

COPY

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

HAZEL PERRY,

Plaintiff,

v.

STRYKER SALES CORP.,

MAKO SURGICAL CORP.,

and JOHN DOES 1-3

Defendants.

CIVIL ACTION

FILE NO. 18A02849-10

RICHARD ALEXANDER, CLERK

2018 JUN 18 PM 2:09

FILED IN OFFICE
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA

AMENDED COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, **MS. HAZEL PERRY** in the above-styled tort action to recover damages for personal injuries from Defendant(s), and hereby shows the Court the following:

PARTIES AND JURISDICTION

1. Plaintiff **HAZEL PERRY** is an individual and resident of the State of Georgia and subjects herself to the jurisdiction of this Court.
2. Defendant **STRYKER SALES CORPORATION** (hereinafter "**STRYKER**") is a Michigan corporation with its principal place of business located in Kalamazoo, Michigan. Defendant **STRYKER** is subject to the jurisdiction of this Court pursuant to O.C.G.A. § 9-10-91 because **STRYKER** regularly solicits business in Georgia and sells its products directly to Georgia consumers; sells its products to distributors in Georgia with the expectation and knowledge that it will be purchased by Georgia

consumers; committed a tortuous act which caused damages in Georgia, derives substantial revenue from products used in Georgia. Defendant STRYKER may be served with service of process through its registered agent, **CT Corporation System, at 289 S Culver Street, Lawrenceville, (Gwinnett County), Georgia 30046.**

3. Defendant **MAKO SURGICAL CORP. (hereinafter "MAKO")** is a Delaware corporation with its principal place of business located in Ft. Lauderdale, Florida. Defendant MAKO is subject to the jurisdiction of this Court pursuant to O.C.G.A. § 9-10-91 because MAKO regularly solicits business in Georgia and sell its products directly to Georgia consumers; sells its products to distributors in Georgia with the expectation and knowledge that it will be purchased by Georgia consumers; committed a tortuous act which caused damages in Georgia, derives substantial revenue from products used in Georgia. Defendant MAKO may be served with service of process through its registered agent, **CT Corporation System, at 289 S Culver Street, Lawrenceville, (Gwinnett County), Georgia 30046.**

4. The true name or capacities of Defendants named herein John Doe 1-3 (hereinafter collectively referred to as "John Does") are unknown to the Plaintiff, yet may be liable in whole or in part for the damages alleged herein. Plaintiff will amend the complaint to show said John Does' true name and service addresses when the same have been ascertained. Plaintiff alleges on information and belief that John Does are in some manner responsible for the act or omissions alleged herein as joint tortfeasors or additional liable parties.

FACTUAL STATEMENT

5. At all times material to this lawsuit, Wellstar provided medical care and treatment to the Plaintiff through physicians, nurses, medical assistants, and other healthcare providers.
6. Defendants Stryker and Mako are in the business of designing, manufacturing, assembling, testing, inspecting, marketing, selling, distributing *Mako Restoris Multi Compartmental Knee Systems* and/or *ShapeMatch Cutting Guide*.
7. Plaintiff brings this personal injury product liability claim against Defendants as they are jointly and severally liable for the injuries sustained by Plaintiff due to the negligent use and implantation of the defective devices.
8. On October 13, 2015 Ms. Hazel Perry underwent a Right Knee Total Replacement surgery using Stryker's knee replacement parts.
9. Plaintiff's knee replacement surgery was performed by Dr. Thomas Ross at the Wellstar Atlanta Medical Center, 303 Parkway Drive NE, Atlanta, Georgia 30312.
10. Ross used the "Restoris MultiCompartmental Knee System" as manufactured, designed, assembled, tested, inspected, marketed, sold, and distributed by Stryker and Mako.
11. Plaintiff asserts that as a result of the defective parts she was hospitalized, underwent a revision surgery, incurred extensive medical bills, and endured prolonged pain and suffering. On May 11, 2016 it was discovered through testing that there was "loosening of the prosthesis."

