do need -- excuse me. You do not
5 need a pending lawsuit to participate in this program. The
6 unfiled claims of unrepresented patients may also be
7 resolved through this settlement program. Claim forms and
8 registration packets will eventually be made available
9 through your lawyers, or on the claim processor's website.
10 All deadlines will also be posted on the claims processor's
11 website.

12 A few words about the settlement awards, which I
13 am sure people are interested about. Revised patients who
14 are qualified to participate in the settlement program will
15 receive a base award of \$300,000 subject to potential
16 reductions. If a patient had both hips replaced with an
17 Affected Product and both hips have undergone a qualified
18 revision surgery, the patient will receive a base award for
19 each hip. If a patient had both hips replaced with an
20 Affected Product and only one hip was revised, the claims
21 with respect to the unrevised hip are preserved. Patients
22 may also receive additional awards referred to as
23 "enhancements" at a later date if they can demonstrate that
24 they meet the eligibility requirements for the categories
25 set forth in the settlement agreement.

1 Qualifying for a base award does not automatically
2 entitle a patient to any enhancements. The application
3 process for the base award and enhancements will occur at
4 different times. Certain records must be produced to
5 document all claims for a base award or enhancements.

6 With respect to the enhancements, the parties have
7 structured the enhancements program in such a way that it is
8 driven by procedures that a patient underwent. The basis of
9 each award is whether the patient can prove that he or she
10 has undergone specified procedures or experienced an
11 identified serious medical event.

12 We structured the enhancements program in this way
13 in an effort to make qualifying for and receiving an
14 enhancement a streamline process that provides compensation
15 to reflect the medical experience of the patient litigant.
16 This process allows for the fair compensation and allows
17 payment to get to those affected patients more quickly.
18 Each enhancement category has its own eligibility
19 requirements and limitations which are in detail set forth
20 in the settlement agreement. There are reasonable caps on
21 the enhancements that an individual can receive. Again, the
22 details are set out in the settlement agreement.

23 This settlement also takes into account events
24 that happen after patients enroll and qualify for the
25 settlement program. We call these "future enhancements."

1 So, if you had a revision surgery within the last year,
2 there may be a concern: What happens if you have to have a
3 re-revision in the future, or a dislocation? This program
4 takes that into consideration and provides for enhancements
5 for those covered events that have occurred within two years
6 of the last surgical procedure.

7 A few words about the claims processor, Your
8 Honor. Stryker has engaged the Garden City Group, which I
9 mentioned earlier, as the claims processor. Garden City is
10 a claims processing and resolution company and has
11 incredible depth of experience in managing large, complex,
12 and high profile matters. Both sides are excited to be
13 partnering with Garden City as we implement this settlement
14 program. The official website for the settlement program is
15 what I stated before, StrykerModularHip.com, which will go
16 live shortly after this hearing.

17 The website will be frequently updated with
18 information regarding the program, so again it is important
19 for it to be checked regularly. Please be aware that all
20 sorts of websites are out there about this litigation and
21 its potential settlement; however, the claims processor's
22 website is the only official website for the settlement
23 program.

24 We are most grateful to Your Honor and Judge Noel
25 for your management of this large litigation. We truly

1 appreciate the confidence you had in all of us, and the time
2 and space that you and Judge Martinotti gave us to permit
3 these complex negotiations to develop as they did. We hope
4 you will now give us -- give the U.S. patients and their
5 lawyers around the country the time and space they need to
6 consider carefully the benefits of this important program so
7 that they can make an informed personal decision on whether
8 to participate or not.

9 Each eligible patient must have the right and
10 ability to consider the benefits of this program and to
11 receive accurate and objective information about it, not
12 rumor or speculation. We will all require time to make that
13 happen.

14 As for the patients who are not eligible for the
15 settlement program because they have not yet been revised,
16 Stryker's existing program for reimbursement of eligible
17 out-of-pocket costs administered by Broadspire, remains
18 available. It's important to note that the decision to
19 undergo a revision surgery is a medical decision, not a
20 legal decision. It should be made by the patients with
21 their surgeons. If you are not eligible for the settlement
22 program, all of your legal rights and claims are still
23 preserved. This also applies to patients who have been
24 implanted with an Affected Product in both hips, but only
25 one hip has been revised.

