

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: STRYKER REJUVENATE
AND ABG II HIP IMPLANT
PRODUCTS LIABILITY
LITIGATION

MDL No. 13-2441 (DWF/FLN)

This Document Relates to All Actions

**PRETRIAL ORDER NO. 25
ORDER REGARDING REGISTRATION
OF CASES AND CLAIMS**

The Court was informed on November 3, 2014 that a final Settlement Agreement was entered into by MDL Plaintiffs' Co-Lead Counsel, the New Jersey Multi-County Litigation Plaintiffs' Steering Committee, and Defendant Howmedica Osteonics Corp. (referred to as "Stryker Orthopaedics" (hereinafter, "Stryker")), on behalf of all defendants, and the Court having conducted a conference on November 3, 2014 during which an overview of the proposed private settlement of certain Stryker Rejuvenate Modular and ABG II Modular Hip Stem cases was discussed and then placed on the record, and in furtherance of the private Settlement Agreement, the following order is hereby entered:

IT IS HEREBY ORDERED BY THE COURT:

1. In order for this Court, the cooperating New Jersey Multicounty Litigation (Master Docket No. BER-L-936-13), and any other cooperating courts to manage this litigation, as well as to assist the parties to effectuate the provisions of the private Settlement Agreement, it is necessary to identify all filed and unfiled claims relating to

the ABG II Modular Neck Hip Stem or the Rejuvenate Modular Neck Hip Stem (“Affected Products”) (such claims, the “Affected Product-related claims”).

2. Counsel for any Affected Product-related case pending in this Court and/or counsel who have any clients who have claims, filed or unfiled, connected with the Affected Products, shall (i) identify all clients with filed and unfiled Affected Product-related claims, whether or not involving a revision surgery, and regardless of the client’s ultimate decision regarding enrollment in the Settlement Program, (ii) provide the information for each such client as set forth on the Registration Declaration and Registration List, including identifying all Interested Counsel in each filed case or unfiled claim and (iii) designate the Primary Law Firm and contacts as described below. The Registration Declaration for represented and unrepresented claimants and the form of Registration Lists, an example of which is attached hereto as Exhibit “A,” will be made available through the Claims Processor, The Garden City Group, Inc.

3. Obligations of Counsel:

a. Designation of Principal Responsible Attorney: The registration of each filed case pursuant to this Order must designate the Principal Responsible Attorney and legal assistant for that case. The Principal Responsible Attorney so designated shall be jointly identified by the Primary Law Firm and Interested Counsel by name, state bar number, business address, and e-mail address.

b. Designation of Primary Law Firm: For each filed case pending in either state or federal court, there must be a single designation of

a Primary Law Firm. The Primary Law Firm must also identify all of the clients in which they are the Primary Law Firm by serving a list of all filed Affected Product-related claims--whether revised or unrevised--in which such law firm, or any attorney at such law firm, is the Primary Law Firm as of the date of this Order.

c. Completion and Service of Registration List: The Primary Law Firm representing clients with claims involving the Affected Products must prepare a Registration Declaration and Registration List, identifying all such clients as set out below in 3(B) and 3(C). To obtain a copy of the Registration Declaration and Registration List, go to the Claims Processor website, www.StrykerModularHipSettlement.com, click on the “Registration” tab and follow the instructions. Beginning November 14, 2014, the completed Registration Declaration and Registration List shall be submitted to the Claims Processor (as formatted for the accurate and efficient transfer of the required information) no later than December 14, 2014. To submit these materials, go to www.StrykerModularHipSettlement.com, click the “Registration Button” and follow the upload instructions. **NOTE: WHILE REGISTRATION IS MANDATORY PURSUANT TO THIS COURT ORDER, UPLOADING THE REGISTRATION DECLARATION AND REGISTRATION LIST ON THE CLAIM PROCESSOR’S WEBSITE IN NO WAY SIGNIFIES A CLAIMANT’S COMMITMENT OR INTENT TO ENROLL IN THE**

SETTLEMENT PROGRAM. NOR DOES IT SATISFY A CLAIMANT'S ENROLLMENT REQUIREMENTS OR ELIGIBILITY TO RECEIVE BENEFITS UNDER THE SETTLEMENT PROGRAM.

d. Information to be Provided Regarding Each Filed Case: For each filed case, the Primary Law Firm shall identify on the Registration List all cases that are filed in these proceedings or in any other federal or state court or tribunal in the United States in which they serve as the Primary Law Firm as of the date of this Order, and provide the case and claim related information as set forth on the form Registration List.

e. Information to be Provided Regarding Each Unfiled Claim: The Primary Law Firm shall identify on the Registration List all unfiled claims relating to the Affected Products, whether or not involving a revision surgery, in which counsel has any interest, and shall include certain basic information about each claim as set forth on the required form.

f. The Primary Law Firm shall declare on the Registration Declaration under oath that (i) all filed cases and unfiled claims in which they are the Primary Law Firm are identified on the Registration List, (ii) all Interested Counsel are identified, and (iii) that the claim-related information is accurate and complete. Counsel shall further certify under oath that they have verified that all cases in which they have an Interest are, or will be, identified on other Registration Lists submitted by another

Primary Law Firm.¹ If there is any claim related to the Affected Products for any plaintiff or claimant--whether filed or unfiled, or whether or not involving a revision surgery--in which an attorney bound by this Order has an interest and believes is not, or will not be, listed on any Registration List submitted by any other Primary Law Firm, then such attorney shall include the plaintiff or unfiled claimant on his or her Registration List with the information specified in paragraphs 3(B) and 3(C) above, and shall state “No Primary Law Firm Designated.”

