

**U.S. District Court
District of Connecticut (New Haven)
CIVIL DOCKET FOR CASE #: 3:17-cv-00012-AWT**

McAnneny v. Smith & Nephew, Inc.
Assigned to: Judge Alvin W. Thompson
Referred to: Judge Sarah A. L. Merriam
Cause: 28:1332 Diversity-Product Liability

Date Filed: 01/04/2017
Date Terminated: 06/06/2018
Jury Demand: Plaintiff
Nature of Suit: 245 Tort Product Liability
Jurisdiction: Diversity

Plaintiff

Edward McAnneny

represented by **Andrew J. Pianka**
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V.

Defendant

Smith & Nephew, Inc.

represented by **David W. O'Quinn**
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Date Filed	#	Docket Text
01/04/2017	<u>1</u>	NOTICE OF REMOVAL by Smith & Nephew, Inc. from Superior Court, Judicial District of New Haven, case number NNH-CV-17-6067280-S. Filing fee \$ 400 receipt number 0205-4250967, filed by Smith & Nephew, Inc.. (Attachments: # <u>1</u> Exhibit A)(Danaher, R.) (Entered: 01/04/2017)
01/04/2017	<u>2</u>	NOTICE of Appearance by R. Cornelius Danaher, Jr on behalf of Smith & Nephew, Inc. (Danaher, R.) (Entered: 01/04/2017)
01/04/2017	<u>3</u>	NOTICE by Smith & Nephew, Inc. of <i>No Pending Motions</i> (Danaher, R.) (Entered: 01/04/2017)
01/04/2017	<u>4</u>	NOTICE by Smith & Nephew, Inc. of <i>Compliance with Standing Orders in Removed Cases</i> (Danaher, R.) (Entered: 01/04/2017)
01/04/2017	<u>5</u>	NOTICE of Appearance by Thomas N. Lyons on behalf of Smith & Nephew, Inc. (Lyons, Thomas) (Entered: 01/04/2017)
01/04/2017	<u>6</u>	Corporate Disclosure Statement of <i>Smith & Nephew, Inc.</i> by Smith & Nephew, Inc.. (Lyons, Thomas) (Entered: 01/04/2017)
01/04/2017	<u>7</u>	Judge Alvin W. Thompson added. (Walker, A) (Entered: 01/04/2017)
01/04/2017	<u>7</u>	Order on Pretrial Deadlines: Motions to Dismiss due on 4/4/2017. Amended Pleadings due by 3/5/2017 Discovery due by 7/6/2017 Dispositive Motions due by 8/5/2017 Signed by Clerk on 1/4/2017.(Enderlin, M.) (Entered: 01/04/2017)
01/04/2017	<u>8</u>	ELECTRONIC FILING ORDER – PLEASE ENSURE COMPLIANCE WITH COURTESY COPY REQUIREMENTS IN THIS ORDER Signed by Judge Alvin W. Thompson on 1/4/2017.(Enderlin, M.) (Entered: 01/04/2017)
01/04/2017	<u>9</u>	STANDING PROTECTIVE ORDER Signed by Judge Alvin W. Thompson on 1/4/2017.(Enderlin, M.) (Entered: 01/04/2017)
01/04/2017	<u>10</u>	NOTICE TO COUNSEL: Counsel initiating or removing this action are responsible for serving all parties with attached documents and copies of <u>2</u> Notice of Appearance filed by Smith & Nephew, Inc., <u>7</u> Order on Pretrial Deadlines, <u>6</u> Corporate Disclosure Statement filed by Smith & Nephew, Inc., <u>5</u> Notice of Appearance filed by Smith & Nephew, Inc., <u>1</u> Notice of Removal, filed by Smith & Nephew, Inc., <u>9</u> Standing Protective Order, <u>4</u> Notice (Other) filed by Smith & Nephew, Inc., <u>3</u> Notice (Other) filed by Smith & Nephew, Inc., <u>8</u> Electronic Filing Order

Signed by Clerk on 1/4/2017. (Attachments: # 1 Removal Standing Order)(Enderlin, M.) (Entered: 01/04/2017)

01/11/2017	<u>11</u>	ANSWER to Complaint (Notice of Removal) by Smith & Nephew, Inc..(Lyons, Thomas) (Entered: 01/11/2017)
01/13/2017	<u>12</u>	AMENDED COMPLAINT against Smith & Nephew, Inc., filed by Edward McAnneny.(Pianka, Andrew) (Entered: 01/13/2017)
01/17/2017	<u>13</u>	ANSWER to <u>12</u> Amended Complaint with Affirmative Defenses. by Smith & Nephew, Inc..(Lyons, Thomas) (Entered: 01/17/2017)
02/02/2017	<u>14</u>	REPORT of Rule 26(f) Planning Meeting. (Pianka, Andrew) (Entered: 02/02/2017)
02/06/2017	<u>15</u>	NOTICE OF E-FILED CALENDAR: THIS IS THE ONLY NOTICE COUNSEL WILL RECEIVE. Telephonic Status Conference set for 2/16/2017 at 02:30 PM before Judge Alvin W. Thompson. Counsel for the plaintiff shall initiate the call to chambers (860-240-3224) with opposing counsel on the line. (Limbachia, V.) (Entered: 02/06/2017)
02/07/2017	<u>16</u>	MOTION for Attorney(s) David W. O'Quinn to be Admitted Pro Hac Vice (paid \$75 PHV fee; receipt number 0205-4289855) by Smith & Nephew, Inc.. (Attachments: # <u>1</u> Affidavit of Thomas N. Lyons, # <u>2</u> Affidavit of David W. O'Quinn)(Lyons, Thomas) (Entered: 02/07/2017)
02/08/2017	<u>17</u>	ORDER granting <u>16</u> Motion to Appear Pro Hac Vice Attorney David W. O'Quinn for Smith & Nephew, Inc. added. Signed by Clerk on 2/8/2017. (Enderlin, M.) Modified to edit docket text - Certificate of Good Standing is attached to motion on 2/8/2017 (Enderlin, M.). (Entered: 02/08/2017)
02/16/2017	<u>18</u>	Minute Entry for proceedings held before Judge Alvin W. Thompson: Telephonic Status Conference held on 2/16/2017. Total time: 8 minutes. (Court Reporter C. Thompson.) (Limbachia, V.) (Entered: 02/16/2017)
02/16/2017	<u>19</u>	ORDER: The 26(f) Report of Parties' Planning Meeting (Doc. No. <u>14</u>) is hereby APPROVED. With respect to the disagreement in Section E(2)(c), the court finds that the plaintiff will maintain possession of the devices at issue. All discovery shall be completed by July 1, 2018. Dispositive motions, if any, shall be filed by September 1, 2018. All other dates requested in this report are also approved. A trial memorandum order will be issued once the dispositive motions deadline has passed. REMINDER: please refer to the electronic filing order in civil cases re: the requirements for submission of chambers copies. It is so ordered. Signed by Judge Alvin W. Thompson on 2/16/2017. (Limbachia, V.) (Entered: 02/16/2017)
02/16/2017	<u>20</u>	ORDER RE STATUS REPORT. Signed by Judge Alvin W. Thompson on 2/16/2017. (Limbachia, V.) (Entered: 02/16/2017)
02/16/2017	<u>1</u>	Set Deadlines: Joint Status Report due by 11/1/2017 (Ferguson, L.) (Entered: 02/17/2017)
02/16/2017	<u>1</u>	Set Deadlines: Discovery due by 7/1/2018. Dispositive Motions due by 9/1/2018. (Ferguson, L.) (Entered: 02/22/2017)
02/24/2017	<u>21</u>	MOTION for permission to serve excess interrogatories by Edward McAnneny. (Pianka, Andrew) (Entered: 02/24/2017)
02/28/2017	<u>22</u>	ORDER: The Request for Leave to Serve Additional Interrogatories (Doc. No. <u>21</u>) is hereby GRANTED, absent objection. It is so ordered. Signed by Judge Alvin W. Thompson on 2/28/2017. (Limbachia, V.) (Entered: 02/28/2017)
05/15/2017	<u>23</u>	MOTION for Attorney(s) Douglas J. Moore to be Admitted Pro Hac Vice (paid \$75 PHV fee; receipt number 0205-4402249) by Smith & Nephew, Inc.. (Attachments: # <u>1</u> Affidavit of Thomas

