

Minute Entry
Lisi, C.J.
August 5, 2008

**United States District Court
District of Rhode Island**

In Re: Kugel Mesh Hernia Products Liability Litigation
Multidistrict Litigation (MDL 1842)

MDL DOCKET NO. 07-1842-ML
All Cases

The monthly status conference was held on August 5, 2008. The conference was transcribed. The Court met with counsel and discussed the items listed on the agenda (docket # 1244).

ECF Issues

The Court addressed ECF filing errors with counsel. The Court's deputy clerk explained that he had to make 17 corrective docket entries to Defense counsel's most recent filings. The Court reminded the parties that any individual filing documents should be aware of ECF filing procedures.

Motions to Seal

Counsel should be aware of and follow the District's local rule on the filing of motions to seal.

Document Production

Defendant's discovery vendor has reviewed 2,600,000 documents. The vendor completed the searches on those documents and reported 754,000 "hits" comprising a "hit" rate of twenty-nine percent. Defense counsel could not estimate how many pages comprised the 754,000 documents. The 754,000 documents that have been identified as electronically responsive have not yet been individually reviewed by document reviewers. Defense counsel has 10 attorneys working full time reviewing documents. Defense counsel also has several non-attorneys working on document review. By the end of the week, Defense counsel are to report to Plaintiffs' counsel and to the Court the number of non-attorney reviewers working on a monthly basis and the attorney reviewers' and the non-attorney reviewers' rate of documents reviewed on a monthly basis. Plaintiffs' counsel reported that they received approximately 877,000 pages of documents produced by defendants in July. Plaintiffs' counsel informed the Court that they are concerned about the pace of document production.

Confidentiality

Defense counsel will address recent document production labeled as “confidential.” Defense counsel are reminded of their obligation to make a good faith assessment of a document before labeling it “confidential.”

Communication of Counsel

The Court again reminded the parties that before a matter is brought to the Court’s attention for resolution the parties should first attempt to resolve it without Court intervention. The Court also suggested to the parties that they should discuss the items on the monthly agenda at least one week before each monthly meeting to attempt to reach a resolution.

Early Neutral Evaluation/Settlement Cases

The Court expressed its hope that the early neutral evaluation/settlement process would have produced, at the very least, a couple of settlements. The Court also expressed its concern about the desire of counsel to engage in meaningful evaluation/settlement discussion. The Court is not interested in wasting judicial resources if counsel are not seriously interested in attempting to resolve some of the cases through the evaluation/settlement process. The Court informed the parties that if they were not seriously interested in attempting to resolve some of the cases through the evaluation/settlement process that the Court would accelerate the trial schedule on the cases that were directly filed in the District of Rhode Island. At the next monthly meeting counsel are to report to the Court whether they have agreed on 10 non-ring break cases for the early neutral evaluation/settlement process.

Pending Motions Update

Defendants’ Motion to enforce the amended CMO and to permit communication with consulting surgeons who are also treating physicians: Defense counsel is ordered, by the end of the week, to produce to Plaintiffs’ counsel a list of surgeons that Defense counsel identify as consulting experts and treating physicians.

Plaintiffs’ Motion to remand in Palmer: Counsel shall confer on the matter and determine if the motion can be withdrawn. Counsel shall report to the Court before the next monthly meeting regarding whether the motion has been withdrawn or whether a hearing is necessary on the matter.

Carlow and Collins Cases

Plaintiffs’ counsel was reminded of the local rule pertaining to withdrawal of counsel. Plaintiffs’ counsel to ensure that withdrawal of counsel in the Carlow and Collins matters is consistent with the District’s local rule.

Other

Plaintiffs’ counsel estimated that there are approximately 764 individual cases filed in the MDL. Plaintiffs’ counsel reported that the filing of cases into the MDL is “slowing down significantly.” The parties confirmed that there are 100,000 recalled Compsix Kugel patches implanted.

Next Meeting

September 8, 2008, at 1:00 p.m. in Room 307 in the United States District Courthouse, Providence, Rhode Island. Open session meeting to be held in October.