

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE: NUVARING PRODUCTS
LIABILITY LITIGATION

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Case No. 4:08-MD-01964 RWS

TELEPHONE STATUS CONFERENCE
BEFORE THE HONORABLE RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE
SEPTEMBER 28, 2011

APPEARANCES

for Plaintiffs:

Kristine Kraft, Esq.
SCHLICHTER AND BOGARD
100 S. Fourth Street, Suite 900
St. Louis, MO 63101

David Rheingold, Esq.
RHEINGOLD AND VALET
113 East 37th Street
New York, NY 10016

Hunter Shkolnik, Esq.
NAPOLI AND BERN
350 Fifth Avenue
New York, NY 10118

REPORTED BY:

SHANNON L. WHITE, RMR, CRR, CSR, CCR
Official Court Reporter
United States District Court
111 South Tenth Street, Third Floor
St. Louis, MO 63102
(314) 244-7966

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Appearances Continued:

For Defendants: Melissa A. Geist, Esq
 Thomas Yoo, Esq.
 REED SMITH, LLP
 136 Main Street, Suite 250
 Princeton Forrestal Village
 Princeton, NJ 08540

 Dan H. Ball, Esq.
 BRYAN CAVE, LLP
 211 N. Broadway, Suite 3600
 St. Louis, MO 63102

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(PROCEEDINGS STARTED AT 2:30 PM.)

THE COURT: We are here today in the multidistrict case styled *In re: NuvaRing Products Liability Litigation*, 4:08-MD-1964. Mr. Shkolnik, Mr. Rheingold, and Ms. Kraft are on the line for the plaintiffs. I have Ms. Geist, Mr. Ball, and Mr. Yoo for the defendant. Do I have everybody?

MR. BALL: Yes.

THE COURT: Apparently, yes. All right. Where we last left -- first of all, we were going to -- Mr. Rheingold, I think you were going to dismiss the case that we're talking about today, substituting the Curly case.

MR. BALL: He was going to dismiss the Curl case.

THE COURT: Curl case. And I haven't seen anything. Are we still working in that direction?

MR. RHEINGOLD: Yes.

THE COURT: Very good. A matter of days and not months, perhaps?

MR. RHEINGOLD: Yes.

THE COURT: Sounds like you're at a deposition and your lawyer told you not to volunteer anything.

MR. YOO: I think the cross-examination is going very well, Your Honor.

THE COURT: Yes, yes, yes. I should come up with a new question I get "yes" to and see how we do.

MR. BALL: How about could you do with by the end of

1 the week?

2 THE COURT: The truth of it is, Judge Regan, when you
3 go to informals, he goes, "I don't care what the question is,
4 the answer is no."

5 So the question today is the defendants have the
6 opportunity to put a new case in the bellwether hopper, if you
7 will, and the anxiety that we had hit that we need to address
8 is as a result of that selection, how long will it take for
9 the plaintiffs to get that case up to speed, name their expert
10 or experts? So have you all had a chance to talk about it
11 since we were together?

12 MR. BALL: Yeah. This is Dan Ball, and we've
13 resolved that, Your Honor. The Thompson case will be the
14 defense addition to the final trial pool report.

15 THE COURT: What cause number was that?

16 MR. BALL: I'm sorry. I don't have that handy. We
17 can file a formal pleading to that effect.

18 THE COURT: Okay. All right. Then you've worked out
19 a schedule to get that case --

20 MR. BALL: Yes, we have. The parties have agreed to
21 that the plaintiffs will identify case-specific experts with
22 respect to the Thompson case on November 30. They will be
23 made available for deposition by February 15. The defendants
24 will disclose their case-specific experts on that case by
25 March 15, and they will be made available for deposition by

1 April 30.

2 THE COURT: Ms. Kraft?

3 MS. GEIST: This is Melissa Geist, Your Honor. I
4 just had a question. The parties in the past had informally
5 designated by pleading the trial pool case selection. Should
6 we proceed to do that with the Thompson case and obviously
7 identify the docket number and then put forth the agreed-upon
8 deadlines that Mr. Ball just discussed?

9 THE COURT: I think that's the most sound practice,
10 don't you?

11 MS. GEIST: Certainly, Your Honor. We're happy to do
12 that.

13 THE COURT: All right. Anything else we should talk
14 about today?

15 MS. KRAFT: Yes. This is Kris Kraft. We agree with
16 those time frames.

17 THE COURT: Okay. Anything else today?

18 MR. BALL: The other topic was going to be you wanted
19 to set a date on a hearing for some motions.

20 THE COURT: Right. Have you all looked at what dates
21 work for you?

22 MS. KRAFT: Yes, we have. We have November 9 any
23 time or November 14, 1 PM or later. We can obtain more dates
24 if they don't work with your schedule.

25 THE COURT: Let's take a look.

1 MR. YOO: November 9 works for me. The week of the
2 14th does not.

3 THE COURT: Well, we couldn't do it without you. So
4 November 14 at one o'clock, or you said after one?

5 MS. KRAFT: But Thomas, I believe, just indicated
6 that doesn't work.

7 THE COURT: Oh, the 14th was bad?

8 MR. YOO: Yeah. My preference was for the 9th, Your
9 Honor, if that works for you. Otherwise, we can look for
10 another week altogether.

11 THE COURT: No. We will do the 9th. That's my
12 criminal week, and I'll just -- if I'm in trial, I'll just go
13 dark for that half of the day, and we will work around it.
14 Keep going forward. So November 9. What time of day?

15 MS. KRAFT: Whatever the Court's preference as far as
16 we are concerned, but others have to travel. Whatever you all
17 decide.

18 MR. YOO: The morning would be better for us.

19 THE COURT: 9:30?

20 MR. YOO: That's fine. Thank you, Your Honor.

21 MS. KRAFT: Fine, Your Honor.

22 THE COURT: 9:30, November 9. All right. Anything
23 else? Then we will take up all motions that are fully briefed
24 at that time.

25 When are you -- Ms. Kraft, recollection serves me

1 that Judge Martinotti and Judge Herndon are having Daubert
2 hearings in Pennsylvania on the Yaz case in November. Is that
3 right, or am I wrong?

4 MS. KRAFT: I believe it's December.

5 THE COURT: Oh, December, okay. All right. Very
6 good.

7 MR. BALL: Thanks.

8 THE COURT: Thank you all very much.

9 **(PROCEEDINGS CONCLUDED AT 2:45 PM.)**

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CERTIFICATE

I, Shannon L. White, Registered Merit Reporter and Certified Realtime Reporter, hereby certify that I am a duly appointed Official Court Reporter of the United States District Court for the Eastern District of Missouri.

I further certify that the foregoing is a true and accurate transcript of the proceedings held in the above-entitled case and that said transcript is a true and correct transcription of my stenographic notes.

I further certify that this transcript contains pages 1 through 8 inclusive and that this reporter takes no responsibility for missing or damaged pages of this transcript when same transcript is copied by any party other than this reporter.

Dated at St. Louis, Missouri, this 29th day of September, 2011.

/s/Shannon L. White
Shannon L. White, RMR, CRR, CCR, CSR
Official Court Reporter