05/16/2017	<u>24</u>	ORDER granting <u>23</u> Motion to Appear Pro Hac Vice Certificate of Good Standing due by 7/15/2017. Signed by Clerk on 5/16/2017. (Enderlin, M.) (Entered: 05/16/2017)
06/29/2017	<u>25</u>	MOTION to Compel <i>re: First Set of Interrogatories</i> by Edward McAnneny.Responses due by 7/20/2017 (Attachments: # <u>1</u> Exhibit, # <u>2</u> Affidavit, # <u>3</u> Exhibit)(Pianka, Andrew) (Entered: 06/29/2017)
06/29/2017	<u>26</u>	MOTION to Compel <i>re: First Set of Request for Production</i> by Edward McAnneny.Responses due by 7/20/2017 (Attachments: # <u>1</u> Exhibit, # <u>2</u> Affidavit)(Pianka, Andrew) (Entered: 06/29/2017)
06/29/2017	<u>27</u>	MOTION to Compel <i>re: Second Set of Request for Production</i> by Edward McAnneny.Responses due by 7/20/2017 (Attachments: # <u>1</u> Exhibit, # <u>2</u> Affidavit)(Pianka, Andrew) (Entered: 06/29/2017)
07/05/2017	<u>28</u>	ORDER REFERRING CASE to Magistrate Judge Sarah A. L. Merriam for ruling on Plaintiff's Motion to Compel Further Responses to Plaintiff's First Set of Interrogatories to Defendant, Smith & Nephew, Inc. (Doc. No. <u>25</u>), Plaintiff's Motion to Compel Further Responses to Plaintiff's First Set of Request for Production to Defendant, Smith & Nephew, Inc. (Doc. No. <u>26</u>), and Plaintiff's Motion to Compel Further Responses to Plaintiff's Second Set of Request for Production to Defendant, Smith & Nephew, Inc. (Doc. No. <u>27</u>). Signed by Judge Alvin W. Thompson on 7/5/2017. (Limbachia, V.) (Entered: 07/05/2017)
07/07/2017	<u>29</u>	NOTICE OF E-FILED CALENDAR: THIS IS THE ONLY NOTICE COUNSEL/THE PARTIES WILL RECEIVE. Telephonic Status Conference set for 7/11/2017 at 12:00 PM before Judge Sarah A. L. Merriam. Please use the following dial-in for this call: (888) 278-0296; Access Code: 2280867. (Kaczmarek, S.) (Entered: 07/07/2017)
07/11/2017	<u>30</u>	ORDER. As discussed during today's on-the-record telephonic Status Conference, the parties shall engage in additional meet and confer sessions to narrow the disputes before the Court. Defendant shall respond to plaintiff's motions to compel on or before August 3, 2017 . If the parties require additional time to confer prior to defendant's response, they shall notify the Court. It is so ordered. Signed by Judge Sarah A. L. Merriam on 7/11/2017. (Kaczmarek, S.) (Entered: 07/11/2017)
07/11/2017	<u>31</u>	Set/Reset Deadlines as to <u>25</u> MOTION to Compel <i>re: First Set of Interrogatories</i> ; <u>26</u> MOTION to Compel <i>re: First Set of Request for Production</i> ; <u>27</u> MOTION to Compel <i>re: Second Set of Request for Production</i> . Responses due by 8/3/2017. (Kaczmarek, S.) (Entered: 07/11/2017)
07/11/2017	<u>32</u>	Minute Entry for proceedings held before Judge Sarah A. L. Merriam: Telephonic Status Conference held on the record on 7/11/2017. Total Time: 24 minutes(Court Reporter FTR.) (Freberg, B) (Entered: 07/14/2017)
07/24/2017	<u>33</u>	TRANSCRIPT of Proceedings: Type of Hearing: TELEPHONIC STATUS CONFERENCE. Held on 07/11/2017 before Judge SARAH A.L. MERRIAM. Court Reporter: eScribers. IMPORTANT NOTICE - REDACTION OF TRANSCRIPTS: To remove personal identifier information from the transcript, a party must electronically file a Notice of Intent to Request Redaction with the Clerk's Office within seven (7) calendar days of this date. If no such Notice is filed, the court will assume redaction of personal identifiers is not necessary and the transcript will be made available through PACER without redaction 90 days from today's date. The transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. The policy governing the redaction of personal information is located on the court website at www.ctd.uscourts.gov. Redaction Request due 8/14/2017. Redacted Transcript

Deadline set for 8/24/2017. Release of Transcript Restriction set for 10/22/2017. (Gottlieb, J)
(Entered: 07/24/2017)

08/02/2017	<u>İ 34</u>	MOTION for Extension of Time until August 24, 2017 To File Responses to Plaintiff's Motions to Compel <u>27</u> MOTION to Compel <i>re: Second Set of Request for Production</i> , <u>26</u> MOTION to Compel <i>re: First Set of Request for Production</i> , <u>25</u> MOTION to Compel <i>re: First Set of Interrogatories</i> by Smith & Nephew, Inc.. (Lyons, Thomas) (Entered: 08/02/2017)
08/02/2017	<u>İ 35</u>	ORDER REFERRING CASE to Magistrate Judge Sarah A. L. Merriam for ruling on Motion for Extension of Time (Doc. No. <u>34</u>). Signed by Judge Alvin W. Thompson on 8/2/2017. (Limbachia, V.) (Entered: 08/02/2017)
08/02/2017	<u>İ 36</u>	ORDER. Defendant's <u>34</u> MOTION for Extension of Time until August 24, 2017 To File Responses to Plaintiff's Motions to Compel <u>27</u> MOTION to Compel <i>re: Second Set of Request for Production</i> , <u>26</u> MOTION to Compel <i>re: First Set of Request for Production</i> , <u>25</u> MOTION to Compel <i>re: First Set of Interrogatories</i> is GRANTED, absent objection. See Doc. #30. Defendant shall respond to plaintiff's motions to compel on or before August 24, 2017 . It is so ordered. Signed by Judge Sarah A. L. Merriam on 8/2/2017. (Kaczmarek, S.) (Entered: 08/02/2017)
08/02/2017	<u>İ 37</u>	Set/Reset Deadlines as to <u>25</u> MOTION to Compel <i>re: First Set of Interrogatories</i> ; <u>26</u> MOTION to Compel <i>re: First Set of Request for Production</i> ; <u>27</u> MOTION to Compel <i>re: Second Set of Request for Production</i> . Responses due by 8/24/2017. (Kaczmarek, S.) (Entered: 08/02/2017)
08/23/2017	<u>İ 38</u>	Second MOTION for Extension of Time until August 31, 2017 to File Opposition to Plaintiff's Motions to Compel <u>27</u> MOTION to Compel <i>re: Second Set of Request for Production</i> , <u>26</u> MOTION to Compel <i>re: First Set of Request for Production</i> , <u>25</u> MOTION to Compel <i>re: First Set of Interrogatories</i> by Smith & Nephew, Inc.. (Lyons, Thomas) (Entered: 08/23/2017)
08/23/2017	<u>İ 39</u>	ORDER. Defendant's <u>38</u> Second MOTION for Extension of Time until August 31, 2017 to File Opposition to Plaintiff's Motions to Compel <u>27</u> MOTION to Compel <i>re: Second Set of Request for Production</i> , <u>26</u> MOTION to Compel <i>re: First Set of Request for Production</i> , <u>25</u> MOTION to Compel <i>re: First Set of Interrogatories</i> is GRANTED, absent objection. Defendant shall file any responses to plaintiff's motions to compel on or before August 31, 2017 . It is so ordered. Signed by Judge Sarah A. L. Merriam on 8/23/2017. (Kaczmarek, S.) (Entered: 08/23/2017)
08/23/2017	<u>İ 40</u>	Set/Reset Deadlines as to <u>25</u> MOTION to Compel <i>re: First Set of Interrogatories</i> ; <u>26</u> MOTION to Compel <i>re: First Set of Request for Production</i> ; <u>27</u> MOTION to Compel <i>re: Second Set of Request for Production</i> . Responses due by 8/31/2017. (Kaczmarek, S.) (Entered: 08/23/2017)
08/31/2017	<u>İ 41</u>	Memorandum in Opposition re <u>27</u> MOTION to Compel <i>re: Second Set of Request for Production</i> , <u>26</u> MOTION to Compel <i>re: First Set of Request for Production</i> , <u>25</u> MOTION to Compel <i>re: First Set of Interrogatories</i> filed by Smith & Nephew, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Lyons, Thomas) (Entered: 08/31/2017)
09/26/2017	<u>İ 42</u>	AFFIDAVIT of Attempt to Resolve Discovery Disputes <i>re: Motion to Compel (docket entry #25)</i> Signed By Andrew J. Pianka filed by Edward McAnneny. (Pianka, Andrew) (Entered: 09/26/2017)
09/26/2017	<u>İ 43</u>	AFFIDAVIT of Attempt to Resolve Discovery Disputes <i>re: Motion to Compel (docket entry #26)</i> Signed By Andrew J. Pianka filed by Edward McAnneny. (Pianka, Andrew) (Entered: 09/26/2017)
09/26/2017	<u>İ 44</u>	AFFIDAVIT of Attempt to Resolve Discovery Disputes <i>re: Motion to Compel (docket entry #27)</i> Signed By Andrew J. Pianka filed by Edward McAnneny. (Pianka, Andrew) (Entered: 09/26/2017)
09/26/2017	<u>İ 45</u>	

RESPONSE re 41 Memorandum in Opposition to Motion, to Motions to Compel filed by Edward McAnneny. (Pianka, Andrew) (Entered: 09/26/2017)

