

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES OF AMERICA
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - - - -

IN RE:) Case No. 1:08GD50000
GADOLINIUM-BASED) MDL No. 1909
CONTRAST AGENTS)
PRODUCT LIABILITY)
LITIGATION)

- - - - -

TRANSCRIPT OF TELECONFERENCE HAD BEFORE THE
HONORABLE JUDGE DAN AARON POLSTER,
JUDGE OF SAID COURT, ON THURSDAY, AUGUST 25TH,
2011, COMMENCING AT 5:25 O'CLOCK P.M.

- - - - -

Court Reporter: GEORGE J. STAUDUHAR
801 W. SUPERIOR AVE.,
SUITE 7-184
CLEVELAND, OHIO 44113
(216) 357-7128

- - - - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

On behalf of the Plaintiffs:

Jimmy Williamson, Esq.

Mike Karinski, Esq.

On behalf of Defendant Bayer:

Tarek Ismail, Esq.

On behalf of Defendant GE:

Phil Calabrese, Esq.

Heidi Levine, Esq.

Charna Sherman, Esq.

Tracey Turner, Esq.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

THE COURT: First, I want to apologize. I had a very complicated evidentiary hearing in a criminal case that obviously I had to let go till conclusion.

LAW CLERK: Let me do a quick roll call.

(Roll call taken and the following parties were present via telephone: Jimmy Williamson, Mike Karinski for Plaintiffs; Tarek Ismail, Defendant Bayer; Phil Calabrese, Heidi Levine, Charna Sherman, Tracey Turner, Defendant GE.)

THE COURT: All right. So what is your resolution?

MR. WILLIAMSON: Your Honor, this is Jimmy Williamson, and I think what we have done, they wanted more time than I thought was appropriate. I thought — with what I thought was appropriate, they thought was inappropriately low. We have reached an agreement in the middle.

They do, however, there is one small issue that we have to work out. Their agreement proposed to us agreeing on a couple document categories, and I have to go back and to my partner and to make sure I can agree with that.

THE COURT: What is the agreement on the time? How many — how long is the deposition, and when

1 is it going to be?

2 MR. WILLIAMSON: The deposition, Judge, we
3 have agreed to — there are two different witnesses. I
4 also have a pathologist who read the slides on these ten
5 clients, and they had noticed Dr. Matthews for three
6 days. And we are in disagreement over Dr. Delgado's
7 time, and I agreed to produce Dr. Delgado for another 12
8 hours on the record. We will probably do it 6 hours and
9 6 hours.

10 If he gets called away for medical reasons,
11 they agreed still to 12 hours. They agree to the request
12 for more time from you if they have good cause to do so.
13 They have scheduled Dr. Matthews for three days, and we
14 agreed to complete Dr. Matthews within two days with the
15 same good cause agreement.

16 THE COURT: So that's 12 hours.

17 MR. WILLIAMSON: And the fact — I
18 apologize.

19 THE COURT: That's 12 hours for
20 Dr. Matthews?

21 MR. WILLIAMSON: I think technically it
22 would be 14.

23 THE COURT: All right. 14 for Dr. Matthews.

24 MR. WILLIAMSON: And — but they also wanted
25 me to make sure that I agreed on four categories of

1 documents, and I have got to check with the witness and
2 my partner before I can make that agreement. I am not
3 saying I can. I am not saying I can't. Obviously, the
4 very fact that I want to go check on it indicates that I
5 want to try to -- I either want to do it, or I want to
6 try to see if accommodation can be made.

7 THE COURT: No one had raised an issue on
8 that. The dispute in front of me was on the time.

9 MR. WILLIAMSON: And the dispute in front of
10 you, your Honor, is time involving Dr. Delgado. We had
11 not yet raised the issue involving Dr. Matthews.
12 Although if that remains unresolved, we probably will be
13 back in front of you.

14 THE COURT: I thought you said you resolved
15 it at 14 hours.

16 MR. WILLIAMSON: We did. Assuming we can
17 work out these details, that's true, your Honor.

18 THE COURT: All right. Well, it is
19 resolved; 12 hours for Dr. Delgado; 14 hours for
20 Dr. Matthews. Hopefully, you can work out the documents.
21 If not, I guess we will do it the same way. Someone
22 sends a letter, and I will get a response and have a
23 phone conference.

24 MS. LEVINE: This is Heidi Levine. Both
25 parties reserve their rights on the depositions that

1 Mr. Williamson wants to somehow argue that we don't need
2 as much time during the deposition. He has his rights,
3 but we reserve our right that, if it turns out the
4 witness' testimony is slower than anticipated or things
5 come up that, in good faith and good cause, we feel we
6 need more time, we just want to make that clear that we
7 do reserve our right to come back and ask them --

8 THE COURT: I don't want to be spending a
9 lot more time on Dr. Delgado, so I think 12 hours is
10 ample as long as he answers the questions.

11 MR. WILLIAMSON: Yeah, Judge. And they have
12 already had him over eight hours, but we have agreed and
13 we are happy to agree, and I agree with her last
14 statement. We reserve the right to object; they reserve
15 the right to ask.

16 THE COURT: Okay. Maybe it was good that I
17 was tied up for an hour. All right. Thank you.

18 MR. WILLIAMSON: All right. Your Honor.
19 Are we free for today?

20 THE COURT: Yes, thank you.

21 (Concluded at 5:43 p.m.)

22 - - - -

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, George J. Staiduhar, Official Court Reporter in and for the United States District Court, for the Northern District of Ohio, Eastern Division, do hereby certify that the foregoing is a true and correct transcript of the proceedings herein.

s/George J. Staiduhar
George J. Staiduhar,
Official Court Reporter

U.S. District Court
801 W. Superior Ave., Suite 7-184
Cleveland, Ohio 44113
(216) 357-7128