12. Plaintiff asserts that Defendants were negligent in the design, manufacturing, and testing of the knee replacement parts used in the procedure on October 13, 2015. The Plaintiff was made aware of the defect on May 11, 2016.
13. Plaintiff asserts that Defendants' negligence was the direct and proximate cause of her injuries and resulting damages.
14. Plaintiff was scheduled for her post-operation visit with Dr. Ross on December 3, 2015.
15. However, as early as December 1, 2015 Ms. Perry went to the Emergency Department of Wellstar Atlanta Medical Center with complaints of pain in her right knee that began a week prior.
16. Plaintiff was uncertain about the cause of the pain which was exacerbated by any movement including weight bearing or bending her right knee.
17. Plaintiff asserts that while in the emergency room doctors found positive signs for pain, swelling, tenderness, and warmth in the right knee.
18. Plaintiff was administered Zofran for nausea and Morphine for pain through Intravenous therapy and eventually was cleared for discharge in a wheelchair as she was unable to ambulate due to the pain.
19. Plaintiff was instructed to follow up with her orthopedic surgeon and given a prescription for extreme pain.
20. After months of therapy and pain management further steps were taken to discover the cause of the excessive pain.
21. On May 11, 2016 Plaintiff underwent a Nuclear Medicine 3 Phase Bone Scan which revealed that there was *“increased radiotracer activity to the medial prosthesis of the*

right knee arthroplasty...” and *“The uniform increased radiotracer activity suggest loosening of the prosthesis.”* See Exhibit A.

22. Once these findings were made evident, Dr. Ross scheduled Ms. Perry’s revision surgery to remove the faulty and/or improperly implanted Stryker/Mako parts.
23. The revision surgery was performed on June 28, 2016 in order to remove the painful hardware and replace the entire knee replacement.
24. Once the device was removed it was confirmed through the surgical pathology report which states, “The maker is Maico” [sic]. Indicating that the defective part was manufactured by Mako Surgical Corporation, a subsidiary company of Stryker. See Exhibit B.

STRICT PRODUCTS LIABILITY

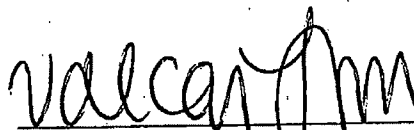
25. Plaintiff hereby incorporates, adopts, and re-alleges the above referenced paragraphs of this Complaint as if fully set forth herein.
26. Defendants Stryker and Mako designed and manufactured the defective Restoris MCK involved in the incident in suit.
27. The Restoris MCK device was defective at the time it was placed in Plaintiff’s knee or at the time it left Defendant Stryker and Mako’s control.
28. As a direct and proximate result of the defective Restoris MCK, Plaintiff suffered catastrophic injuries and damages, including medical expenses, mental and physical pain and suffering, and loss of consortium. In the future, Plaintiff will require therapeutic medical care and other necessary expenses.
29. Defendants are jointly and severally liable to Plaintiff for injuries and damages resulting from the incident in suit.

30. Wherefore, Plaintiff is entitled to recover from Defendants reasonable compensatory damages in an amount in excess of \$100,000.00 to be determined by a fair and impartial jury for all damages Plaintiff suffered, including physical, emotional, and economic injuries.

Wherefore Plaintiff respectfully demands a trial by jury and judgment against the Defendants as follows:

- 1) Compensatory damages in an amount in excess of \$100,000.00 to be determined by a fair and impartial jury;
- 2) All costs of this action; and
- 3) Such other and further relief as the Court deems just and proper.

Respectfully submitted this 6 day of June 2018.



Valencia Caroline Thurman
Attorney for Plaintiff
GEORGIA BAR NO. 397800

Law Offices of Robert Pagnello
651 Exchange Place
Lilburn, Georgia 30047
(770) 982-2258
(770) 982-2544 (Fax)

General Civil and Domestic Relations Case Disposition Information Form

Superior or State Court of Gwinnett County

For Clerk Use Only	
Date Disposed	Case Number
MM-DD-YYYY	
	Case Style

Plaintiff(s)
Perry Hazel

Last	First	Middle I.	Suffix	Prefix
Last	First	Middle I.	Suffix	Prefix
Last	First	Middle I.	Suffix	Prefix
Last	First	Middle I.	Suffix	Prefix

Defendant(s)
Mako Surgical Corp.
Stryker Sales Corp.