09/27/2017	<u>¶ 46</u>	NOTICE OF E-FILED CALENDAR: THIS IS THE ONLY NOTICE COUNSEL/THE PARTIES WILL RECEIVE. Telephonic Status Conference Re: plaintiff's pending Motions to Compel (Doc. ## <u>25</u> , <u>26</u> , <u>27</u>) set for 9/28/2017 at 2:30 PM before Judge Sarah A. L. Merriam. Please use the following dial-in for this call: (888)278-0296; Access Code: 2280867. (Tepe, J.) (Entered: 09/27/2017)
09/28/2017	<u>¶ 47</u>	NOTICE OF E-FILED CALENDAR: THIS IS THE ONLY NOTICE COUNSEL/THE PARTIES WILL RECEIVE. Telephonic Status Conference Re: plaintiff's pending Motions to Compel (Doc. ## <u>25</u> , <u>26</u> , <u>27</u>) set for 10/12/2017 at 12:00 PM before Judge Sarah A. L. Merriam. The Court requests that the parties provide the Court with a joint status report indicating which issues remain in dispute prior to the conference. (Tepe, J.) (Entered: 09/28/2017)
09/28/2017	<u>¶ 48</u>	Minute Entry for proceedings held before Judge Sarah A. L. Merriam: Motion Hearing held on 9/28/2017 re <u>27</u> MOTION to Compel re: <i>Second Set of Request for Production</i> filed by Edward McAnneny, <u>26</u> MOTION to Compel re: <i>First Set of Request for Production</i> filed by Edward McAnneny, <u>25</u> MOTION to Compel re: <i>First Set of Interrogatories</i> filed by Edward McAnneny. 25 minutes(Court Reporter FTR – CR5.) (Caffrey, A.) (Entered: 09/29/2017)
10/10/2017	<u>¶ 49</u>	STATUS REPORT re: <i>Plaintiff's Pending Motions to Compel</i> (#25, #26, #27) by Edward McAnneny. (Pianka, Andrew) (Entered: 10/10/2017)
10/12/2017	<u>¶ 50</u>	AMENDED NOTICE OF E-FILED CALENDAR: THIS IS THE ONLY NOTICE COUNSEL/THE PARTIES WILL RECEIVE. Telephonic Status Conference Re: plaintiff's pending Motions to Compel (Doc. ## <u>25</u> , <u>26</u> , <u>27</u>) set for 10/12/2017 at 12:00 PM before Judge Sarah A. L. Merriam. Please use the following dial-in for this call: (888)278-0296; Access Code: 2280867. The previous calendar notice omitted the dial-in information. (Tepe, J.) (Entered: 10/12/2017)
10/12/2017	<u>¶ 51</u>	Oral MOTION for Extension of Time of 30 days to respond to discovery requests by Smith & Nephew, Inc. (Caffrey, A.) (Entered: 10/12/2017)
10/12/2017	<u>¶ 52</u>	Oral MOTION for Extension of Time of 30 days to extend all current deadlines by Edward McAnneny. (Caffrey, A.) (Entered: 10/12/2017)
10/12/2017	<u>¶ 53</u>	Minute Entry. Proceedings held before Judge Sarah A. L. Merriam: granting 51 Oral Motion for Extension of Time ; granting 52 Oral Motion for Extension of Time ; Status Conference held on 10/12/2017; Motion Hearing held on 10/12/2017 re 52 Oral MOTION for Extension of Time of 30 days to extend all current deadlines filed by Edward McAnneny, 51 Oral MOTION for Extension of Time of 30 days to respond to discovery requests filed by Smith & Nephew, Inc. 11 minutes(Court Reporter FTR – CR5.) (Caffrey, A.) (Entered: 10/12/2017)
10/12/2017	<u>¶ 54</u>	ORDER. The Court has granted the defendant's oral motion for an extension of time to respond to plaintiff's discovery requests, absent objection. <u>See</u> Doc. # <u>53</u> . Defendant shall provide responses to plaintiff's discovery requests on or before November 9, 2017 . Plaintiff shall file a notice on the docket regarding the status of plaintiff's pending Motions to Compel (Doc. ## <u>25</u> , <u>26</u> , <u>27</u>) on or before November 15, 2017. It is so ordered. Signed by Judge Sarah A. L. Merriam on 10/12/17. (Tepe, J.) (Entered: 10/12/2017)
10/12/2017	<u>¶ 55</u>	REVISED SCHEDULING ORDER. As discussed at the Telephonic Status Conference today, the plaintiff's oral motion to extend the deadlines in the current scheduling order is granted, absent objection. <u>See</u> Doc. # <u>53</u> . The Court enters the following revised scheduling order. The parties shall complete any depositions of fact witnesses on or before February 1, 2018 . Plaintiff shall disclose any expert witnesses in accordance with Rule 26(a)(2) on or before February 1, 2018 .

Depositions of any such experts shall be completed on or before **March 30, 2018**.

Defendant shall disclose any expert witnesses in accordance with Rule 26(a)(2) on or before **May 14, 2018**.

Depositions of any such experts shall be completed on or before **July 20, 2018**.

All discovery shall be completed on or before **July 20, 2018**.

Plaintiff shall provide a damages analysis on or before **August 3, 2018**.

Dispositive motions, if any, shall be filed on or before **September 18, 2018**.

The Court does not anticipate granting any further extensions of these deadlines. It is so ordered.

Signed by Judge Sarah A. L. Merriam on 10/12/2017. (Tepe, J.) (Entered: 10/12/2017)

10/12/2017	¶	Reset Deadlines: Discovery due by 7/20/2018; Dispositive Motions due by 9/18/2018 (Caffrey, A.) (Entered: 10/13/2017)
11/01/2017	¶ 56	Joint STATUS REPORT by Smith & Nephew, Inc.. (Lyons, Thomas) (Entered: 11/01/2017)
11/03/2017	¶ 57	ORDER: The parties' Joint Status Report of Counsel (Doc. No. 56) is hereby APPROVED. It is so ordered. Signed by Judge Alvin W. Thompson on 11/03/2017.(Cole-Chu, H.) (Entered: 11/03/2017)
11/13/2017	¶ 58	MOTION for Protective Order by Smith & Nephew, Inc..Responses due by 12/4/2017 (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Danaher, R.) (Entered: 11/13/2017)
11/15/2017	¶ 59	NOTICE by Edward McAnneny <i>Requesting Adjudication</i> (Attachments: # 1 Exhibit Exhibit A, # 2 Exhibit Exhibit B)(Pianka, Andrew) (Entered: 11/15/2017)
11/15/2017	¶ 60	ORDER REFERRING CASE to Magistrate Judge Sarah A. L. Merriam for Ruling on MOTION for Protective Order (Doc. No. 58). It is so ordered. Signed by Judge Alvin W. Thompson on 11/15/17. (Ferguson, L.) (Entered: 11/15/2017)
11/20/2017	¶ 61	OBJECTION re 58 MOTION for Protective Order <i>re: deposition of Dr. Andy Weymann</i> filed by Edward McAnneny. (Attachments: # 1 Exhibit A-E, # 2 Affidavit)(Pianka, Andrew) (Entered: 11/20/2017)
11/27/2017	¶ 62	ORDER re 58 MOTION for Protective Order. On November 13, 2017, defendant filed a motion for a protective order relating to the noticed deposition of Andy Weymann, M.D. <u>See</u> Doc. # 58 . Plaintiff filed a response on November 20, 2017. <u>See</u> Doc. # 61 . If defendant wishes to file any reply, it must do so by the close of business on November 30, 2017 . It is so ordered. Signed by Judge Sarah A. L. Merriam on 11/27/2017. (Tepe, J.) (Entered: 11/27/2017)
11/30/2017	¶ 63	REPLY to Response to 58 MOTION for Protective Order filed by Smith & Nephew, Inc.. (Lyons, Thomas) (Entered: 11/30/2017)
12/12/2017	¶ 64	ORDER denying 58 Motion for Protective Order. Signed by Judge Sarah A. L. Merriam on 12/12/2017. (Tepe, J.) (Entered: 12/12/2017)
12/12/2017	¶ 65	NOTICE OF E-FILED CALENDAR: THIS IS THE ONLY NOTICE COUNSEL/THE PARTIES WILL RECEIVE. Telephonic Status Conference regarding plaintiff's pending motions to compel (Doc. ## 25 , 26 , 27) set for 12/20/2017 at 3:00 PM before Judge Sarah A. L. Merriam. Please use the following dial-in for this call: (888)278-0296; Access Code: 2280867. (Tepe, J.) (Entered: 12/12/2017)
12/20/2017	¶ 66	ORDER. On December 20, 2017, the Court held a Telephonic Status Conference regarding plaintiff's pending motions to compel (Doc. ## 25 , 26 , 27). The parties indicated that they are still working to resolve their remaining discovery disputes. If there are any issues as to which the parties are unable to reach agreement, plaintiff shall file a new motion on or before January 3, 2018 . The motion must provide the following information, separately, for each disputed discovery

request: (a) the specific discovery request in dispute (including the number of the request), (2) the date the request was served, (3) the response received, (4) the basis for either compelling a response or finding the response provided is insufficient, and (5) a brief argument as to why the Court should grant the requested relief for that dispute. Defendant shall file any response to any such motion **on or before January 17, 2018**.

