

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

**IN RE: NUVARING PRODUCTS )  
LIABILITY LITIGATION )  
 ) Case No. 4:08-MD-01964 RWS  
 )**

**STATUS HEARING  
BEFORE THE HONORABLE RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE  
March 1, 2016**

**APPEARANCES:**

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(Appearances continued on Page 2)

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**(PROCEEDINGS STARTED AT 10:40 AM.)**

THE COURT: Good morning. We're here this morning in the case styled *In Re: NuvaRing Products Liability Litigation*, 4:08-MD-1964. I thought you were behind the bar and hiding. I'm sorry. My depth perception was off.

Would counsel make their appearances, please?

MS. KRAFT: Kristine Kraft for the MDL plaintiffs.

MR. ALONSO: I am behind the bar, hiding, Your Honor. Andres Alonso for the Alonso Krangle plaintiffs. Good morning.

MR. KRANGLE: Good morning, Your Honor. David Krangle for the plaintiffs.

MR. BENTLEY: Morning, Your Honor. Greg Bentley for Leslie Benyo.

MR. COOK: Morning, Your Honor. James Cook for Christine Law.

THE COURT: And I gave -- granted permission to two counsel to participate by phone. Are you on the telephone at this time?

MR. VOLPE: Yes, Your Honor, for Cali Longtin.

THE COURT: I'm sorry?

MR. LEVITT: And this is Gary Levitt, Your Honor, for Elyssa Correia.

THE COURT: Very good. On behalf of the defendant?

MR. BALL: Dan Ball for defendants.

1 MR. STRAUSS: Steve Strauss for the defendants.

2 MR. YOO: Morning, Your Honor. Thomas Yoo for the  
3 defendants.

4 MS. GEIST: Melissa Geist from Reed Smith for the  
5 defendants.

6 THE COURT: Very good.

7 All right. The proposed -- why don't we take the  
8 Alonso Krangle defendant's proposed schedule first. Who's  
9 going to handle it?

10 MR. YOO: Your Honor, I may be able to make this a  
11 little bit quicker. The parties have had an opportunity to  
12 discuss --

13 THE COURT: Why don't you pull the microphone up.  
14 Obviously, it was a short defendant yesterday. There we go.

15 MR. YOO: The parties have had an opportunity to  
16 discuss what else needs to be done with regard to general fact  
17 discovery, and there seems to be agreement, at least by all  
18 counsel in the courtroom today, that plaintiffs would like to  
19 take some additional depositions of company witnesses.

20 As I think Your Honor knows, the defendants produced  
21 supplemental documents at the end of December, documents that  
22 relate to the 2013 label change. The Alonso Krangle  
23 plaintiffs and other plaintiffs' counsel in the courtroom  
24 today have indicated that they would like to take some  
25 depositions of company witnesses related to that 2013 label

1 change.

2 We don't have a schedule agreed to yet; but,  
3 generally, we think we can get these depositions done by the  
4 end of June. So what we would propose to do is come back at  
5 the end of June or maybe in July and report on the status of  
6 completion of general fact discovery.

7 THE COURT: Okay. Are we in agreement on that, at  
8 least in the room?

9 MR. ALONSO: We are, Your Honor.

10 MR. COOK: Yes, Your Honor.

11 MR. BENTLEY: Yes, Your Honor.

12 THE COURT: Anyone else wish to be heard on that  
13 point? All right. I take it by your silence the answer is  
14 no.

15 So what you're telling me is the real issue is  
16 getting the depositions done and then getting back together  
17 again in late June, early July to then begin the path home,  
18 for lack of a better word, although there's been mention in  
19 here of substantial number of more cases maybe. So maybe you  
20 can enlighten me on what that means.

21 MR. YOO: Yeah. I would invite Mr. Alonso or Mr.  
22 Krangle to come up and speak to their inventory, but based on  
23 what's been represented to us and put in papers that have been  
24 filed with the court, I believe the Alonso Krangle firm has a  
25 total of about 130 cases that they intend to file. We've seen

1 some of those filings already. I believe the Alonso Krangle  
2 inventory is now up to 14 cases that are in the MDL or soon to  
3 be in the MDL.

4 There are, by my last count, seven non-Alonso Krangle  
5 cases in the MDL. So the Alonso Krangle inventory is growing.  
6 I think the expectation is there will be about 130 or perhaps  
7 more plaintiffs eventually in these proceedings.

8 THE COURT: Are we going to see those shortly? I  
9 mean, I don't want to have this conversation in June or July  
10 and say, "Oh, but" -- who knows what comes after "but";  
11 so . . .

12 MR. ALONSO: Your Honor, we are in the process of  
13 screening the cases and ensuring that, in fact, they meet our  
14 criteria. What we don't want to do, obviously, is  
15 improvidently file cases that don't belong before Your Honor  
16 that are NuvaRing cases or don't have the venous thrombotic  
17 event that we think one necessarily needs to have in order to  
18 have a case.

