

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIAIN RE: ANGIODYNAMICS, INC., AND
NAVILYST MEDICAL, INC., PORT
CATHETER PRODUCTS LIABILITY
LITIGATIONCase No.: 3:24-md-03125-JO-VET
**CASE MANAGEMENT ORDER
NO. 6**

There are currently 128 cases in this MDL that are not subject to statute of limitations motions.¹ Plaintiffs allege three (3) categories of injury that they intend to litigate in this MDL. Those categories of injuries are infection, fracture, and thrombosis. Discovery is limited to the port catheters rather than the bodies of the devices themselves. With that one exception, discovery is open as to all issues, not just general causation. *See* ECF. No. 263. Accordingly, the Court **ORDERS** the Bellwether selection protocol and schedule are as follows:

¹ There are currently 246 cases in total in this MDL. As statute of limitations (“SOL”) motions are currently pending, cases subject to those motions are not included in this Order at this time. However, if the Court does not dismiss those cases on the pending motions, such cases shall become subject to the requirements of this Order and Plaintiffs shall provide their PFS and records authorizations within 30 days of the Court’s order on the SOL motions.

1 **I. Status Conferences**

2 The Court will hold a video status conference before Magistrate Judge Valerie E.
3 Torres approximately every 45 days to consult with the Parties concerning the progress of
4 the case, including discovery. The first status conference is set for **December 1, 2025 at**
5 **10:00 a.m.** Subsequent status conferences will be set at the conclusion of each status
6 conference. The Court will provide video conference information two days prior to each
7 status conference.

8 **II. Bellwether Selection Process**

9 **A. Profile Forms**

10 All Plaintiffs shall complete Plaintiff Profile Forms (“PPF”), in a form to be prepared
11 and submitted by the Parties by **October 17, 2025**, with the intent of providing basic case
12 screening information, and shall include relevant medical records already collected by
13 Plaintiffs and authorizations for collection of additional records from third parties. The
14 PPFs shall be completed on a rolling basis, with at least the first 70 cases² completed by
15 **December 1, 2025**, and by **January 12, 2026** for any remaining cases filed prior to
16 **November 15, 2025**. For any new case filed thereafter, PPFs shall be completed within
17 sixty (60) days after filing. The PPF shall include executed medical authorizations for any
18 provider identified in the PPF. Plaintiffs are required to provide proprietary/specialized
19 authorizations for any providers requiring such authorizations. If Plaintiffs fail to provide
20 proprietary authorizations required by providers, they must do so within fourteen (14) days
21 of being notified by Defendants’ counsel that such an authorization is necessary.

22 Defendants shall complete Defendant Profile Forms, in a form to be prepared and
23 submitted by the Parties by **October 24, 2025**, with the intent of providing basic case
24 screening information, by no later than forty-five (45) days after Plaintiffs serve their PPF.

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28 ² All 70 cases should come from those cases not subject to a pending motion to dismiss.

1 The Parties shall address missing or deficient PPFs using the discovery dispute
2 procedures outlined below in Section IV.

3 **B. The Initial Pool**

4 By no later than **February 6, 2026**, the Parties shall meet and confer to determine
5 the distribution of alleged injury types (infection, fracture, thrombosis) among cases with
6 executed PPFs, ensuring the Bellwether Pool reflects this distribution. By **March 2, 2026**,
7 the Parties shall file a statement outlining either their agreed-upon distribution for the
8 Bellwether Pool or their respective positions if no agreement is reached.

9 On or before **June 5, 2026**, the Parties each shall simultaneously identify nine (9)
10 Representative Plaintiff candidates for the Initial Pool, for a total of eighteen (18) cases to
11 be worked up for case-specific discovery.

12 Should Plaintiffs and Defendants select the same cases among their nine (9) cases,
13 thus resulting in a total pool of fewer than eighteen (18) cases, provided the total number
14 in the pool is sixteen (16) or more cases, those cases shall comprise the first full Initial
15 Pool. Should the total pool fall to fifteen or fewer cases, then the Parties will have an equal
16 number of additional picks necessary to bring the total pool to more than fifteen cases, with
17 Plaintiffs making the first additional case selection, and the Parties then alternating
18 selections, until the pool of cases totals between 16 and 18 cases.

19 Preliminary fact discovery for the Initial Pool shall include the following: (1) a
20 Plaintiff Fact Sheet (“PFS”) with authorizations for any additional provider identified in a
21 PFS (and not identified in the PPF); and (2) depositions of Plaintiff, their spouse (as
22 applicable), any physician whose treatment was/is related to the Plaintiff’s use of the
23 Device and/or alleged injuries therefrom, and Plaintiff’s primary care providers from two
24 years prior to use of the Device until the present.