Counsel also indicated that there may be a dispute pertaining to the deposition of Andy Weymann, M.D. Any motion pertaining to Dr. Weymann's deposition shall be filed **on or before January 3, 2018**. It is so ordered. Signed by Judge Sarah A. L. Merriam on 12/20/2017. (Tepe, J.) (Entered: 12/20/2017)

12/20/2017	¶ 67	ORDER terminating <u>26</u> Motion to Compel as moot. During the December 20, 2017, Telephonic Status Conference, counsel for plaintiff informed the Court that Motion to Compel # <u>26</u> is now moot. Accordingly, the motion is terminated. It is so ordered. Signed by Judge Sarah A. L. Merriam on 12/20/2017. (Tepe, J.) (Entered: 12/20/2017)
12/20/2017	¶ 68	Minute Entry for proceedings held before Judge Sarah A. L. Merriam: Telephonic Status Conference and Motion Hearing held on 12/20/2017 re <u>27</u> MOTION to Compel re: <i>Second Set of Request for Production</i> filed by Edward McAnneny, <u>26</u> MOTION to Compel re: <i>First Set of Request for Production</i> filed by Edward McAnneny, <u>25</u> MOTION to Compel re: <i>First Set of Interrogatories</i> filed by Edward McAnneny. Total Time: 14 minutes(Tape #FTR – CR5.) (Gutierrez, Y.) (Entered: 12/21/2017)
12/21/2017	¶ 69	Consent MOTION for Extension of Time until January 3, 2018 to Object to Judge Merriam's Order denying Smith & Nephew, Inc.s Motion for Protective Order <u>64</u> Order on Motion for Protective Order by Smith & Nephew, Inc.. (Danaher, R.) (Entered: 12/21/2017)
12/22/2017	¶ 70	ORDER: The defendant's Consent Motion for Extension of Time (Doc. No. <u>69</u>) is hereby GRANTED. The defendant shall file any objection to the order denying defendant's motion for protective order (Doc. No. <u>58</u>) by January 3, 2018. It is so ordered. Signed by Judge Alvin W. Thompson on 12/22/2017. (Cole-Chu, H.) (Entered: 12/22/2017)
01/03/2018	¶ 71	Second MOTION to Compel by Edward McAnneny.Responses due by 1/24/2018 (Pianka, Andrew) (Entered: 01/03/2018)
01/03/2018	¶ 72	MOTION for Extension of Time to complete depositions of fact witnesses and disclose any expert witnesses by Edward McAnneny. (Pianka, Andrew) (Entered: 01/03/2018)
01/03/2018	¶ 73	– WITHDRAWN – MOTION to Set Aside <u>64</u> Order on Motion for Protective Order by Smith & Nephew, Inc.. (Attachments: # <u>1</u> Exhibit A)(Lyons, Thomas) Modified on 2/1/2018 (Ferguson, L.). (Entered: 01/03/2018)
01/05/2018	¶ 74	(NOTICE) Motion for Oral Argument by Smith & Nephew, Inc. re <u>73</u> MOTION to Set Aside <u>64</u> Order on Motion for Protective Order <i>Request for Oral Argument</i> (Lyons, Thomas) Modified on 1/8/2018 to correct to a motion relief (Ferguson, L.). (Entered: 01/05/2018)
01/05/2018	¶ 75	ORDER REFERRING CASE to Magistrate Judge Sarah A. L. Merriam for Ruling on Second MOTION to Compel (Doc. No. <u>71</u>), MOTION for Extension of Time to complete depositions of fact witnesses and disclose any expert witnesses (Doc. No. <u>72</u>) and MOTION to Set Aside <u>64</u> Order on Motion for Protective Order (Doc. No. <u>73</u>). It is so ordered. Signed by Judge Alvin W. Thompson on 1/5/18. (Ferguson, L.) (Entered: 01/08/2018)
01/08/2018	¶ 75	Docket Entry Correction re Order Referring Case to Magistrate Judge (Doc. No. <u>75</u>): Doc. No. <u>73</u> – MOTION to Set Aside <u>64</u> Order on Motion for Protective Order referred in error. Doc. No. <u>73</u> no longer referred. (Ferguson, L.) (Entered: 01/08/2018)
01/08/2018	¶ 76	ORDER: The defendant's Request for Oral Argument Re: Smith & Nephew, Inc.'s Motion to Set Aside or Modify Magistrate Judge's Ruling on Motion for Protective Order (Doc. No. <u>74</u>) is

01/09/2018	<u>77</u>	ORDER denying, without prejudice, <u>72</u> Motion for Extension of Time. On January 3, 2018, plaintiff filed a motion seeking an extension of time to complete depositions of fact witnesses and to disclose any expert witnesses. See Doc. # <u>72</u> . Local Rule 7(b)(2) requires that all motions for extensions of time "include a statement of the movant that (1) the movant has inquired of all non-moving parties and there is agreement or objection to the motion, or that (2) despite diligent effort, including making the inquiry in sufficient time to afford non-movant a reasonable opportunity to respond, the movant cannot ascertain the position(s) of the non-movant(s)." D. Conn. Local R. Civ. P. 7(b)(2). "All such motions shall also indicate the number of motions for extension of time that have previously been filed by the movant with respect to the same time limitation." <u>Id.</u> Plaintiff's motion fails to comply with these requirements. Accordingly, the motion is denied, without prejudice. It is so ordered. Signed by Judge Sarah A. L. Merriam on 1/9/18. (Tepe, J.) (Entered: 01/09/2018)
01/09/2018	<u>78</u>	NOTICE OF E-FILED CALENDAR: THIS IS THE ONLY NOTICE COUNSEL/THE PARTIES WILL RECEIVE. ALL PERSONS ENTERING THE COURTHOUSE MUST PRESENT PHOTO IDENTIFICATION. Motion Hearing re Smith & Nephew Inc.'s Motion to Set Aside or Modify Magistrate Judge's Ruling on Motion for Protective Order (Doc. No. <u>73</u>) set for 2/1/2018 at 12:00 PM in South Courtroom, 450 Main St., Hartford, CT before Judge Alvin W. Thompson. (Cole-Chu, H.) (Entered: 01/09/2018)
01/17/2018	<u>79</u>	OBJECTION re <u>71</u> Second MOTION to Compel filed by Smith & Nephew, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Lyons, Thomas) (Entered: 01/17/2018)
01/19/2018	<u>80</u>	First MOTION for Extension of Time discovery and depositions by Edward McAnneny. (Pianka, Andrew) (Entered: 01/19/2018)
01/22/2018	<u>81</u>	ORDER: The Plaintiff's Motion for Extension of Time with Consent (Doc. No. <u>80</u>) is hereby GRANTED. Depositions of fact witnesses and Plaintiff's expert disclosures are due 03/15/2018; deposition of plaintiff's experts shall be completed by 04/16/2018; and defendant's expert disclosures are due on 06/01/2018. All other deadlines remain the same. It is so ordered. Signed by Judge Alvin W. Thompson on 01/22/2018. (Cole-Chu, H.) (Entered: 01/22/2018)
01/23/2018	<u>82</u>	REPLY to Response to <u>71</u> Second MOTION to Compel filed by Edward McAnneny. (Pianka, Andrew) (Entered: 01/23/2018)
01/23/2018	<u>83</u>	OBJECTION re <u>73</u> MOTION to Set Aside <u>64</u> Order on Motion for Protective Order filed by Edward McAnneny. (Pianka, Andrew) (Entered: 01/23/2018)
01/24/2018	<u>84</u>	MOTION for Attorney(s) Camala E. Capodice to be Admitted Pro Hac Vice (paid \$75 PHV fee; receipt number ACTDC-4691838) by Smith & Nephew, Inc.. (Attachments: # <u>1</u> Affidavit of Camala E. Capodice, # <u>2</u> Affirmation of Thomas N. Lyons)(Lyons, Thomas) (Entered: 01/24/2018)
01/25/2018	<u>85</u>	ORDER granting <u>84</u> Motion to Appear Pro Hac Vice Certificate of Good Standing due by 3/26/2018. Signed by Clerk on 1/25/2018. (Enderlin, M.) (Entered: 01/25/2018)
01/26/2018	<u>86</u>	CERTIFICATE OF GOOD STANDING re <u>84</u> MOTION for Attorney(s) Camala E. Capodice to be Admitted Pro Hac Vice (paid \$75 PHV fee; receipt number ACTDC-4691838) by Smith & Nephew, Inc.. (Lyons, Thomas) (Entered: 01/26/2018)
01/29/2018	<u>87</u>	REPLY to Response to <u>73</u> MOTION to Set Aside <u>64</u> Order on Motion for Protective Order filed by Smith & Nephew, Inc.. (Attachments: # <u>1</u> Exhibit A)(Lyons, Thomas) (Entered: 01/29/2018)
02/01/2018	<u>88</u>	

Minute Entry. Proceedings held before Judge Alvin W. Thompson: Motion Hearing held on 2/1/2018. MOTION to Set Aside Order (Doc. No. 64) on Motion for Protective Order filed by Smith & Nephew, Inc. (Doc. No. 73) – WITHDRAWN. 47 minutes (Court Reporter C. Thompson.) (Ferguson, L.) (Entered: 02/01/2018)