g. Due Date for Service of Registration List: Registration will open on November 14, 2014. The Registration Declaration and Registration List shall be served on the Claims Processor as specified above no later than December 14, 2014.

h. Updates Regarding Change in Status: The Primary Law Firm shall serve an updated Report regarding any change in status of any Plaintiff or Unfiled Claimant identified on their Registration List. The updated Report shall be in the form set by the Claims Processor, and shall include changes in status to both unrevised plaintiffs and Unfiled Claimants and plaintiffs and Unfiled Claimants with subsequent additional revision surgeries. The Report shall be updated on June 1 and November 1 of each calendar year following the service of the initial Registration List, and shall

¹ For purposes of registration, an electronic signature denoted by “s/” is considered as binding as an original signature pursuant to FRCP 5(d)(3).

be served on the Claims Processor who will promptly distribute to Stryker and the Settlement Oversight Committee (“SOC”). The updating requirement shall cease upon June 1, 2016.

4. Pro Se Plaintiffs and Unrepresented Claimants: All persons who represented themselves *pro se* in proceedings relating to the Affected Products and all Unrepresented Claimants with unfiled claims relating to the Affected Products (collectively “*Pro Se* Plaintiffs and Claimants”) shall complete the Registration Declaration. The Declaration is available by going to the Claims Processor website, www.StrykerModularHipSettlement.com, clicking on the “Registration” tab and following the instructions. Starting November 14, 2014, the completed Registration Declaration shall be submitted to the Claims Processor (as formatted for the accurate and efficient transfer of the required information) no later than December 14, 2014. To submit these materials, go to www.StrykerModularHipSettlement.com, click the “Registration” tab and follow the upload instructions. If the *Pro Se* Plaintiff Claimant is not able to submit the forms electronically, s/he shall send the Registration Declaration via U.S. mail postmarked no later than December 14, 2014: Stryker Modular Hip Settlement, c/o GCG, PO Box 10130, Dublin, OH 43017-3130. **NOTE: WHILE REGISTRATION IS MANDATORY PURSUANT TO THIS COURT ORDER, UPLOADING THE REGISTRATION DECLARATION AND REGISTRATION LIST ON THE CLAIM PROCESSOR’S WEBSITE IN NO WAY SIGNIFIES A CLAIMANT’S COMMITMENT OR INTENT TO ENROLL IN THE SETTLEMENT PROGRAM. NOR DOES IT SATISFY A CLAIMANT’S ENROLLMENT**

REQUIREMENTS OR ELIGIBILITY TO RECEIVE BENEFITS UNDER THE SETTLEMENT PROGRAM.

5. Changes In Information:

a. Changes in Information Regarding Attorney or Represented Status Information: The Primary Law Firm shall serve written notice of any changes to the information provided on the Registration List, including but not limited to the acquisition or loss of Primary Law Firm status for the case, any change in information for the Primary Law Firm, the Principal Responsible Attorney, or administrative contact for the case, any change in designation of Primary Law Firm status for any case previously listed as “No Primary Law Firm Designated,” and any other change of any information verified under oath. If the change is a loss of Primary Law Firm status or loss of an Interest in the case, the notice shall also identify the name of the attorney and/or law firm, telephone number, e-mail, business address of the new representative for the Plaintiff or Unfiled Claimant or, if none, an affirmation of the Plaintiff or Unfiled Claimant’s *pro se* status and the telephone number, e-mail and address for the Plaintiff or Unfiled Claimant. Such written notice must specify the changed circumstances and be served within thirty (30) days of such change upon the Claims Processor. This obligation shall terminate on June 1, 2016.

b. Pro Se Plaintiffs and Unrepresented Claimants: All *Pro Se* Plaintiffs and Unrepresented Claimants shall serve written notice of any

changes to the information provided on the Registration List, including but not limited to any change regarding contact information or the subsequent retention of counsel. If the change of information is the retention of counsel, the *Pro Se* Plaintiff or Claimant shall provide the attorney name, address, telephone number and e-mail address for counsel. Such written notice must specify the changed circumstances and be served with thirty (30) days of such change upon the Claims Processor. This obligation shall terminate on June 1, 2016.

6. Enforcement: All Counsel and *Pro Se* Plaintiffs and Unrepresented Claimants are required to comply with this Order. Failure to meet the requirements of this Order will subject non-compliant parties and counsel to a show cause hearing as to the reason for such failure and may subject such party or counsel to penalties at the Court's discretion.

7. Compliance With Court Orders: Pursuant to the Settlement Agreement, all plaintiffs and Unfiled Claimants, whether represented or unrepresented by counsel, who elect to participate in the Settlement Program agree to abide by any Orders of the court in which the case is filed or, if it is an unfiled claim, by the MDL Court proceeding in furtherance of the Settlement Agreement, including Pretrial Order No. 24 issued by this Court or the Order Aiding Private Settlement issued by the New Jersey MCL, as applicable.

8. Joint Database: The Claims Processor shall maintain a database of all cases and claims identified pursuant to this Order as set forth in further detail in the final Settlement Agreement.

9. Cooperation With Other Jurisdictions: This Order is entered in conjunction with coordinated proceedings pending in the New Jersey MCL (Master Docket BER-L-936-13. It is the intention of this Court to work in cooperation with the New Jersey MCL Court and any other participating courts in a manner that promotes judicial economy and that secures as complete a registration of all claims and potential claims as possible, for use amongst the cooperating courts and their leadership counsel. It is also the intention of this Court to work in cooperation with any other state court or tribunal in which claims relating to the Affected Products are pending. If there is any dispute concerning the implementation of this Order, this Court will coordinate conferral among the courts for resolution of the issue, consistent with the law of the various jurisdictions.

Dated: November 13, 2014

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