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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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IN RE: FRESENIUS GRANUFLO/	)	
NATURALYTE DIALYSATE	)	
PRODUCTS LIABILITY LITIGATION	)	No. 1:13-md-02428-DPW
	)	
	)	
	)	

BEFORE: THE HONORABLE DOUGLAS P. WOODLOCK  
UNITED STATES DISTRICT COURT JUDGE

- AND -

THE HONORABLE MAYNARD KIRPALANI  
MASSACHUSETTS SUPERIOR COURT JUDGE  
SUFFOLK COUNTY SUPERIOR COURT - Case No. 13-CV-3400

STATUS AND SCHEDULING CONFERENCE

John Joseph Moakley United States Courthouse  
Courtroom No. 1  
One Courthouse Way  
Boston, MA 02210  
Thursday, September 24, 2015  
11:15 a.m.

Brenda K. Hancock, RMR, CRR  
Official Court Reporter  
John Joseph Moakley United States Courthouse  
One Courthouse Way  
Boston, MA 02210  
(617) 439-3214

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ALSO PRESENT:  
Ronald Castle, Esq.  
Fresenius

1 (The following proceedings were held in open court  
2 before the Honorable Douglas P. Woodlock, United States  
3 District Judge, United States District Court, District of  
4 Massachusetts, at the John J. Moakley United States Courthouse,  
5 One Courthouse Way, Courtroom 1, Boston, Massachusetts, on  
6 Thursday, September 24, 2015):

7 THE CLERK: All rise. This Honorable Court is now in  
8 session. You may be seated.

9 This is Civil Action 13-02428 and Civil Action  
10 2013-3400, In Re: Fresenius GranuFlo.

11 JUDGE WOODLOCK: Well, let me start with the specific  
12 discovery question to get a further update on it, but the major  
13 issue that we are concerned about, I think, is what effect it  
14 has on the generic expert evaluations.

15 So, what is the story on the ABChD Study?

16 MR. TARRICONE: Your Honor, an executive summary, not  
17 a final report, was submitted when reporting to the Court. The  
18 deposition of Dr. Smith was taken yesterday, and the plaintiffs  
19 intend to file supplemental opinions based on the testimony  
20 yesterday and the executive summary, even though there is no  
21 final report. So, we will be addressing that.

22 JUDGE WOODLOCK: What does that mean for your experts  
23 that are now in dispute for Daubert hearings? Are we going to  
24 have supplemental reports for them?

25 MR. TARRICONE: We will have supplemental reports from

1 several experts addressing two items: the ABChD report and the  
2 data from Portugal from the deposition we took in London on  
3 August 21st.

4 JUDGE WOODLOCK: So, who does it affect? And I want  
5 to be sure that I make a distinction between the federal cases  
6 and the state cases, but who among the experts of the  
7 plaintiffs are going to be providing additional expert  
8 disclosures?

9 MR. TARRICONE: May I just confer for one moment?

10 JUDGE WOODLOCK: Sure.

11 MR. TARRICONE: Your Honor, specifically it will be  
12 the experts Zydney and Colton, and then, among the  
13 nephrologists, Fine and Waikar and then we expect that other  
14 experts will review and accept and adopt and rely upon those  
15 opinions.

16 JUDGE WOODLOCK: As I understand it, then, we already  
17 have a dispute about Colton and Zydney. Fine and Waikar I do  
18 not believe are subject, as yet anyway, to challenge in this  
19 area. Does this apply both to the state cases and the federal  
20 cases?

21 MR. TARRICONE: Yes, your Honor.

22 JUDGE WOODLOCK: And is it possible to go step by step  
23 with respect to this, that is to say, take up the --  
24 alternatively step by step or run really fast on it?

25 MR. TARRICONE: Well, your Honor, I don't think this

1 should disturb the timetable, if that is what you are asking.

2 JUDGE WOODLOCK: Yes, I am.

3 MR. TARRICONE: We are prepared to move forward. We  
4 will get our supplementations in as expeditiously as possible,  
5 and we will be fully prepared to address all the issues that  
6 are raised on October 13th.

