

**United States District Court
District of Rhode Island**

In Re: Kugel Mesh Hernia Products Liability Litigation
Multidistrict Litigation (MDL 1842)

MDL DOCKET NO. 07-1842-ML
All Cases

An open session conference was held on March 7, 2013. The conference was transcribed. The Court and counsel discussed the items listed on the agenda (docket # 4081). There were several attorneys in attendance. Approximately 114 parties also listened by teleconference.

1. Status of the parties' efforts to resolve MDL cases

To date, more than 3,100 cases have been resolved and, of those, 1,420 are part of the MDL. There are approximately 567 cases remaining in the MDL. Counsel are engaged in active settlement discussions in 469 of those cases. Of the 469 cases, about half were filed by firms with five or more cases and half were filed by firms with less than five cases. Of the firms with less than five cases, 86 firms are pursuing 138 cases. Defense counsel is in active settlement discussions in some of these cases. Defense counsel, however, has not responded to outstanding demand requests in others. There are also a large number of cases where no demand has been made. In addition, there are approximately 98 cases where defense counsel has not had any dialogue with plaintiffs' counsel.

2. Status of efforts to identify firms that have not engaged in the settlement process

An intensive settlement/mediation process will be instituted to aid in resolution of cases and will operate over the next 90-120 days. The process will concentrate on those firms with less than five cases. One day per month for the next three to four months, defense counsel will meet with interested plaintiff's counsel to discuss resolution. Any cases that are not resolved as a result of the intensive settlement process will be scheduled for mediation the following month. Plaintiff's counsel should contact Donald Migliori or Leah Donaldson at Motley Rice in order to aid in the scheduling of, and preparation for, a settlement conference. The intensive settlement process will start April 15, 2013.

3. Status of MDL mediations

Twenty-two cases have been mediated. Sixteen cases have been resolved. Counsel continue to negotiate on some of the remaining six cases.

4. Status of the MDL trial settings

The Burger case, filed by the Johnson law firm, will be tried in Houston, Texas starting May 13, 2013. The Court has also set aside the months of September and October 2013 for trial of cases in the District of Rhode Island. Cases eligible for trial in Rhode Island will be those

cases that were direct filed in this District, removed from Rhode Island Superior Court, or cases in which plaintiffs are willing to waive Lexecon requirements. Those plaintiffs who desire a trial date in September or October should contact Donald Migliori or Leah Donaldson at Motley Rice as soon as possible.

There are also cases set for trial in Illinois state court in September, October, November and December of 2013.

5. Request of Plaintiffs' counsel to conduct discovery in order to facilitate case valuation and resolution

For the next 90-120 days, parties should concentrate on the intensive settlement process and work toward a resolution. Counsel who have concerns about discovery should contact Donald Migliori or Leah Donaldson at Motley Rice to discuss the discovery issue before filing a motion for relief from the stay. That discussion may alleviate the necessity of filing a motion. Counsel are reminded, however, that the standing order provides for a relief from the stay in certain exigencies.

At the end of the intensive settlement process, if necessary, the Court will entertain motions for relief from the stay.

6. Status of filing motions to remand

Remand is a last resort. The parties in this MDL have made great progress, however, not all MDL cases may be resolved. As noted during the conference, for the next 90-120 days, parties should concentrate on the intensive settlement process and work toward a resolution. After completion of the intensive settlement process, the Court will entertain motions to remand. Those motions, however, must chronicle the good faith efforts that have been made by both sides at trying to resolve the case. Counsel should contact Donald Migliori or Leah Donaldson at Motley Rice for aid in evaluating remand issues.

7. Open issues

There were no open issues.