NOTICE TO THE BAR

MULTICOUNTY LITIGATION APPLICATION -- NEW JERSEY STATE COURT LITIGATION INVOLVING THE STRYKER TRITANIUM ACETABULAR SHELL

The Supreme Court has received an application pursuant to Directive #02-19, "Multicounty Litigation Guidelines and Criteria for Designation (Revised)," for Multicounty Litigation (MCL) designation of New Jersey state-court litigation against manufacturer Howmedica Osteonics Corp., d/b/a Stryker Orthopaedics, alleging injuries as a result of implantation of the Stryker Tritanium Acetabular Shell. The Stryker Tritanium Acetabular Shell is a hip replacement product implanted in a patient's pelvis during a total hip arthroplasty. Some patients have encountered problems with the device, including loosening, requiring surgical repair.

The MCL application was submitted by counsel for plaintiffs. The application requests that if the designation is approved, the MCL be assigned to the Bergen Vicinage.

Anyone wishing to comment on or object to this application should provide such comments or objections in writing, with relevant supporting documentation, by **December 13, 2019 to:**

Hon. Glenn A. Grant
Acting Administrative Director of the Courts
Attention: MCL Application – Stryker Tritanium Acetabular Shell
Hughes Justice Complex, P.O. Box 037
Trenton, New Jersey 08625-0037

Comments/objections may also be submitted by email to Comments.mailbox@njcourts.gov.

A copy of the application submitted to the Court is posted with this Notice on the Judiciary's Internet Website at (www.njcourts.gov) in the Multicounty Litigation Information Center http://www.njcourts.gov/attorneys/mcl/index.html

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: November 4, 2019

W E I T Z

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L U X E N B E R G

A P R O F E S S I O N A L C O R P O R A T I O N

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October 8, 2019

VIA FEDERAL EXPRESS
Hon. Glenn A. Grant, J.A.D.
Administrative Director of the Courts
Administrative Office of the Courts
of the State of New Jersey
Richard J. Hughes Justice Complex
25 West Market Street
Trenton, NJ 08625

Re: Request for Multicounty Designation of Stryker Tritanium Litigation

Dear Judge Grant:

This letter is submitted on behalf of nine (9) plaintiffs[1] who have cases filed in Bergen County, New Jersey[2] involving the Stryker Tritanium acetabular shell (a/k/a "acetabular cup" or "cup") manufactured by Defendant Howmedica Osteonics Corp., a New Jersey corporation, d/b/a Stryker Orthopaedics (hereinafter, "Stryker"). Plaintiffs seek a Multicounty Litigation (MCL) designation in accordance with Rule 4:38A. This acetabular device is compatible with a variety of Stryker femoral components, and therefore, it has been estimated that this device was implanted in tens of thousands of individuals in the United States.[3]

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[1] *See* **Exhibit A**.
[2] Additionally, there are eleven (11) more cases involving the Stryker Tritanium cup that were improperly removed from Bergen County Superior Court. We anticipate the District of New Jersey will remand those matters, which will bring the total of Tritanium cases in Bergen County to twenty (20). *See* **Exhibit B**, *Omnibus Reply in Support of Motions to Remand.*
[3] Stryker is in the best position to quantify the precise number sold in the United States.

Background

The Stryker Tritanium acetabular cup is a titanium acetabular "shell" implanted in the patient's pelvis during an orthopedic procedure called total hip arthroplasty (THA). The cup is fitted with a polyethylene liner, which articulates with a femoral head implanted in the same surgery and typically made of metal or ceramic.

The Tritanium cup is initially held by three screws (hence the "Tri"), as well as by frictional forces known as a "press-fit" created by the surgeon reaming the pelvic bone to a slightly smaller diameter than the cup. The cup's outer surface in contact with the bone is roughened in the manufacturing process to encourage bony ingrowth (osseointegration), as bone fixation is the Tritanium cup's long-term method of securement.

