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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re: National Hockey League
Players' Concussion Injury
Litigation

MDL No. 14-2551 (SRN/JSM)

(ALL ACTIONS)

St. Paul, Minnesota
Courtroom 7B
January 7, 2016
9:30 a.m.

BEFORE THE HONORABLE:

SUSAN RICHARD NELSON, UNITED STATES DISTRICT COURT JUDGE

JANIE S. MAYERON, UNITED STATES MAGISTRATE JUDGE

FORMAL STATUS CONFERENCE

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1 P R O C E E D I N G S

2 I N O P E N C O U R T

3 (Commencing at 9:38 a.m.)

4 JUDGE NELSON: We are here this morning on the
5 matter of the National Hockey League Players' Concussion
6 Injury Litigation. This is MDL file 14-2551. Mr. Zimmerman,
7 would you start us off with making an appearance on behalf of
8 the Plaintiff?

9 MR. CHARLES ZIMMERMAN: Happy New Year, everyone.
10 And my name is Charles Zimmerman. I'm here for the
11 Plaintiffs.

12 MR. MARK DEARMAN: Mark Dearman for the Plaintiffs.

13 MR. STEPHEN GRYGIEL: Good morning, Your Honors.
14 Steve Grygiel for the Plaintiffs.

15 MR. BRIAN GUDMUNDSON: Good morning. Brian
16 Gudmundson for the Plaintiffs.

17 MR. MICHAEL CASHMAN: Good morning, Your Honors.
18 Michael Cashman for the Plaintiffs.

19 MR. BRIAN PENNY: Brian Penny for the Plaintiffs.

20 MR. STUART DAVIDSON: Good morning, Your Honor.
21 Stuart Davidson for the Plaintiffs.

22 MR. SCOTT ANDRESEN: Good morning. Scott Andresen
23 for the Plaintiffs.

24 MR. THOMAS BYRNE: Good morning. Tom Byrne for the
25 Plaintiffs.

1 MR. WILLIAM GIBBS: Hello. Bill Gibbs for the
2 Plaintiffs.

3 MR. DAVID GOODWIN: Good morning, Your Honors.
4 David Goodwin for the Plaintiffs.

5 MR. CHRISTOPHER RENZ: Good morning, Your Honors.
6 Chris Renz for the Plaintiffs.

7 MR. DANE DeKREY: Good morning, Your Honor. Dane
8 DeKrey for the Plaintiffs.

9 MR. JEFFREY KLOBUCAR: And good morning, Your Honor.
10 Jeffrey Klobucar on behalf of the Plaintiffs. Also appearing
11 for the Plaintiffs telephonically today, we have David Levine
12 from the Levine Law Firm; Hart Robinovitch from the Zimmerman
13 Reed firm; James Anderson from Heins Mills & Olson; and Bryan
14 Bleichner from the Chestnut Cambronne firm.

15 JUDGE NELSON: Thank you.

16 Mr. Beisner.

17 MR. JOHN BEISNER: Good morning, Your Honors. John
18 Beisner on behalf of Defendant, NHL. And I just want to note,
19 Your Honor, that the use of this microphone does create a risk
20 that one of your Counsel may break out in songs.

21 JUDGE NELSON: And which Counsel might that be?

22 MR. JOHN BEISNER: You refrain (laughter).

23 MR. CHARLES ZIMMERMAN: Only if I can dance.

24 MR. JOSEPH BAUMGARTEN: Good morning, Your Honors.
25 Joseph Baumgarten for the Defendants.

1 MR. DANIEL CONNOLLY: Good morning, Your Honors.
2 Dan Connolly for Defendant, NHL.

3 JUDGE NELSON: Mr. Connolly, are you a singer, as
4 well?

5 MR. DANIEL CONNOLLY: Only if beverages are served,
6 Your Honor, that aren't served here (laughter).

7 MR. MATTHEW MARTINO: Good morning. Matt Martino
8 for the NHL.

9 MS. LINDA SVITAK: Good morning. Linda Svitak for
10 the NHL.

11 MR. KENNETH MALLIN: Good morning. Kenneth Mallin
12 on behalf of the Clubs.

13 JUDGE NELSON: Very good.

14 MR. DANIEL CONNOLLY: Your Honor, in addition, by
15 telephone we have David Zimmerman and Julie Grand from the
16 NHL; Shepard Goldfein and James Keyte from Skadden Arps; and
17 Adam Lupion from Proskauer Rose.

