

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE: ZIMMER NEXGEN KNEE	)	
IMPLANT PRODUCTS LIABILITY	)	MDL NO. 2272
LITIGATION	)	
	)	
This Document Relates to All Cases	)	Master Docket Case No. 1:11-cv-05468
	)	
	)	Honorable Rebecca Pallmeyer

**AGREED CASE MANAGEMENT PLAN REGARDING  
COORDINATION WITH OTHER LITIGATION: CMO 5**

The parties present the following Agreed Case Management Plan Regarding Cooperation With Other Litigation<sup>1</sup> and request that this Court send the letter attached as Exhibit "A" to each state court in which a case involving the same Zimmer products at issue in this MDL is pending.

**Coordination to Extent Practical:** The plaintiffs and defendants in this litigation, and in particular lead counsel for the same, shall work to coordinate to the extent practicable the conduct of this litigation with other product liability actions involving the NexGen Flex Femoral Components and 5950 MIS Stemmed Tibial Component, as defined by the Panel's August 8, 2011, Transfer Order. Such coordination is intended to conserve scarce judicial resources, eliminate duplicative discovery, serve the convenience of the parties and witnesses, and promote the just and efficient conduct of this litigation, while at the same time protecting the interests of the MDL plaintiffs and the state court plaintiffs. It is contemplated by the Court and the parties that all discovery conducted in these proceedings may be utilized in any related state court action, in accordance with that state's law and rules of evidence and procedure, and vice versa,

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<sup>1</sup> The parties previously proposed this plan as part of proposed Case Management Order Three, submitted to the Court on December 8, 2011. Because the parties are in the process of conducting and scheduling depositions, the parties respectfully request that this Court enter this Case Management Order Five.

subject to an appropriate cost-sharing provisions between the federal and coordinated state litigations that will be the subject of a further order.

**Coordination with State Courts:** In order to achieve the full benefits of this MDL proceeding, this Court may make efforts to coordinate with state courts presiding over related cases, to the extent such state courts so desire, such as through joint orders that will allow the parties in the state court actions to fully utilize any discovery conducted in the MDL proceedings and vice versa, without prejudice to either the state or federal court actions. The Court expects counsel for parties in the MDL proceeding to take reasonable steps to assure such coordination is achieved wherever it is practicable. To that end, lead counsel for the parties shall jointly submit to the Court as needed a status report on the state court cases, along with contact information for all state court judges presiding over such cases.

**Coordination by Plaintiffs' Counsel:** All discovery directed to the defendants and non-party witnesses on behalf of the plaintiffs shall be undertaken by, or under the direction of, the PSC on behalf of all plaintiffs with cases in these MDL proceedings. The PSC shall, where practicable and provided appropriate provision for the payment of fees and costs related to common benefit work product is agreed in advance, coordinate their requests with the plaintiffs' counsel in state court litigation to the extent practicable to eliminate duplicative discovery.

**Discovery.** Counsel for the parties in the MDL shall work cooperatively to facilitate the entry of a protective order in the state court matters that is similar or identical to the protective order entered by this Court, subject to the laws and procedure of that state. The parties agree that non-redundant discovery may be undertaken in the state court matters as provided under applicable state court rules.<sup>2</sup> Following the entry of a mutually agreeable protective order in the

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<sup>2</sup> To the extent that a discovery dispute arises during a deposition regarding the redundancy of any questioning, the parties should direct that dispute to this Court.

state court cases, Zimmer shall direct state court plaintiffs' counsel to the PSC for the production of documents where a state court plaintiff serves Zimmer with discovery substantially similar to discovery previously served on Zimmer in this MDL. In such a case, Zimmer shall identify by bates number the documents to be produced by the PSC, and the PSC shall produce only those documents identified by Zimmer, subject to any cost sharing arrangements.

Depositions noticed in this MDL may be cross-noticed in any state court proceeding. Questioning shall not be redundant. Total questioning may not exceed 14 hours for non-key witnesses and 21 hours for key witnesses, which is inclusive of the 7 hours permitted by Fed. R. Civ. P. 30(d)(1). The parties shall agree in advance as to the designation of "key" witnesses and, to the extent the parties are not able to agree on said designation, the Court shall so designate.