Recent literature has shown the Tritanium cup does not reliably achieve osseointegration, and, without that bony fixation, the cup has accordingly experienced high rates of early failure associated with aseptic loosening of the device.[4] While Stryker-funded studies from earlier this decade indicated a 100% success rate with the Tritanium cup at 2-4 years,[5] the more recent studies have revealed, for example, that over one third of Tritanium cups had at least two zones of radiolucency on radiographic imaging, indicating that failure from aseptic loosening is imminent or already present.[6] Another of those studies noted that the Stryker Tritanium Revision cup, a different product, is manufactured differently. The authors posited that "Tritanium primary cup loosening is at least in part due to these differences in manufacturing processes. Specifically, the pore structure and polymeric binding agent used in the Tritanium primary cup may be directly related to its increased tendency to fail[.]"[7]

Most notably, the Australian Joint Registry, a national registry that keeps track of orthopedic prostheses that are implanted and removed (since they are a single payer system and can thus track this data) just published its 20th Annual Report covering the data for 2019 and noted in the section entitled **"Cumulative Percent Revision of Total Conventional Hip Prostheses Identified as having a Higher than Anticipated Rate of Revision"** that the Accolade II/Trident

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[4] *See* Carli, A., *et al.* (2017). Short to Midterm Follow-Up of the Tritanium Primary Acetabular Component: A Cause for Concern. *J. Arthroplasty*, 32(8), 463-69; *see also* Long, W. *et al.*, (2018). Early aseptic loosening of the Tritanium primary acetabular component with screw fixation. *Arthroplasty Today*, 4(2), 169-74; *see also* Yoshioka, S., *et al.*, (2018). Comparison of a highly porous titanium cup (Tritanium) and a conventional hydroxyapatite-coated porous titanium cup: A retrospective analysis of clinical and radiological outcomes in hip arthroplasty among Japanese patients. *J. Orthopaedic Science*, 23(6), 967-72.

[5] *See* Naziri, Q., *et al.*, (2013). Excellent Results of Primary THA Using a Highly Porous Titanium Cup. *J. Orthopedics*, 36(4), 390-94.

[6] *See* Carli, A., *et al.* (2017). Short to Midterm Follow-Up of the Tritanium Primary Acetabular Component: A Cause for Concern. *J. Arthroplasty*, 32(8), 463-69.

[7] Long, W. *et al.*, (2018). Early aseptic loosening of the Tritanium primary acetabular component with screw fixation. *Arthroplasty Today*, 4(2), 169-74

Tritanium (Shell) combination was revised at a rate of 2.6% after one year of implantation, and 3.5% after three years of implantation, both of which are deemed unacceptably high rates. *See* **Exhibit C** (Pertinent excerpts at page 380, also available at https://aoanjrr.sahmri.com.)

Stryker Tritanium Acetabular Cup Litigation in New Jersey

In the past year alone, this firm and one other (Wilentz, Goldman & Spitzer) have filed a combined twenty (20) cases in New Jersey state court, all involving the same allegations of painful aseptic loosening of the Stryker Tritanium acetabular component. That total comes despite the fact that Stryker has not issued an official recall of the Tritanium acetabular component, so patients and their physicians have not been informed of a problem. Notwithstanding that, some orthopedic surgeons have seen excessive revisions due to loosening and have switched to other acetabular cups.

Stryker and its counsel have vigorously sought to stymy plaintiffs in New Jersey state court. Of particular note, Stryker has produced no discovery in any of the matters in suit, and, in plaintiffs' view, has improperly removed more than half of the twenty (20) cases filed in state court under 28 U.S.C. § 1441(b)(2), likely in an effort to prevent the very coordination now sought by this petition.

Why Coordination is Appropriate

As set forth in the guidelines, multicounty designation is warranted when a litigation involves a large number of parties; many claims with common, recurrent issues of law and fact that are associated with a single product; there is geographical dispersement of parties; there is a high degree of commonality of injury; there is a value interdependence between different claims; there is a degree of remoteness between court and actual decision makers in the litigation; among other considerations. This litigation meets the above enunciated criteria. There are already at least nine (9) filed cases, with at least that many likely to be remanded soon[8]. All cases will involve the recurrent legal issues of design defect, failure to warn, breach of warranty and possibly manufacturing defect. Moreover, there are significant overlapping factual liability issues relating to the nature of the metals in the product and how it was cast or forged; the nature of the defect; failure to recall the device; failure to comply with good manufacturing practices; and notice of concerns associated with failure of the product to osseointegrate (fixate with bone), among other