1 With that, I will turn this over to Mr. Gordon to
2 discuss the lien resolution aspects.

3 THE HONORABLE JUDGE FRANK: Thank you.

4 MR. GORDON: Good afternoon, Your Honor. May it
5 please the Court? I am Ben Gordon for the Plaintiffs' Lead
6 Counsel Committee. I am going to talk about the exciting
7 topic of lien resolution. Before I do, and I look back at
8 Ms. Woodward to see if she is cringing. I just want to also
9 thank the Court for the amazing level of accommodation the
10 Court has granted us during the MDL. It has really been one
11 of the highlights of my legal career thus far, working for
12 this Court and working with such a gifted lead counsel
13 committee, especially with Pete Flowers as a Chairperson.
14 He has brought everyone together. And I think with him and
15 the others in our PSC who is here, as Genevieve has said,
16 it's been a very positive experience and I think a
17 successful one for everyone. And I thank Stryker for being
18 very earnest and serious about this problem and taking the
19 bull by the horns and helping us get this done.

20 So, lien resolution. The group that we've
21 selected for patients who enrolled in the settlement program
22 for lien resolution is the Providio MediSolutions Group.
23 Patients will be responsible for all liens, including any
24 valid liens relating to medical care directly associated
25 with the qualified revision surgery. In order to help

1 enrolled claimants resolve these liens, the Settlement
2 Oversight Committee has hired this Resolution Company,
3 Providio MediSolutions, which has been identified in the
4 settlement agreement as the Lien Resolution Administrator,
5 or LRA. Providio will be our partner -- slow down? Okay, I
6 thought I was going slow. All right.

7 Providio will be our partner in resolving all
8 liens asserted by Medicare, Medicaid and all Federal Health
9 Care Program lien obligations, and any lien obligations
10 under Medicare Part C, also known as Medicare Advantage.
11 The President of Providio is Ginger Sussman. Anyone who
12 doesn't know Ginger, she is a terrific professional. She is
13 an attorney and she is based in Denver. Together with two
14 other lead attorneys there, Ginger will be working with Bob
15 Marcino in their Philly Office and Russell Bowman. They
16 have a team of professionals at Providio with a wealth of
17 experience dealing with public and private insurers
18 concerning medical subrogation claims. And they will be our
19 partners in resolving all valid liens asserted by Medicare,
20 State Medicare Programs -- Medicaid Programs, excuse me, and
21 third-party payors and health care providers. This lien
22 group is staffed with exclusively attorneys and paralegals.

23 As I mentioned their lead counsel for lien
24 resolution, Bob Marcino and Russell Bowman are both
25 attorneys and have over twenty years of lien resolution and

1 subrogation experience. They have in fact devoted most of
2 their legal careers to insurance lien resolution, and they
3 are very knowledgeable about the intricacies of public and
4 private lien resolution. So, we look forward to working
5 with them to promptly, efficiently, and economically resolve
6 liens to the benefit of those enrolled in the settlement
7 program.

8 It should be noted that they handle resolution of
9 all kinds of liens, including Medicare, Medicaid, ERISA --

10 THE HONORABLE JUDGE FRANK: Can we slow it down
11 just a little bit more?

12 MR. GORDON: Yes, sir. Okay, sorry, Your Honor.
13 Private health insurance and provider and lien bills for
14 single event and mass tort cases. In fact, just by way of
15 background, they were specifically approved and appointed by
16 Federal Judge David Herndon recently in the *Pradaxa* MDL.

17 THE HONORABLE JUDGE FRANK: A little known fact is
18 David Herndon and I went to Baby Judges School together in
19 1999 together. Nothing to do with the case, but he and I
20 met and are good friends since that time.

21 MR. GORDON: That is great. Well, they have got a
22 great wealth of experience and I just wanted to mention
23 that. There are many other examples, they've worked on
24 *Kugel Mesh*, and *Yaz* and *Avandia*, so a great lien resolution
25 group for people who may not know that.

1 They will resolve all Medicare and Medicaid liens
2 asserted against all enrolled program claimants and patients
3 and their counsel can elect to use Providio to resolve their
4 other health care liens if they choose to do so. So,
5 private, as well as public liens, if counsel choose to.

6 Given their vast experience in similar cases and
7 their close contacts with officials who represent these lien
8 holders, we believe Providio is ideally situated to help us
9 and the claimants and Stryker resolve these claims at fair
10 and equitable rates. Thank you.