IT IS SO ORDERED.

8-29-12

  
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THE HONORABLE REBECCA R. PALLMEYER  
U.S. DISTRICT COURT JUDGE

Dear Judge [Judge's name]

As you may be aware, there is multidistrict litigation pending before my court, *In Re: Zimmer NexGen Knee Implant Products Liability*, MDL No. 2272 (the "MDL"). It is my understanding that this litigation involves the same Zimmer products that are at issue in matters before your court. I want to take this opportunity to introduce myself and begin what I hope will be a relationship of coordination between our courts. I believe such a relationship will benefit both your court and mine, and create efficiencies for all parties as these cases proceed.

I will ask the parties to notify you when deadlines are set in the MDL. I encourage your court to consider adopting similar deadlines so that we may more easily and efficiently work together to handle any common disputes or issues that arise in these cases.

If you have any suggestion as to how your court and mine can assist each other regarding this litigation, I would be happy to hear from you. You would be welcome to attend any hearings in my court. If you think that I should attend any hearings in your court, please let me know.

If there is anything else we can do to assist each other and counsel, by telephone conference or by any other means, please let me know.

Respectfully,

Judge Rebecca R. Pallmeyer

**ZIMMER NEXGEN MDL****STATE CASES**

<b>CASE NAME</b>	<b>CASE JURISDICTION</b>	<b>PLAINTIFF'S COUNSEL</b>
<b>Cole Brancati v. Zimmer Holdings, Inc.; Zimmer, Inc.; Zimmer Tri-State; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Orthobiologics, Inc.</b> Cause No. L-8768-11	Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401	Ellen Reikin Weitz & Luxenberg, PC 700 Broadway New York, NY 10003
<b>Ethel and Charles Bromley v. Zimmer Holdings, Inc.; Zimmer Tri-State; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Orthobiologics, Inc.</b> Cause No. ATL-L-10514-11	Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401	Christopher A. Seeger Seeger Weiss LLP 550 Broad Street Suite 920 Newark, NJ 07102
<b>Glen Brotherton v. Zimmer Holdings, Inc.; Zimmer Tri-State; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Orthobiologics, Inc.</b> Cause No. ATL L 3592 11	Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401	Peter Samberg Weitz & Luxenberg, P.C. 200 Lake Drive East, Suite 205 Cherry Hill, NJ 08002
<b>Doreatha Brown v. Zimmer, Inc., Zimmer Holdings, Inc., and Zimmer Orthopaedic Surgical Products, Inc.</b> Cause No. 43D01-1206-CT-54	Kosciusko County Circuit Court Indiana Courthouse 100 West Center Street Room 14 Warsaw, IN 46580	Peter J. Flowers Foote, Meyers, Mielke & Flowers 3 North LaSalle Street, Suite 300 St. Charles IL, 60174  Gregory L. Laker Takeen M. Thompson Cohen & Malad, LLP One Indiana Square, Suite 1400 Indianapolis, IN 46204

