

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

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

* * * * * MDL NO. 07-MD-1842ML
*
IN RE: *
* APRIL 28, 2009
KUGEL MESH HERNIA * 2:00 P.M.
PATCH PRODUCTS *
LIABILITY LITIGATION *
* PROVIDENCE, RI
*
* * * * *

BEFORE THE HONORABLE MARY M. LISI
CHIEF JUDGE
(Chambers Conference)

APPEARANCES:

FOR THE PLAINTIFFS: DONALD A. MIGLIORI, ESQ.
Motley Rice LLC
321 South Main Street
2nd Floor
Providence, RI 02903-7108

FOR THE DEFENDANTS, MICHAEL K. BROWN, ESQ.
DAVOL, INC. AND JOHN P. HOOPER, ESQ.
C.R. BARD: Reed Smith, LLP
599 Lexington Avenue
New York, NY 10022-6030

MARK T. NUGENT, ESQ.
Morrison Mahoney, LLP
10 Weybosset Street
Providence, RI 02903

Court Reporter: Debra D. Lajoie, RPR-FCRR-CRI-RMR
One Exchange Terrace
Providence, RI 02903

Proceeding reported and produced by
computer-aided stenography

1 MR. DADIKA: Greg Dadika, in-house counsel for
2 C.R. Bard.

3 THE COURT: Why don't we get started, then,
4 right in -- since we've completed item number one, and
5 that was an easy one. And then let's get to item
6 number two, the status report on discovery. You should
7 be pretty close.

8 MR. MIGLIORI: We are. Thank you, Your Honor.
9 Just briefly, with the change in counsel,
10 there's been a little bit of a -- not a delay, but we
11 identified some holes that we were trying to work on
12 with prior counsel, and we've sent over some sort of
13 pared-down letters trying to cut to the quick.

14 THE COURT: Okay.

15 MR. MIGLIORI: And just generally speaking,
16 Your Honor, it's probably important to say at the
17 outset that, over the past two weeks, knowing this was
18 happening, we actually have had several very productive
19 and useful conversations back and forth, reasonableness
20 abounding and --

21 THE COURT: My goodness.

22 MR. BROWN: We don't want to shock anybody.
23 Before they were discovery problems. Now they're just
24 discovery issues.

25 MR. MIGLIORI: Now we're just wrong.

1 MR. BROWN: But in a nice way.

2 THE COURT: After two years of -- I won't
3 characterize it, but it was different then. Okay.
4 Let's see if it's gotten better.

5 MR. MIGLIORI: That's the most important point
6 is that it has.

7 MR. HOOPER: To some extent, Mr. Migliori's firm
8 and we had a relation for 15 years, and so that sort of
9 helps when you come into a case, when you say we need
10 some time and they say sure.

11 MR. BROWN: We said anyone who could work with
12 him 15 years clearly has to have something.

13 THE COURT: I've only got two years, so I'm
14 catching up. Okay. So you're going to work those out
15 without our intervention?

16 MR. MIGLIORI: We've got some discrete issues.
17 I think we can give it, in the next month, a good run
18 at the discovery issues. One thing that we were very
19 clear about now, while it is very productive and it's
20 been a very useful couple of weeks of just getting our
21 arms around everything and trying to come up with a
22 plan to move forward, and we've been very adamant that
23 we don't want any sort of agreements that we have in
24 terms of starting the first depositions a month later,
25 which they've requested and we've agreed to, we don't

1 want those to become factors in changing the trial
2 dates or changing our plan; that is, we will do
3 everything and spend extra time even meeting and
4 getting them whatever they need to get up to speed.
5 But our only concern was that it not become a basis
6 later for delay. And they've been very, very good
7 about addressing our issues immediately, so --

8 MR. BROWN: Yeah, Your Honor, no one's asking
9 for anything at this point. There's a little catch-up
10 going on. We do want to -- we've already had some
11 conversations with Don about looking at the trial
12 selection cases, maybe coming to you with a joint plan.
13 I know there hasn't been a lot of joint activity.

14 THE COURT: And I know that actually is a good
15 segway into item number three on our agenda because I
16 did receive a letter from Mr. Nugent where he indicated
17 that you all had become aware of where we were before
18 you got into it.

19 Both sides I requested, frankly, because of the
20 inability of prior counsel, I think, to have meaningful
21 conversation with this side to agree on anything other
22 than maybe the color of the sky, the ten cases -- and
23 I'll tell you, quite frankly, I reviewed all 20 cases
24 that were submitted to me, the ten that were submitted
25 by your predecessors, there wasn't a single one that I

1 thought was even worth talking about, and so I would
2 have simply taken those ten and said let's go.