[8] The removals were premised on the claim that Stryker was not served before removal in accordance with 28 U.S.C. § 1441(b), the "forum defendant rule." While Stryker's registered agent for service, CT Corporation, was served prior to removal, Stryker counsel is inexplicably claiming that service on the registered agent is insufficient. In the unlikely event the cases are not remanded, then an MDL will be sought for the District of New Jersey, and, if granted, the MCL Judge and the MDL Judge can coordinate where appropriate, a criteria for MCL formation per the February 22, 2019 guidelines, which state on page 5 the consideration of "whether there are related matters pending in Federal court or in other state courts that require coordination with a single New Jersey judge."

related factual issues. Separate discovery demands have been filed in many of the cases and responses from Defendant are outstanding, further highlighting the need for plaintiffs to coordinate to obtain discovery.

Why Bergen County is an Appropriate Mass Tort Venue

Issues of fairness, geographical location of the parties and attorneys, and the existing civil and mass tort caseload in the vicinage will be considered in determining which vicinage a particular mass tort will be assigned to for centralized management. *See* Multicounty Litigation Guidelines and Criteria for Designation (Revised), at 1-2 (Feb. 22, 2019).

Presently, the approximate nine (9) cases already filed that were not removed are pending before at least four (4) different Bergen County judges. Since Judge Rachelle L. Harz is overseeing all Multicounty Litigations in Bergen County, including the Stryker Rejuvenate/ABG II and Stryker LFIT V40 litigations, it is both logical and fair for these new Tritanium cases, involving yet another Stryker hip implant, to remain in Bergen County and be consolidated before Judge Harz. Indeed, many of the Tritanium acetabular cups are joined with an LFIT V40 femoral head such that there are and will be combination cases where both components fail for differing and/or contributory reasons. Additionally, if Defendant is successful in keeping the other eleven (11) improperly removed cases in the United States District Court for the District of New Jersey, and an MDL is sought, it is possible New Jersey could be assigned the MDL, in which case seamless coordination could occur between the federal MDL and state MCL litigation. And even if an MDL is not sought or formed, all of the cases in the District of New Jersey are before one Judge, the Honorable John Michael Vazquez, such that he could coordinate with the assigned MCL Judge.

Geographical location is another factor to be considered when selecting the best venue in which to centralize a mass tort. While all of the available venues for multicounty centralization—Atlantic, Bergen, and Middlesex counties—are convenient to regional and international airports (*e.g.*, Philadelphia, Atlantic City, and Newark) and are within a reasonable driving distance from the offices of Defendant and their counsel in New Jersey, it is clear that Bergen County is best suited for this consolidation. Bergen County is most convenient for Defendant, which is headquartered in Northern Bergen County (Mahwah).[9] Further, Bergen County is not as populated with other pharmaceutical and medical device companies as is Middlesex County, home to Johnson & Johnson, Bristol-Myers Squibb, Amneal Pharmaceuticals, and Novo Nordisk, to name a few.

An important factor in this determination should be the "existing civil and mass tort caseload in the vicinage" being considered. *See id.* Presently, per this Court's website,

[9] While plaintiffs' counsel have some concern about the jury pool, given the presence of Defendant in the county, Stryker headquarters is more than twenty miles from the Hackensack courthouse and is actually much closer to Suffern, New York (four miles), as it is located near the New York border and the New York City metropolitan area. Accordingly many of Stryker's employees are actually New York residents and are not in the potential venire.

https://www.njcourts.gov/attorneys/mcl/index.html, there are nine (9) multicounty and centralized litigations in the Middlesex County Superior Court (*Asbestos, AlloDerm, Fosamax, Levaquin, Propecia, Reglan, Risperdal/Seroquel/Zyprexa, Taxotere/Docetaxel,* and *Zostavax*) and eight (8) multicounty litigations centralized in Atlantic County Superior Court (*Abilify, Accutane, Benicar, Bristol-Myers Squibb Environmental, Firefighter Hearing Loss, Physiomesh, Proceed Surgical Mesh/Proceed Ventral Patch,* and *Talc-Powder*). Some of these litigations involve thousands of plaintiffs.

