

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

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IN RE: XARELTO (RIVAROXABAN) Docket No. MDL-2592  
PRODUCTS LIABILITY LITIGATION Section "L"  
New Orleans, Louisiana  
THIS DOCUMENT RELATES TO: Thursday, September 17, 2015  
ALL CASES

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TRANSCRIPT OF MONTHLY STATUS CONFERENCE PROCEEDINGS  
HEARD BEFORE THE HONORABLE ELDON E. FALLON  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFFS'  
LIAISON COUNSEL:

HERMAN HERMAN & KATZ  
BY: LEONARD A. DAVIS, ESQ.  
820 O'Keefe Ave.  
New Orleans, LA 70113

GAINSBURGH BENJAMIN DAVID  
MEUNIER & WARSHAUER  
BY: GERALD E. MEUNIER, ESQ.  
2800 Energy Centre, 1100 Poydras  
New Orleans, LA 70163

FOR THE DEFENDANTS'  
LIAISON COUNSEL:

IRWIN FRITCHIE URQUHART & MOORE  
BY: JAMES B. IRWIN, ESQ.  
400 Poydras St., Suite 2700  
New Orleans, LA 70130

FOR STATE/FEDERAL COMMITTEE:

BARRIOS, KINGS DORF & CASTEIX  
BY: DAWN M. BARRIOS, ESQ.  
701 Poydras St., Suite 3650  
New Orleans, LA 70139-3650

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ALSO PRESENT:  
ALSO PRESENT:

BROWNGREER  
BY: JACOB WOODY  
250 Rockets Way  
Richmond, Virginia 23231

Official Court Reporter: Karen A. Ibos, CCR, RPR, CRR, RMR  
500 Poydras Street, B-275  
New Orleans, Louisiana 70130  
(504) 589-7776

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P R O C E E D I N G S

(THURSDAY, SEPTEMBER 17, 2015)

(MONTHLY STATUS CONFERENCE PROCEEDINGS)

09:15:30 4  
09:15:30 5 (OPEN COURT.)

09:15:30 6 THE COURT: Be seated, please. Good morning, ladies and  
09:15:31 7 gentlemen. Let's call the case, please.

09:15:33 8 THE DEPUTY CLERK: MDL-2529, *in re: Xarelto Products*  
09:15:37 9 *Liability Litigation.*

09:15:37 10 THE COURT: Liaison counsel make their appearance for the  
09:15:39 11 record, please.

09:15:41 12 MR. DAVIS: Good morning, your Honor, Leonard Davis from  
09:15:45 13 Herman, Herman & Katz, co-plaintiffs liaison counsel.

09:15:49 14 MR. IRWIN: And Jim Irwin for defendants, your Honor.

09:15:51 15 THE COURT: This is our monthly status conference. I've  
09:15:53 16 had an opportunity to meet with liaison and lead counsel a moment  
09:15:57 17 ago to discuss their proposed agenda. I'll take it in the presented  
09:16:02 18 order.

09:16:02 19 Pre-Trial Orders. Anything, Lenny?

09:16:05 20 MR. DAVIS: Thank you, your Honor. Yes. Pre-Trial Order  
09:16:08 21 No. 14 -- I'm sorry, No. 11B is new and it's referenced in the joint  
09:16:13 22 report. That Pre-Trial Order governs the Joined Plaintiff's  
09:16:19 23 responsibility for filing fees and modifies the second sentence of  
09:16:23 24 Paragraph 1(a) of Pre-Trial Order No. 11.

09:16:27 25 And I just point out to the Court, so that there is no

09:16:32 1 confusion to individuals, there are two Pre-Trial Order 11s. It's  
09:16:42 2 just a docketing issue.

09:16:43 3 THE COURT: I post these on my web site and I would advise  
09:16:49 4 everyone to take a look at the Pre-Trial Orders. I think they plot  
09:16:53 5 the course of the litigation, and particularly true with our next  
09:16:58 6 item Case Management Orders. Tell me about No. 2.