25 Defendants may wish to pursue additional case-specific discovery, including
26 additional depositions or written discovery under the Federal Rules of Civil Procedure.
27 Before doing so, Defendants shall notify Plaintiffs’ counsel in writing of the specific
28 discovery sought. If Plaintiffs object to the additional case-specific discovery, the Parties

1 shall meet and confer to resolve the objection **within five (5) business days of Plaintiffs' 1**
2 **counsel receiving the written notice.** Unresolved objections shall be addressed pursuant
3 to the discovery dispute procedures in Section IV.

4 If Defendants wish to obtain records from a source not identified in the PPF or PFS,
5 Defendants shall provide Plaintiffs' counsel with an authorization for those records.
6 Plaintiffs' counsel shall return the completed authorization within 14 days of receipt. If
7 Plaintiffs object to Defendants' request, the Parties shall meet and confer to resolve the
8 objection **within five (5) business days of Plaintiffs' counsel receiving the proposed 8**
9 **authorizations.** Unresolved objections shall be addressed pursuant to the discovery
10 dispute procedures in Section IV.

11 The Parties will work together to draft a PFS and Defendant Fact Sheet ("DFS) by
12 **May 15, 2026.** The Parties will also meet and confer and submit a proposal to the Court by
13 **May 15, 2026** concerning the logistics for conducting depositions, including, but not
14 limited to, location, timing, and procedures for the deposition of Plaintiffs, spouses, and
15 medical providers. As to medical providers, the proposal will address issues such as
16 contacting medical providers, deposition costs, and providing records to providers prior to
17 deposition.

18 All Plaintiffs in the Initial Pool shall serve a PFS on or before **July 15, 2026.**
19 Defendants shall then produce the DFS for each case by **September 1, 2026.**

20 Preliminary fact discovery for the Initial Pool shall be completed by **November 20, 2026.**
21 "Completed" means that all discovery must be initiated a sufficient period of time in
22 advance of the cut-off date, so that it may be completed by the cut-off date, taking into
23 account the times for service, notice, and response as set forth in the Federal Rules of Civil
24 Procedure. **The discovery dispute procedures in Section IV shall govern any disputes 24**
25 **concerning preliminary fact discovery, including, without limitation, any missing or 25**
26 **deficient PFS and requests by Defendants for additional case-specific discovery.**

1 **C. The Bellwether Pool**

2 On or before **December 11, 2026**, the Parties each shall make a simultaneous
3 exchange of lists identifying five (5) cases each from the Initial Pool for the Bellwether
4 Pool, for a total of ten (10) cases. Should Plaintiffs and Defendants select the same cases
5 among their five (5) cases, thus resulting in a total pool of fewer than ten (10) cases, the
6 Parties will both identify an equal number of additional Plaintiffs from the Initial Pool to
7 bring the Bellwether Pool to more than nine (9) cases, with Plaintiffs having the first
8 selection, until the total Bellwether Pool is ten (10) to eleven (11) cases.

9 The Parties may each “strike” one case selected by the other Party from the
10 Bellwether Pool, which in the striking Party’s view is not representative of the cases in the
11 MDL, thus reducing the total number of cases to eight (8) or nine (9). The Parties will
12 identify the cases in the Bellwether Pool to the Court in one filing. The Court will review
13 the Bellwether Pool Plaintiffs selected by the Parties to ensure that they represent a sample
14 of the cases currently pending in this MDL and are consistent with the guidelines set by
15 the Court. The Court will issue an order identifying the Bellwether Pool Plaintiffs.

16 For each Plaintiff in the Bellwether Pool who voluntarily dismisses his or her case
17 with prejudice, Defendants may at their option, within 14 days of execution of a stipulation
18 of dismissal or order of dismissal, select for inclusion in the Bellwether Pool a substitute
19 Plaintiff from the Initial Pool alleging the same type of injury. To the extent a Plaintiff in
20 the Bellwether Pool is permitted to voluntarily dismiss without prejudice, Defendants may
21 select for inclusion in the Bellwether Pool a substitute Plaintiff from the Initial Pool
22 alleging the same type of injury.

23 **III. Bellwether Discovery**

24 **A. Bellwether Pool Fact Discovery**

25 By **December 21, 2026**, the Parties shall meet and confer to prepare a plan and
26 schedule for proposed further case-specific fact discovery of bellwether pool cases,
27 potentially including but not limited to written discovery, additional depositions,
28 independent medical examinations, and/or further document collection, and submit their

1 joint proposed plan to the Court by no later than **January 7, 2027**. Should the Parties not
2 agree, they may submit competing plans. The Parties may propose deferring damages or
3 other case-specific fact discovery until after expert discovery and motion practice, if
4 appropriate.