18 JUDGE NELSON: Very good. All right. We have an
19 agenda. Shall we begin with Defendant's document production?
20 Mr. Martino.

21 MR. MATTHEW MARTINO: Good morning again. Matt
22 Martino for the NHL. Hopefully this will be really quick.
23 The NHL's document production is complete, as we've been
24 mentioning the last few conferences, aside from any of the
25 documents that come out of the priv challenge process.

1 On the Board of Governors, we have the text message
2 issue, and we've produced text messages for a number of the
3 Governors. We've also produced Declarations for a few others,
4 and we're just about complete. We are still reviewing for one
5 Governor, and we still have two to collect. One I've
6 mentioned before was San Jose, and we're in the -- I think we
7 think we'll have that done in the next couple weeks. And the
8 other is Vancouver, and we're working on getting those
9 collected, as well.

10 The other is the Plaintiffs' request for documents
11 from the additional Governors for eight Clubs, the Alternate
12 Governors. And we have three outstanding Clubs for which
13 we've not yet produced, that's Edmonton, Toronto, and Anaheim.
14 And documents for those alternates are being processed and
15 reviewed now, and we should have responsive materials produced
16 within the next two weeks.

17 And the final issue that we've discussed in the past
18 is Calgary. And we have collected and are reviewing documents
19 for the Governor, Murray Edwards, and the Alternate Governor,
20 Ken King. And we should have responsive documents produced
21 next week, should there be any. We've also searched for the
22 Governors' text messages, as well.

23 JUDGE NELSON: Very good. So really in two weeks
24 time, you might be able to get up and say --

25 MR. MATTHEW MARTINO: That's right. For the next

1 one, we may be able to say we're done.

2 JUDGE NELSON: Very good. Thank you.

3 Any response to the Defendant's document production?

4 Yes.

5 MR. BRIAN GUDMUNDSON: Just very briefly, Your
6 Honor. Again, our concern is with the length of time it has
7 taken, but again there has been a good degree of transparency
8 with Mr. Martino. And they have represented to the Court that
9 we should be done within two weeks, and so I really have
10 nothing further to say.

11 JUDGE NELSON: Very good. Thank you.

12 All right. The stipulation on the proposed Amended
13 Master Class Action Complaint.

14 MR. STUART DAVIDSON: Good morning, Your Honors.

15 JUDGE NELSON: Good morning.

16 MR. STUART DAVIDSON: Stuart Davidson on behalf of
17 the Plaintiffs.

18 Yesterday, we e-mailed your chambers a proposed
19 stipulation that Mr. Beisner and I negotiated that concerns
20 the timing for filing of the proposed Amended Master Complaint
21 and some issues relating to the currently-on-file motions to
22 dismiss, as well as further briefing. We wanted to send that
23 to the Court before filing it with the Court to make sure it
24 was acceptable to Your Honor, and if the deadlines and dates
25 set forth in the stipulation are acceptable, as well.

1 The only thing I would add is that we also sent you
2 a -- the redline of our proposed Amended Master Complaint.
3 The only change to that, I envision, is that the Plaintiffs
4 intend to remove the administrative aspect of that Complaint
5 and to convert it into a true consolidated class action
6 Amended Complaint. That will apply to all the cases that are
7 before the Court in the MDL. That would, of course, include
8 the newly-filed -- newly-transferred case involving the Estate
9 of Steve Montador who, as the Court may know, took his own
10 life. And the case was filed by Mr. Gibbs' firm in Illinois
11 and has since been transferred, finally transferred to this
12 Court pursuant to the MDL's CTO.

13 So, if everything is acceptable to the Court,
14 Mr. Beisner and I can go ahead and get the stipulation on file
15 and then the deadlines will take it from there.

16 JUDGE NELSON: Very good.

17 Mr. Beisner?

18 MR. JOHN BEISNER: Your Honor, just two points I'd
19 like to raise on that. First of all, this question about
20 whether this is an administrative Complaint or a consolidated
21 Complaint, I think we have a number of issues still to work
22 out on that with Plaintiffs' counsel. I don't have any
23 objection to their getting the new Complaint on file since I
24 think it will be up to the parties to work out with the Court
25 the effect of the Complaint on the other cases.