09:17:02 7 MR. DAVIS: Yes, your Honor. The plaintiffs and the  
09:17:05 8 defendants have submitted agreed upon CMO-2. That was submitted to  
09:17:10 9 the court on September 11. At that same time the portions that were  
09:17:18 10 not agreed to were also submitted to the court; and that dealt with  
09:17:22 11 two issues, the geographic composition of the bellwether trial and  
09:17:26 12 the discovery pool. And your Honor addressed those matters with  
09:17:31 13 individuals earlier, and we expect that the court will be issuing an  
09:17:37 14 order in the near future.

09:17:38 15 THE COURT: Yes. The Court Management Order No. 2 deals  
09:17:45 16 with the trial dates and deals with the discovery deposition  
09:17:54 17 schedule, bellwether selection discovery, the discovery limits,  
09:18:00 18 there's the initial bellwether discovery pool. I find in these  
09:18:03 19 cases that before we get to the bellwethers, we've got to have some  
09:18:08 20 discovery as to which cases ought to be involved in the bellwethers.  
09:18:13 21 It doesn't do any good to simply take the same case and try it over  
09:18:18 22 and over and over again. So what we try to do is get a discovery  
09:18:23 23 pool that mimics the census of the litigation. And from that  
09:18:29 24 discovery pool then limit the discovery to that discovery pool, at  
09:18:33 25 least from the plaintiffs' standpoint, so that you're not

09:18:37 1 discovering 2,000 or 3,000 or 4,000 cases, you're only discovering a  
09:18:43 2 certain amount.

09:18:43 3 We put 40 cases in that discovery pool and each side gets  
09:18:49 4 20 selections. We makeup the discovery pool by random selection and  
09:19:00 5 then various other methods of selecting, then the parties discover  
09:19:04 6 those, that discovery pool; and from the discovery pool, they can  
09:19:09 7 select then the cases to be tried.

09:19:13 8 In this particular case, we're getting cases from so far  
09:19:19 9 I think every state has been represented, we have at least one case  
09:19:23 10 from every state in the union. I think it's helpful for both sides,  
09:19:30 11 defendants as well as plaintiffs, to discover some cases that may  
09:19:38 12 not be within the lexicon scope. The parties have agreed that  
09:19:45 13 they're willing to try cases in Louisiana, Mississippi, and Texas.  
09:19:51 14 I would be going to Mississippi and I would be going to Texas to try  
09:19:56 15 those cases from there. And we may be limited to those three  
09:20:03 16 states, although it's open at this point and we may not be limited  
09:20:09 17 to those states.

09:20:10 18 But in any event, the discovery pool ought not to be  
09:20:13 19 limited to those states. I think the defendants miss an opportunity  
09:20:19 20 to discover cases from other states. They're not going to be a  
09:20:24 21 little bit pregnant by doing that, and, therefore, give up their  
09:20:28 22 right to object to Lexicon. They have a right to object based on  
09:20:35 23 Lexicon and this Court follows Lexicon, obviously, it's a Supreme  
09:20:42 24 Court case. The discovery of those cases may well be helpful and  
09:20:45 25 may inform the parties as to the nature and the extent of the

09:20:48 1 litigation.

09:20:49 2           As I mentioned in our private hearing, I see my  
09:20:53 3 responsibility to all of you all as a transferee judge as, first of  
09:21:00 4 all, coordinating discovery so that you don't have to take the same  
09:21:06 5 depositions in 50 states. So it's coordinated here.

09:21:12 6           But there's got to be a purpose. Why would you discover  
09:21:15 7 it if there's no purpose. The purpose is to inform you of the  
09:21:19 8 nature and extent of the litigation so that you can make some  
09:21:22 9 decisions on the scope of the litigation and what to do with it,  
09:21:27 10 because you're problem solvers, you're not problem creators. So  
09:21:31 11 you're trying to solve these problems. And so the discovery is  
09:21:34 12 helpful.

09:21:35 13           But in addition to the discovery, I also feel that I have  
09:21:39 14 an opportunity to give you some other information. That information  
09:21:44 15 can be gleaned only from trying cases. All of you all have tried  
09:21:49 16 case, I have also, and I know that you can prepare a case to a fine  
09:21:56 17 tune; but until you've tried that case, you really don't know that  
09:22:00 18 case. You learn something in every single trial, and so this is an  
09:22:06 19 opportunity to get some information from juries, to get some  
09:22:13 20 information from the method of trying those particular cases.