7 JUDGE WOODLOCK: So much for you. What about us, that  
8 is, us being advised?

9 MR. TARRICONE: Well, we will be able to file our  
10 supplemental disclosures as scheduled, which I think is in two  
11 weeks, and so you will have it at least a week before the  
12 hearing.

13 JUDGE WOODLOCK: Will have the disclosure but not  
14 the -- here is what I am asking, I guess, is, let's just take  
15 Colton. My understanding of the thrust of what the defendants  
16 are fighting about is saying that Hakim is not enough to  
17 support this in the case of Colton. Maybe I am wrong about  
18 that, but I think that is right, at least in part. Is this  
19 going to change the dynamic of support for Colton as an expert?

20 MR. TARRICONE: Yes, I believe it will, but it is not  
21 just the ABC study. The Portugal data will be central to  
22 Dr. Colton's opinions.

23 JUDGE WOODLOCK: So, Mr. Kettlewell, or --

24 MR. KETTLEWELL: Ms. Brooks is going to address this.

25 JUDGE WOODLOCK: Yes.

1 MS. BROOKS: Thank you. With the Court's permission,  
2 as far as the Colton and Zydney Daubert-Lanigan that is  
3 presently pending, it's based solely on some modeling they did.  
4 They are both chemical engineers, not nephrologists.

5 JUDGE WOODLOCK: So, I was wrong by saying "Hakim."

6 MS. BROOKS: Correct, your Honor. There certainly are  
7 others that are definitely where the Hakim memo is central, but  
8 not Colton and Zydney. It's only the methodology of their  
9 modeling and not anything else. So, that is a standalone  
10 motion that should not be affected by any kind of a  
11 supplemental report that they might make based on real data  
12 rather than modeled data.

13 JUDGE WOODLOCK: What about Fine?

14 MS. BROOKS: Doctors Fine and Waikar are also not  
15 subject of a direct Daubert as to those two and their  
16 methodology. They are kind of caught up in the overall Daubert  
17 that we filed about the Hakim memo itself and the unreliability  
18 of those opinions and then anyone else's opinions that are  
19 based on those conditions. Again, that's independent of the  
20 results of the ABChD Study or whatever they intend to do about  
21 Portugal.

22 JUDGE WOODLOCK: What do you think is going to be the  
23 effect of this late filing in terms of your approach to their  
24 expertise? Are you going to file something supplemental  
25 saying, "That is not adequate," or, "There is some problem with

1 it", or whatever? I just want to understand what is thundering  
2 down behind the hills here that I have not seen yet, we have  
3 not seen yet.

4 MS. BROOKS: I was at the deposition yesterday, your  
5 Honor, and, based on what was testified to at the deposition, I  
6 anticipate plaintiffs are probably going to try to challenge  
7 the results of the study itself. That, again, would be a  
8 standalone motion that we could hear at a later time. It  
9 should not affect any of the motions that are currently pending  
10 before the Courts.

11 JUDGE WOODLOCK: All right. So, insofar as there is a  
12 discovery dispute kind of thing, that is gone.

13 MR. TARRICONE: I think that's right, your Honor.

14 JUDGE WOODLOCK: You have got what you are going to  
15 get.

16 MR. TARRICONE: Yes.

17 JUDGE WOODLOCK: And you will do whatever you want  
18 with it in a timely fashion, because we have got to take it up,  
19 but it is standalone from the seven boxes that we have received  
20 last week?

21 MR. TARRICONE: I think that's right, your Honor.

22 JUDGE WOODLOCK: All right. So, maybe, if there is  
23 not something else on this aspect, I was going to turn it over  
24 to Judge Kirpalani to talk about schedule, because his is  
25 certainly more insistent than mine. I have got a little bit

1 more time.