1 I'm not going to preempt, I think, Mr. Cashman and
2 others will be talking to the Court about where we are on
3 those discussions and the Plaintiff Fact Sheet issue shortly,
4 so I don't want to go there right now. But I did want to note
5 that we may have some further discussion about exactly the
6 effect of the Amended Complaint on the other pending actions
7 in the MDL proceeding.

8 The other point I wanted to raise, Your Honor, in
9 the course of discussing the stipulation, Plaintiffs mention
10 the possibility of adding additional named Plaintiffs with
11 respect to the Class Two, and I think we need to have some
12 understanding about a deadline for doing that because we will
13 need a period of discovery with respect to anybody who is
14 added to that Complaint. Frankly, I think they should be
15 added now. The Plaintiffs have had a year to put into the
16 Complaint whatever they want. We've just gone through this
17 amendment process. I was hoping this would be the end of it.

18 But Your Honor has been quite clear we're not
19 extending the discovery period, absent, I think you said at
20 some point, an act of God. And I don't think that this would
21 qualify as an act of God. And we're going to need, given the
22 time it takes to gather medical records, this is going to be,
23 if it's a Class Two representative, presumably somebody who is
24 alleging that they have a longterm brain disease or somebody
25 related to someone who does, and so that's going to take

1 some -- that's a personal injury case discovery period we're
2 going to have to go through.

3 So, I do think we need to have some understanding
4 about a deadline for doing that. I thought we were there.
5 We're beyond the period originally set to complete discovery
6 in the case, so I think those sorts of things should have
7 happened by now.

8 JUDGE NELSON: Okay.

9 Mr. Davidson, do you want to approach and respond to
10 that?

11 MR. STUART DAVIDSON: Sure. I understand
12 Mr. Beisner's sentiments and concerns. And of course we
13 haven't decided whether that is going to be necessary at all,
14 and that kind of triggered what Mr. Beisner was raising with
15 the Court just now because we had wanted some language in the
16 stipulation to leave open that possibility. But at the end of
17 the day, if -- if we decide we need to do that or want to do
18 that, we're going to make a motion to Your Honor and set forth
19 all of our reasons and our rationales to -- and if the Court
20 agrees that we can do so, we can do so. But if the Court
21 says, you've had your time to do so, that time has passed,
22 I'll understand that.

23 But sometimes circumstances change. New Plaintiffs
24 get added to the MDL that may, perhaps, be good class
25 representatives that weren't available before. And in that

1 sense, in my opinion, this is premature. If we make a motion
2 to Your Honor, we'll do that and set forth what we believe to
3 be our good faith reasons for doing so. I don't personally
4 believe we need to have a deadline for doing so.

5 JUDGE NELSON: Mr. Beisner, is that acceptable to
6 you, so there isn't a deadline as such, but any effort to add
7 a named Plaintiff would require a motion?

8 MR. JOHN BEISNER: Well, obviously a motion would be
9 required. I understand that. I just didn't want everyone
10 operating under this belief that people can come in and add
11 folks any time. We're at the point now where I will just
12 flatly say to the Court we can't complete discovery on a new
13 personal injury claimant on the deadline the Court has set.
14 You know, the Supreme Court has made clear in *Dukes* and that
15 series of cases that there needs to be a careful analysis of
16 the claims, and particularly the class representatives. We
17 can't get it done.

18 Medical record collection process takes a long time,
19 and we're beyond that. You know, we're at the point now,
20 we'll deal with Mr. Ludzik. We decided that we'll do that,
21 but it's going to be tight to be able to get that information
22 that we're entitled to get together. And so I just don't want
23 the parties laboring under the belief that two months from now
24 you can come in and expect the briefing and everything to
25 proceed on the schedule the Court has scheduled because it's

1 just not going to be possible.

2 JUDGE NELSON: I think Mr. Beisner makes some good
3 points. You know, I'd have to see the specific circumstance
4 in the motion, but I think it is important that we keep a
5 tight schedule here.