Conversely, while there are six (6) multicounty litigations centralized in Bergen County Superior Court (*Stryker Hip/ABG II, DePuy ASR Hip Implant, Mirena, Pelvic Mesh, Stryker LFIT CoCr V40 Femoral Heads*, and *Stryker Trident*), several of these litigations are largely resolved (Mirena, *Stryker Hip/ABG II, DePuy ASR Hip Implant,* and *Stryker Trident*). Furthermore, Judge Harz is knowledgeable and familiar with the medical and regulatory issues in hip implants generally and Stryker components specifically. Given the similarities in the above-mentioned litigations, Bergen County's multicounty staff is equipped to handle this litigation.

In light all the factors and information discussed above, plaintiffs respectfully request that the Supreme Court designate the Stryker Tritanium Acetabular Cup cases for Multicounty or Centralized Management of such matters in the Bergen County Superior Court.

Respectfully submitted,

Ellen Relkin

cc: Melissa A. Czartoryski, Chief, Civil Court Programs
The Honorable Rachelle L. Harz
Kim M. Catullo, Esq., Gibbons, P.C. (Counsel for Defendant)
David R. Kott, Esq., McCarter & English, LLP (Counsel for Defendant)

EXHIBIT A

Exhibit A

	Plaintiff	Docket Number
1	David Greenberg	BER-L-009096-18
2	Earl Jones	BER-L-000525-19
3	Charles Curry	BER-L-000887-19
4	Terese Panecaldo	BER-L-004299-19
5	Edward Carlson	BER-L-005080-19
6	Robert W. Knudsen	BER-L-005897-19
7	Linda Kay Benton	BER-L-005898-19
8	Bonnie Clark	BER-L-005899-19
9	Stella Washington	BER-L-006363-19

EXHIBIT B

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

KIMBERLY FUSCO and JOHN FUSCO, **Plaintiffs,**	**CIVIL ACTIONS** **No. 2:19-cv-15040-JMV-JBC**
WILLIAM JOHNSON, **Plaintiff,**	**No. 2:19-cv-15078-JMV-JBC**
GERALDINE WYCHE, **Plaintiff,**	**No. 2:19-cv-15085-JMV-JBC**
KATHLEEN SHAFER-JONES and GREGORY JONES, **Plaintiffs,**	**No. 2:19-cv-15111-JMV-JBC**
JANICE MCCRACKEN, **Plaintiff,**	**No. 2:19-cv-15137-JMV-JBC**
JEFFREY D'ALESSANDRO and JENNIFER D'ALESSANDRO, **Plaintiffs,**	**No. 2:19-cv-15147-JMV-JBC**
DARCY WOLFE, **Plaintiff,** **v.** **HOWMEDICA OSTEONICS CORPORATION, a New Jersey Corporation, d/b/a STRYKER ORTHOPAEDICS,** JILL DOE MANUFACTURERS (1-10), JACK DOE WHOLESELLERS (1-10), JAKE DOE SELLERS (1-10), JANE DOE DISTRIBUTORS AND MARKETERS (1-10), **Defendants.**	**No. 2:19-cv-15152-JMV-JBC** **Honorable John Michael Vazquez** **Honorable James B. Clark, III** **PLAINTIFFS' OMNIBUS REPLY IN SUPPORT OF PLAINTIFFS' MOTIONS TO REMAND** **ORAL ARGUMENT REQUESTED** **RETURN DATE: SEPTEMBER 3, 2019**

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PLAINTIFFS' OMNIBUS REPLY IN SUPPORT OF PLAINTIFFS' MOTIONS TO REMAND

INTRODUCTION

Plaintiffs in the above-captioned matters respectfully submit this Omnibus Reply in Support of Plaintiffs' Motions to Remand.[1]

Defendant's efforts to present these motions as a complex matter obscure the undisputed facts and straightforward governing law. There is only one question the Court need answer to decide the motions:

> Under New Jersey state law, does ***service*** on a corporation's registered agent for ***service*** constitute effective ***service***?