2 JUDGE KIRPALANI: Thank you.

3 So, we had originally, I think, both set aside the  
4 week of October -- I was thinking of Sunday the 11th. There is  
5 a holiday, obviously, on Monday, so it's a four-day week. I  
6 have conferred with Judge Woodlock, and it's our thought that  
7 the joint motions on generic causation and the regulatory  
8 experts, the hearings could take place over a two-day period.  
9 So, just arbitrarily on the morning of October 14th, so we  
10 would be starting on the 14th. I think that's a Wednesday. We  
11 can address the Hakim memo motion and then in the afternoon the  
12 Borkan motion, and then on Thursday, the 15th, the  
13 Colton-Zydney motion in the morning and then in the afternoon  
14 the four regulatory experts, Pence, Ulatowski Samaras and  
15 Barkelow. That's all one motion, and I'm gathering, although I  
16 haven't read it closely, that the issues are pretty common to  
17 those four regulatory experts.

18 That would leave Friday for the case-specific experts  
19 in Ogburn-Sisneros, and again arbitrarily in the morning we  
20 could start with the Linn motion, and then we could pick up the  
21 Goldfarb and Aroesty motion whenever we are done with Linn.  
22 So, I'm thinking that gives about three hours for each of these  
23 separately, which I'm presuming is adequate, based on what I  
24 have read and past experience on both sides of the Bench.

25 But I know the parties asked to have a conference

1 about the logistics of Daubert, so I want to ask the parties  
2 what they are contemplating, if they think that schedule is  
3 workable. I do note that in each of the defendants' motions  
4 they made a request for a hearing and an evidentiary hearing.  
5 It is not clear to me, because there was no further  
6 specification, if there is any, what is going to be evidentiary  
7 about it beyond the presentation of the depositions or  
8 affidavits and supporting materials that are already before us,  
9 which is a long way of saying does somebody think they need to  
10 call somebody to testify, whether it is a moving party or an  
11 opposing party?

12 So, if someone would like to address that. We will  
13 start with Mr. Tarricone.

14 MR. TARRICONE: So, my first observation,  
15 Judge Kirpalani, is that you mentioned only the defendants'  
16 motions. All the motions that you just read off I believe are  
17 all defense motions. The plaintiffs have filed --

18 JUDGE KIRPALANI: I have only received, as far as I  
19 know, one motion from the plaintiffs directed to Dr. Linn.

20 MR. TARRICONE: Well, we have served, I think, seven  
21 motions in the MDL, and on the state side I'm not exactly sure  
22 how many.

23 Mr. Appel?

24 MR. APPEL: Several, your Honor. As a matter of fact,  
25 there have been numerous challenges of the defendants' experts

1 in the state court, and I apologize if you haven't received  
2 that, but I will look into that.

3 JUDGE KIRPALANI: All right. So, Mr. Jenner had sent  
4 me an email with a courtesy copy of the motion as to Linn on I  
5 think the day the motions were due or the day before, and the  
6 Collora Office dropped two boxes off at my office that day with  
7 their motions, but I haven't seen and am not aware of any  
8 plaintiffs' motions.

9 MR. APPEL: That should have been hand-delivered to  
10 you, your Honor, on that Monday, September 14.

11 JUDGE KIRPALANI: They were not.

12 MR. APPEL: Okay. And I will look into that.

13 MR. KIRPALANI: And I don't remember seeing an email,  
14 and, honestly, I don't read the sort of express filings,  
15 because there are too many of them to track, so I was unaware  
16 of those motions.

17 MR. TARRICONE: The motions filed in the state  
18 proceeding are the same as the motions that were filed in the  
19 federal proceeding.

20 JUDGE WOODLOCK: Then, maybe we can back up on this a  
21 bit, which is, assume that we have those two days, October 14th  
22 and October 15th, to allocate. We just went through and hacked  
23 it up as to those that we understood to be overlapping and,  
24 perhaps, misunderstood, but is that time period enough, now  
25 that we add the seven plaintiffs' motions into it?

