

**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 February 24, 2009. The conference was transcribed. The Court met with counsel and discussed the items listed on the agenda (docket # 1707).

Document production status report

“Wave two” document production is substantially complete. Defendants have produced 4,600,000 pages of documents. Defendants will complete “wave two” document production this week and will produce one more set of documents on or about February 25, 2009. On a rolling basis Plaintiffs’ counsel shall identify matters that Plaintiffs’ counsel believe require follow-up. At the March meeting, Plaintiffs’ counsel shall inform the Court of Plaintiffs’ counsel’s progress in identifying purported gaps, if any, in Defendants’ document production and Defense counsel’s response. State court discovery is on the same track as Federal court discovery.

Class Action Complaint

A consolidated class action complaint was filed in February 2008. In October 2008 the Court entered a consent order dismissing two putative class representatives and gave Plaintiffs’ counsel 45 days, and then an extension, to substitute plaintiffs and file an amended class action complaint. Plaintiffs have not yet amended the complaint. Plaintiffs’ counsel advised Defense counsel that Plaintiffs had at least one additional putative class representative that they wanted to substitute and asked Defense counsel to “stand down” on the amendment. Counsel are attempting to set mutually agreeable discovery deadlines once the amendment is filed. Counsel shall resolve this matter before the March meeting.

Early Neutral Evaluation/Settlement Cases with Magistrate Judge Lovegreen

On or before April 10, 2009, Plaintiffs’ counsel shall forward to Defense counsel Plaintiffs’ experts’ reports prepared for potential settlement purposes on the 10 cases. Defense counsel shall review the experts’ reports and reevaluate the cases. Counsel shall update the Court on the progress made on this matter at the March meeting.

Proposals for next phase of litigation

Approximately 113 cases have been direct filed in the District of Rhode Island. The population of cases for potential trial selection for the next phase of litigation shall be those cases direct filed in the District of Rhode Island by December 31, 2008. Plaintiffs’ counsel shall produce to Defense counsel the plaintiff fact sheets in all these cases on or before March 15,

2009. On or before April 6, 2009, each side shall submit to the Court, ex parte, a list of those 10 cases they have selected for the first wave of trials in the District of Rhode Island. Counsel shall forward a position paper on each claim which includes a description of the claim and injuries, the amount of medical expenses claimed and a statement concerning why counsel believes the case is a representative case. A position paper shall not exceed three single-spaced pages. The Court will select 10 cases from those cases identified by counsel. Plaintiffs' counsel shall develop a list of potential "key" witnesses common to these cases and inform Defense counsel of those individuals to allow Defense counsel time to determine availability for depositions of those individuals beginning in April.

Pending Motions

Hadley – Counsel to enter into a stipulation that the product is not part of the MDL with a suggestion to the MDL panel that the case be remanded back to the transferor court.

Phillips, Philburn, Holly, Mann, Barker, Myers, Askins, Brown, Cannon, Castaneda-Rivera – Lead counsel to advise plaintiff's counsel to file the appropriate motions on or before March 10, 2009.

Next Meeting

The next meeting (Open Session) of the Court, Plaintiffs' liaison counsel, and Defendants' counsel will be on March 24, 2009, at 2:00 p.m. in the Jury Assembly Room (Room 151). Counsel to submit proposed agenda items by March 16, 2009.