3 But with fresh faces on the block and your
4 apparent ability to work and speak to each other
5 reasonably, I see no point in my simply, you know,
6 forging ahead and say those are the ten. I think it's
7 worthwhile to give you the opportunity to have some
8 meaningful input because, whichever of those go,
9 whichever of those are worked up, it's going to cost
10 both sides a ton of money to do it, and so it ought to
11 be a meaningful exercise.

12 MR. BROWN: Right.

13 THE COURT: And I'm glad you're here because you
14 folks are the ones with the bag of money at the end of
15 the day.

16 MR. DADIKA: I understand that, Judge.

17 MR. MIGLIORI: On that letter, if I may,
18 Your Honor, we did speak, and they were kind enough to
19 share the letter before they sent it to the Court, and
20 the language is very careful. We feel very strongly
21 that not only should trial dates be relaxed, but the
22 process shouldn't be changed.

23 That said, we have agreed to look at proposals
24 that they have for what they think would be a
25 meaningful case to include within our group as a trial

1 to give valuation to something they think is
2 meaningful, as opposed to a case that they think they
3 can win and get a zero value --

4 THE COURT: Yeah. Well, that wasn't the point
5 of it. The point of the selection of these bellwether
6 cases is not to wear this side down but, rather, to
7 choose a case that has elements that are truly in
8 dispute, that are in contention, and that a decision by
9 a jury will move the whole litigation forward.

10 MR. BROWN: Right.

11 THE COURT: So I will certainly stand down on
12 what I had previously said that we'd be doing today,
13 which is to identify the trial -- the cases selected
14 for trial. And do you think you'll be able to get
15 together on this by next meeting?

16 MR. HOOPER: Well, we're getting together today
17 or tomorrow to talk about these issues.

18 MR. BROWN: I think the next status conference
19 we'll be able to hopefully come up with a proposal or
20 areas of, you know --

21 MR. HOOPER: Your Honor, to your point, one of
22 the things that we've been discussing is really what's
23 the message case? What's the case that's going to
24 break the gap?

25 THE COURT: Right.

1 MR. HOOPER: Clearly there are strong issues on
2 the ring break cases but we don't think those message
3 cases because our client is having much more trouble
4 trying to deal with the middle cases.

5 THE COURT: The problem with your predecessor --

6 MR. HOOPER: We will be looking at those cases.

7 THE COURT: We're almost back to square one but
8 in a refreshing way because the difficulty I was having
9 and I think this side was having was in convincing your
10 predecessors that ring break cases on recalled products
11 ought to be settled, I mean --

12 MR. BROWN: I think we can say they're not our
13 strongest cases.

14 THE COURT: They're not, of course. And so, you
15 know, Judge Lovegreen spent a considerable amount of
16 time on that first round of cases that we submitted,
17 and he was very frustrated by the approach of this
18 side.

19 MR. BROWN: Well, I think you know the whole
20 even term bellwether is to, you know, essentially find
21 representative cases.

22 THE COURT: Yes, yes.

23 MR. BROWN: Not the best of the Plaintiffs and
24 the worst of the defense because that doesn't really
25 get you there but, rather, where there's a large

1 number, they represent X percent of the inventory
2 that's out there, and it gives us some guidance about
3 going forward.

4 THE COURT: So long as you understand, and I
5 cannot change this ruling, and that is -- unless you
6 all change your minds, that the only cases in the
7 inventory that I will set for trial are those that were
8 direct-filed here or removed here so I have original
9 jurisdiction over them.

10 Otherwise, I'm not going to start shipping them
11 back all over the country. That defeats the purpose of
12 the MDL.

13 MR. HOOPER: You would consider, though, if the
14 parties agree to -- if some representative cases were
15 not in the pool, if we agreed that this would be the
16 Court of jurisdiction, then will you consider those
17 cases?

18 THE COURT: If you come to that agreement, then
19 I don't have a problem. I'm here to try cases. But
20 that was not on the table the last time we had this
21 go-around.

22 MR. NUGENT: We have a new regime here.

23 MR. BROWN: Whether we want to go there, I think
24 there were 100 originally filed cases. That may be
25 certainly sufficient. We're certainly getting our arms

1 around that part but, again, if it was by mutual
2 agreement. But if not, that's fine.