1 MR. TARRICONE: Your Honor, we believe that it is  
2 enough time. Each one of these experts has submitted at least  
3 one report, most of them multiple reports. They have all been  
4 cross-examined extensively by counsel from both litigations,  
5 and the Court has all the transcripts. The packages that we  
6 gave you have a fulsome view. They really have everything for  
7 these.

8 JUDGE WOODLOCK: So, maybe I can ask the second  
9 question, which is, do you see any need for live testimony?

10 MR. TARRICONE: We do not, your Honor.

11 JUDGE WOODLOCK: And you do think, though, that we  
12 could do this in two days without us necessarily doing the  
13 playlist or the order of playlist, but if we were to say to  
14 you, "Here is the two days that we plan on it. You tell us  
15 where you want to have the separate motions heard during that  
16 day, those two days."

17 MR. TARRICONE: Well, we believe we can do it in two  
18 days, your Honor.

19 JUDGE WOODLOCK: And then that would afford Judge  
20 Kirpalani the opportunity to take up the specific experts in  
21 Ogburn-Sisneros on Friday.

22 JUDGE KIRPALANI: And I guess I should ask, are there  
23 more than three motions on case-specific experts? Because I am  
24 aware of two filed by the defendant and one filed by the  
25 plaintiffs.

1 MR. JENNER: That's correct, your Honor. Just for the  
2 plaintiffs, that's the only case-specific one we have.

3 JUDGE KIRPALANI: All right. So, one day ought to  
4 suffice for the case-specific motions.

5 MR. JENNER: That's fine, with the recognition that  
6 the plaintiffs' motions that are before you will somehow get  
7 weeded into the schedule.

8 JUDGE KIRPALANI: We have not excluded them any  
9 longer, now that we are aware of them.

10 MR. JENNER: Thank you.

11 JUDGE WOODLOCK: So, what about the defendants, as far  
12 as live testimony? I look at those documents and I say they  
13 speak for themselves.

14 MS. BROOKS: They do, your Honor. The reason we  
15 requested an evidentiary hearing, really, two reasons, one is  
16 that the plaintiffs have filed challenges against, I believe,  
17 seven of our experts, and we have contacted all of them to see  
18 if they would be available to come to the hearing and testify  
19 live, if the Court thought it might benefit the Court. And  
20 they have indicated their availability, except for Dr. Maddux,  
21 because of his medical issue, but everyone else has indicated  
22 their availability, and that would only be if the Court would  
23 find it of benefit to talk to them and question them.

24 The second evidentiary hearing we were hoping to have  
25 would be for the Court to be able to see and hear Dr. Hakim.

1 Clearly, his memo and the methodology underlying the analysis  
2 of that memo is key to this entire litigation. I don't think  
3 I'm overstating that when I say that. Dr. Hakim was deposed  
4 for four days last December. Much has developed since then, a  
5 lot more information has been obtained, and there is a  
6 provision, at least under Federal Rule 43, where the Court  
7 could have jurisdiction to not compel Dr. Hakim to appear here  
8 but at least appear via video from where he is to enable the  
9 Court or counsel to ask him additional questions.

10 JUDGE WOODLOCK: Where is he?

11 MS. BROOKS: He is in Nashville, your Honor, and I  
12 asked him at the end of his deposition --

13 JUDGE WOODLOCK: This was the Nashville or Nashville,  
14 Knoxville? I show that I believe everything west and south of  
15 Framingham is *terra incognita*. But when was Hakim done?

16 MS. BROOKS: December of last year, your Honor.

17 JUDGE WOODLOCK: It is not the Knoxville ones --

18 MS. BROOKS: The Knoxville one was just -- I spent a  
19 lot of time in Tennessee the past six months, your Honor. And  
20 so, the reason we thought it might be helpful for the Court is  
21 so much has developed since that deposition to be able to  
22 actually hear and see Dr. Hakim. I did ask him at the end of  
23 my questioning at his deposition if he would be willing to come  
24 to court and look the Court and the jury in the eye and explain  
25 his methodology and stand by his positions, and he declined to

1 do so. We have a call in to his attorney now to see if he  
2 would be willing to come to the Daubert hearing, and we have  
3 not heard back. We just did that pretty recently.