19 In looking at our inventory, it looks as though we  
20 will file an additional two cases next week, and we  
21 anticipate, Your Honor, that by June we will probably have  
22 filed an additional ten cases that we have screened, vetted,  
23 and think are appropriate for placement in this litigation.

24 THE COURT: All right.

25 MR. ALONSO: And the number -- we did winnow the

1 number down somewhat, Your Honor. We're actually down a  
2 little bit. I think at last count we are down to 114  
3 potential cases, Judge. But, again, we don't want to file  
4 cases that, quite frankly, should not be filed.

5 THE COURT: All right. Well, one of the topics at  
6 our next status conference will be when we close out the MDL  
7 sine die.

8 MR. ALONSO: I think I missed your question, Your  
9 Honor. I apologize.

10 THE COURT: No. It's not a question. One of the  
11 agenda items for the next conference will be when do we close  
12 the MDL?

13 MR. ALONSO: Yes, Your Honor.

14 THE COURT: Obviously, folks who are ready to finish,  
15 you know, I don't want to be talking about, well, we got  
16 another 120 cases coming in July. Nobody's bettered by that  
17 conversation.

18 MR. ALONSO: I understand, Judge. And certainly our  
19 view is that the MDL general causation proceedings are,  
20 frankly, coming to a close. And to the extent we do file  
21 additional cases in the future, they can certainly be  
22 accommodated by whichever district they are filed in with the  
23 understanding that we now have what we believe to be a trial  
24 package subject to the recent production as it relates to the  
25 October 2013 label change so that, Your Honor, there will

1 likely be future cases filed, but we don't think -- and,  
2 frankly, I don't know that the defendants think at this  
3 point -- that those cases should be accommodated here before  
4 Your Honor.

5 I think this Court's mission in the MDL is virtually  
6 complete with the exception, the Court willing, allowing us to  
7 complete this discovery as it relates to the label change,  
8 Your Honor.

9 THE COURT: Any impact on the common benefit fund?  
10 Do we care?

11 MR. ALONSO: I would have to defer to Ms. Kraft on  
12 that, Your Honor. But, obviously, Ms. Kraft and her fellow  
13 members of the plaintiffs' steering committee have done  
14 extraordinary work on this case, and we are all benefiting  
15 from that extraordinary work. So I wouldn't hesitate if Ms.  
16 Kraft thought it were appropriate to pay the appropriate  
17 common benefit assessment regardless of how our cases go.  
18 That's a non-issue for us, Judge.

19 THE COURT: Okay. That was the only loose piece that  
20 I was worried about.

21 Ms. Kraft? I mean, it's hard to say no to that.

22 MS. KRAFT: Right. I don't really have any further  
23 comment. I mean, everyone in the room has already signed on  
24 to the common benefit participation agreement; so we  
25 appreciate their cooperation in that regard.



1 THE COURT: All right. So what else should we talk  
2 about while we're together other than picking the next date?

3 MR. YOO: I think that's it, Your Honor.

4 THE COURT: Ms. Geist, you need to say something so  
5 you can justify the trip.

6 MS. GEIST: Your Honor, we produced the documents as  
7 we said we would.

8 THE COURT: How is the rolling production coming,  
9 right.

10 MS. GEIST: Your Honor, and I have the very important  
11 assignment of also suggesting dates for the next conference.

12 THE COURT: All right. Let's see what works.

13 MS. GEIST: July 6 or 7, Your Honor, is on the list  
14 or July 12 and 13.

15 MR. YOO: I can't do the 13th, but --

16 THE COURT: July 6, 10:30 AM. Is that a good time,  
17 or are you better off in the afternoon?

18 MS. GEIST: That's great for us.

19 THE COURT: July 6, at 10:30, with a proposed agenda  
20 by June 29. All right. Anything further?

21 MR. YOO: Nothing further, Your Honor.

22 MS. GEIST: Nothing from the defendants, no.

23 MS. KRAFT: No, Your Honor.

24 MR. ERIKSSON: Your Honor? Very briefly --

25 THE COURT: You need to back off of the phone a

1 little bit. Who's speaking?

2 MR. ERIKSSON: My apologies, Your Honor. Reed  
3 Eriksson from the Oliver Law Group on behalf of Plaintiff Amy  
4 Sechrist. I didn't want to cut off the Court earlier when  
5 appearances were being made. I just want to get my appearance  
6 on the record, Your Honor. Nothing to change the schedule.

7 THE COURT: Very good. Thank you all very much.

8 **(PROCEEDINGS CONCLUDED AT 10:48 AM.)**

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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 10 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 14th day of June, 2016.

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