Last	First	Middle I.	Suffix	Prefix
Last	First	Middle I.	Suffix	Prefix
Last	First	Middle I.	Suffix	Prefix
Last	First	Middle I.	Suffix	Prefix

Reporting Party _____

Plaintiff's Attorney Valencia Thurman

Bar Number 397800

Self-Represented

Defendant's Attorney _____

Bar Number _____

Self-Represented

Manner of Disposition	
Check Only One	
<input checked="" type="checkbox"/>	Jury Trial
<input type="checkbox"/>	Bench/Non-Jury Trial
<input type="checkbox"/>	Non-Trial Disposition
<input type="checkbox"/>	Alternative Dispute Resolution

- Check if any party was self-represented at any point during the life of the case.
- Check if the court ordered an interpreter for any party, witness, or other involved individual.
- Was the case referred/ordered to a court-annexed alternative dispute resolution (ADR) process?



ID Number: 800357145

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Summary for: STRYKER SALES CORPORATION

The name of the DOMESTIC PROFIT CORPORATION: STRYKER SALES CORPORATION

Entity type: DOMESTIC PROFIT CORPORATION

Identification Number: 800357145 **Old ID Number:** 346148

Date of Incorporation in Michigan: 12/21/1989

Purpose:

Term: Perpetual

Most Recent Annual Report: 2018

Most Recent Annual Report with Officers & Directors: 2018

The name and address of the Resident Agent:

Resident Agent Name: THE CORPORATION COMPANY

Street Address: 40600 ANN ARBOR RD E STE 201

Apt/Suite/Other:

City: PLYMOUTH

State: MI

Zip Code: 48170

Registered Office Mailing address:

P.O. Box or Street Address:

Apt/Suite/Other:

City:

State:

Zip Code:

The Officers and Directors of the Corporation:

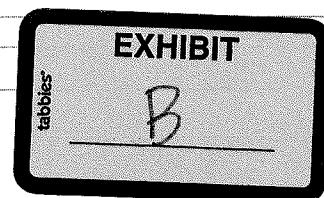
Title	Name	Address
PRESIDENT	TIMOTHY SCANNELL	2 PEARL COURT ALLENDALE, NJ 07401 USA
TREASURER	JEANNE BLONDIA	2825 AIRVIEW BLVD KALAMAZOO, MI 49002 USA
SECRETARY	DEAN BERGY	2825 AIRVIEW BLVD KALAMAZOO, MI 49002 USA
DIRECTOR	TIMOTHY SCANNELL	2 PEARL COURT ALLENDALE, NJ 07401 USA
DIRECTOR	WILLIAM BERRY	2825 AIRVIEW BLVD KALAMAZOO, MI 49002 USA

Act Formed Under: 284-1972 Business Corporation Act

Total Authorized Shares: 1,000

Written Consent

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- ARTICLES OF INCORPORATION
- RESTATED ARTICLES OF INCORPORATION
- RESTATED ARTICLES OF INCORPORATION
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CORPORATIONS DIVISION