6 All right. The Court does not have any difficulty
7 with the stipulation. I think that the "whereas" provisions
8 and the redline version answer the questions that I had before
9 that we discussed as a group, and so I will enter that
10 stipulation today.

11 MR. STUART DAVIDSON: Your Honor, would the Court
12 like us to -- sorry. Would the Court like me to get that on
13 file with the Court, and then the Court can enter an order
14 approving the stipulation or --

15 JUDGE NELSON: Yes. I don't have a proposed order.

16 MR. STUART DAVIDSON: Right. We can get that, as
17 well.

18 JUDGE NELSON: And that should be sent to my
19 chambers e-mail.

20 MR. STUART DAVIDSON: Done. Thank you.

21 JUDGE NELSON: All right.

22 All right. Plaintiff Fact Sheets.

23 MR. DANIEL CONNOLLY: Your Honor, Dan Connolly.

24 I think that the Plaintiff Fact Sheet and Defendant
25 Fact Sheets issues can be addressed together. Mr. Cashman and

1 Mr. Beisner and I have been discussing these topics, and we
2 need to figure out how to address the Plaintiff Fact Sheet and
3 Defendant Fact Sheets in light of the Amended Complaint and
4 whether it's administrative or consolidated. We have a
5 proposal to the Plaintiffs that's under review by them, and we
6 will get back to the Court, I trust, by the next informal
7 status conference.

8 JUDGE NELSON: Mr. Cashman?

9 MR. MICHAEL CASHMAN: That's correct, Your Honor.
10 And we have had discussions about the Amended Complaint and
11 the process for making that applicable to all of the other
12 Complaints. And we have a -- an agreement in principle on
13 that, I believe. And the issue that we're wrestling with or
14 will be wrestling with and we'll report at the next conference
15 is how that effects the Plaintiff Fact Sheets and the
16 Defendant Fact Sheets.

17 JUDGE NELSON: Okay. Very good.

18 Okay. The U.S. Clubs' production report.

19 MR. KENNETH MALLIN: Good morning, Your Honor.
20 Kenneth Mallin. We have produced a revised private medical
21 information log to the Plaintiffs. We did receive back a
22 letter from them addressing several concerns. We should have
23 a response back to them later this week or early next week.
24 We're not at a point where I think we need motion practice
25 with respect to that, but we'll continue the good faith

1 conversations we're having. And we'll report back to the
2 Court if, in fact, there's any need to have the Court address
3 any of those issues.

4 JUDGE NELSON: Very good.

5 Anybody from the Plaintiffs wish to respond?

6 Yes.

7 MR. CHRISTOPHER RENZ: Your Honor, Chris Renz from
8 the Chestnut Cambronne firm.

9 That is accurate. We've attempted to define those
10 issues. I'll get back up here on the privilege logs to bring
11 those to a head so we can get some resolution and move along.
12 We have defined what we think are the outstanding issues.
13 Hopefully those can be resolved, and I'm hoping to hear back
14 from them, but I think it's actually ready. I also am aware
15 that you have asked that we speak with you first about the
16 volume of documents that are at issue; and until I hear back
17 from opposing counsel, the Clubs' counsel, I can't know that.
18 But we -- I'm aware of that, and I will address that with you
19 before doing that.

20 JUDGE NELSON: Okay. Very good.

21 MR. CHRISTOPHER RENZ: Thank you, Your Honor.

22 JUDGE NELSON: All right.

23 Okay. The update on letters rogatory.

24 MR. BRIAN PENNY: Morning, Your Honor. Brian Penny
25 for the Plaintiff.

1 At the last informal status, I informed the Court
2 that Mr. Shamie had given me a proposal that looks very much
3 like the agreement that we agreed to the U.S. Clubs for what
4 the production mechanics would be and what would be produced.
5 We met and conferred on that proposal on Monday. There are
6 two outstanding issues, one for each of us to walk back to our
7 camps and decide if we're comfortable with them. But I'm
8 optimistic that we'll have that squared away in short order,
9 and Mr. Shamie has told me that the production would be
10 forthcoming fairly quickly. So, that's the update.

11 JUDGE NELSON: Do we have any idea how long that
12 production will take?

13 MR. BRIAN PENNY: You know, I asked him. He said a
14 couple of weeks.

15 JUDGE NELSON: A couple of weeks?

16 MR. BRIAN PENNY: I asked, you know, what "a couple"
17 means. I think he estimated two or three weeks, which seems
18 reasonable to me.

