

IN RE STRYKER REJUVENATE &
ABG II MODULAR HIP
IMPLANT LITIGATION

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
CIVIL ACTION

This Document Relates To the Following
Matter Only:

CASE NO. 296
Master Docket No. BER-L-936-13 MCL
Individual Case Docket No. BER-L-19941-14

FILED
GENNARELLI, Louis H. BER-L-19941-14

MAY 26 2023

**ORDER REQUIRING FURTHER ACTION
FOLLOWING OTSC HEARING**

RACHELLE L. HARZ

OTSC
Pursuant to the New Jersey Supreme Court's Order of January 15, 2013, MCL No. 296 (Master Docket Number BER-L-936-13) was assigned to this Court for centralized case management. Accordingly, this Court is charged with management of this MCL docket, generally, as well as the individual matters that collectively comprise the MCL docket.

On April 25, 2023, the Court entered an Order Regarding Certain Identified Pending Matters and Case categories. The Order identified three categories of pending MCL cases: 1) Unrevised Plaintiffs; 2) Plaintiffs with Unaffected Products (i.e., not the two medical devices at issue in this MCL— *Rejuvenate Modular Hip Stem System* or *ABGII Modular Hip Stem System*); and 3) Plaintiffs who were determined to be or are otherwise ineligible for the prior settlement programs established during the course of this 2013 MCL. Included with the April 25 Order was an Exhibit A listing the cases and categories falling into one or more of the identified case categories. The Order further scheduled a May 24, 2023 Order to Show Cause hearing at which counsel and each of their clients were required to appear via conference call or Zoom to show cause why each of these matters should not be dismissed with prejudice. Specific notice requirements were provided in the Order. The Order also noted that if current counsel wished to seek to withdraw as counsel then notice should be provided in advance of the hearing of their intention to do so. The Order further stated: "Unless a dismissal has been entered voluntarily prior to May 24, 2023, then if a plaintiff or plaintiffs in one of the identified lawsuits fails to appear via

telephonic or Zoom conference on May 24, 2023, then the Court shall dismiss his/her lawsuit with prejudice, and permit current counsel to withdraw.”

Included in the April 25, 2023 Order was the lawsuit of Plaintiff Louis Gennarelli, an unrevised and ineligible settlement program plaintiff case (Docket No. BER-L-19941-2014). On May 5, 2023, the Court entered an Order regarding additional notice to Plaintiff Gennarelli and providing the detailed Zoom or conference call instructions and an assigned hearing time of 1:30PM (ET). The May 5, 2023 Order reiterated that if Plaintiff failed to appear at the conference (by Zoom or telephone) then the Court would dismiss the lawsuit with prejudice and without further notice.

Prior to the May 24, 2023 hearing, counsel for Plaintiff filed a motion to be relieved as counsel, which was unopposed. On May 24, 2023, the Court held a hearing in the Gennarelli matter at the noticed time using the conference call and Zoom information set forth in the prior notice order. Counsel for the parties appeared at the assigned time. Plaintiff Louis Gennarelli did not appear at the hearing, but persons identifying themselves as his wife, Plaintiff Maria A. Gennarelli, and son appeared via Zoom and by telephone and explained that Mr. Gennarelli was ill and unable to attend. A discussion of the case and settlement history took place on the record and additional time to consider Plaintiffs’ options was requested in this 2014 case.

Accordingly, pursuant to its inherent authority and case management duties, the Court hereby issues the following Order:

IT IS on this 25th day of May 2023 **ORDERED**:

1. Only the following matter is within the scope of this Order:
 - LOUIS B. GENNARELLI, et al. v. Howmedica Osteonics Corp., et al. (BER-L-19941-2014)
2. Plaintiffs’ counsel’s motion to withdraw is granted.
3. No later than June 26, 2023, Plaintiffs must: 1) obtain new counsel and such counsel must enter a formal appearance in this matter; 2) indicate their intention to proceed as

self-represented (pro se) and affirm their understanding that they are required to fulfill all discovery obligations and comply with all New Jersey Court Rules as pro se plaintiffs; or 3) elect to voluntarily dismiss their case.

This Court has provided a form (attached to this Order) for the Plaintiffs to utilize to respond by the June 26, 2023 deadline. **The completed form must be mailed to the Bergen County Courthouse, Attn: Jamie Colaneri, MCL Team Leader, Civil Division, 10 Main Street, Hackensack, NJ 07601.**

4. In the event that this Court does not receive by June 26, 2023 a filed notice of appearance by new counsel on Plaintiffs' behalf or the completed form then this case will be dismissed without further notice.
5. If either new counsel enters an appearance for Plaintiffs or Plaintiffs elect to proceed pro se, it is further ORDERED that all liability expert reports on behalf of Plaintiffs, including but not limited to orthopedic, pathology, radiology, toxicology or any other report Plaintiffs choose to serve, must be served by August 28, 2023. Instructions on the mode of service for the expert reports will be provided if Plaintiffs choose to proceed in this manner. In the event said liability expert reports are not served on behalf of Plaintiffs by August 28, 2023, defense counsel may move to dismiss this case with prejudice *ex parte*.
6. A copy of this Order will be served on Plaintiffs' prior counsel for forwarding to Plaintiffs, and also mailed to Plaintiffs at the following address provided at the May 24, 2023 OTSC hearing: 18 Wilshire Drive, White Plains, New York 10605.

Dated: May 25, 2023


HON. RACHELLE L. HARZ, J.S.C.

Louis B. Gennarelli and Maria A. Gennarelli v. Howmedica Osteonics Corp.
[BER-L-19941-14]

Response must be completed and returned to the Court by June 26, 2023 and addressed as follows:

Bergen County Courthouse
Attn: Jamie Colaneri
MCL Team Leader, Civil Division
10 Main Street
Hackensack, NJ 07601

Note: In the event that this Court does not receive completed form by June 26, 2023, this case will be dismissed.

Indicate Plaintiffs intention by checking one of the boxes below:

- Plaintiffs Louis B. Gennarelli and Maria A. Gennarelli elect to voluntarily dismiss this case.
- Plaintiffs Louis B. Gennarelli and Maria A. Gennarelli intend to proceed as self-represented (pro se). We hereby affirm our understanding that we are required to fulfill all discovery obligations and comply with all New Jersey Court Rules, including the discovery obligations set forth in the Court's May 25, 2023 Order Requiring Further Action Following 5/24/23 OTSC Hearing. Specifically, we agree that all liability expert reports on our behalf, including but not limited to orthopedic, pathology, radiology, toxicology, will be served on defense counsel by August 28, 2023.

Louis B. Gennarelli

Maria A. Gennarelli