3 MR. MIGLIORI: There are a few other issues
4 here. We asked about waiving a lexicon at the outset,
5 and we were flatly refused. We were glad to see that,
6 that was put on the table, that we can look at them.

7 MR. HOOPER: On a case-by-case basis.

8 MR. MIGLIORI: Original valuation groups, there
9 may even be, among the non-ring-break cases, some in
10 this mediation group that may be more representative.
11 I just don't want, in the end, to lose the momentum
12 just because we're trying to be cooperative now.

13 THE COURT: No, we won't. I still have your
14 ten. So what I would suggest is that you do precisely
15 what you have said you are committed to do, and that is
16 to give a fresh look to these, to come up with some
17 that are truly representative to the extent that you go
18 outside of the hundred over which I have jurisdiction
19 to try, and if you want to waive on those, then that's
20 fine, as long as you have agreement here. The whole
21 point, as you've said, is to move the entire litigation
22 forward.

23 So I'll trust you to do that and expect you to
24 present me with a list when you come in next month, and
25 I think that's all I can ask you to do today. But I

1 think it's worth taking that time.

2 MR. MIGLIORI: Absolutely.

3 THE COURT: Originally, when we started talking
4 about setting cases for trial, we had talked about next
5 fall, so whether it's September, October, November, it
6 may be January at this point with you folks coming into
7 it, and you had originally said January, but I pushed
8 you to the fall.

9 MR. BROWN: He's actually said February,
10 Your Honor. I did read that.

11 MR. MIGLIORI: I was trying to be reasonable.

12 MR. HOOPER: Now you have reason to be
13 reasonable, Don.

14 THE COURT: But I'm -- you know, let's -- next
15 month, when we have our final group, and if it's more
16 than ten, if you want to pull some out and you're going
17 to agree to theirs and you all come to an agreement on
18 the ten, that's terrific, and those will be the ten
19 that we concentrate on. Then I think we can have a
20 meaningful discussion depending upon where those cases
21 are in the process, to have a meaningful discussion
22 about when precisely we will try them.

23 To the extent that we can get them ready for the
24 fall, I'm still ready to go in the fall. I don't have
25 anything -- I won't say --

1 MR. BROWN: Barbara, does she have --

2 THE COURT: Hopefully, at that point -- well,
3 not in the inventory do I have anything that looks like
4 it's going to be, you know, a heavy-duty criminal
5 megatrial that'll take a month or more to do, so you
6 folks are my property at this point.

7 MR. HOOPER: Your Honor, may I, because I
8 think -- I clearly hear what you're saying. To the
9 extent that we work out other issues and we start
10 making the selection a meaningful selection, I'm sure
11 Your Honor would rather have a meaningful selection
12 where maybe we pare through other issues perhaps even
13 later than a selection where we're not sending messages
14 sooner.

15 THE COURT: Well, let's see where you are.
16 Yeah, I mean, that's what I'm telling you. I'm going
17 to trust you all to give it your best.

18 MR. HOOPER: We will.

19 THE COURT: But you have to understand, and I
20 don't mean to suggest that I'm somehow skeptical about
21 what you have to say, but what you have to understand
22 is that, from where I stand, this case is going to be
23 two years old, and it's getting aged in our system.

24 So, although you are coming into this sort of
25 late, I may be pushing you to come up to speed a lot

1 quicker than to say, well, these guys are new, we'll
2 give them another six months to figure out what's going
3 on.

4 So you have to take into account the fact that,
5 from where I sit, the case is two years old, and I have
6 to start asking, you know, what's the point of an MDL
7 if I can't move it quicker than the other courts would
8 have done if they hadn't sent it.

9 Okay, so let's see where you are next month. If
10 you, for whatever reason, feel that a telephone
11 conference in between, if you're stuck on something or
12 even if -- next month wouldn't be the open meeting, so
13 even if you wanted to move that up a week because
14 you're close and you think it would be helpful to move
15 it up a week or two after we set a date today, we can
16 do that, as well, okay?

17 MR. MIGLIORI: If I may, Your Honor, I think if
18 we set even amongst ourselves a deadline of getting
19 something to you in writing as a status, say, ten days
20 before the 27th --

21 THE COURT: That's fine.

22 MR. MIGLIORI: -- that'll at least have --

23 MR. HOOPER: With all due deference, for us just
24 to get to the discovery issues that we're dealing with,
25 these are cases we don't honestly, Your Honor, have --

1 nobody's ever evaluated, especially if we're going
2 outside the first group, I would be -- to be honest
3 with you, I think it's going to be tough to get it
4 through the 30 days, but we'll make every effort to do
5 that, Your Honor.