02/22/2018	<u>89</u>	MOTION to Stay by Smith & Nephew, Inc..Responses due by 3/15/2018 (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit A, # <u>3</u> Affidavit of Thomas N. Lyons)(Lyons, Thomas) (Entered: 02/22/2018)
02/26/2018	<u>90</u>	OBJECTION re <u>89</u> MOTION to Stay <i>Proceedings</i> filed by Edward McAnneny. (Pianka, Andrew) (Entered: 02/26/2018)
02/27/2018	<u>91</u>	REPLY to Response to <u>89</u> MOTION to Stay filed by Smith & Nephew, Inc.. (Lyons, Thomas) (Entered: 02/27/2018)
02/27/2018	<u>92</u>	Memorandum in Support re <u>89</u> MOTION to Stay <i>Proceedings</i> filed by Edward McAnneny. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Pianka, Andrew) (Entered: 02/27/2018)
03/02/2018	<u>93</u>	MOTION for Extension of Time <i>to</i> complete discovery and disclose expert witnesses by Edward McAnneny. (Pianka, Andrew) (Entered: 03/02/2018)
03/02/2018	<u>94</u>	MOTION – NOTICE by Edward McAnneny re <u>71</u> Second MOTION to Compel <i>re: Oral Argument Requested</i> (Pianka, Andrew) Modified to edit docket text on 3/5/2018 (Enderlin, M.). (Entered: 03/02/2018)
03/02/2018	<u>95</u>	AFFIDAVIT re <u>71</u> Second MOTION to Compel <i>and Attempt to Resolve Discovery Disputes</i> Signed By Andrew J. Pianka filed by Edward McAnneny. (Pianka, Andrew) (Entered: 03/02/2018)
03/06/2018	<u>96</u>	ORDER: The defendant's Motion to Stay Proceedings Pending Transfer to MDL 2775 (Doc. No. <u>89</u>) is hereby DENIED. Since the Judicial Panel on Multidistrict Litigation decided in April 2017 that this case would not be part of the MDL, the plaintiff has conducted significant discovery and seeks to continue that process. The court concludes that it would be inequitable to disrupt the current flow of the case, absent a definitive ruling from the Panel. It is so ordered. Signed by Judge Alvin W. Thompson on 03/06/2018. (Cole-Chu, H.) (Entered: 03/06/2018)
03/07/2018	<u>97</u>	ORDER REFERRING CASE to Magistrate Judge Sarah A. L. Merriam for Ruling on MOTION for Extension of Time <i>to</i> complete discovery and disclose expert witnesses (Doc. No. <u>93</u>) and MOTION to Compel <i>re</i> Oral Argument Requested (Doc. No. <u>94</u>). It is so ordered. Signed by Judge Alvin W. Thompson on 3/7/18. (Ferguson, L.) (Entered: 03/08/2018)
03/09/2018	<u>98</u>	OBJECTION re <u>93</u> MOTION for Extension of Time <i>to</i> complete discovery and disclose expert witnesses filed by Smith & Nephew, Inc.. (Lyons, Thomas) (Entered: 03/09/2018)
03/09/2018	<u>99</u>	NOTICE by Edward McAnneny <i>re: Proof of Service of Plaintiff's Notice of Disclosure of Expert Witness (Dr. Axtmayer)</i> (Pianka, Andrew) (Entered: 03/09/2018)
03/09/2018	<u>100</u>	NOTICE by Edward McAnneny <i>of Proof of Service of Notice of Disclosure of Expert Witnesses (John D. Jarrell, Ph.D. and Jay M. Vincelli, MSc, PE)</i> (Pianka, Andrew) (Entered: 03/09/2018)
03/13/2018	<u>101</u>	NOTICE by Edward McAnneny <i>of Service of Expert Disclosure re: James Monroe</i> (Pianka, Andrew) (Entered: 03/13/2018)
03/19/2018	<u>102</u>	ORDER granting in part and denying in part <u>71</u> Motion to Compel. Please see the attached order for important details and deadlines. Signed by Judge Sarah A. L. Merriam on 3/19/2018. (Tepe, J.) (Entered: 03/19/2018)
03/20/2018	<u>103</u>	

NOTICE by Edward McAnney *Proof of Service of Amended Notice of Disclosure of Expert Witness of James W. Monroe* (Pianka, Andrew) (Entered: 03/20/2018)

03/20/2018	104	ORDER. Counsel for the defendant has contacted chambers to alert the Court that a discovery dispute has arisen between the parties in this matter. The parties shall file a joint notice on the docket describing the nature of the dispute on or before the close of business on March 23, 2018 . It is so ordered. Signed by Judge Sarah A. L. Merriam on 3/20/2018. (Tepe, J.) (Entered: 03/20/2018)
03/21/2018	105	ORDER terminating <u>94</u> Plaintiff's Request for Oral Argument Re: Plaintiff's Renewed Motion to Compel. On March 2, 2018, plaintiff filed a motion requesting oral argument on his motion to compel (Doc. # <u>71</u>). <u>See</u> Doc. # <u>94</u> . This motion was fully briefed in writing, including a reply brief by plaintiff. <u>See</u> Doc. # <u>71</u> , # <u>79</u> , # <u>82</u> . On March 19, 2018, the Court issued an order granting in part and denying in part plaintiff's motion to compel. <u>See</u> Doc. # <u>102</u> . The Court did not find oral argument necessary. Accordingly, the Court terminates plaintiff's motion requesting oral argument on the motion to compel as moot. It is so ordered. Signed by Judge Sarah A. L. Merriam on 3/21/2018. (Tepe, J.) (Entered: 03/21/2018)
03/21/2018	106	ORDER denying, without prejudice to renew, <u>93</u> Motion for Extension of Time. Plaintiff seeks "an extension of time until April 25, 2018, or forty-five (45) days after the Defendant complies with an order of this court regarding outstanding discovery, whichever is longer, to complete discovery and disclose expert witnesses." Doc. # <u>93</u> at 1. Plaintiff argues this extension is necessary because the information sought in plaintiff's motion to compel (Doc. # <u>71</u>) "may lead to additional depositions and/or may impact the opinion of the experts." <u>Id.</u> at 2. Defendant argues in response that the motion should be denied because "Plaintiff has not made a particularized showing that the requested extension is necessary or reasonable." Doc. # <u>98</u> at 5. On March 19, 2018, the Court issued an Order granting in part and denying in part plaintiff's motion to compel (Doc. # <u>71</u>). <u>See</u> Doc. # <u>102</u> . The Order requires defendant to produce additional discovery responses on or before April 2, 2018. <u>See id.</u> The Court finds that plaintiff has not demonstrated good cause to warrant an extension at this time. <u>See</u> D. Conn. L. Civ. R. 7(b)(1) ("All motions for extensions of time must be decided by a Judge and will not be granted except for good cause."). Until plaintiff receives the additional materials recently ordered disclosed, plaintiff cannot demonstrate need for the requested extensions. Accordingly, plaintiff's motion for an extension is DENIED, without prejudice to renew after plaintiff has received the additional discovery ordered by the Court in Doc. # <u>102</u> . Any renewed motion for an extension (or reopening) of these deadlines must be filed on or before April 9, 2018 . Any renewed request to extend the deadline to complete the deposition of fact witnesses must state with specificity the purpose(s) for which the extension is sought, <u>i.e.</u> , what additional depositions are sought, and why the new disclosures <u>in particular</u> give rise to the need for them. It appears that plaintiff's motion may be moot as to the requested extension of the deadline to disclose experts; plaintiff's counsel has filed notices on the docket reporting that expert disclosures have been served. <u>See</u> Doc. ## <u>99</u> , <u>100</u> , <u>101</u> , <u>103</u> . However, if plaintiff asserts that additional time is necessary for expert disclosures after reviewing the additional discovery, he may file a renewed motion explaining why the additional discovery received necessitates an extension. It is so ordered. Signed by Judge Sarah A. L. Merriam on 3/21/2018. (Tepe, J.) (Entered: 03/21/2018)
03/22/2018	107	ORDER terminating <u>25</u> Motion to Compel and <u>27</u> Motion to Compel. On June 29, 2017, plaintiff filed three motions to compel regarding a number of discovery disputes. <u>See</u> Doc. # <u>25</u> , # <u>26</u> , # <u>27</u> . The parties resolved a number of these disputes through the meet and confer process. The Court directed plaintiff to file a renewed motion to compel if any disputes remained unresolved. <u>See</u> Doc. #66. On January 3, 2018, plaintiff informed the Court that one of the motions to compel (Doc. # <u>26</u>) had become moot; the Court therefore terminated that motion. <u>See</u> Doc. #67. On January 3, 2018, plaintiff filed a renewed motion to compel regarding the remaining discovery disputes, superseding plaintiff's earlier-filed motions to compel (Doc. ## <u>25</u> , <u>27</u>). <u>See</u> Doc. # <u>71</u> .