19 JUDGE NELSON: Okay. Very good.

20 Any other third-party discovery to discuss? Chubb?

21 MR. BRIAN PENNY: Right. I can give you the Chubb
22 update. And I'll note that Mr. Loney is not here, so I won't
23 get into too much depth on the recent meet and confer that we
24 had. I put a short synopsis in the agenda to give you an idea
25 of where we were.

1 In the interest or attempt to get right to a
2 production of documents, the Plaintiffs decided to table the
3 sampling idea and just -- we made three, I thought, pretty
4 specific and targeted requests for sets of documents. I'm not
5 optimistic that we will reach an accord with Chubb's counsel,
6 and I have a feeling that motion practice will ensue rather
7 shortly.

8 JUDGE NELSON: My recollection is Mr. Loney was
9 agreeable to doing that motion practice here. Am I right
10 about that?

11 MR. BRIAN PENNY: That was my recollection, as well.

12 JUDGE NELSON: Okay. Good. Let's try to tee that
13 up as soon as possible.

14 MR. BRIAN PENNY: Yes, I understand, Your Honor.

15 JUDGE NELSON: All right.

16 Depositions.

17 MR. STEPHEN GRYGIEL: This won't detain us long,
18 Your Honor. Twenty-two taken, three coming up in very short
19 order. I have a list of seven or eight that I'm going to
20 whittle down to about five and address with Mr. Beisner and
21 his colleagues this week. We did have a deposition set for
22 Mark Savard; we have postponed that in discussions with the
23 National Hockey League Players Association.

24 So, our scheduling is on target. I don't anticipate
25 any problems going forward with the scheduling. We still

1 don't have the Plaintiffs' depositions set yet, but
2 Mr. Beisner and I discussed that we would wait for document
3 production to be complete before they did that.

4 JUDGE NELSON: Okay. Very good.

5 Mr. Beisner?

6 MR. JOHN BEISNER: Your Honor, I don't think we have
7 anything to add to that, and we'll get with Counsel shortly on
8 getting the named Plaintiff depositions scheduled.

9 JUDGE NELSON: Okay. You might as well stay up
10 here.

11 The motion for stay?

12 MR. JOHN BEISNER: Yes, Your Honor. Just wanted to
13 mention to the Court that we will be filing a motion to stay
14 proceedings shortly, just need to confer, have our meet and
15 confer with Plaintiffs' counsel on this. And we'll do that, I
16 think the -- if we follow the normal briefing schedule, that
17 would permit that to be heard at the next formal conference
18 since that's in mid-February. But did want to just note that
19 we would be asking for a reply brief, if the Court would be
20 willing, on that.

21 And I say that because it -- there will be -- it's a
22 motion that won't be limited to the Court's discretion on this
23 issue. There is a constitutional issue that we'll be raising
24 as part of that, which is, frankly, the point that if this
25 Court or the Eighth Circuit ultimately decides that we were

1 right on preemption, everything we've done here has basically
2 been, to be blunt, *ultra vires*. None of this should be
3 happening. And we do have the question of there coming a
4 point where putting the burden of the costs, which are now in
5 the millions of dollars, on a Defendant for a proceeding that
6 shouldn't be happening raises due process issues. And so that
7 will be part of what we will be raising in that motion.

8 JUDGE NELSON: We should consider this motion a
9 dispositive motion, and so that would ordinarily give you a
10 reply.

11 MR. JOHN BEISNER: Okay.

12 JUDGE NELSON: But you should use the dispositive
13 motion dates and the rules for that.

14 MR. JOHN BEISNER: Okay. Very good, Your Honor.
15 Thank you.

16 JUDGE NELSON: Very good.

17 Any response to the anticipated motion to stay?

18 MR. STEPHEN GRYGIEL: Yes, Your Honor. Excuse me.
19 We're happy to meet and confer, and I think that's all that's
20 really ripe now. And I know that Mr. Baumgarten has done
21 this, but before we do, I'd ask them to read the Eighth
22 Circuit cases on preemption such as *Meyer*, such as *Luecke*,
23 such as *Bogan*, such as *Dunn versus Astaris*. We do realize
24 that nothing we're doing here is *ultra vires* because these
25 claims are not preempted.