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BUSINESS SEARCH

BUSINESS INFORMATION

Business Name: **STRYKER SALES CORPORATION**

Control Number: **K002800**

Business Type: **Foreign Profit Corporation**

Business Status: **Active/Compliance**

Business Purpose: **NONE**

Principal Office Address: **2825 AIRVIEW BLVD,
KALAMAZOO, MI,
49002, USA**

Date of Formation /
Registration Date: **2/12/1990**

Jurisdiction: **Michigan**

Last Annual Registration
Year: **2018**

REGISTERED AGENT INFORMATION

Registered Agent Name: **C T CORPORATION SYSTEM**

Physical Address: **289 S Culver St, Lawrenceville, GA, 30046-4805, USA**

County: **Gwinnett**

OFFICER INFORMATION

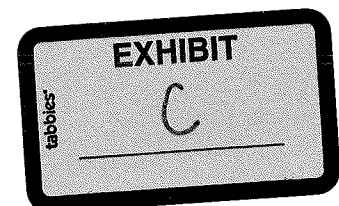
Name	Title	Business Address
DAVID FURGASON	CFO	2825 AIRVIEW BLVD, KALAMAZOO, MI, 49002, USA
Dean Bergy	Secretary	2825 AIRVIEW BLVD, KALAMAZOO, MI, 49002, USA
TIMOTHY SCANNELL	CEO	2 PEARL COURT, ALLENDALE, NJ, 07401, USA

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- Certifications, Apostilles & Authentication of Documents

Entity Details

THIS IS NOT A STATEMENT OF GOOD STANDING

File Number: **3880868** Incorporation Date / **11/12/2004**
Formation Date: (mm/dd/yyyy)

Entity Name: **MAKO SURGICAL CORP.**

Entity Kind: **Corporation** Entity Type: **General**

Residency: **Domestic** State: **DELAWARE**

REGISTERED AGENT INFORMATION

Name: **THE CORPORATION TRUST COMPANY**

Address: **CORPORATION TRUST CENTER 1209 ORANGE ST**

City: **WILMINGTON** County: **New Castle**

State: **DE** Postal Code: **19801**

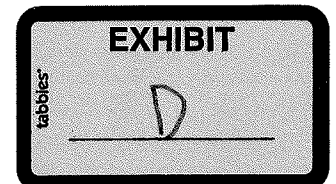
Phone: **302-658-7581**

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CORPORATIONS DIVISION

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BRIAN P. KEMP

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BUSINESS SEARCH

BUSINESS INFORMATION

Business Name: **MAKO SURGICAL CORP.** Control Number: **11008641**
 Business Type: **Foreign Profit Corporation** Business Status: **Active/Compliance**
 Business Purpose: **NONE**
 Principal Office Address: **2555 DAVIE ROAD, Ft. LAUDERDALE, FL, 33317, USA** Date of Formation / Registration Date: **2/1/2011**
 Jurisdiction: **Delaware** Last Annual Registration Year: **2018**

REGISTERED AGENT INFORMATION

Registered Agent Name: **C T CORPORATION SYSTEM**
 Physical Address: **289 S Culver St, Lawrenceville, GA, 30046-4805, USA**
 County: **Gwinnett**

OFFICER INFORMATION

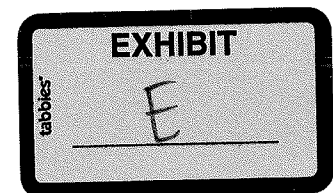
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DEAN BERGY	Secretary	2825 AIRVIEW BLVD, KALAMAZOO, MI, 49002, USA
ROBERT COHEN	CEO	325 CORPORATE DRIVE, MAHWAH, NJ, 07430, USA

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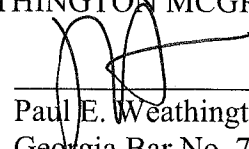


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Respectfully submitted,

WEATHINGTON MCGREW, P.C.

By:



Paul E. Weathington
Georgia Bar No. 743120
Jessica T. Holland
Georgia Bar No. 167209

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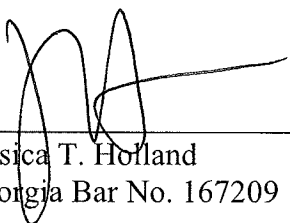
Attorneys for Defendants
Stryker Sales Corporation and
Mako Surgical Corporation

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing pleading upon all parties to this matter electronically and/or by depositing a true copy of same in the U.S. Mail, proper postage prepaid, addressed to counsel of record as follows:

Valencia Caroline Thurman
Law Offices of Robert Pagnello
651 Exchange Place
Lilburn, Georgia 30047

This 17th day of July, 2018.



Jessica T. Holland
Georgia Bar No. 167209