09:22:18 21           So that's where the bellwethers come in. Discovery,  
09:22:21 22 everybody does it. I think the bellwether is helpful to you in  
09:22:26 23 giving you the full course and full picture of the case so that  
09:22:30 24 later on you can decide what to do with it. So that's why we're  
09:22:35 25 doing what we're doing.

09:22:37 1           The parties have reached an agreement on Case Management  
09:22:40 2 Order 2. They gave me Case Management Order 3, I met with them a  
09:22:45 3 moment ago and made some suggestions; hopefully those suggestions  
09:22:50 4 will resolve any disputes in Case Management Order 3.

09:22:54 5           MR. DAVIS: Your Honor, the next item on the agenda is  
09:22:57 6 Counsel Contact Information Form. And I remind counsel, all  
09:23:02 7 plaintiffs counsel, to look at the Pre-Trial Orders that are on the  
09:23:05 8 court's web site, in particular Pre-Trial Order 4A, to fill out  
09:23:13 9 counsel contact information form and turn it in. And it's really  
09:23:16 10 important with respect to the next item on the agenda, which is MDL  
09:23:23 11 Centrality.

09:23:24 12           Your Honor, we understand that there are 58 overdue  
09:23:29 13 Plaintiff Fact Sheets at this time, and we understand that primarily  
09:23:35 14 those individuals have not signed up for MDL Centrality. And I  
09:23:41 15 don't know if any of those lawyers are participating on the phone or  
09:23:44 16 listening in, but we strongly encourage them to send in the profile  
09:23:51 17 forms -- the fact sheets, rather, and the profile forms, so that  
09:23:56 18 they can get registered for MDL Centrality.

09:24:01 19           We will be reaching out to those 58 folks so that they  
09:24:05 20 get an individual contact from the PSC, and we will be working with  
09:24:10 21 defendants to make sure that those profile forms get turned in  
09:24:14 22 timely.

09:24:15 23           THE COURT: I would reinforce that and urge everybody to  
09:24:20 24 comply with the informational requirements of MDL Centrality. We're  
09:24:29 25 trying a new approach with this particular case, we're putting the

09:24:33 1 fact sheets from both sides online so that they can be searchable  
09:24:39 2 and we can collect the data.

09:24:41 3           The big problem in an MDL is the number of cases and the  
09:24:47 4 number of cases present problems, and one of the problems that  
09:24:50 5 presents is that you need to understand what the scope of the  
09:24:54 6 litigation is. And it's very difficult when you're looking at  
09:25:00 7 thousands of pages of fact sheets to try to categorize those various  
09:25:07 8 cases. You can do it better online and put those cases in various  
09:25:14 9 categories, and then from those categories pick the discovery group,  
09:25:20 10 pool, and then from that discovery pool pick the bellwether cases so  
09:25:25 11 that it represents or mimics the litigation as a whole, a census of  
09:25:31 12 the litigation as a whole. And this is an important part of it.

09:25:34 13           We've had some hiccups, sort of hiccups, but it's either  
09:25:40 14 growing pains or attempts to meet the requirements of the parties  
09:25:46 15 asking for information, but we're moving in the direction that  
09:25:53 16 hopefully will give us all of the information that's necessary.

09:25:57 17           But we need everybody's cooperation on this, and if you  
09:26:00 18 don't cooperate, then you're not going to be in the pool and you're  
09:26:05 19 not going to have an opportunity to try the case, and it's going to  
09:26:09 20 have an adverse effect, or may well have an adverse effect. So I  
09:26:14 21 urge you to take a look at it and get on the boat with Centrality.

09:26:18 22           MR. DAVIS: Yesterday we have a lengthy meeting with  
09:26:21 23 Centrality -- when I say "we," plaintiffs and defendants, all  
09:26:25 24 parties. We spent a lot of time going over Centrality. And I am  
09:26:30 25 happy to report that all parties are pleased with the system. There

09:26:34 1 will be no delays. It's working.

