

IN RE STRYKER REJUVENATE &
ABG II MODULAR HIP
IMPLANT LITIGATION

FILED

APR 25 2023

RACHELLE L. HARZ
J.S.C.

*This Document Relates To the Matters
Reflected in Exhibit A hereto.*

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

CASE NO. 296

Master Docket No. BER-L-936-13 MCL

CIVIL ACTION

**ORDER REGARDING CERTAIN
IDENTIFIED PENDING MATTERS AND
CASE CATEGORIES**

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.

As part of its management obligations, this Court recently undertook an updated review of the pending docket and identified the categories of cases set forth below that remain pending on this 2013 MCL docket. Most cases have settled pursuant to various global settlement programs, and it appears that the remaining cases did not qualify for settlement, but have not taken any steps to advance the cases to trial. If these cases are not voluntarily dismissed in the next thirty (30) days, then this Court will conduct a hearing on May 24, 2023, as set forth below, and establish immediate expert disclosure obligations on the part of plaintiffs in those matters to determine the viability of these few remaining matters in this MCL docket:

(1) Unaffected Products: Cases involving 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*);

(2) Unrevised Plaintiffs: Cases reflecting unrevised plaintiffs, despite the fact that prior unrevised plaintiffs have voluntarily dismissed such matters without remuneration following the Court's September 16, 2019 Order Regarding Unrevised Plaintiffs and follow up December 23, 2019 Order Regarding Failure to Comply with Prior Unrevised Plaintiffs Mandatory Tolling

Order; and

(3) Ineligible under the Prior Settlement Programs: Cases by Plaintiffs who were determined to be or are otherwise ineligible for the prior settlement programs established during the course of this 2013 MCL. Based upon reports to this Court, there were only a small number of ineligible claimants in the various settlement programs over the years, and all but a few have now dismissed their lawsuits without remuneration.

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

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

1. Order to Show Cause Hearing Date: This Order serves as notice to all counsel in the cases listed on Exhibit A that the Court intends to immediately commence Order to Show Cause proceedings in each of these matters requiring counsel and each of their clients to appear via conference call or Zoom on Wednesday, May 24, 2023 and show cause why each of these matters should not be dismissed. An Order providing the specific conference details for each case will issue shortly unless the case is voluntarily dismissed in the interim.
2. Notice: In addition to posting on the Court's MCL website, lead counsel shall coordinate and serve (via email) notice of this Order on counsel of record in the matters listed in Exhibit A. Immediately thereafter, identified counsel for each of the named plaintiffs on Exhibit A must then issue written notice and a copy of this Order to each of the their clients who are plaintiffs in the matters listed herein via e-mail, if available, *and* via registered and overnight mail to the last known address for each such plaintiff no later than two (2) business days from entry of this Order.
3. Request for Withdrawal as Counsel: Following issuance of the notices to each plaintiff

pursuant to paragraph 2 above, to the extent that current counsel for each named plaintiff wishes to withdraw as counsel, then counsel shall send written notice of their intention to seek to withdraw to their clients and to the Court and lead MCL plaintiffs' counsel (E. Relkin of Weitz & Luxenberg, P.C. - ERelkin@weitzlux.com) and defense counsel (K. Catullo of Gibbons P.C. – kcatullo@gibbonslaw.com). Each counsel's request to withdraw will be considered at the time of the OTSC hearing on May 24, 2023 so long as the notice process required herein has been completed.

4. Party's Failure to Appear: 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.

Dated: April 25, 2023



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

Exhibit A

UNAFFECTED PRODUCT (i.e., not the two medical devices at issue in this MCL– *Rejuvenate Modular Hip Stem System* or *ABGII Modular Hip Stem System*):

	Case Name	Docket No.	Counsel
1.	Au, Wendy Mytu	BER-L-008897-12	Seeger Weiss LLP; Gomez Law Trial Attorneys
2.	Conway, Beatrice	BER-L-004970-13	Pro Se – previously represented by Levin Fishbein Sedran & Berman - withdrew as counsel in October 2014
3.	Duvall, Leon	BER-L-006313-18	Shrager, Spivey & Sachs
4.	Bonanno, Phillip	BER-L-002308-13	Christian P. Steuben, Esq.

INELIGIBLE UNDER SETTLEMENT PROGRAMS:

	Case Name	Docket No.	Counsel
1.	Barnes, Doris	BER-L-007159-15	Weitz & Luxenberg
2.	Berner, Constance	BER-L-003661-13	Weitz & Luxenberg; Skikos, Crawford, et al.
3.	Donovan, William	BER-L-005957-14	Weitz & Luxenberg
4.	Fisher, Ruth Ann	BER-L-001976-14	Weitz & Luxenberg; Kiesel Law
5.	Hardin, Thomas C.	BER-L-002357-14	Shrager, Spivey & Sachs; Verhine & Verhine, PLLC
6.	Johnson, Rickie	BER-L-004795-14	The Lanier Law Firm, PLLC
7.	Russell, Weldon	BER-L-004989-13	Lieff Cabraser Heiman & Bernstein, LLP
8.	Scott, Steve	BER-L-009993-15	Re-filed by Kelley Bernheim (prior counsel Fleming, Nolan & Jez had dismissed)
9.	Shepherd, Llewellyn	BER-L-008908-15	Weitz & Luxenberg
10	Tucker, Thomas	BER-L-001287-15	Weitz & Luxenberg
11	Cohen, Marc	BER-L-6161-21	Pro Se

Exhibit A

UNREVISED PLAINTIFFS:

Pogust Firm Unrevised:

	Case Name	Docket No.	Counsel
1.	Booth, Christopher Date of Implant ("DOI"): May 2011	BER-L-007963-16	Pogust Goodhead (formerly Pogust Braslow, et al.)
2.	Gonczy, Jill DOI: February 2011	BER-L-006168-14	Pogust Goodhead (formerly Pogust Braslow, et al.); Saltz, Mongeluzzi, et al.
3.	Gueli, Barbara DOI: November 2010 <i>Deceased in 2017</i>	BER-L-006499-14	Pogust Goodhead (formerly Pogust Braslow, et al.)
4.	Isley, Linda DOI: November 2010	BER-L-006503-14	Pogust Goodhead (formerly Pogust Braslow, et al.)
5.	Smith, Marvin DOI: August 2010	BER-L-006500-14	Pogust Goodhead (formerly Pogust Braslow, et al.)

Other Firm Unrevised:

	Case Name	Docket No.	Counsel
6.	Briant, Gene O. DOI (L): May 2010	BER-L-002348-14	Shrager, Spivey & Sachs; Verhine & Verhine, PLLC
7.	Gennarelli, Louis B. DOI: February 2011	BER-L-019941-14	Sullivan Papain; Law Offices of Andrew J. Carboy III.
8.	Maiorino, Patricia DOI: November 2010	BER-L-005444-14	Weitz & Luxenberg
9.	Parker, Mary M. DOI: December 2010	BER-L-001448-19	Weitz & Luxenberg
10.	Vassar, Willa DOI: May 2010	BER-L-005956-14	Weitz & Luxenberg