6 MR. BROWN: It seems like that, if we either
7 need a call or status, we'd do that, and it sounds like
8 the Court's open to that.

9 THE COURT: Oh, yes.

10 MR. BROWN: And so if we could just sort of see
11 where we are, it would be better.

12 MR. HOOPER: Five days before?

13 THE COURT: Five days, and then if you need an
14 extra week or two and you're coming close, I think it
15 makes more sense and a better use of everyone's time to
16 give you the extra week before we all sit down
17 together.

18 MR. NUGENT: Do we have a date? I know you had
19 a couple of dates.

20 THE COURT: I have two because I wasn't sure
21 which works better. That's a popular vacation time.

22 MR. BROWN: June 2nd works on our side.

23 THE COURT: The June 2nd date? Is that okay for
24 you?

25 MR. MIGLIORI: That's fine.

1 THE COURT: Okay. So we'll go with the June 2nd
2 date, which is all the more reason why you better be
3 ready with the list. You already got your week.

4 MR. HOOPER: I recognized that when we --

5 THE COURT: That's it for you now. Okay, let's
6 talk about pending motions a little bit, and I think
7 that's the last thing we have.

8 I had a couple of items. Let me just run them
9 by you. Hadley, we were waiting for the Defendants to
10 submit a stipulation on that. Do we have that yet?

11 MS. DONALDSON: I do not know, Your Honor.

12 THE COURT: Is it lost in space? Okay, would
13 you follow up on that, please? Hadley, okay.

14 Humphrey, Mr. Migliori, you were going to
15 contact the attorney on that case to find out what was
16 going on with him.

17 MR. MIGLIORI: And I don't think that we got a
18 response.

19 MS. DONALDSON: I believe this is the attorney
20 who -- I'm sorry. I can speak to Your Honor. This is
21 the attorney who was unable to get in touch with the
22 client. We're unsure whether there was no response
23 made by the due date, but he has committed to getting
24 something.

25 THE COURT: There's a motion to show cause. Is

1 he going to move to withdraw for his inability to get
2 through to the client?

3 MS. DONALDSON: He's indicated he's going to get
4 something to us by this Friday to -- he did not
5 indicate he was going to withdraw.

6 THE COURT: So we don't know what it is that
7 he's going to file, but he's going to do it by this
8 Friday?

9 MS. DONALDSON: Yes.

10 THE COURT: All right. As long as it's on
11 track. My concern is I don't want to have anything
12 fall through the cracks. And Riojas I'm working on.
13 You'll have a decision on that shortly, right?

14 MR. CUNNINGHAM: Yes, Your Honor.

15 THE COURT: And all of the others I think, at
16 least when we went through the list, looked like they
17 were waiting for the 30-day period to run.

18 MR. MIGLIORI: I'm not even sure how much of the
19 new counsel are aware of this process that we set up,
20 but --

21 THE COURT: Why don't you lay it out for them so
22 that -- well, Mr. Nugent certainly knows, but I think
23 we've worked out a pretty streamlined approach in these
24 cases where the --

25 MR. BROWN: The case was filed, how the attorney

1 can't seem to find the client, the client hasn't --
2 either hasn't sent in the fax sheet or sent in a
3 deficient fax sheet, can't find them and so --

4 MR. MIGLIORI: And so we've set up a process
5 where there's a motion to show cause or they move to
6 withdraw. If they move to withdraw and it's unopposed
7 to, there's a 30-day pro se period, and during that
8 pro se period, they can either enter pro se or find new
9 counsel.

10 And if, at 30 days, it's an automatic -- it's a
11 self-executing order or it's dismissed without
12 prejudice. And, generally speaking, there's a one-year
13 savings statute where the client can come back with new
14 counsel if they need to revive the case.

15 THE COURT: So far, we've not had anybody come
16 back on the ones that -- it is a self-executing order.
17 However, I do enter an order, a paper order, to that
18 effect.

19 MR. MIGLIORI: When you file -- and I'm not even
20 sure if they're reading the new PFSs yet because of
21 their ramping up, but if there's a motion to show cause
22 that you are intending to file, the process is that you
23 notify us first because usually we can avoid the Court
24 getting involved.

25 THE COURT: And, also, what that does is, if you

1 have a situation like that, you let Mr. Migliori know,
2 and what he does is contact the attorney who filed the
3 case who then files the motion to withdraw, which
4 obviates the need of your filing a motion to show
5 cause, so it'll save your client a little bit of money.