On March 19, 2018, the Court entered an order granting in part and denying in part plaintiff's motion (Doc. # 71). See Doc. # 102 . Accordingly, plaintiff's earlier-filed motions to compel (Doc. ## 25 , 27) are TERMINATED as moot. It is so ordered. Signed by Judge Sarah A. L. Merriam on 3/22/2018. (Tepe, J.) (Entered: 03/22/2018)

03/23/2018	<u>108</u>	Joint STATUS REPORT on <i>Discovery Dispute</i> by Smith & Nephew, Inc.. (Lyons, Thomas) (Entered: 03/23/2018)
03/26/2018	<u>109</u>	ORDER. The parties have informed the Court that they "are in dispute concerning the timing and sequence of depositions of the plaintiff's treating surgeon and experts[.]" and that the "parties also are in dispute concerning the defendant's right to conduct non-destructive examination of the explanted components." Doc. # <u>108</u> . If either party seeks affirmative relief from the Court regarding these issues, the party shall file an appropriate motion (e.g., motion to compel or motion for protective order) describing the relief sought and the legal basis for such relief before the close of business, April 2, 2018 . Any such motions shall not exceed ten (10) pages in length, compliant with Local Rule 10, and in font no smaller than twelve-point. The Court will conduct a telephonic conference on April 4, 2018, at 1:00 p.m. regarding any motions filed pursuant to this Order. A separate calendar will issue. It is so ordered. Signed by Judge Sarah A. L. Merriam on 3/26/2018. (Tepe, J.) (Entered: 03/26/2018)
03/26/2018	<u>110</u>	NOTICE OF E-FILED CALENDAR: THIS IS THE ONLY NOTICE COUNSEL/THE PARTIES WILL RECEIVE. Telephonic Status Conference regarding any motions filed pursuant to the Court's Order (Doc. #109) set for 4/4/2018, at 1:00 PM before Judge Sarah A. L. Merriam. Please use the following dial-in for this call: (888)278-0296; Access Code: 2280867. (Tepe, J.) (Entered: 03/26/2018)
03/27/2018	<u>111</u>	MOTION for Attorney(s) Kim E. Moore to be Admitted Pro Hac Vice (paid \$75 PHV fee; receipt number ACTDC-4770498) by Smith & Nephew, Inc.. (Attachments: # <u>1</u> Affidavit of Thomas N. Lyons in Support, # <u>2</u> Affidavit of Kim E. Moore, # <u>3</u> Certificate of Good Standing)(Lyons, Thomas) (Entered: 03/27/2018)
03/27/2018	<u>112</u>	MOTION for Attorney(s) Stephen G.A. Myers to be Admitted Pro Hac Vice (paid \$75 PHV fee; receipt number ACTDC-4771354) by Smith & Nephew, Inc.. (Attachments: # <u>1</u> Affidavit of Thomas N. Lyons in Support, # <u>2</u> Affidavit of Stephen G.A. Myers, # <u>3</u> Certi)(Lyons, Thomas) (Entered: 03/27/2018)
03/28/2018	<u>113</u>	ORDER granting <u>111</u> Motion to Appear Pro Hac Vice. Signed by Clerk on 3/28/2018. (Enderlin, M.) (Entered: 03/28/2018)
03/28/2018	<u>114</u>	ORDER granting <u>112</u> Motion to Appear Pro Hac Vice. Signed by Clerk on 3/28/2018. (Enderlin, M.) (Entered: 03/28/2018)
04/02/2018	<u>115</u>	MOTION to Compel by Smith & Nephew, Inc..Responses due by 4/23/2018 (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Affidavit of Thomas N. Lyons)(Lyons, Thomas) (Entered: 04/02/2018)
04/03/2018	<u>116</u>	OBJECTION re <u>115</u> MOTION to Compel filed by Edward McAnney. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B)(Pianka, Andrew) (Entered: 04/03/2018)
04/04/2018	<u>117</u>	ORDER granting <u>115</u> Motion to Compel. On April 2, 2018, defendant filed a motion to compel regarding "(1) the timing and sequence of depositions of Plaintiff's treating surgeon and expert witnesses; and (2) Smith & Nephew's right to conduct non-destructive examination of the explanted components[.]" Doc. # <u>115</u> at 1. On April 3, 2018, plaintiff filed an objection. See Doc. # <u>116</u> . On April 4, 2018, the Court held a Telephonic Status Conference regarding the motion to compel. Defendant seeks to "depose Plaintiff's expert witnesses after it has the opportunity to conduct the fact-intensive examination of Plaintiff's implanting surgeon, Dr. Alfredo Axtmayer." Doc. # <u>115</u>

at 2. Plaintiff argues that defendant has already requested that plaintiff's experts (other than Dr. Axtmayer) hold dates for depositions and that "Defense counsel should be required to go forward with the depositions on the dates he has asked the experts to hold[.]" Doc. # 116 –1 at 5. As set forth in more detail on the record today, the Court grants defendant's request to schedule the deposition of Dr. Axtmayer for a date before the depositions of plaintiff's other expert witnesses. Cf. Lagnese v. City of Waterbury, No. 15CV00975(AWT), 2015 WL 9255540, at *4 (D. Conn. Dec. 18, 2015) (The Court has "authority to limit and condition discovery and depositions as necessary to ensure fairness and efficiency."). The parties shall confer promptly regarding available dates for all four remaining depositions. Defendant shall serve notices for each of the four remaining depositions **on or before April 11, 2018**. The deposition of Dr. Axtmayer shall be completed **on or before April 30, 2018**. The depositions of plaintiff's three other remaining expert witnesses, James Monroe, John Jarrell, and Jay Vincelli, shall be completed **on or before May 24, 2018**.

Defendant also seeks "production of the retrieved device components to allow inspection by Defendant's experts[]" and requests that plaintiff "ship the explanted components to Defendant's expert in New Orleans and allow him to conduct his examination in his own facility[.]" Doc. # 115 at 7. Plaintiff agrees that defendant has the right to inspect the components, but argues that defendant can either "examine the device at a laboratory testing facility in Connecticut while it is in the control of the Plaintiff" or "enter into a Stipulation to protect the Plaintiff in the event the evidence leaves the Plaintiff's possession and is lost, damaged, or otherwise compromised in a way that would affect Plaintiff's future efforts to check or simulate any tests performed by the Defendant." Doc. # 116 –1 at 8. Rule 34 provides that a party may request that an opposing party "produce and permit the requesting party or its representative to inspect, copy, test, or sample... any designated tangible things" in the opposing party's possession or control. Fed. R. Civ. P. 34(a)(1). The Court finds that defendant has proposed a "reasonable time, place, and manner for the inspection" of the components as required by Rule 34(b). It is significant that plaintiff has already "had the evidence inspected and tested by his expert." Doc. # 116 –1 at 6. Plaintiff's concerns regarding potential spoliation of this evidence may be addressed through a motion seeking an adverse inference if the components are in fact damaged or lost during this process. Accordingly, the Court orders plaintiff to provide the components to defendant for inspection. During the Telephonic Status Conference, the parties indicated that they would confer and reach an agreement as to the logistics and timing of the delivery of the components. Accordingly, defendant's motion to compel is GRANTED. It is so ordered. Signed by Judge Sarah A. L. Merriam on 4/4/2018. (Tepe, J.) (Entered: 04/04/2018)

04/04/2018	<u>118</u>	Minute Entry for proceedings held before Judge Sarah A. L. Merriam: Status Conference held on 4/4/2018, Motion Hearing held on 4/4/2018 re <u>115</u> MOTION to Compel filed by Smith & Nephew, Inc.. 15 minutes(Court Reporter FTR – CR5.) (Caffrey, A.) (Entered: 04/05/2018)
04/09/2018	<u>119</u>	SEALED MOTION Motion for Leave to File Under Seal Plaintiff's Renewed Motion for Extension of Time or Re–Opening of Deadline to Conduct Discovery by Edward McAnneny. (Attachments: # <u>1</u> Renewed Motion for Extension of Time or Re–Opening of Deadline, # <u>2</u> Memorandum in Support, # <u>3</u> Exhibit A, # <u>4</u> Exhibit B, # <u>5</u> Exhibit C, # <u>6</u> Exhibit D)(Pianka, Andrew) (Entered: 04/09/2018)
04/18/2018	<u>120</u>	MOTION to Quash re: Jay Vincelli by Edward McAnneny.Responses due by 5/9/2018 (Attachments: # <u>1</u> Exhibit A)(Pianka, Andrew) (Entered: 04/18/2018)
04/18/2018	<u>121</u>	MOTION to Quash re: John Jarrell by Edward McAnneny.Responses due by 5/9/2018 (Attachments: # <u>1</u> Exhibit A)(Pianka, Andrew) (Entered: 04/18/2018)
04/18/2018	<u>122</u>	MOTION to Quash re: James Monroe by Edward McAnneny.Responses due by 5/9/2018 (Attachments: # <u>1</u> Exhibit A)(Pianka, Andrew) (Entered: 04/18/2018)
04/18/2018	<u>123</u>	MOTION to Seal Plaintiff's Experts' Reports (John Jarrell, Jay Vincelli, James Monroe) by Edward McAnneny. (Pianka, Andrew) (Entered: 04/18/2018)