11 THE HONORABLE JUDGE FRANK: Thank you.

12 MR. GORDON: And with that, I will pass it to
13 Annesley DeGaris.

14 MR. DeGARIS: Your Honor, Annesley DeGaris. Good
15 afternoon. I will be speaking briefly, Your Honor, about
16 the claims processor, about the claims administrator, her
17 role, and also the Special Masters and their role.

18 But, first of all, I would like to echo the
19 sentiments of all of the lawyers who have come before me
20 about what a privilege it was to serve this Court, a delight
21 it has been to work with your staff, and I cannot leave out
22 Judge Noel, who is not here. They were wonderful to work
23 with. Not once did they ever ask for subtitles when I was
24 speaking, which was good with my drawl. It has been a
25 privilege, by the way, Your Honor, to work with this PLCC, a

1 great group of lawyers. I have made some friends, lifelong
2 friends, I think, and it's just a great group of lawyers and
3 this MDL gave me that opportunity. And I include, also,
4 members of the PSC, and also the Defense Bar. Some of the
5 Defense lawyers over here I have gotten to know quite well
6 as we both did our best to represent our clients. And
7 again, we thank the Court for the opportunity.

8 Ralph noted in his discussions about the
9 settlement program claims and the claims process with Garden
10 City. Garden City will review each claim and determine
11 whether or not the claim is 1) eligible for the program and
12 2) then will determine the claimant's award under the terms
13 of the settlement agreement.

14 If the claimant then so chooses, there is a first
15 level of review following the termination by the claims
16 processor. The review will be conducted by a Special Master
17 from a panel of three that the parties have agreed to. We
18 have agreed upon and retained New York Mass Tort Judge
19 Judson Hamline; our MDL Special Master for the settlement,
20 Magistrate Judge Arthur Boylan, in Minnesota; and an
21 attorney, Edgar Gentle, III, in Alabama, who has served as
22 Special Master in numerous mass torts.

23 The entire program will be overseen by a Claims
24 Administrator. And we have agreed that Magistrate Judge
25 Diane Welsh will fill that role given her knowledge of the

1 program's workings and intent, the medical scenarios that
2 arise in these cases, and the other issues that arise in
3 these type claims.

4 Members of our group have also recently met with
5 Garden City. We have talked among members of the profession
6 who have had experience with Garden City, and we are happy
7 to report that we are impressed with their experience, their
8 perspectives, again the references that we got from other
9 individuals that have dealt with them. And we think that
10 they are motivated, that they will efficiently and fairly
11 administer the settlement so that our clients can get paid
12 as soon as possible. They have offices all around the
13 country, and this just goes to show the level of their
14 competence. And we are very confident in their ability to
15 do the job that has been assigned them.

16 As far as Judge Welsh, her name has come up
17 multiple times during this afternoon's hearing. She was in
18 the trenches with us at all hours of the day and night, and
19 oftentimes on weekends, helping us negotiate this
20 settlement. Without her help, assuredly, we would not be
21 here today. When it came time, then, to select a person who
22 would be well-suited to oversee the process, to be a
23 resource for both parties as we move toward the resolution
24 stage of this litigation, she was an appropriate choice.

25 Judge Welsh is a retired Magistrate Judge who left

1 the Bench to dedicate her career to alternative dispute
2 resolution. Her reputation as a fair and excellent Judge is
3 unquestioned. She will be the final arbiter and provide the
4 final review in the claims process under most circumstances.
5 She will be providing general oversight and management of
6 the settlement program. She will also ensure that
7 implementation is consistent with the terms of the
8 settlement agreement. The parties are pleased that she has
9 agreed to move on with us as we enter the next stage of this
10 process and will look forward to our continued relationship
11 with her.

12 Again, we met with her -- members of our group did
13 meet with Garden City last week, and we are excited about
14 swiftly implementing this settlement agreement. And again,
15 so that our clients can get paid as quickly as possible.
16 Thank you, Judge.

17 THE HONORABLE JUDGE FRANK: Thank you.

18 MR. KENNEDY: Good afternoon, Your Honor. Eric
19 Kennedy in behalf of Plaintiffs. As the last speaker on the
20 Plaintiffs' side this afternoon, I would also like to thank
21 the Court, the Court's staff, particularly Judge Noel. Not
22 to belabor, I would incorporate all of the thanks and well
23 wishes that have come before me, Your Honor.

