

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

ZIMMER M/L TAPER HIP PROSTHESIS OR M/L TAPER  
HIP PROSTHESIS WITH KINECTIV TECHNOLOGY AND  
VERSYS FEMORAL HEAD PRODUCTS LIABILITY  
LITIGATION

MDL No. 2859

18-MD-2859 (PAC)  
18-MC-2859 (PAC)

*This Document Relates to All Actions*

**ORDER NO. 48  
MEMORIALIZING  
AUGUST 5, 2020  
STATUS  
CONFERENCE**

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PAUL A. CROTTY, United States District Judge:

On August 5, 2020, the Court held a Status Conference by telephone to receive an update on the Parties' progress in MDL No. 2859.

**I. STATUS OF CURRENT FEDERAL AND STATE COURT ACTIONS**

To date, there are 219 filed cases in this multidistrict litigation ("MDL"). There are 8 active cases pending in various state courts.

**II. CONFIDENTIALITY OF EXHIBITS PRIOR TO INTRODUCTION AT DEPOSITION**

As stated in their position statements and on the record, the parties are in agreement that documents intended to be used as exhibits at deposition shall remain confidential and not be viewed by opposing counsel, or their agents, until introduced as an exhibit in the deposition. The Parties shall jointly submit a draft order for the Court's approval regarding maintaining the confidentiality of deposition exhibits.

**III. AMENDED SCHEDULING ORDER**

On August 7, 2020 the Court entered Order 46, Fourth Amended Scheduling Order [Dkt. 291].

#### **IV. DISCOVERY DISPUTE**

##### **a. SharePoint**

The Parties have met and conferred on the issue of SharePoint and, based on Defendants' representation that any relevant information from SharePoint will be produced within the next month, judicial intervention is not required at this time.

##### **b. Zimmer Distributor Productions**

By Monday, August 10, 2020, Plaintiffs will file a motion to compel communications between the local distributor, the distributor's employees, and Zimmer, Inc. with Maine Medical Center treating physicians, Drs. George Babikian and Brian McGrory. Plaintiffs' letter brief shall not exceed 7 pages, double spaced. Defendants will file opposition not to exceed 7 pages, double spaced, by August 17, 2020.

##### **c. Adverse Event and Complaint Data**

The Parties met and conferred regarding search parameters of the Adverse Event and Complaint Data. The Parties will continue to meet and confer on these issues and, if they reach an impasse, the Parties have agreed that Plaintiffs will file a letter motion not to exceed 10 double-spaced pages, and Zimmer will file a response not to exceed 10 double-spaced pages within 7 days thereafter.

#### **V. MOTION FOR PROTECTIVE ORDER**

The Court heard argument from the Parties on Defendants' Motion and Brief in Support of Entry of a Protective Order Precluding the Depositions of Dr. Richard Berger

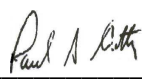
and Dr. Paul Duwelius. Dkt. Nos. 286, 288. The Court denied Defendants' motion in Order 47 [Dkt. 292].

**VI. NEXT STATUS CONFERENCE**

The next status conference will take place Tuesday, September 15, 2020 at 3:00 pm EDT.

SO ORDERED.

Dated: August 10, 2020  
New York, New York

  
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PAUL A. CROTTY  
United States District Judge