5 B. Bellwether Pool Expert Discovery

6 By **February 26, 2027**, Plaintiffs shall comply with the disclosure provisions in Fed.
7 R. Civ. P. 26(a)(2)(A)–(C). By **April 30, 2027**, Defendants shall comply with the
8 disclosure provisions in Fed. R. Civ. P. 26(a)(2)(A)–(C). Any Party that fails to make these
9 disclosures shall not, absent substantial justification, be permitted to use evidence or
10 testimony not disclosed at any hearing or at the time of trial. In addition, the Court may
11 impose sanctions as permitted by Fed. R. Civ. P. 37(c). Plaintiffs shall supplement their
12 disclosures regarding contradictory or rebuttal evidence under Fed. R. Civ. P. 26(a)(2)(D)
13 and 26(e) by **June 1, 2027**. Expert depositions shall be completed by no later than **July 19,**
14 **2027**.

15 C. Bellwether Rule 702 and Summary Judgment Motions

16 Rule 702 Motions and Summary Judgment Motions shall be filed by **September 30,**
17 **2027**. Any oppositions shall be filed by **November 15, 2027**. Any replies shall be filed by
18 **December 15, 2027**. The Court shall schedule motion hearing dates at a later time.

19 D. Trial Selection

20 The Bellwether Pool cases shall be set for individual trials. The presumptive
21 sequence of trials shall be alternating picks, such that no side has two selections tried
22 consecutively.

23 **IV. Discovery Dispute Procedures**

24 Before bringing any discovery dispute to the Court's attention, lead counsel (or
25 attorneys with full authority to make decisions on the matter in dispute) must promptly and
26 thoroughly meet and confer in person or by videoconference regarding all discovery
27 disputes. **Letters, emails, or telephone calls do not satisfy this requirement.**

1 If the Parties fail to resolve their discovery dispute through the meet and confer
2 process, the Parties must jointly call the Chambers of Magistrate Judge Torres and speak
3 to the law clerk assigned to the case. During the call with Chambers, counsel should be
4 prepared to: (1) explain the details of the dispute and the Parties' respective positions;
5 (2) describe the Parties' meet and confer efforts; (3) identify the relief requested; and
6 (4) provide three dates and times within the next seven (7) days when all counsel is
7 available for an in-person hearing or video conference with the Court. Based on the nature
8 of the dispute, the Court will either schedule a discovery conference or direct the Parties to
9 file a motion and set a briefing schedule and page limits. The Parties should be prepared to
10 file a motion and opposition on an expedited briefing schedule following the initial
11 conference call with Chambers. In advance of any discovery conference set by the Court,
12 the Parties may file a joint statement, no longer than three (3) pages per side, describing
13 the nature of the discovery dispute and the Parties' respective positions. Any joint
14 statement shall be filed two business days prior any discovery conference.

15 The Parties must initiate the conference call to Chambers within thirty (30) days of
16 the event giving rise to the discovery dispute. The event giving rise to the discovery dispute
17 is as follows: (1) for a missing or deficient PPF or PFS, the date the form or fact sheet was
18 due or served; (2) for requests for additional case-specific discovery or authorizations, the
19 date Plaintiffs communicated their objection to such requests; (3) for depositions, receipt
20 from the Court reporter of the affected portion of the deposition transcript; and (4) for
21 written discovery, the date the relevant response was served or due (if a Party fails to
22 respond). The event giving rise to the dispute is not the date that counsel reach an impasse
23 in meet and confer efforts. At the request of the Parties, the Court may extend the 30-day
24 deadline upon a showing of good cause.

25 If a dispute requiring immediate resolution by the Court arises during a deposition,
26 the Parties must suspend the deposition and immediately meet and confer. If the dispute is
27 not resolved after meeting and conferring, the Parties may call Judge Torres' Chambers for
28 an immediate ruling on the dispute. If available, the Court will rule on the dispute or give

1 instructions on how to proceed. If the Court is not available, the Parties must mark the
2 deposition at the point of the dispute and continue the deposition with other areas of
3 inquiry.

4 Discovery motions may not be filed without prior leave of Court. To the extent
5 permitted by the Court, any discovery motion (e.g., motion to compel) must include the
6 following:

7 1. If applicable, the verbatim Interrogatory, Request for Admission, Request for
8 Production/Inspection, or deposition question in dispute, and the verbatim response to the
9 request or question at issue;

10 3. If a privilege or protection from disclosure is asserted, the line item(s) of the
11 privilege log describing the document(s)/information withheld; and

12 4. A statement explaining what relief the moving Party seeks and an analysis of
13 applicable law supporting the requested relief.

14 Unless otherwise authorized, discovery motions and oppositions may not exceed ten
15 (10) pages, exclusive of exhibits. Reply briefs are not permitted unless requested or
16 authorized by the Court. The Parties should not attach correspondence between counsel
17 unless it evidences an agreement allegedly breached. The Parties are not required to lodge
18 a proposed order.

19 **IT IS SO ORDERED.**

20 Dated: October 14, 2025



21 Honorable Valerie E. Torres
22 United States Magistrate Judge

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