09:26:38 2 And as your Honor said, it's a normal system, it's new.  
09:26:41 3 You do have some of the growing pains that you do have, but folks  
09:26:45 4 are reminded that they really need to submit their materials and get  
09:26:51 5 that in to the system so that the system works as it's designed.

09:26:57 6 And I am pleased and glad that we had an opportunity to  
09:27:02 7 meet with Orren Brown and with Jake Woody, and all of the parties  
09:27:06 8 did --

09:27:07 9 THE COURT: Well, they're here today. Do you have  
09:27:10 10 anything, Jake or Orren, to report to us?

09:27:13 11 MR. BROWN: Good morning, your Honor, Orren Brown from  
09:27:15 12 BrownGreer, and Jake Woody is with me today.

09:27:18 13 And we want to say, first, we have been working the  
09:27:22 14 parties, we're at the stage where people are using the system; and  
09:27:24 15 it's much the way you described trying a case, you don't really know  
09:27:28 16 how the fact sheet is going to work until you're actually doing it.  
09:27:33 17 And a lot of what we're dealing with now are questions that would  
09:27:36 18 come up even if this were being done the old fashion way or in PDFs:  
09:27:40 19 "When can you amend? When does it stop? What do you do with the  
09:27:44 20 amended ones?"

09:27:45 21 We're at the stage where we're hearing from the users -  
09:27:46 22 the four defense firms, the two defendants, plaintiffs' leadership,  
09:27:49 23 plaintiffs' counsel - we want to hear how they want it to work and  
09:27:54 24 make adjustments, that's what we do, we're committed to making that  
09:27:56 25 happen. And here we are doing that.

09:27:57 1 Jake Woody is going to just give you a quick update on the  
09:28:00 2 numbers and what we've gotten in.

09:28:02 3 THE COURT: Okay.

09:28:07 4 MR. WOODY: Good morning, your Honor. My name is Jake  
09:28:18 5 Woody, I am here from BrownGreer just to give you a quick update on  
09:28:22 6 what's in MDL Centrality right now.

09:28:25 7 As you mentioned, MDL Centrality is an online platform for  
09:28:30 8 anyone new to the litigation that allows you to fill out the fact  
09:28:32 9 sheet online and upload supporting documents. It's a secure portal  
09:28:37 10 that we register firms for and then they can fill out these fact  
09:28:41 11 sheets on the screens.

09:28:42 12 So far we have 1,316 Plaintiff Fact Sheets submitted;  
09:28:46 13 another 855 are in progress, meaning they started the process, they  
09:28:49 14 haven't yet submitted the fact sheet; that's a total of 2,171 fact  
09:28:54 15 sheets either submitted or in progress.

09:28:56 16 Of the 1,316 that have been submitted, 313 have been  
09:29:01 17 amended, meaning that the plaintiff made a change to the fact sheet  
09:29:05 18 and re-submitted it. We save the original fact sheet and the  
09:29:08 19 amended fact sheet in the system so that you can see all versions of  
09:29:12 20 the fact sheet, and you can amend the fact sheet as often as  
09:29:15 21 necessary as you receive new information or need to supplement a  
09:29:19 22 previous submission.

09:29:20 23 Our submission trend is on this slide here. We received  
09:29:28 24 687 submissions in July and that is because the first deadline to  
09:29:33 25 submit fact sheets I believe was July 3rd, 60 days after your

09:29:37 1 May 4th Pre-Trial Order. We have 350 in August and 174 so far in  
09:29:43 2 September, so you can see that at least for the first two regular  
09:29:46 3 months of the program we're receiving between three and 400 fact  
09:29:52 4 sheets a month, and we don't see any reason why that won't continue  
09:29:56 5 for the foreseeable future.

09:29:58 6 THE COURT: Okay.

09:29:58 7 MR. WOODY: We do have some functionality in the system  
09:30:02 8 that allows the defendants to review the fact sheets to determine if  
09:30:05 9 the answers and documents that have been provided are sufficient.  
09:30:11 10 And they look at the documents and when they make a determination  
09:30:14 11 that something is missing, either an answer or information or a  
09:30:17 12 document, they can issue what we call a deficiency notice.