4 But the Court also has the ability under Rule 43 to  
5 have him attend via video from where he is, to enable both the  
6 Court and counsel to ask questions. So, that was our second  
7 reason to ask for an evidentiary hearing.

8 JUDGE WOODLOCK: I think you are the ones who really  
9 are concerned to have us observe him, at least initially us,  
10 and maybe somebody else observe him. Do you really think it is  
11 going to be necessary for the -- not holding you to the idea  
12 that you are waiving any rights to have him come, but do you  
13 really think it necessary for purposes of the Daubert hearing?

14 MS. BROOKS: We certainly think it would be extremely  
15 helpful, your Honor.

16 JUDGE WOODLOCK: What does it go to, just bias? My  
17 initial reading of this stuff is that it is paper-based,  
18 although there are aromas of office, I will not call it  
19 "intrigue," but that he was subordinated after the acquisition  
20 and then got the job and then got this fix on his particular  
21 point of view. But it is all reflected in the papers, isn't  
22 it?

23 MS. BROOKS: It is, your Honor. I guess it was more  
24 that if the Courts were thinking of indeed granting the Daubert  
25 to give Dr. Hakim an opportunity to explain his methodology and

1 the holes in the methodology. Certainly, we are not saying the  
2 Court can't rule on the motion without Dr. Hakim, but we  
3 believe the Court might find it beneficial. It is not to bias.  
4 It isn't an issue of his credibility. It's an issue of truly  
5 what was the underlying methodology and whether it passes  
6 Daubert-Lanigan muster.

7 JUDGE WOODLOCK: Isn't a way for us to figure that out  
8 is to at least have the hearing according to this schedule and  
9 then think about whether it is necessary to add something  
10 further?

11 MS. BROOKS: Absolutely, your Honor. Most definitely.

12 MR. TARRICONE: Your Honor, that would be our  
13 position, but I would like to introduce Mr. Rotman, who is on  
14 the plaintiffs' Steering Committee Science Committee.

15 Mr. Rotman.

16 MR. ROTMAN: Just a few points, your Honor.

17 JUDGE WOODLOCK: This is like the National Academy of  
18 Science? Is that the role you play here?

19 MR. ROTMAN: Your Honor, the defendants have filed  
20 this motion, what they call the "Hakim memo motion," and the  
21 plaintiffs are in the process of opposing it with an extensive  
22 brief, with multiple exhibits, references to deposition  
23 testimony and medical literature and so forth, which, at a  
24 minimum, we believe the Courts, both Courts, once they have  
25 read the defendants' motion and brief and ours, at that point

1 take a look at the issue of whether you need any live  
2 testimony. But at this point, if the Courts have just read the  
3 defendants' motions, have no idea how we are responding.

4 In our response we will be explaining why, A, it is  
5 really not a Daubert challenge at all under principles that  
6 have been enunciated by the First Circuit, for example, and  
7 multiple other courts, and in Massachusetts; and, second,  
8 putting aside if we call that a procedural issue on the merits  
9 and on matters that can be resolved on the documents, on the  
10 papers, the Court will be able to evaluate the credibility of  
11 many of the claims that the defendants are advancing,  
12 including, among others, the relative importance of this  
13 particular piece of evidence in light of the multiple lines of  
14 evidence that the plaintiffs' experts rely on for general  
15 causation, and that the defendants seem to want to focus on one  
16 piece of evidence. But that's not the way the plaintiffs'  
17 experts have approached it. They have considered this piece of  
18 evidence, and it is important, but it is by no means the  
19 linchpin of everything else.

20 JUDGE WOODLOCK: Without going too deeply into it,  
21 though, if the reliance upon Hakim were knocked out, I take it  
22 it is your position that your experts would still be able to  
23 testify?