CASE NAME	CASE JURISDICTION	PLAINTIFF'S COUNSEL
<p><b>Ray Bryant v. Zimmer, Inc.;</b> Zimmer Holdings, Inc.; Wilson/Phillips Holdings, Inc.; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Tri-State Cause No. CL11001985-00</p>	<p>Roanoke City Circuit Court P. O. Box 2610 315 West Church Avenue Roanoke, VA 24010-2610</p>	<p>Patrick T. Fennell Crandall &amp; Katt 374 Elm Ave., S.W. Roanoke, VA 24016</p>
<p><b>Sophie Campanioni v. Zimmer Holdings, Inc.;</b> Zimmer Tri-State; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Orthobiologics, Inc. Cause No. ATL L 3598 11</p>	<p>Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401</p>	<p>Peter Samberg Weitz &amp; Luxenberg, P.C. 200 Lake Drive East, Suite 205 Cherry Hill, NJ 08002</p>
<p><b>Angela &amp; John Di Maria v. Zimmer Holdings, Inc.;</b> Zimmer Tri-State; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Orthobiologics, Inc. Cause No. ATL L 3595 11</p>	<p>Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401</p>	<p>Peter Samberg Weitz &amp; Luxenberg, P.C. 200 Lake Drive East, Suite 205 Cherry Hill, NJ 08002</p>
<p><b>Kathleen Durkes v. Zimmer, Inc.;</b> Zimmer Holdings, Inc.; Zimmer Tri-State; and Zimmer Orthopaedic Surgical Products, Inc. Cause No. 43-D01-1202-CT-00019</p>	<p>Kosciusko County Superior Court Courthouse 100 West Center Street Room 14 Warsaw, IN 46580</p>	<p>Jackie R. Quinton The Edwards Law Firm 8282 S. Memorial Rd., Suite 100 Tulsa, OK 74133  Gregory L. Laker Cohen &amp; Malad, LLP One Indiana Square, Suite 1400 Indianapolis, IN 46204</p>
<p><b>Susan Flood v. Zimmer, Inc.;</b> Zimmer Holdings, Inc.; Zimmer Orthobiologics, Inc.; and Zimmer Orthopaedic Surgical Products, Inc. Cause No. L-10339-10</p>	<p>Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401</p>	<p>Ellen Relkin Weitz &amp; Luxenberg, PC 700 Broadway New York, NY 10003</p>

CASE NAME	CASE JURISDICTION	PLAINTIFF'S COUNSEL
<p><b>Evelyn Fyffe v. Zimmer, Inc.;</b> Zimmer GMBH; and Zimmer Orthopaedic Surgical Products, Inc. Cause No. 28C01-1203-P2-000012</p>	<p>Greene County Circuit Court Courthouse P.O. Box 309 Bloomfield, IN 47424</p>	<p>Randi Kassar Sanders Viener Grossman LLP 100 Herricks Road Mineola, NY 11501</p> <p>Jennifer McCoy The Law Office of Jennifer McCoy PC 533 Church St. Nashville, TN 37219</p>
<p><b>Hugh &amp; Kay Geiger v. Zimmer, Inc.;</b> Zimmer Holdings, Inc.; and Zimmer Orthopaedic Surgical Products, Inc. Cause No. 43C01-1203-CT-21</p>	<p>Kosciusko County Circuit Court Indiana Courthouse 100 West Center Street Room 14 Warsaw, IN 46580</p>	<p>Paul R. Cordella The Lanier Law Firm PLLC 126 East 56th Street New York, NY 10022</p> <p>Robert T. Dassow Hovde Dassow &amp; Deets, LLC 201 W. 103rd St., Suite 500 Indianapolis, IN 46290</p>
<p><b>Violet Haynes v. Zimmer US, Inc.</b> Cause No. 501049/2011</p>	<p>Superior Court of New York Kings County The Kings County Clerk Supreme Court Building 360 Adams Street, Room 189 Brooklyn, NY 11201</p>	<p>Peter E. Tangredi Peter E. Tangredi &amp; Associates 202 Mamaroneck Avenue Suite 500 White Plains, NY 10601</p>

CASE NAME	CASE JURISDICTION	PLAINTIFF'S COUNSEL
<p><b>Sean Hite v. John T. Burton, Zimmer, Inc., Zimmer Holdings, Inc., Wilson/Phillips Holdings, Inc., Zimmer Orthopaedic Surgical Products, Inc., and Zimmer Tri-State</b> Cause No. FOS039603</p>	<p>Superior Court of California Solano County Hall of Justice 600 Union Avenue, Room 203 Fairfield, CA 94533</p>	<p>Willie L. Brown, Jr. William L. Brown, Jr. Inc. 100 Embarcadero Penthouse San Francisco, CA 94105  Waukeen Q. McCoy Law Offices of Waukeen Q. McCoy 703 Market Street, Suite 1300 San Francisco, CA 94103</p>
<p><b>Janice &amp; Michael Jenkins v. Zimmer, Inc. and Mark Hartzband, M.D.</b> Cause No. L3014-11</p>	<p>Superior Court of New Jersey Passaic County Court House 77 Hamilton Street Paterson, NJ 07505</p>	<p>Brian C. Harris Braff, Harris &amp; Sukoneck 570 W. Mt. Pleasant Avenue PO Box 657 Livingston, NJ 07039</p>
<p><b>Vivian Johnson v. Zimmer Holdings, Inc.; Zimmer Orthopaedic Surgical Products, Inc.; Zimmer Tri-State; and Zimmer Orthobiologics, Inc.</b> Cause No. ATL-L-138-12</p>	<p>Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401</p>	<p>Christopher A. Seeger Seeger Weiss LLP 550 Broad Street Suite 920 Newark, NJ 07102</p>
<p><b>Sharlane Lemke v. Zimmer Tri-State; Zimmer Holdings, Inc.; Zimmer Orthobiologics, Inc.; and Zimmer Orthopaedic Surgical Products, Inc.</b> Cause No. ATL L 3587 11</p>	<p>Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401</p>	<p>Peter Samberg Weitz &amp; Luxenberg, P.C. 200 Lake Drive East, Suite 205 Cherry Hill, NJ 08002</p>