09:30:20 13 So far we have 453 deficiency notices issued and 281  
09:30:27 14 plaintiffs have amended a fact sheet after receiving that deficiency  
09:30:30 15 notice. So the system allows the defendants to notify the  
09:30:33 16 plaintiffs of a deficiency and then the plaintiffs can amend the  
09:30:37 17 fact sheet, essentially responding to the deficiency notice, and  
09:30:41 18 hopefully curing whatever the problem is.

09:30:43 19 THE COURT: What happens if they don't clear it up?  
09:30:49 20 What's the next step?

09:30:51 21 MR. WOODY: I will have to defer to the parties on how  
09:30:53 22 that is handled. We are certainly able to track what happens,  
09:30:56 23 whether people respond not, how they respond, what they respond  
09:30:59 24 with. But MDL Centrality does not automatically take any action, we  
09:31:05 25 defer to the parties on that.

09:31:06 1 THE COURT: I think you ought to put it in the system so  
09:31:09 2 that you can contact the plaintiffs' counsel; if it's defendants,  
09:31:14 3 contact defense liaison counsel; if it's for plaintiffs, contact  
09:31:17 4 plaintiffs liaison counsel, give them the name of people that are  
09:31:21 5 having difficulty so that they can make personal calls to those  
09:31:25 6 individuals.

09:31:25 7 MR. DAVIS: Your Honor, what we will do is, when we get  
09:31:28 8 that list from Jake, we will meet with defendants and address a  
09:31:32 9 number of those issues. I did hear comments yesterday about some of  
09:31:38 10 the deficiency issues, and there are matters that need to be  
09:31:41 11 discussed with defendants about some of those, and we will do that.

09:31:45 12 THE COURT: Okay. Great.

09:31:49 13 MR. WOODY: We also issued what we call overdue notices, I  
09:31:52 14 think Mr. Davis mentioned this earlier. These are notices to people  
09:31:55 15 who have not submitted a fact sheet and the fact sheet is now due.  
09:31:58 16 We've issued 82 of those notices through MDL Centrality. There are  
09:32:03 17 another 58, as Lenny mentioned, who have not even taken the step to  
09:32:07 18 register with us so it's impossible for us to send them a  
09:32:10 19 notification.

09:32:10 20 In some cases people register with us but don't submit the  
09:32:14 21 fact sheet timely, and we are able to issue them a notice -- or the  
09:32:18 22 defendants are able to issue them a notice through MDL Centrality.  
09:32:22 23 And the 82 that have been issued through MDL Centrality, we've  
09:32:23 24 received 47 submitted fact sheets after that overdue notice was  
09:32:27 25 issued.

09:32:30 1           This is just a sample of what the deficiency notice looks  
09:32:33 2 like, it's basically a form letter, it's a PDF that we generate,  
09:32:37 3 save in the file along with every other document. We send an e-mail  
09:32:42 4 notification to the plaintiff's firm that there is a deficiency  
09:32:44 5 notice for a particular plaintiff. This letter or notice lists the  
09:32:50 6 exact things that are missing from the fact sheet, whether it's an  
09:32:54 7 answer or a document. We populate this table on the fact sheet with  
09:32:57 8 all of that information so that it is saved in the file and everyone  
09:33:02 9 can see what the deficiencies are.

09:33:06 10           We also make available to the plaintiffs firms a report,  
09:33:11 11 Microsoft XL report; that's a spreadsheet that lites all of  
09:33:15 12 deficiencies, it takes all of the deficiency notices that have been  
09:33:19 13 issued, aggregates them into one place. And we give you the name of  
09:33:21 14 the plaintiff, the date that they submitted the fact sheet, the date  
09:33:24 15 of the deficiency notice, and the date that the response is due,  
09:33:26 16 which is generally 20 days after the notice.