24 MR. ROTMAN: Correct, your Honor. And that's  
25 explained in our filings that we have -- one of the filings

1 that are presently before both Courts.

2 JUDGE WOODLOCK: Multiple streams filing? Is that  
3 the --

4 MR. ROTMAN: What we call the "Omnibus."

5 JUDGE WOODLOCK: Right.

6 MR. ROTMAN: Yes, your Honor, multiple lines of  
7 evidence, if that is what your Honor was referring to.

8 JUDGE WOODLOCK: Maybe Judge Kirpalani will disagree,  
9 but I am not sure that we should be taking or soliciting live  
10 testimony at this point without knowing more about this to be  
11 gained by these hearings.

12 JUDGE KIRPALANI: I agree. I think it makes sense to  
13 wait and see. If we are in doubt about something, or it hangs  
14 in the balance, and we need to hear something from Dr. Hakim,  
15 then we can always hopefully schedule that with dispatch.  
16 There is about six weeks before at least the first trial.

17 MR. ROTMAN: Plus keeping in mind Dr. Hakim was not  
18 even the epidemiologist on this study that they are referring  
19 to, that the epidemiologist was Dr. Lacson, who was the Senior  
20 Vice President of Epidemiology and Clinical Research at  
21 Fresenius for that study.

22 JUDGE WOODLOCK: Well, not to preview it, but the  
23 defendants have got a whole series of adjectival descriptions  
24 that Dr. Lacson gave about the study that might suggest that it  
25 is not as rigorous as is wanted. But, in any event, we have

1 only heard the sound of one hand clapping so far.

2 MR. ROTMAN: Right, your Honor. Thank you.

3 JUDGE WOODLOCK: If I can go back just to the schedule  
4 here, would it make sense for you to get together and put  
5 together a playlist here that leads to your understanding of  
6 how we would best use that time period and allocate among the  
7 experts of who you want to argue about and who you do not want  
8 to argue about, assuming 9:00 to 1:00, 2:00 to 4:00 or 5:00,  
9 something like that, for those two days?

10 MR. TARRICONE: I think, your Honor, that makes sense.  
11 We will confer with the defendants and come up with a proposed  
12 schedule for the Court.

13 JUDGE WOODLOCK: And maybe if that could be on a day  
14 or two after you have received -- you have had your return of  
15 papers on this. Or maybe you can do it before.

16 MR. TARRICONE: Your Honor, we are supposed to be back  
17 in court on October 7th for the bellwether.

18 JUDGE WOODLOCK: So, you can deliver it that day.

19 MR. TARRICONE: Yes.

20 JUDGE WOODLOCK: It is really to guide us, I think,  
21 certainly for me, to what is going be to keeping me up Monday  
22 night and what is going to be keeping me up Tuesday night, I  
23 think.

24 MR. TARRICONE: Understood.

25 JUDGE WOODLOCK: Are there other things that we need

1 to take up here?

2 JUDGE KIRPALANI: I just had a couple of housekeeping  
3 items, if we are essentially done.

4 JUDGE WOODLOCK: Sure.

5 JUDGE KIRPALANI: You are also seeing me on the 7th.  
6 I never got a transcript of our last discussion, but how had we  
7 left the issue of whether there would be an oral argument on  
8 the choice-of-law motion that has now been briefed by both  
9 sides? And, in fact, I am expecting, I think, a reply brief.

10 Mr. Appel.

11 MR. APPEL: Yes, your Honor. We have not had a  
12 discussion about that. I was hoping, your Honor, that we could  
13 address that on the 7th.

14 JUDGE KIRPALANI: Okay. You mean the argument on the  
15 7th?

16 MR. APPEL: Yes.

17 JUDGE KIRPALANI: That was my hope too, so that we do  
18 not have to have a separate hearing. It's really just a status  
19 conference that we built in just in case there were things to  
20 discuss, as there almost inevitably are, but we could also use  
21 it for the hearing on the choice of law.