CASE NAME	CASE JURISDICTION	PLAINTIFF'S COUNSEL
<p><b>Donna Kay McKay v. Zimmer, Inc.; Zimmer Holdings, Inc.; and Zimmer Orthopaedic Surgical Products, Inc.</b> Cause No. 43C01-1203-CT-22</p>	<p>Kosciusko County Circuit Court Courthouse 100 West Center Street Room 14 Warsaw, IN 46580</p>	<p>Daniel C. Burke Parker Waichman Alonson LLP 6 Harbor Park Drive Port Washington, NY 11050</p> <p>Robert T. Dassow Hovde Dassow &amp; Deets, LLC 201 W. 103rd St., Suite 500 Indianapolis, IN 46290</p>
<p><b>Teresa Pacetti v. Zimmer, Inc.; Zimmer Holdings, Inc.; Wilson/Phillips Holdings, Inc.; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Tri-State</b> Cause No. CL11-2085</p>	<p>Roanoke City Circuit Court P. O. Box 2610 315 West Church Avenue Roanoke, VA 24010-2610</p>	<p>Patrick T. Fennell Crandall &amp; Katt 374 Elm Ave., S.W. Roanoke, VA 24016</p>
<p><b>Jarrel Pennington v. Zimmer, Inc.; Zimmer Holdings, Inc.; and Zimmer Orthopaedic Surgical Products, Inc.</b> Cause No. 43C01-1203-PI-28</p>	<p>Kosciusko County Superior Court Courthouse 100 West Center Street Room 14 Warsaw, IN 46580</p>	<p>Randi Kassar Sanders Viener Grossman LLP 100 Herricks Road Mineola, NY 11501</p> <p>Jennifer McCoy The Law Office of Jennifer McCoy PC 533 Church St. Nashville, TN 37219</p>
<p><b>James and Ana Procopio v. Zimmer, Inc.; Zimmer Holdings, Inc.; Zimmer Tri-State; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Orthobiologics, Inc.</b> Cause No. ATL-L-1550-12</p>	<p>Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401</p>	<p>Samuel L. Davis Davis, Saperstein &amp; Salomon, P.C. 375 Cedar Lane Teaneck, NJ 07666</p>