6 And this side files the motion, we wait it out
7 to see whether or not there's going to be a response,
8 and when there is none, they're ripe, Barbara brings
9 them to me and I enter the order.

10 MR. BROWN: All right. Fair enough.

11 THE COURT: So I think that's it, unless you had
12 something else you you wanted to raise. It's not here,
13 and we've talked about it a little bit, there was this
14 second round with Magistrate Judge Lovegreen, and we've
15 submitted responses to prior counsel for every question
16 in the world that they could have possibly asked.

17 MR. MIGLIORI: And, obviously, a lot of work
18 went into that.

19 THE COURT: I know.

20 MR. MIGLIORI: I don't want it to -- they're not
21 ready, and we've talked about they're not ready to talk
22 about them now, they're just coming in, but I don't
23 want it to fall off of our planning for the next
24 meetings, that at least those clients who've been in
25 this, have given their depositions, that they'd fall

1 off the train completely, so --

2 THE COURT: Yeah, where we were with those, and
3 I know you've all read the transcripts of the previous
4 meetings, and you can see that I was not happy, with
5 good reason.

6 We have a retired Magistrate Judge here who
7 actually was not taking any cases at all, and he
8 volunteered to come in and do these. Now, he did the
9 first round with the ring break cases, and then he was
10 fully prepared, had read through all of -- whatever he
11 needed to read through to prepare for the second round
12 when your predecessors said they were all zero cases,
13 and so there was -- I had Spriggs & Hollingsworth group
14 submit specific questions that they wanted addressed in
15 order for them to give a fresh look to those -- I gave
16 them everything they wanted, and the point was that,
17 you got everything you wanted, don't come back and tell
18 me all ten of these are zeroes.

19 And I think that's where we were. Now,
20 Judge Lovegreen has said that he's still willing -- he
21 had prepared for all of these. So we cancelled them.
22 They had dates set aside, he had scheduled them, he was
23 ready to go.

24 He is willing to have you back on those once
25 you've had a chance to look over those responses, but

1 he's not going to waste his time. If your position is
2 zero on ten cases, it's just not a good use of his
3 time. And, as I say, this is someone who has
4 volunteered to do this out of the goodness of his
5 heart. He really would prefer to be doing more fun
6 things.

7 So tell me where you are with those if you've
8 even had a chance to look at them.

9 MR. HOOPER: I think the first thing I had an
10 opportunity to discuss with Mr. Migliori were those
11 cases and the fact that, in looking at those cases and
12 reading the transcripts, it just seemed that there was
13 a lack of communication, and when we were talking about
14 the selection of cases and finding the meaningful
15 cases, I think we have to address those cases and,
16 quite frankly, the cases that are in the middle.

17 THE COURT: Right.

18 MR. HOOPER: And when we discussed with
19 Plaintiffs, Your Honor, that everything is up for
20 grabs, I don't know how we get to talk about trial
21 cases if we can't find a solution. We'll add, no,
22 Your Honor, that I think before we would take up the
23 Magistrate's time, we would make efforts ourselves at a
24 much more cooperative level -- we've done this with
25 each other. Mr. Cory and I have resolved cases,

1 Mr. Migliori and I have resolved cases, and we would
2 see if we can get some more common grounds on those
3 cases before bringing the Magistrate out of his
4 retirement.

5 MR. MIGLIORI: He's also a very big Red Sox fan,
6 so I don't think they necessarily want to have him
7 on --

8 MR. HOOPER: Is that on the record, by the way?

9 THE COURT: I want to make sure you know that
10 he's sort of waiting in the wings to know what it is
11 that you're going to do. Now, I told him that I had
12 issued an order that granted the Defendants everything
13 they were looking for, everything they said they needed
14 in order to determine whether or not to offer anything
15 on those cases.

16 Now, what I'd like you to do, if possible, by
17 the next meeting is let me know where you are with
18 those.

19 MR. HOOPER: Sure.

20 THE COURT: If you've resolved them on your own,
21 terrific, we don't have to get him involved.

22 If there are some remaining, however, that have
23 been completely worked up and that are ready for him,
24 he is willing to sit down with you to try to work some
25 things out, even just to give it a price tag. As I

1 say, you've got someone here with -- how much
2 experience has he got, about 150 years? I mean, he's
3 really -- he has been able to bring people to the table
4 who were at each other's throats and to work out an
5 accommodation and that everybody walked away satisfied,
6 so he really has some very, very special skills, and
7 you know he's --

8 MR. NUGENT: I do know.

9 THE COURT: -- he's got a ton of experience, so
10 I would hate to lose that, particularly where he spent
11 the time to prepare.