09:33:28 17           And we list the deficiency reasons, just like we list in  
09:33:32 18 that table that I showed you earlier. And then we also are able to  
09:33:35 19 tell you whether or not you submitted an amended PFS after the  
09:33:40 20 deficiency notices, essentially responding to it, or uploaded a new  
09:33:43 21 document. This report is available to each plaintiff firm and shows  
09:33:47 22 only their plaintiffs. We also have obviously a master copy that we  
09:33:52 23 can share with Lenny and the PSC.

09:33:55 24           THE COURT: Let's figure out a way of giving plaintiffs  
09:34:00 25 liaison counsel a list of the people, the problems that you're

09:34:03 1 having, so that they can make contact because some individuals may  
09:34:07 2 have difficulty doing this online and it's just a fact of the  
09:34:10 3 matter.

09:34:11 4 MR. WOODY: Certainly. We will work with everyone to get  
09:34:14 5 this information out.

09:34:15 6 We also issue Defendant Fact Sheets through MDL  
09:34:19 7 Centrality. Obviously the Defendant Fact Sheets are a response to  
09:34:24 8 the Plaintiff Fact Sheet that is submitted. Each defendant issues a  
09:34:27 9 separate Defendant Fact Sheet. So far Bayer has submitted 165  
09:34:32 10 defendant fact sheets, Janssen has submitted 160.

09:34:36 11 When a new Defendant Fact Sheet is submitted, we send an  
09:34:40 12 e-mail notification to the plaintiff's firm who represents the  
09:34:42 13 plaintiff to whom that fact sheet applies, notifying them that the  
09:34:46 14 fact sheet is available, they can go online and see the actual fact  
09:34:49 15 sheet in a PDF in the file, along with any documents that the  
09:34:52 16 defendants upload in support of their defendant action.

09:34:56 17 THE COURT: Okay.

09:34:57 18 MR. WOODY: Finally, just some miscellaneous statistics  
09:35:00 19 for you. We have 251 firms registered with MDL Centrality. 634  
09:35:07 20 separate active users of MDL Centrality on the plaintiff side.  
09:35:11 21 19,189 documents have been uploaded and are being stored in MDL  
09:35:16 22 Centrality right now. The largest file is 443 megabytes. I mention  
09:35:20 23 that because that is quite a large document. We have no trouble  
09:35:24 24 accommodating documents of that size, we expect large documents in  
09:35:28 25 any case like this where there are copious medical records and

09:35:31 1 things of that nature. So there shouldn't be any problem with  
09:35:34 2 people uploading any type of document they need to upload.

09:35:37 3 And finally, the pleadings component of MDL Centrality,  
09:35:42 4 we have distributed 621 pleadings to plaintiffs firms, we get those  
09:35:48 5 from the court's ECF system from the master docket. We download  
09:35:53 6 them, save them in MDL Centrality, they're searchable either by  
09:35:58 7 docket title or date or by the text within the pleading itself, and  
09:36:03 8 we issue an e-mail notification of every new pleading and attach the  
09:36:06 9 pleading to the e-mail so that all plaintiffs users, if they want,  
09:36:10 10 they can review every filing in the master docket.

09:36:12 11 THE COURT: So the plaintiff, the litigants -- the  
09:36:15 12 plaintiffs need to simply file in court and they don't need to file  
09:36:19 13 with you, you pick it out of the court record and then disburse it?

09:36:23 14 MR. WOODY: Correct. We automatically download it, save  
09:36:26 15 it, no one needs to do anything other than file with the court and  
09:36:30 16 we're able to access those documents.

09:36:30 17 THE COURT: And with regard to filing with the court,  
09:36:32 18 electronic filing, we are having some difficulties. I suggest to  
09:36:35 19 everybody take a look at the court's web site on how to file. If  
09:36:41 20 you have any difficulties, simply call the clerk's office and there  
09:36:45 21 is someone that will be designated to be of assistance to you. So  
09:36:51 22 take a look at the rules. If you need to contact the court, the  
09:36:56 23 clerk's office, and somebody will walk you through it. Thank you.

09:36:59 24 MR. WOODY: Can I just give our contact information very  
09:37:01 25 quickly, your Honor, in case anybody needs to contact us?

09:37:04 1 THE COURT: Yes.