22 Mr. Kettlewell.

23 MR. KETTLEWELL: We will be ready to address that on  
24 the 7th, your Honor.

25 JUDGE KIRPALANI: All right. So, someone needs to get

1 me the plaintiffs' motions.

2 MR. APPEL: We'll do that as soon as possible, your  
3 Honor, as soon as I get back to the office.

4 JUDGE KIRPALANI: It may well be that somewhere in  
5 Woburn there are boxes of motions, but they did not get to me  
6 in Boston, and I did not see any electronic versions sent my  
7 way, at least as a courtesy copy. And I do not know how bulky  
8 they are, but put it on DVD or something, because it certainly  
9 would help me if I had it in electronic form.

10 MR. APPEL: Yeah, I think it is on DVD, your Honor.  
11 We will straighten this all out today.

12 JUDGE KIRPALANI: Thanks. Unless the parties have  
13 something else, I think that was the only thing I wanted to ask  
14 about.

15 MS. BROOKS: Just a question for both your Honors.  
16 Just to make sure, we will not be in session on the 13th, if I  
17 understand correctly, and then also --

18 JUDGE WOODLOCK: I should say that unless you think  
19 that there is more time necessary. The two days seems to us to  
20 be sufficient on it, generous if it were just the defendants'  
21 motions, but we have kind of allocated that time. It still  
22 sounds sufficient to me for all of the motions.

23 MS. BROOKS: Your Honor, we would agree. My only  
24 question, then, is do you think the Court might benefit, and we  
25 could either incorporate it into those two days or perhaps do

1 it the afternoon of the 13th, to have a sort of technology  
2 tutorial, where each side present for maybe 45 minutes to an  
3 hour on the technology itself to be able to help frame the  
4 issues? We certainly did that in our briefs, and I don't know  
5 if we did a good enough job. We tried our best, but it is some  
6 dense science, a lot of it is. We just wondered if your Honors  
7 thought it would be helpful to have a tutorial where your  
8 Honors could ask questions or whether we could start right into  
9 argument. And whatever the Court feels is the most helpful we  
10 would be happy to do.

11 JUDGE WOODLOCK: From my perspective, the materials  
12 themselves, I have kind of started to get into them, seem to me  
13 to be sufficient to prompt me to do what I have to do. You  
14 have delicately raised the question of remedial education, and  
15 you are dealing with someone greatly in need of remedial  
16 education, but I think the papers are probably the best way to  
17 do it, the best way to allocate the time, and, to the degree  
18 that I, and I suspect Judge Kirpalani would feel the same way,  
19 need additional stuff, we will ask for it, but I do not think  
20 it is necessary to do that.

21 JUDGE KIRPALANI: I think I am of the same belief. A  
22 colleague of mine who once sat on the Federal Bench once said,  
23 "The President trusts me to make these decisions and to figure  
24 out how to do it." So, the Governor trusts me to make these  
25 decisions, and I will figure out a way. And I think the briefs

1 I have seen so far are very helpful, and I expect the  
2 oppositions will be equally helpful. So, I think we are okay  
3 without a science day.

4 MS. BROOKS: Okay. Thank you, your Honor.

5 JUDGE WOODLOCK: Anything else?

6 MR. TARRICONE: Not from the plaintiffs, your Honor.

7 MR. KETTLEWELL: Nothing, your Honor.

8 JUDGE WOODLOCK: All right. Thank you.

9 JUDGE KIRPALANI: Thank you.

10 MS. BROOKS: Thank you.

11 THE CLERK: All rise.

12 (WHEREUPON, the proceedings adjourned at 11:47 a.m.)

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C E R T I F I C A T E

I, Brenda K. Hancock, RMR, CRR and Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of *In Re: In Re: Fresenius GranuFlo/ Naturalyte Dialysate products Liability Litigation*, No. 1:13-md-02428-DPW.

Date: November 18, 2015

/s/ Brenda K. Hancock  
Brenda K. Hancock, RMR, CRR  
Official Court Reporter