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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:**

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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.

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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