09:37:05 2 MR. WOODY: The web site for the portal is  
09:37:07 3 www.mdlcentrality.com/mdl2592. You can email us at  
09:37:09 4 mdlcentrality@browngreer.com. And if you need to call us, you can  
09:37:21 5 call us at (804) 521-7200. Thank you, your Honor.

09:37:22 6 THE COURT: All right. Thank you very much. So the  
09:37:26 7 Centrality is really a twofer in a sense: One is to -- it's really  
09:37:30 8 to take the place of interrogatories. It's been our experience over  
09:37:34 9 the years with the MDLs, particularly is that interrogatories are a  
09:37:40 10 lame discovery device, it's a device that's prepared by lawyers and  
09:37:44 11 answered by lawyers. And the people who prepare it want every  
09:37:51 12 information known to the world and the person who is answering  
09:37:53 13 doesn't want to give any information. So we have a lot of motions  
09:37:56 14 back and forth.

09:37:57 15 So we're trying to do away with interrogatories in the  
09:38:01 16 MDLs and supplement that with fact sheets so that you can get the  
09:38:05 17 information that you need, rather than -- in a time that's relevant.

09:38:10 18 And that's the big purpose of it, it takes the place of  
09:38:15 19 interrogatories, it's less motion practice, and it's more efficient  
09:38:18 20 to do. But you need to cooperate with it.

09:38:20 21 In addition to that, the Centrality also allows for  
09:38:26 22 e-mailing notices of all of the pleadings that have been filed so  
09:38:29 23 that when you're in the system, you automatically get a notice of  
09:38:33 24 all of the pleadings that have been filed in the case.

09:38:40 25 MR. DAVIS: Your Honor, the next item on the agenda -- and

09:38:42 1 I don't need to cover, Plaintiff Fact Sheets or Defendant Fact  
09:38:46 2 Sheets anymore, I don't believe -- is the Bundling of  
09:38:50 3 Complaints/Answers/Responsive Pleadings. There is nothing new on  
09:38:53 4 that other than the Pre-Trial Order 11 that I mentioned earlier.

09:38:56 5 With respect to Preservation Orders, the parties have  
09:39:01 6 submitted a proposed Pre-Trial Order that addresses voicemail,  
09:39:05 7 instant messaging, and text, and we expect that the court will be  
09:39:08 8 addressing that in the near future.

09:39:11 9 With respect to Discovery. As your Honor is aware, we  
09:39:18 10 have weekly or biweekly conferences with the court to report on  
09:39:22 11 discovery. Those have been very helpful, we appreciate the court  
09:39:27 12 giving us that opportunity.

09:39:29 13 Pre-Trial Order 21 has been submitted to the court for  
09:39:34 14 consideration, which deals with additional refinements to rolling  
09:39:40 15 document production; and it's part and parcel of Pre-Trial Order  
09:39:45 16 No. 2 and No. 3.

09:39:48 17 I also report to the court that plaintiffs and defendants  
09:39:52 18 have meetings every other week by phone to address privilege issues,  
09:39:58 19 so those matters are ongoing.

09:40:01 20 So discovery is in the process, it is moving forward, and  
09:40:06 21 the PSC will be issuing very shortly 30(b)(6) notices for corporate  
09:40:12 22 organization structural depositions; and we've been in communication  
09:40:15 23 with defendants on that, and we expect to be getting dates to set  
09:40:19 24 those depositions very shortly, and we expect to get those notices  
09:40:25 25 issued in the very near short future.

09:40:27 1           The next item on the agenda is Deposition Guidelines.  
09:40:34 2           The parties continue to work on that. We expect that we will have a  
09:40:38 3           proposed order to your Honor shortly. I don't foresee problems with  
09:40:44 4           that.

09:40:44 5           The next item on the agenda is Discovery Issued to Third  
09:40:49 6           Parties and we continue to move forward with those matters, and as  
09:40:58 7           documents come in we'll deal with it.

09:41:04 8           THE COURT: Anything on State/Federal Coordination?

09:41:06 9           MR. DAVIS: We have Ms. Barrios is here, and we also have  
09:41:10 10          the representatives from the committee here.