04/18/2018	124	Consent MOTION for Extension of Time until April 30, 2018 to Respond to Plaintiff's Motion for Extension of Time or Re-opening of deadline to conduct discovery <u>119</u> SEALED MOTION Motion for Leave to File Under Seal Plaintiff's Renewed Motion for Extension of Time or Re-Opening of Deadline to Conduct Discovery by Smith & Nephew, Inc.. (Lyons, Thomas) (Entered: 04/18/2018)
04/20/2018	125	ORDER REFERRING CASE to Magistrate Judge Sarah A. L. Merriam for ruling on motions: <u>119</u> SEALED MOTION Motion for Leave to File Under Seal Plaintiff's Renewed Motion for Extension of Time or Re-Opening of Deadline to Conduct Discovery, <u>120</u> MOTION to Quash <i>re: Jay Vincelli</i> , <u>123</u> MOTION to Seal Plaintiff's Experts' Reports (John Jarrell, Jay Vincelli, James Monroe), <u>121</u> MOTION to Quash <i>re: John Jarrell</i> , <u>122</u> MOTION to Quash <i>re: James Monroe</i> , <u>124</u> Consent MOTION for Extension of Time until April 30, 2018 to Respond to Plaintiff's Motion for Extension of Time or Re-opening of deadline to conduct discovery. Signed by Judge Alvin W. Thompson on 04/20/2018. (Cole-Chu, H.) (Entered: 04/20/2018)
04/23/2018	126	ORDER granting in part <u>124</u> Motion for Extension of Time. Any response to the extension of time requested in the attachments to Doc. # <u>119</u> shall be filed by 12:00 p.m. on April 26, 2018 . It is so ordered. Signed by Judge Sarah A. L. Merriam on 4/23/18. (Merriam, Sarah) (Entered: 04/23/2018)
04/23/2018	127	ORDER denying <u>119</u> Motion for Leave to File Under Seal Plaintiff's Renewed Motion for Extension of Time or Re-Opening of Deadline to Conduct Discovery. On April 9, 2018, plaintiff filed a motion seeking "to file under seal a Renewed Motion for Extension of Time or for the re-opening of the deadline to conduct discovery." Doc. # <u>119</u> at 1. Plaintiff states that filing the motion under seal is necessary because "[s]ome of the information contained in the motion and exhibits have been marked 'confidential' or 'confidential/subject to protective order' by the Defendant." <u>Id.</u> Local Rule 5(e)(3) requires that any "order sealing a judicial document shall include particularized findings demonstrating that sealing is supported by clear and compelling reasons and is narrowly tailored to serve those reasons." D. Conn. L. Civ. R. 5(e)(3). "No document shall be sealed merely by stipulation of the parties." <u>Id.</u> The Court finds that there are not clear and compelling reasons to support sealing the Renewed Motion for Extension of Time or to the Re-opening of Deadline to Conduct Discovery and supporting memorandum of law attached to the motion to seal. <u>See</u> Doc. # <u>119</u> -1; # <u>119</u> -2. Accordingly, plaintiff's motion for leave to file under seal is DENIED, as to the motion and supporting memorandum. Plaintiff shall file on the docket a copy of the motion and memorandum of law on or before April 24, 2018 . Plaintiff indicates that Exhibits C and D to the memorandum of law in support of his motion are confidential. <u>See</u> Doc. # <u>119</u> -5 at 21-22. These exhibits have not been filed on the docket. Plaintiff shall file Exhibits C and D, under seal, on or before April 24, 2018 . The Court will review the exhibits and determine whether clear and compelling reasons support sealing the exhibits. It is so ordered. Signed by Judge Sarah A. L. Merriam on 4/23/2018. (Tepe, J.) (Entered: 04/23/2018)
04/23/2018	128	ORDER granting <u>123</u> Motion to Seal. Plaintiff may file the referenced expert reports under seal, as exhibits in support of plaintiff's motions to quash. The Court notes that at least a partial sealing of these reports is appropriate, as the expert reports include confidential information. More importantly, however, the presumption in favor of public access does not apply to these documents, as they are at this stage of the proceedings properly considered discovery materials. However, if these reports are eventually submitted in connection with summary judgment motions or trial, any request for sealing may be subject to a different standard of review. <u>See Bernstein v. Bernstein Litowitz Berger & Grossmann LLP</u> , 814 F.3d 132, 142 (2d Cir. 2016) ("[A] report submitted to a court in connection with a summary-judgment motion is entitled to a strong presumption of access. Since such a document is the basis for the adjudication, only the most compelling reasons can justify sealing. By contrast, documents such as those passed between the

parties in discovery often play no role in the performance of Article III functions and so the presumption of access to these records is low." (citations and quotation marks omitted)). It is so ordered. Signed by Judge Sarah A. L. Merriam on 4/23/2018. (Tepe, J.) (Entered: 04/23/2018)

04/23/2018	129	ORDER re <u>120</u> MOTION to Quash re: Jay Vincelli, <u>121</u> MOTION to Quash re: John Jarrell, and <u>122</u> MOTION to Quash re: James Monroe. On April 18, 2018, plaintiff filed three motions seeking to quash subpoenas directing each of plaintiff's experts — Jay Vincelli, John Jarrell, and James Monroe — to produce certain items at his deposition. <u>See</u> Doc. # <u>120</u> ; # <u>121</u> ; # <u>122</u> . Plaintiff asserts that each subpoena is vague, overly broad, and unduly burdensome. <u>See</u> Doc. # <u>120</u> at 5; # <u>121</u> at 5; # <u>122</u> at 5. The parties shall meet and confer in an effort to resolve or limit these disputes. The parties shall file a joint status report on the docket informing the Court of the parties' efforts to meet and confer and indicating what issues, if any, remain in dispute by the close of business on Wednesday, April 25, 2018 . It is so ordered. Signed by Judge Sarah A. L. Merriam on 4/23/2018. (Tepe, J.) (Entered: 04/23/2018)
04/23/2018	130	ORDER re <u>120</u> MOTION to Quash re: Jay Vincelli. In light of the limited time before the scheduled deposition of Jay Vincelli on May 7, 2018, any response to plaintiff's motion to quash (Doc. # <u>120</u>) shall be filed by the close of business on Wednesday, April 25, 2018 . It is so ordered. Signed by Judge Sarah A. L. Merriam on 4/23/2018. (Tepe, J.) (Entered: 04/23/2018)
04/23/2018	<u>131</u>	MOTION for Extension of Time <i>or to Re-Opening of Deadline to Conduct Discovery</i> to open deadline to conduct discovery by Edward McAnneny. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D)(Pianka, Andrew) (Entered: 04/23/2018)
04/23/2018	<u>132</u>	Sealed Document: Exhibits C and D Filed Under Seal by Edward McAnneny . (Attachments: # <u>1</u> Exhibit C, # <u>2</u> Exhibit D)(Pianka, Andrew) (Entered: 04/23/2018)
04/23/2018	<u>133</u>	Sealed Document: Expert Report of Jay M. Vincelli, John D. Jarrell, and James W. Monroe by Edward McAnneny . (Attachments: # <u>1</u> Expert Report of Jay M. Vincelli, # <u>2</u> Expert Report of John D. Jarrell, # <u>3</u> Expert Report of James W. Monroe)(Pianka, Andrew) (Entered: 04/23/2018)
04/24/2018	134	ORDER REFERRING CASE to Magistrate Judge Sarah A. L. Merriam for Ruling on MOTION for Extension of Time or for Re-Opening of Deadline to Conduct Discovery (Doc. No. <u>131</u>). It is so ordered. Signed by Judge Alvin W. Thompson on 4/24/18. (Ferguson, L.) (Entered: 04/24/2018)
04/25/2018	<u>135</u>	STATUS REPORT <i>pursuant to order #129.00</i> by Edward McAnneny. (Pianka, Andrew) (Entered: 04/25/2018)
04/25/2018	<u>136</u>	STATUS REPORT by Smith & Nephew, Inc.. (Attachments: # <u>1</u> Exhibit A)(Lyons, Thomas) (Entered: 04/25/2018)
04/25/2018	<u>137</u>	OBJECTION re <u>120</u> MOTION to Quash re: Jay Vincelli, <u>121</u> MOTION to Quash re: John Jarrell, <u>122</u> MOTION to Quash re: James Monroe filed by Smith & Nephew, Inc.. (Lyons, Thomas) (Entered: 04/25/2018)
04/25/2018	<u>138</u>	OBJECTION re <u>119</u> SEALED MOTION Motion for Leave to File Under Seal Plaintiff's Renewed Motion for Extension of Time or Re-Opening of Deadline to Conduct Discovery filed by Smith & Nephew, Inc.. (Lyons, Thomas) (Entered: 04/25/2018)
04/25/2018	139	ORDER. The Court will conduct an in-person Discovery Conference on Monday, May 7, 2018, at 3:00 PM with counsel for both parties. A separate calendar will issue. On April 23, 2018, the Court entered an order requiring the parties to meet and confer in an effort to resolve or limit the disputes raised in plaintiff's motions to quash, and to file a joint status report on the docket informing the Court of these efforts. <u>See</u> Doc. #129. The parties submitted separate

status reports, instead of a joint report, as they were apparently unable to agree even on a basic report to the Court. See Doc. # 135 ; # 136 . The separate reports indicated that no progress had been made.

