

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

**In re: STRYKER REJUVENATE AND
ABGII HIP IMPLANT PRODUCTS
LIABILITY LITIGATION**

MDL No. 13-2441 (DWF/FLN)

This Document Relates to All Actions

PRETRIAL ORDER NO. 5

**ORDER DESIGNATING PLAINTIFFS' LEAD COUNSEL COMMITTEE,
LIAISON COUNSEL, AND STEERING COMMITTEE
& DEFENDANTS' LEAD COUNSEL AND LIAISON COUNSEL**

I. ORGANIZATIONAL STRUCTURE: PLAINTIFFS

The Court hereby orders the following organizational structure for Plaintiffs:

A. Plaintiffs' Lead Counsel Committee

Plaintiffs' Lead Counsel Committee Chairperson:

Peter J. Flowers
Meyers & Flowers
Chicago, IL

Plaintiffs' Lead Counsel Committee Members:

Annesley H. DeGaris
Cory Watson Crowder & Degaris, PC
Birmingham, AL

Eric Kennedy
Weisman, Kennedy & Berris Co., L.P.A.
Cleveland, OH

Wendy R. Fleishman
Lief Cabraser Heimann & Bernstein, LLP
New York, NY

Genevieve M. Zimmerman
Zimmerman Reed, PLLP
Minneapolis, MN

Ben W. Gordon, Jr.
Levin Papantonio, P.A.
Pensacola, FL

The Court notes the importance of the role of each Lead Counsel Committee Member and thanks Ms. Zimmerman for her work and efforts as Plaintiffs' Interim Lead Counsel.

The duties of the **Plaintiffs' Lead Counsel Committee** are as follows:

- i. Determine (after consultation with other members of Plaintiffs' Steering Committee and other co-counsel as may be appropriate) and present (in briefs, oral argument, or such other fashion as may be appropriate, personally or by a designee) to the Court and opposing parties, the position of the Plaintiffs on all matters arising during pretrial proceedings;
- ii. Coordinate the initiation and conduct of discovery on behalf of Plaintiffs consistent with the requirements of the Federal Rules of Civil Procedure relating to discovery and the terms of the Deposition Protocols adopted in this litigation;
- iii. Conduct settlement negotiations on behalf of Plaintiffs, but not enter binding agreements except to the extent expressly authorized;
- iv. Delegate specific tasks to other counsel in a manner to ensure that pretrial preparation for the Plaintiffs is conducted effectively, efficiently, and economically;
- v. Enter into stipulations with opposing counsel, necessary for the conduct of the litigation;

- vi. Prepare and distribute to the parties periodic status reports;
- vii. Maintain adequate time and disbursement records covering services of designated counsel and establish guidelines, for approval by the Court, as to the keeping of time records and expenses;
- viii. Monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;
- ix. Perform such other duties as may be incidental to proper coordination of Plaintiffs' pretrial activities or authorized by further Order of the Court; and
- x. Submit, if appropriate, additional committees and counsel for designation by the Court.

B. Plaintiffs' Liaison Counsel

Liaison Counsel to the District of Minnesota

Anthony J. Nemo
Meshbesh & Spence, Ltd.
Minneapolis, MN

Liaison Counsel to the State Courts

Jesse Bernheim
Kelly, Bernheim & Dolinsky, LLC
Plantation, FL

The duties of **Liaison Counsel to the District of Minnesota** are defined as:

- i. Service List: Maintain and distribute to co-counsel and to Defendants' Liaison Counsel an up-to-date service list;
- ii. Accept Service: Receive and, as appropriate, distribute to co-counsel Orders from the Court and documents from opposing parties and counsel;

- iii. MDL Case File & Document Depository: Maintain and make available to co-counsel and other Plaintiffs' counsel at reasonable hours a complete electronic file of all documents served by or upon each party; and
- iv. Organize and submit necessary documents to both the Court and the Clerk of Court.

The duties of **Liaison Counsel to the State Courts, including the Multi-County Litigation pending in New Jersey**, include:

- i. Monitor and report to the Court regarding status of various state court proceedings, including particularly the Multi-County Litigation coordinated before Judge Martinotti in New Jersey.
- ii. Assist the LCC and the Court in promoting a just and efficient MDL.

C. Plaintiffs' Steering Committee

The members of **Plaintiffs' Steering Committee** shall consult with and be led by the Plaintiffs' Lead Counsel Committee in conducting all Plaintiffs' pretrial activities and in planning for and conducting trial of these cases, and the potential resolution of these matters. From Plaintiffs' Steering Committee shall also be formed such sub-committees or other committees as the litigation of this matter may require.

Plaintiffs' Steering Committee Chairperson:

Adam J. Levitt
Grant & Eisenhofer P.A.
Chicago, IL

Plaintiffs' Steering Committee Members:

Rachel Abrams
Levin Simes LLP
San Francisco, CA

Don McKenna
Hare, Wynn, Newell and Newton, LLP
Birmingham, AL

Jeff Bowersox
Bowersox Law Firm P.C.
Lake Oswego, OR

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Laura Yaeger
Morgan & Morgan
Tampa, FL

Michael McGartland
McGartland & Borchardt, LLP
Fort Worth, TX

II. ORGANIZATIONAL STRUCTURE: DEFENDANTS

A. Defendants' Liaison Counsel

Timothy Griffin
Leonard, Street and Deinard, PA
Minneapolis, MN

B. Defendants' Lead Counsel

Ralph Campillo
Karen Woodward
Segwick LLP
Los Angeles, CA

Each of the appointments made in this Order are of a personal nature.

Accordingly, the above appointees cannot be substituted by other attorneys, including members of the appointee's law firm, except with prior approval of the Court.

Dated: November 5, 2013

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge

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