24 I would like to address the Court with respect to
25 payment of the claims processing goals of this resolution.

1 Our primary goal for this settlement program is getting
2 money in the pockets of eligible claimants as soon as
3 possible.

4 Having said that, I could probably sit down at
5 this point, because that is simply the overriding goal, and
6 should be. All of us who have been negotiating this deal
7 have been part of multiple settlement programs in the past,
8 so we have the benefit of knowing what works and what does
9 not work.

10 Our objective is to make this settlement program
11 as streamlined, fair and efficient as possible. A big part
12 of achieving this goal is making sure that everyone knows
13 the deadlines, meets them, and submits complete claims
14 packages.

15 For the deadlines, the first is registration,
16 which is set for December 14, 2014. You have to register to
17 participate in the settlement program.

18 The next deadline involves enrollment. If you
19 would like to participate in the settlement program, because
20 either you underwent a qualified revision surgery, or you
21 are a covered unrevised infirm claimant, you must enroll in
22 the settlement program by March 2nd, 2015. All of the
23 enrollment materials, frequently asked questions, and all
24 other information you need will be available on the claims
25 processor's website, which I believe Mr. Campillo told us

1 about on more than one occasion with respect to that
2 citation.

3 As mentioned before, please check the website
4 regularly for updated information. After you properly
5 enroll in the settlement program by March 2, 2015, Stryker
6 has until June 15, 2015 to walk away from the deal,
7 depending on enrollment dates or other situations specified
8 in the settlement agreement. They could decide before June
9 15 to not exercise their right, or they could wait until
10 June 15th. Either way, no payments will be issued until the
11 walk-away deadline has expired. But, during the period from
12 March 2 to June 15th, the claims processor will be reviewing
13 all claims and notifying claimants if their claim package is
14 deficient in any way. Stryker anticipates that it will
15 begin to issue payments to those claimants who have
16 qualified for the program and completed the review process
17 shortly after the walk-away date.

18 If you want to get paid in a timely fashion, your
19 claims package must be complete and accurate when you enroll
20 in the program. This includes all required medical records.
21 If you receive a deficiency notice, reply as soon as
22 possible. Stryker, the Settlement Oversight Committee, and
23 the Garden City Group are committed to getting your claims
24 processed as soon as possible. Again, having timely and
25 complete claims packages when you enroll is crucial to

1 meeting this goal.

2 With regard to enhancements, right now we are
3 planning that the application process for enhancements will
4 open on June 16, 2015, and the deadline for past
5 enhancements will be September 30, 2015. Like the base
6 awards and covered unrevised claims, Stryker, the Settlement
7 Oversight Committee and the Garden City Group are committed
8 to getting your claims processed as soon as possible and to
9 issue payments as soon as they can. Having complete and
10 accurate claims packages on timely enrollment is the way to
11 make this happen. Thank you, Your Honor.

12 THE HONORABLE JUDGE FRANK: Anything further at
13 this time on behalf of Plaintiffs?

14 MR. FLOWERS: No, Your Honor.

15 THE HONORABLE JUDGE FRANK: Defendant?

16 MR. CAMPILLO: No, Your Honor, thank you.

17 THE HONORABLE JUDGE FRANK: Well, a couple of
18 things I think are in order to say. First of all, I think
19 it is entirely appropriate to commend the parties. I
20 referenced it in my opening remarks. I commend the parties.
21 These things don't happen in a vacuum. And consistent with
22 the charge of each Judge, especially in an MDL context, and
23 then especially Courts like New Jersey has, as well, it is
24 significant how things have been coordinated and work
25 together to reach a global settlement, which does not happen

1 without a well thought out plan, lots of communication
2 between the parties. And it happens in a way -- one of the
3 criticisms of some of the MDL litigation that rests
4 primarily on the Judge's back, maybe appropriately so, is
5 to, well, to do this and try to realize, the phrase I used
6 earlier, economies of scale, so that we can do the right
7 thing by all parties in the case. And I think that has
8 happened here by everything that I know about the status of
9 this case.