1 Thank you, Your Honor.

2 JUDGE NELSON: All right. Anything more on that
3 issue?

4 The Plaintiff -- I am -- oops.

5 MR. DANIEL CONNOLLY: Your Honor, just --

6 JUDGE NELSON: Mr. Connolly.

7 MR. DANIEL CONNOLLY: One quick question on
8 scheduling. You indicated that this motion, the stay motion
9 would be on the dispositive motion. That would probably mean
10 we couldn't get the briefing done in time for the next status
11 conference -- I mean, for the next formal discovery conference
12 because of the briefing schedule.

13 JUDGE NELSON: Well, we could do it -- if this is
14 the 7th, we must have -- do we have two conferences in
15 February?

16 MR. DANIEL CONNOLLY: The next formal is on
17 February 16, I think.

18 JUDGE NELSON: Yeah, so that probably -- we -- maybe
19 we could move it or -- whatever you want to do.

20 MR. DANIEL CONNOLLY: Your Honor, if it works for
21 Your Honor, we could talk to Plaintiffs' counsel and suggest a
22 briefing schedule that would get us filing our brief
23 relatively soon and then --

24 JUDGE NELSON: If you can agree on a shortened
25 briefing schedule, that's fine. If you can't, we can move the

1 hearing. Whatever you want to do to make it happen in
2 February.

3 MR. CHARLES ZIMMERMAN: Why don't we meet and confer
4 on it, and we'll get back to the Court. We hear the
5 flexibility that the Court has with either shortening the
6 briefing or moving the schedule, and we'll make appropriate
7 adjustments.

8 JUDGE NELSON: Okay. Great. All right.
9 Are we ready to move on to IMEs?

10 MR. JOHN BEISNER: Your Honor, once the new
11 Complaint is on file, we were just waiting for that to happen
12 so we could have a document to target, and we'll be
13 immediately conferring with Plaintiffs on that to get that
14 ripened for presentation to the Court.

15 JUDGE NELSON: And again, I will sign that order as
16 soon as I get it, Mr. Davidson. So if I get it today, I'll
17 sign it today.

18 MR. DANIEL CONNOLLY: I think she's asking whether
19 you're working on it now (laughter).

20 JUDGE NELSON: Mr. Cashman?

21 MR. MICHAEL CASHMAN: That's correct, Your Honor.
22 We're just waiting for a proposal, and we'll respond when we
23 receive one.

24 JUDGE NELSON: Okay.
25 Privilege log challenges.

1 MR. CHRISTOPHER RENZ: Your Honor, Chris Renz again.

2 The -- there are kind of two things going on with
3 our challenges to the NHL's assertion of privilege over
4 certain documents. One, we asserted challenges to the
5 privilege designations that they made in their privilege logs,
6 and we've had a healthy exchange of correspondence about that.
7 And while I think we remain at odds on some of the issues, we
8 have narrowed the issues.

9 The second part of that is that the NHL sought
10 clawback of a number of documents as inadvertently-produced
11 privilege documents, and we have also had an exchange of
12 correspondence on that. The most recent update is that since
13 the last status conference, we've received revised privilege
14 logs from the NHL. And we have sent them correspondence
15 suggesting the following, that -- two things.

16 One, we're waiting for some information that we
17 think may eliminate or narrow some of the categories of
18 challenges and look forward to receiving that. And secondly,
19 because the issues and the number of documents in the clawback
20 challenge are narrower and fewer but have almost identical or
21 certainly many overlapping issues, we've suggested it may make
22 sense to have motion practice before the Court on the clawback
23 issues and then use that order as instruction on how to
24 proceed, if at all, with the privilege challenges. And I
25 haven't yet heard back from the NHL, but we also sent that

1 correspondence just last Thursday.

2 MR. DANIEL CONNOLLY: Right before the New Year
3 started, so we had -- you know, you had time to consider it
4 before the New Year celebrations, and we didn't.