CASE NAME	CASE JURISDICTION	PLAINTIFF'S COUNSEL
<p><b>Peter &amp; Barbara Res v. Zimmer Holdings, Inc.;</b>  <b>Zimmer Tri-State; Zimmer Orthopaedic Surgical</b>  <b>Products, Inc.; and Zimmer Orthobiologics, Inc.</b>            Cause No. ATL-L-9099-11</p>	<p>Superior Court of New Jersey            Atlantic County            Atlantic County Civil Courts Bldg.            1201 Bacharach Blvd            Atlantic City, NJ 08401</p>	<p>Samuel L. Davis            Davis, Saperstein &amp; Salomon, P.C.            375 Cedar Lane            Teaneck, NJ 07666</p>
<p><b>Sarah Reynolds v. Zimmer, Inc.; Zimmer Holdings,</b>  <b>Inc.; and Zimmer Mid-Atlantic Inc.</b>            Cause No. N12C-04-203 JRS</p>	<p>Superior Court of Delaware            New Castle County            Courthouse            500 North King Street            Wilmington, DE 19801</p>	<p>James R. Ronca            Anapol Schwartz            1710 Spruce Street            Philadelphia, PA 19103</p> <p>Joseph J. Rhoades            Law Offices of Joseph J. Rhoades            1225 King Street, 12th Floor            Wilmington, DE 19801</p>
<p><b>Chris Romanowski v. Zimmer Holdings, Inc.,</b>  <b>Zimmer, Inc., Zimmer Tri-State, Zimmer</b>  <b>Orthopaedic Surgical Products, Inc., and Zimmer</b>  <b>Orthobiologics, Inc.</b>            Cause No. L-5486-12</p>	<p>Superior Court of New Jersey            Atlantic County            Atlantic County Civil Courts Bldg.            1201 Bacharach Blvd            Atlantic City, NJ 08401</p>	<p>Ellen Relkin            Weitz &amp; Luxenberg, PC            700 Broadway            New York, NY 10003</p>
<p><b>Lillian Smith v. Zimmer, Inc.; Zimmer Holdings,</b>  <b>Inc.; and Zimmer Mid-Atlantic, Inc.</b>            Cause No. NIIC-05-265</p>	<p>Superior Court of Delaware            New Castle County            Courthouse            500 North King Street            Wilmington, DE 19801</p>	<p>Joseph J. Rhoades            Law Offices of Joseph J. Rhoades            1225 King Street, 12th Floor            Wilmington, DE 19801</p> <p>Thomas R. Anapol            Anapol Schwartz            1710 Spruce Street            Philadelphia, PA 19103</p>
<p><b>Muriel and Harley Soulia v. Zimmer, Inc.; Zimmer</b>  <b>Holdings, Inc.; Zimmer US, Inc., and Zimmer</b>  <b>Surgical, Inc.</b></p>	<p>Superior Court, Rutland Unit            Vermont Superior Court            Rutland Civil Division</p>	<p>Christopher Corsones            Corsones &amp; Corsones            1 Nickwackett St.</p>

CASE NAME	CASE JURISDICTION	PLAINTIFF'S COUNSEL
Cause No. 559B-11 Rdcv	83 Center Street Rutland, VT 05701	Rutland, VT 05701  Paul W. Daniels Jill Sanoff Law Offices of Paul W. Daniels 826 Orange Ave #310 Coronado, CA 92118
<b>Felicia Tucker-Willis v. Zimmer, Inc.;</b> Zimmer Holdings, Inc. and Zimmer Ohio Cause No. 11 CVB05-6285	Court of Common Pleas Franklin County, Ohio Courthouse 345 South High Street, 1st Floor Columbus, OH 43215	Daniel N. Abraham Colley, Shroyer & Abraham Co., LPA Hoster & High Building 536 South High Street Columbus, OH 43215
<b>Josephine &amp; Bernado Vapore v. Zimmer, Inc.</b> and Zimmer Tri-State Cause No. L-59-12	Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401	James R. Ronca Anapol Schwartz 1710 Spruce Street Philadelphia, PA 19103
<b>Paula &amp; James Wiegierink v. Zimmer, Inc.;</b> Zimmer Holdings, Inc.; and Zimmer Orthopaedic Surgical Products, Inc. Cause No. 1203-CT-23	Kosciusko County Circuit Court Courthouse 100 West Center Street Room 14 Warsaw, IN 46580	Robert T. Dassow Hovde Dassow & Deets, LLC 201 W. 103rd St., Suite 500 Indianapolis, IN 46290
<b>Susanne Wroblewski v. Zimmer, Inc.;</b> Zimmer Holdings, Inc., and Zimmer Orthopaedic Surgical Products, Inc. Cause No. 43D01-1206-CT-53	Kosciusko County Circuit Court Indiana Courthouse 100 West Center Street Room 14 Warsaw, IN 46580	Peter J. Flowers Foote, Meyers, Mielke & Flowers 3 North LaSalle Street, Suite 300 St. Charles IL, 60174  Gregory L. Laker Takeen M. Thompson Cohen & Malad, LLP One Indiana Square, Suite 1400 Indianapolis, IN 46204