If answered in the affirmative, remand should issue. The inquiry really is that simple, since under *Encompass Ins. Co. v. Stone Mansion Rest., Inc.*, 902 F.3d 147 (3d Cir. 2018), the only issue in determining if a forum defendant's removal on diversity grounds is proper is whether, at the time of removal, the forum defendant has already been "properly ... served" within the meaning of 28 U.S.C. § 1441(b)(2). *Encompass* held that under the plain meaning of the forum defendant rule, service is proper if it is effected in accordance with the state's rules for "formal service of process." *Encompass*, 902 F.3d at 153. Accordingly, once the forum defendant has been served pursuant to the forum state's

[1] The undersigned acknowledges with chagrin that through a combination of typographical errors, PDF-combining software mishaps, and simply poor arithmetic, some of the assertions as to timing in Plaintiffs' opening briefs were inaccurate. Counsel apologizes for the resultant confusion that may have burdened the Court. However, whether Defendant filed a particular removal 1, 2, or 3 hours after Defendant learned that service was effected, or similarly, whether that removal occurred 4, 5, or 6 hours after service ***was*** actually effected is immaterial because (1) The removals have no reasonable basis, as proper service preceded, and hence, precluded removal; and (2) Defendant's conduct in filing removals predicated on the knowingly inaccurate basis that service had not been effected in at least 6 of the 7 cases further strengthens the conclusion that Plaintiffs are entitled to reimbursement of their reasonable fees and costs. Attached to this Omnibus Reply is a new Certification and accompanying Exhibits clearly setting forth, *inter alia*, the facts of July 10 to July 12. 2019. (*See* attached Certification of Brendan A. McDonough, Esq. (hereinafter, "McDonough Cert.")).

rules for service of process, the window for so-called snap removal closes. *Id.* The Third Circuit adopted that "bright-line rule" for interpreting the "properly ... served" language with the very purpose of avoiding the need for district courts to adjudicate simple matters like the one at hand. *Id.*

Defendant Howmedica Osteonics Corp. (hereinafter, "Defendant" or "Stryker") presents a collection of incongruent authorities and unconvincing inferences designed to distract from the straightforward nature of this issue. Take Defendant's primary support, *Tucci v. Hartford Fin. Servs. Group, Inc.*, 600 F. Supp. 2d 630 (D.N.J. 2009). Defendant seeks to use *Tucci* to support an argument that, because serving a ***statutory*** agent—which CT Corp.[2] is not—does not constitute "***service***" under another removal statute, 28 U.S.C. § 1446(b),[3] then somehow it follows that serving a ***registered*** agent like CT Corp. does not constitute "***properly*** ... ***served***" under § 1441(b)(2). But *Tucci* explicitly held that serving a registered agent like CT Corp. ***does*** constitute "service" under § 1446(b). Thus, using Defendant's own logic, the Court could skip the *Encompass* test altogether and jump right to finding that serving a registered agent satisfies the "properly ... served" language of § 1441(b)(2).[4]

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[2] CT Corp. is Defendant's registered agent for service. (*See* **Ex. R** to McDonough Cert.)

[3] All emphasis in this Omnibus Reply is added unless otherwise indicated.

[4] The removal statute at issue here, § 1441(b)(2), states that a case "removable solely on the basis of [diversity] may not be removed if any of the parties in interest **properly** joined and **served** as defendants is a citizen of the State in which such action is brought." 28 U.S.C. § 1441(b)(2). Accordingly, snap removals like those attempted here must be filed before the home-state (forum) defendant is "properly ... served." *Id.*

The statute at issue in *Tucci*, 600 F. Supp. 2d 630, and raised by Defendant here in an attempt to redefine "properly ... served" under § 1441(b)(2), is 28 U.S.C. § 1446(b)—that statute provides "the notice of removal ... shall be filed within 30 days after the **receipt by the defendant, through service or otherwise**, of a copy of the initial pleading[.]" 28 U.S.C. § 1446(b). Where a corporation, like Defendant here, is attempting to quickly snap remove under § 1441(b)(2) ***before*** service, since that is when the window for § 1441(b)(2) removal ***closes***, the corporation cannot practically avail itself of § 1446(b).

Similarly, Defendant's reliance on cases addressing general jurisdiction is also unavailing. Those decisions, including the one rendered by this Court in *Boswell v. Cable Servs. Co., Inc.*, No. 16-4498, 2017 WL 2815077, at *5 (D.N.J. June 29, 2017) (Vazquez, J.), all addressed whether the "***registration and appointment*** of an agent for service" is enough to establish "***consent to jurisdiction***" under New Jersey law. *Boswell*, *supra*, at *5. None of those cases addressed whether ***service*** on an agent for service is enough to establish ***effective service*** under New Jersey law—that is the question here under *Encompass*'s bright-line rule.