10 So, I thank everyone for that. I do think it is
11 important to recognize, again, that in light of the history
12 of the case, not unlike some other cases, and today's
13 developments, there will be a need, as you have each
14 acknowledged, to give counsel and afford counsel across the
15 country some sufficient time, and opportunity to meet and
16 confer with their respective clients. That will take some
17 significant but well thought out and well spent time.

18 I promise to confer with counsel for the parties
19 before doing so, but I will say this: Consistent with other
20 cases I have handled and managed, and that is I suspect to
21 take some further action with respect to the pending cases.
22 What do I mean by that? To stay the litigation to give the
23 parties and counsel a chance and the needed time to allow
24 this very carefully and impressively thought out settlement
25 program to develop.

1 And I am going to encourage all Judges across the
2 country -- and by encourage, as many of you know, we
3 communicate with each other by phone. And for example, I am
4 going to suggest that -- to the parties -- that we reach
5 out, given some of the timelines here that you have informed
6 me of, to stay discovery and other issues to allow some
7 spacing in here until September of this next year, 2015, in
8 order to give this well thought out plan time for the
9 lawyers to consult, but yet to be transparent, and to
10 proceed so we can develop and carry out this settlement
11 program, but be fair to all parties.

12 And as I have said, I will encourage my fellow
13 Judges to do the same. I came to court today in light of
14 the status of the case, in addition to -- prepared to thank
15 everyone for their hard work on the case and what I view as
16 a very fair and appropriate way to resolve all issues in the
17 case, with my intent to file an Order before the day is out.
18 And to the extent it is relevant, it would be Order No. 24
19 in this case, but it would be an Order regarding
20 implementation of this settlement agreement.

21 So, I will sign that momentarily when I leave the
22 courtroom. And what I thought, even though it won't be
23 e-filed until I do that, I thought I will have my staff
24 bring out 25 signed copies. If we need more, we have them.
25 I can have them brought out in the next minute or two or

1 three, and it will be e-filed, too. But, if you each want a
2 hard copy, I will have one. I will have them brought out
3 here, momentarily. And then, of course, once we have done
4 that, we will then go ahead and e-file it.

5 The other question I have is that, of course, this
6 Order will go up -- as many lawyers in the room know, we
7 have a website, if you go to our external website, our
8 Federal Court website in Minnesota, all our MDLs are on
9 there, including all Orders. So, in addition to putting
10 this Order on, if there is anything else, as long as it is
11 by agreement of the parties you want on, whether it is the
12 official website of the Claim Administrator or something
13 else, I will just defer to counsel in that regard. We will
14 help out in any way we can. It may or may not be necessary.

15 So, other than that, in addition to thanking the
16 parties and wishing everybody the best of luck as we proceed
17 with this and implementing an Order regarding this
18 settlement agreement, anything further at this time on
19 behalf of Plaintiff's counsel?

20 MR. FLOWERS: No, Your Honor. I would just say,
21 too, is our -- the MDL Plaintiffs' website that is
22 established will contain all of this information, as well --

23 THE HONORABLE JUDGE FRANK: All right.

24 MR. FLOWERS: So there will be multiple areas for
25 people to go to.

1 THE HONORABLE JUDGE FRANK: Anything further on
2 behalf of Defense counsel?

3 MR. CAMPILLO: Nothing further, Your Honor, other
4 than I believe the Order that is proposed does have
5 reference to the official website, as well, at the very end,
6 I believe.

7 THE HONORABLE JUDGE FRANK: And there it is. And,
8 of course, you are right. There it is at paragraph 10.
9 Well, I am going to sign this and we will bring out -- and
10 you are free to take a copy with you. And if you need more,
11 fine. I will bring out 25 copies in the next couple of
12 minutes. Thank you all.

13 We are here if you need us, whether it is for a
14 phone conference, status conference -- and if there is
15 anything we need to do, like in the past Judge Martinotti
16 and I have chatted, or reaching out to the other courts
17 across the country so we can keep this coordinated effort
18 with, I think, this very carefully thought out comprehensive
19 settlement agreement, I commend you on your efforts. And
20 absent anything further, we shall stand adjourned. Thank
21 you.

22 (Adjournment.)
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I, Jeanne M. Anderson, certify that the foregoing
is a correct transcript from the record of proceedings in
the above-entitled matter.

Certified by: s/ Jeanne M. Anderson
Jeanne M. Anderson, RMR-RPR
Official Court Reporter