FILED

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BRIAN R. MARTINOTTI, J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

CASE NO. 296
MASTER DOCKET NO.:BER-L-936-13

IN RE Stryker Rejuvenate & ABG II

Modular Hip Implant LITIGATION

CIVIL ACTION
CASE MANAGEMENT ORDER #7

All prior orders remain in full force and effect except as modified by this Order

This Matter having been assigned to the Honorable Brian R. Martinotti, J.S.C., pursuant to the Supreme Court's Order of January 24, 2013, designating this matter for Multicounty Litigation Status ("MCL") of Stryker Rejuvenate & ABG II Hip Implant Litigation (hereinafter referred to as "Stryker") [of note is the Federal Joint Panel on Multidistrict Litigation has assigned this matter to Judge Donovan W. Frank in the D. Minnesota], and the Court having reviewed the proposed agenda, conducting a CMC on July 17, 2013, counsel appearing, for good cause shown and for the reasons set forth on the record,

IT IS on this 23th day of July 2013,

ORDERED,

I. COMPLIANCE WITH PRIOR ORDERS:

1. ORDERS ENTERED SINCE CMO #6:

   A. Stryker Corporation and Stryker Ireland Stipulation (entered July 17, 2013)

   B. Order Regarding Depositions Of Plaintiffs Who Are In Extremis (entered July 17, 2013)

2. COMPLIANCE:

   A. Counsel have met and are continuing to meet on the following:

[Counsel's request to extend this time set forth in CMO #6 is GRANTED.]

i. Defendants' Fact Sheet: **Counsel shall meet and confer prior to the next CMC.**

ii. Scope, parameters and timing for service of written discovery: **Parties may serve discovery requests compliant with court rules and shall continue to meet and confer regarding discovery. [As per prior CMOs]**

iii. Protective Order: **Plaintiff shall provide to Defendants revisions to the proposed protective order by July 19, 2013. Defendants shall respond by noon on July 23, 2013. Parties shall continue to meet and confer regarding a final protective order.**

Moving forward, all Plaintiffs' medical records shall be stamped "confidential." All prior records shall be deemed confidential.

II. DISCOVERY

1. Written Discovery (including insurance disclosures and DFS):

   a. Defendants to produce a chart setting forth insurance coverage information and declaration sheets within ten (10) days (premiums to be redacted) **[At the CMC, it was represented that the information has been obtained and production is pending finalization of a protective order.]**

   b. Defendants to produce one ESI witness for deposition by August 23, 2013, and one corporate structure witness for deposition requests by August 7, 2013;

      i. Depositions shall include no more than two (2) attorneys with cases filed in New Jersey [issues of cross notice and attendance by MDL attorneys shall be addressed by Judge Frank]

      ii. Counsel shall meet and confer regarding a production order; Plaintiffs shall send comments to Defendants by July 19, 2013, and Defendants shall respond by July 26, 2013.

2. Medical Records authorization/vendor status: Defendants to select a vendor and provide names to Plaintiff by July 31, 2013.

III. CASE MANAGEMENT:

1. All new complaints shall be served within thirty (30) days of receipt of a filed copy from the Court.

2. Cases for Mediation will be chosen as follows:

a. Six (6) cases randomly selected by the Court

b. Two (2) cases selected by Plaintiffs; Plaintiffs have selected Dixon v. Howmedica, BER-L-1744-13, and Mergel v. Howmedica, BER-L-1022-13.

c. Two (2) cases selected by Defendants

3. Plaintiffs who have elected to be eligible to participate in Phase I Mediation as set forth in the Initial Mediation Order shall serve completed Fact Sheets on Defendant and Liaison Counsel no later than July 26, 2013.

4. Plaintiffs not referenced in paragraph (2) above who served their complaints prior to entry of CMO #5 shall serve completed Fact Sheets on Defendants and Liaison Counsel by August 12, 2013.

5. All other Plaintiffs shall serve completed Fact Sheets on Defendant and Liaison Counsel within sixty (60) days of service of the complaint.

6. Parties are required to comply with CMO #3 regarding the service of preliminary disclosure forms. (See CMO #3, paragraph (I)(2)(A)(i).)

7. Discussion Regarding Exemplar Products:

a. Defendant shall investigate the "universe" of exemplars that exist and provide type, size, quantity, and whether packaged or unpackaged to Plaintiffs and the Court by July 26, 2013.

b. Once the above is produced, Parties will have a telephone conference with the Court concerning production.

8. File & Serve Service: pending proposal and continued discussion

6. The court may, from time to time, conduct phone conferences with defense counsel and liaison counsel.

7. The Court directs all counsel to R.1:4-8 and expects all counsel to abide by the parameters set forth therein.

8. All Court proceedings will start at the designated scheduled time. Counsel is expected to arrive promptly for these proceedings.

9. Counsel shall provide the Court with their preferred e-mail address by e-mailing same to Kelly Gibson at Kelly.Gibson@judiciary.state.nj.us and Stephanie Gino at Stephanie.Gino@judiciary.state.nj.us.

10. Counsel shall copy their co-counsel and all adversaries on all e-mails and other electronic correspondence submitted to the Court [COUNSEL IS PROHIBITED FROM FILING ANY PLEADING ELECTRONICALLY]. Any such submission received after 4:30 p.m. will be deemed received at 9:00 a.m. on the next day Court is in session. Any such submission received after 4:30 p.m. on a Friday or over a weekend, will be deemed received on 9:00 a.m. on the next day Court is in session.

11. Counsel is directed to contact The Superior Court of New Jersey, Attorneys Accounts: P.O. Box 980, Hughes Justice Complex, 25 W. Market Street, Trenton, New Jersey 08625, (609) 633-8643 to establish a collateral account for any filing fees within seven (7) days.

12. Counsel is required to check the Judiciary's Web Site dedicated to this matter for any decisions/Orders/information contained therein.

13. A copy of this Order and any subsequent Orders to the Court will be posted on the Judiciary Web Site.

9. Service on Defendants: Defense counsel agreed to accept service on behalf of Defendants in cases filed by plaintiffs' law firms that have filed and properly served 25 or more cases. Defendants shall advise Plaintiffs' counsel of the name(s) of the individuals upon which process can be served.

IV. GENERAL:

1. The next Case Management Conference is scheduled for August 13, 2013, at 10:30am. Liaison counsel shall meet at 9:45am. **Counsel shall submit a proposed agenda seven (7) days prior to this Case Management Conference.**

2. *Pro hac vice* motions shall not be filed until complaint is filed and served on Defendants.

3. The official record shall be the transcript provided by the court reporter retained by counsel. The reporter shall preserve all proceedings and shall email a transcript of any court proceeding to the court within 14 days of the proceeding.

4. Subject to agreement by and between counsel and with permission from the Court, counsel is permitted to appear telephonically; in order to have your appearance on the record, it is counsel's responsibility to Email liaison counsel and the court reporter at least one hour before the proceeding with your name, firm, and party representing, indicating that you intend to appear by phone; in addition you must confirm you appearance, immediately following the proceeding. Absent the above, counsel's appearance will not be noted.

5. By consent of all parties, the court may contact or be contacted on an *ex parte* basis regarding settlement issues <u>only.</u>

BRIAN R. MARTINOTTI, J.S.C.