09:41:14 11          THE COURT: All right.

09:41:15 12          MS. BARRIOS: Good morning, your Honor, Dawn Barrios for  
09:41:17 13          the Federal/State Committee.

09:41:19 14          I would like to just note that the co-leads for  
09:41:21 15          Philadelphia, Mr. Gallucci and Mr. Yankowitz are here in court, and  
09:41:26 16          they are obviously much more qualified to answer any questions about  
09:41:30 17          what's going on in their litigation than I am.

09:41:32 18          THE COURT: Okay. I appreciate you all being here and we  
09:41:35 19          met a moment ago at the conference, and I am trying to coordinate  
09:41:44 20          with the state, you've got a great state court judge doing terrific  
09:41:51 21          work there, and I want to make sure that he has access and you have  
09:41:54 22          access to all of the material that's been discovered here so that  
09:41:58 23          it's more efficient for you and is less costly.

09:42:01 24          So I do appreciate you all being here and also cooperating  
09:42:06 25          with the process. I think that's been very helpful. I look forward

09:42:10 1 to working with you throughout the litigation. And if you have any  
09:42:13 2 problems, bring it up at this conference so that we can deal with  
09:42:16 3 it.

09:42:18 4 MS. BARRIOS: Your Honor, I add my thanks and appreciation  
09:42:20 5 because they constantly are e-mailing me, keeping me up-to-date, as  
09:42:25 6 well as keeping the PSC up-to-date.

09:42:27 7 I prepared the usual state court stats based upon the  
09:42:33 8 information that the defendants have provided me, and we have a  
09:42:37 9 total of 328 state court proceedings and there are 320 in  
09:42:46 10 Philadelphia. So according to Mr. Longer's calculation, 98 percent  
09:42:52 11 of the cases are in Philadelphia. There are six in New Jersey and  
09:42:55 12 two in Missouri. Our committee has reached out to the plaintiff's  
09:42:59 13 counsel in the other cases and asked if they would please cooperate  
09:43:04 14 and work with us in discovery. We received no push back on that.

09:43:09 15 I am planing on doing a draft of a letter to each trial  
09:43:13 16 judge and giving them a dropbox with all of your orders in it. I  
09:43:17 17 will of course pass that by the PSC and defense counsel on that.

09:43:22 18 And if the defendants have any problems in any of the  
09:43:26 19 state court cases, with someone trying to push something forward,  
09:43:32 20 I'm sure they'll notify me and we will take care of it.

09:43:35 21 Thank you, your Honor.

09:43:35 22 THE COURT: Thank you. Anything from the defendants?  
09:43:36 23 Jim?

09:43:36 24 MR. IRWIN: Your Honor, only that Mr. Davis and I worked  
09:43:40 25 closely this week on Joint Report No. 8. We had our usual

09:43:44 1 conference yesterday in preparation, I appreciate his well said  
09:43:47 2 words today.

09:43:48 3 THE COURT: Good. Okay. And the next status conference  
09:43:50 4 is October when?

09:43:53 5 THE LAW CLERK: October 21st.

09:43:57 6 THE COURT: October 21st and the following one is  
09:44:00 7 November?

09:44:01 8 THE LAW CLERK: 16th.

09:44:03 9 THE COURT: 16th. The November conference is at three  
09:44:07 10 o'clock with a 2:30 meeting of liaison counsel.

09:44:11 11 Anything further from anyone in the audience? All right,  
09:44:14 12 Folks. Thank you very much. The court will stand in recess.

09:44:17 13 THE DEPUTY CLERK: All rise.

09:44:18 14 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)

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#### REPORTER'S CERTIFICATE

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20 I, Karen A. Ibos, CCR, Official Court Reporter, United  
21 States District Court, Eastern District of Louisiana, do hereby  
22 certify that the foregoing is a true and correct transcript, to the  
23 best of my ability and understanding, from the record of the  
24 proceedings in the above-entitled and numbered matter.

23

/s/ Karen A. Ibos  
Karen A. Ibos, CCR, RPR, CRR, RMR  
Official Court Reporter

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