12 So, of those ten, if there are some you've
13 resolved, terrific. If there are others that you want
14 to sit down with him on, let's get him into it.

15 He probably won't be around for July and August,
16 however, and so the timing is something that we can
17 deal with next month when you tell me where you are
18 with those, okay? But I know he did put some time into
19 it already.

20 MR. BROWN: Sure.

21 MR. HOOPER: Your Honor, we had two housekeeping
22 matters, if I could bring them up.

23 THE COURT: Sure.

24 MR. HOOPER: The first one is that I've spoken
25 to Mr. Migliori, and we would like Your Honor to

1 consider us filing a master answer with the Court that
2 would allow us not to have to specifically answer
3 complaints until cases are either sent back or they're
4 selected for trial. It would be a significant cost
5 savings to our client, and, frankly, it would make the
6 whole process move smoother, and we wanted to know if
7 that was something Your Honor would consider.

8 THE COURT: Do you have any problem?

9 MR. MIGLIORI: I told him, Your Honor, I have no
10 problem with that. Sure. I think that makes a heck of
11 a lot of sense. Just make sure that when you do it,
12 you clearly put something on there that says that
13 that's what it is.

14 MR. HOOPER: Yes.

15 THE COURT: And that's the purpose of it. And
16 in fact, why don't you include -- you're going to do
17 the order up for today.

18 MR. MIGLIORI: Yes.

19 THE COURT: In the practice and procedure order
20 that will go out today, that will include a provision
21 that covers that so that the record's clear.

22 MR. MIGLIORI: There's going to be an electronic
23 issue that we probably need to call and figure out the
24 best way because --

25 THE COURT: Yeah, work with Barbara on that

1 because the problem is, if you file it as a master,
2 then the question is: What cases does it apply to?

3 MR. BROWN: Notice of adoption of the master
4 under the time slot. We can figure it out.

5 THE COURT: But make sure you work with Barbara
6 on that so that the docketing doesn't get messed up --
7 okay? -- and John.

8 MR. BROWN: John's looking skeptical. I just
9 wanted the record to reflect that.

10 THE COURT: I don't know whether you've met my
11 folks, but this is John Duhamel and Barbara Barletta
12 who are my calendar clerk and courtroom deputy,
13 terrific people. And if you have any questions at all,
14 they will help you, they'll walk you through it. Just
15 don't sit in Barbara's chair.

16 MR. HOOPER: And, finally, Your Honor, I only
17 raise that so that, since the parties are here, I had
18 the privilege of being a partner with Magistrate Almond
19 for one or two years. We actually didn't -- I was in
20 the New York office, and I don't think we actually
21 worked on any cases together, but I thought I would
22 just -- I spoke to Mr. Migliori to make sure he didn't
23 have any issue or any conflicts, and he didn't, but I
24 thought it was fair that --

25 THE COURT: Did you even know that?

1 MAGISTRATE JUDGE ALMOND: I did, and I was going
2 to bring it up at the end of the conference. We never
3 worked together, I don't believe.

4 THE COURT: And that was a gazillion years ago?

5 MAGISTRATE JUDGE ALMOND: No. I left the firm
6 in September of 2004, so you were still there at that
7 time?

8 MR. HOOPER: I started in 2001, Your Honor.

9 THE COURT: You don't have a problem with it?

10 MR. MIGLIORI: Not at all.

11 THE COURT: Okay. Thank you for letting us know
12 that. We won't hold it against you.

13 MR. BROWN: That's two ways.

14 THE COURT: Anything else that we need to
15 address today?

16 MR. MIGLIORI: No, Your Honor. I think it's a
17 good day.

18 MR. BROWN: It's a good day.

19 THE COURT: All right. Very good. If you need
20 either of us, I think the discovery disputes are
21 probably coming to an end, so you won't be talking with
22 Judge Almond, but if you need either of us for
23 anything, you know how to find us.

24 MR. BROWN: Thank you, Your Honor.

25 THE COURT: And we are available.

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

MR. MIGLIORI: Thank you.
MR. HOOPER: Thank you, Your Honor.
(Conference concluded at 2:30 p.m.)

C E R T I F I C A T I O N

I, Debra D. Lajoie, RPR-FCRR-CRI-RMR, do
hereby certify that the foregoing pages are a true and
accurate transcription of my stenographic notes in the
above-entitled case.

/s/ Debra D. Lajoie

5/12/09