The deposition of Jay Vincelli is currently scheduled for May 7, 2018; however, the Court will not be able to entertain an in-person conference, which the Court finds necessary, before that date. Accordingly, defendant shall re-notice the deposition of Mr. Vincelli for a date after May 16, 2018.

At the conference, each party should be fully prepared to defend its position as to the requests and objections raised. If, in preparation for the conference, either party determines that its position as to an issue is not fully supported, the Court encourages the party to file a notice to that effect in advance of the conference. The Court will otherwise assume that the parties are pursuing each and every request and objection that has been made, and will proceed accordingly, pursuant to all applicable Federal and Local Rules. It is so ordered. Signed by Judge Sarah A. L. Merriam on 4/25/2018.(Tepe, J.) (Entered: 04/25/2018)

04/25/2018	140	NOTICE OF E-FILED CALENDAR: THIS IS THE ONLY NOTICE COUNSEL/THE PARTIES WILL RECEIVE. ALL PERSONS ENTERING THE COURTHOUSE MUST PRESENT PHOTO IDENTIFICATION. In-person Discovery Conference set for 5/7/2018, at 3:00 PM in Courtroom Four, 141 Church Street, New Haven, CT before Judge Sarah A. L. Merriam. (Tepe, J.) (Entered: 04/25/2018)
04/25/2018	141	ORDER. On April 23, 2018, plaintiff filed a Motion to Reopen Discovery. <u>See</u> Doc. # <u>131</u> . Plaintiff claims additional discovery is necessary because "[i]nsurance investigation files and other information prepared in the ordinary course of business are subject to discovery[.]" the insurance policy produced by defendant "does not appear to be the full policy[.]" and "[i]f the insurer has denied this claim because of misbranding or known defects as alleged, the Plaintiff is entitled to the production of this information." <u>Id.</u> at 6-8. Defendant has filed an objection to plaintiff's motion. <u>See</u> Doc. # <u>138</u> . Defendant states that it produced its insurance policy on April 2, 2018, and that plaintiff's "statement that 'it does not appear to be the full policy' is meritless." <u>Id.</u> at 6. Defendant further states that plaintiff's "requests are mooted by the fact that they are based on two fundamental misbeliefs: 1) the belief that Smith & Nephew is not self-insured (it is, as explained <u>infra</u>) and 2) the belief that there has been a claim made in this case or a denial of coverage in this case (there has not). Therefore, <u>the very information Plaintiff purports to seek... does not exist.</u> " <u>Id.</u> at 2. Defendant shall file on the docket an affidavit attesting to the information asserted in its objection to plaintiff's motion by the close of business Wednesday, May 2, 2018 . It is so ordered. Signed by Judge Sarah A. L. Merriam on 4/25/2018. (Tepe, J.) (Entered: 04/25/2018)
04/30/2018	<u>142</u>	Joint STATUS REPORT by Smith & Nephew, Inc.. (Attachments: # <u>1</u> Exhibit A)(Lyons, Thomas) (Entered: 04/30/2018)
04/30/2018	143	ORDER denying as moot <u>120</u> Motion to Quash, <u>121</u> Motion to Quash, and <u>122</u> Motion to Quash. On April 30, 2018, the parties filed a joint status report indicating that they have resolved the discovery disputes raised by plaintiff's motions to quash (Doc. # <u>120</u> ; # <u>121</u> ; # <u>122</u>). <u>See</u> Doc. # <u>142</u> . The parties indicate that "the Court may deny Motions 120, 121 and 122 as moot." <u>Id.</u> at 1. Accordingly, plaintiff's motions to quash are DENIED as moot. It is so ordered. Signed by Judge Sarah A. L. Merriam on 4/30/2018. (Tepe, J.) (Entered: 04/30/2018)
04/30/2018	144	ORDER. On April 25, 2018, the Court entered an order setting an in-person Discovery Conference for Monday, May 7, 2018, to discuss the discovery disputes raised by plaintiff's motions to quash (Doc. # <u>120</u> ; # <u>121</u> ; # <u>122</u>). <u>See</u> Doc. #139. The Court also ordered defendant to re-notice the deposition of Jay Vincelli scheduled for May 7, 2018, for "a date after May 16, 2018." <u>Id.</u> On April 30, 2018, the parties filed a joint status report indicating that they have resolved the discovery disputes raised by plaintiff's motions to quash. <u>See</u> Doc. # <u>142</u> . As a result, the Court denied plaintiff's motions as moot. <u>See</u> Doc. #143. Therefore, the in-person Discovery

In their joint status report, the parties also request that they "may proceed with the previously scheduled deposition of the plaintiff's expert, Jay Vincelli, MSc., P.E." Doc. # 142 at 1. In light of the cancellation of the in-person Discovery Conference, the parties may proceed with the deposition of Mr. Vincelli as scheduled on May 7, 2018. It is so ordered. Signed by Judge Sarah A. L. Merriam on 4/30/2018. (Tepe, J.) (Entered: 04/30/2018)

05/02/2018	<u>145</u>	AFFIDAVIT re 141 Order,,,,,, Signed By Dana W. Kamp filed by Smith & Nephew, Inc.. (Lyons, Thomas) (Entered: 05/02/2018)
05/08/2018	<u>146</u>	<p>ORDER granting <u>119</u> Motion to Seal, as to plaintiff's Exhibits C and D. On April 9, 2018, plaintiff filed a Motion for Leave to File Under Seal Plaintiff's Renewed Motion for Extension of Time or Re-Opening of Deadline to Conduct Discovery. <u>See</u> Doc. # <u>119</u> . Plaintiff indicated that Exhibits C and D to the memorandum of law in support of his motion are confidential, but plaintiff did not file the exhibits on the docket. <u>See id.</u> On April 23, 2018, the Court denied plaintiff's motion for leave to file under seal, as to the motion and supporting memorandum. <u>See</u> Doc. #127. The Court ordered plaintiff to file, under seal, Exhibits C and D to the memorandum of law so the Court could "determine whether clear and compelling reasons support sealing the exhibits." <u>Id.</u> Plaintiff filed Exhibits C and D under seal on April 23, 2018. <u>See</u> Doc. # <u>132</u> . Exhibit C is an insurance policy and Exhibit D is the expert report of James Monroe. <u>See id.</u></p> <p>The Court finds that sealing these exhibits is appropriate at this time, because both exhibits contain confidential information. More importantly, the presumption in favor of public access does not apply to these documents, as they are at this stage of the proceedings properly considered discovery materials. However, the Court notes that if these reports are eventually submitted in connection with summary judgment motions or trial, any request for sealing may be subject to a different standard of review. <u>See Bernstein v. Bernstein Litowitz Berger & Grossmann LLP</u>, 814 F.3d 132, 142 (2d Cir. 2016) ("[A] report submitted to a court in connection with a summary-judgment motion is entitled to a strong presumption of access. Since such a document is the basis for the adjudication, only the most compelling reasons can justify sealing. By contrast, documents such as those passed between the parties in discovery often play no role in the performance of Article III functions and so the presumption of access to these records is low." (citations and quotation marks omitted)). It is so ordered. Signed by Judge Sarah A. L. Merriam on 5/8/18. (Tepe, J.) (Entered: 05/08/2018)</p>
05/08/2018	<u>147</u>	ORDER denying <u>131</u> MOTION for Extension of Time or to Re-Opening of Deadline to Conduct Discovery. Signed by Judge Sarah A. L. Merriam on 5/8/2018. (Tepe, J.) (Entered: 05/08/2018)
05/24/2018	<u>148</u>	Consent MOTION for Extension of Time until 07/08/2018 to complete deposition of Plaintiff's expert, James Monroe, and to extend all deadlines by Edward McAnney. (Pianka, Andrew) (Entered: 05/24/2018)
05/30/2018	<u>149</u>	ORDER: The plaintiff's Consent Motion for Extension of Time to Complete Deposition of Plaintiff's Expert, James Monroe, and to Extend All Deadlines (Doc. No. <u>148</u>) is hereby GRANTED. The parties shall complete the plaintiff's expert deposition by July 8, 2018 and all other deadlines in this case are extended by 45 days. It is so ordered. Signed by Judge Alvin W. Thompson on 05/30/2018. (Cole-Chu, H.) (Entered: 05/30/2018)
06/06/2018	<u>150</u>	MDL Transfer ORDER. Case Transferred to District of Maryland. Signed by Clerk Sarah S. Vance MDL Panel on 6/6/2018.(Enderlin, M.) (Entered: 06/08/2018)
06/06/2018	I	JUDICIAL PROCEEDINGS SURVEY: The following link to the confidential survey requires you to log into CM/ECF for SECURITY purposes. Once in CM/ECF you will be prompted for the case number. Although you are receiving this survey through CM/ECF, it is hosted on an independent website called SurveyMonkey. Once in SurveyMonkey, the survey is located in a secure account. The survey is not docketed and it is not sent directly to the judge. To ensure anonymity, completed surveys are held up to 90 days before they are sent to the judge for review.

<https://ecf.ctd.uscourts.gov/cgi-bin/Dispatch.pl?survey>
(Enderlin, M.) (Entered: 06/08/2018)