5 MR. CHRISTOPHER RENZ: I had to get my billable
6 hours in (laughter).

7 MR. DANIEL CONNOLLY: Exactly. Your Honors, we do
8 have the Plaintiffs' proposal. They've asked for a little bit
9 more information from us relative to the clawback documents,
10 so it's not quite ripe. We also need to go and have our
11 meeting with Judge Mayeron about how she would like us to
12 proceed, the number of documents and the protocol you'd like
13 to follow. So, we're just about there, I think, and we can
14 talk to Judge Mayeron whether she would like a bigger universe
15 or a smaller universe and address it in that fashion.

16 JUDGE NELSON: Great. Okay.

17 MR. DANIEL CONNOLLY: Or whether she would like us
18 to resolve them all and go away (laughter).

19 JUDGE MAYERON: How about I don't see them and I
20 just resolve it. I get my dartboard out. Okay. That works
21 (laughter).

22 JUDGE NELSON: Thank you.

23 MR. CHRISTOPHER RENZ: Thank you.

24 JUDGE NELSON: Confidentiality.

25 MR. DANIEL CONNOLLY: That's Cashman, sorry.

1 MR. MICHAEL CASHMAN: Your Honors, the Plaintiffs
2 are going to be appealing a few issues from Judge Mayeron's
3 order on the confidentiality challenges. Those will be filed
4 on Monday, and I think we have an agreed schedule. But I
5 expect that this will be ready for hearing on the next formal
6 conference date. And we have made some other challenges, and
7 that process is ongoing. We provided a second and a third
8 batch of challenges, and the NHL is considering those. Some
9 of that may go away ultimately depending on how we resolve
10 some of these issues in this first challenge.

11 So, I'll turn it over to Mr. Connolly. I don't know
12 if they have issues that they're going to bring to the Court's
13 attention, but at least we will.

14 MR. DANIEL CONNOLLY: Your Honors, we appreciate the
15 fact that you gave both sides additional time over the
16 holidays to consider the motion in order to decide whether or
17 not we would seek court review. We are looking at two to
18 three additional sets of materials that Mr. Cashman has asked
19 us to consider in light of the Court's order, and we will be
20 reviewing also with them the order as far as what -- the
21 redactions will be necessary by January 13th. And so we'll --
22 we'll meet the deadlines that the Court has set forth, I
23 think.

24 MR. MICHAEL CASHMAN: Thank you, Your Honor.

25 JUDGE MAYERON: Can I ask you, Mr. Connolly,

1 Mr. Cashman indicated that Plaintiffs will be appealing a few
2 issues that were the subject of my order to Judge Nelson.
3 Have the Defendants made a decision, as well, on that?

4 MR. DANIEL CONNOLLY: Yes, Your Honor. We -- we're
5 largely in -- we are largely decided that we're not going to
6 be challenging the Court's -- the Court's order. We are still
7 looking over a couple of issues, but if there were a
8 challenge, it would be very small.

9 JUDGE MAYERON: Okay.

10 JUDGE NELSON: Very good.

11 MR. MICHAEL CASHMAN: Thank you.

12 JUDGE NELSON: All right.

13 MR. CHARLES ZIMMERMAN: I think Connolly is a master
14 at saying he's probably going to appeal but he didn't want to
15 say it (laughter). That was very good, though.

16 I have nothing -- nothing further, Your Honor. I do
17 want to say, though, that we -- the reason you're seeing such
18 a large PSC attendance today is we are having a meeting in my
19 office -- our offices following the conference, and I called
20 everyone to be present. And we're serving lunch, so --

21 JUDGE NELSON: Okay, that's a real reason.

22 MR. CHARLES ZIMMERMAN: That's why we're all here
23 and in attendance. I didn't mean to be overwhelming the
24 Court, and we try very hard to manage attendance, but I just
25 wanted the Court to be aware.

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JUDGE NELSON: This is hardly overwhelming. No, it's just fine.

Anything further today from either side?

(None indicated.)

JUDGE NELSON: Very good. We will see you, then, in a few weeks. Court is adjourned.

(WHEREUPON, the matter was adjourned.)

(Concluded at 10:06 a.m.)

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CERTIFICATE

I, Heather A. Schuetz, certify that the foregoing is a correct transcript from the record of the proceedings in the above-entitled matter.

Certified by: s/ Heather A. Schuetz
Heather A. Schuetz, RMR, CRR, CCP
Official Court Reporter