Defendant offers these decisions as support for its technically correct but disingenuous assertion that a registered agent for service is not "a true 'agent' for ***all*** purposes[,]" (Def.'s Opp. at 5 (emphasis in original)),[5] but ***Defendant's own agent CT Corp.*** recognizes the obvious: ***"The registered agent's main and most vital legal function is to receive service of process***" on behalf of the corporation. (**Ex. Q** to McDonough Cert.).

Defendant's argument is contrary to logic, the facts, and the law. If accepted, it would grant corporations in New Jersey a sweeping, presumptive right to intentionally delay the provision of process from their registered agents until they have completed taking advantage of what the Third Circuit envisioned as a "narrow" procedural loophole. *Encompass*, 902 F.3d at 153. All corporations need to do is tell their agents to notify them of service via snail mail, once a week, or arrange some other intentionally delayed notification system, to leave them a wide-open window for not-so-"snap" removal.

This is a right no court has ever recognized. If adopted, it would dramatically limit plaintiffs' access to state court in cases where the defendant is a resident of New Jersey, as

[5] All references in this Omnibus Reply to "Def.'s Opp." refer to Defendant's Brief in Opposition to Plaintiffs' Motion to Remand filed in *Fusco, et al.*, No. 2:19-cv-15040-JMV-JBC, [D.I. 10].

well as render the utility of an agent for service on corporations largely obsolete. By extension, it would threaten not just the sovereignty of the state judiciary, but also the capacity of the federal judiciary.[6]

Defendant's novel basis for removal—that ***service*** on a registered agent for ***service*** somehow does not constitute effective ***service***—has no objectively reasonable basis. And Defendant's recent conduct set forth *infra*, including the removal of cases even when Defendant was served at its corporate headquarters in Mahwah, belies Defendant's argument that Plaintiffs should have served Defendant in Mahwah to avoid improper snap removal here.

Accordingly, and as set forth in more detail below, Plaintiffs in the above-captioned actions respectfully request that the Court remand these matters back to state court and grant Plaintiffs' request for the associated reasonable fees and costs.

ARGUMENT

I. Plaintiffs properly served Defendant in accordance with New Jersey's rules for formal service of process before Defendant's attempted removals; accordingly, *Encompass* and the forum defendant rule mandate remand.

Plaintiffs '"properly ... served'" Defendant within the meaning of the forum defendant rule. *Encompass*, 902 F.3d at 153 (quoting 28 U.S.C. 1441(b)(2)). The forum defendant rule prohibits a defendant corporation headquartered in New Jersey from removing an action to this Court "solely on the basis" of diversity if they have already

[6] There are several Stryker Tritanium cases already pending in the Superior Court of New Jersey, Bergen County. That court already has two Multicounty Litigations (MCLs) involving other Stryker hip components. They are aptly managed by the MCL Judge in Bergen County. Accordingly, Plaintiffs' counsel is preparing an application to the New Jersey Administrative Office of the Courts to create a new MCL for this hip component, the Stryker Tritanium cup. Given the judicial vacancy rate in the District of New Jersey, from a judicial economy standpoint, it makes little sense for this Court to be burdened with this litigation, which will be proceeding in its companion state court where there will be overlapping discovery and other issues.

been "properly ... served." 28 U.S.C. § 1441(b)(2). Plaintiffs served Defendant, a New Jersey corporation, via its registered agent for service in accordance with New Jersey's rules for service of process. *See* N.J. Ct. R. 4:4-4(a)(6). Under the "bright-line rule" set forth by the Third Circuit in the very case Defendant advances, Plaintiffs thus "properly ... served" Defendant in accordance with the forum defendant rule. *Encompass*, 902 F.3d at 153 (quoting 28 U.S.C. 1441(b)(2)). As that proper service came several hours before Defendant's attempts "to use pre-service machinations to remove [cases] that it otherwise could not[,]" Defendant's removals were plainly improper. *Id.* at 153-54. The Court should thus grant Plaintiffs' motions and remand these actions back to the Superior Court of New Jersey, Bergen County.

A. Pursuant to the state laws and court rules of New Jersey, every New Jersey corporation must have a registered agent who must accept service on the corporation's behalf.

Under New Jersey law, "[e]very corporation organized under any general or special law of this State ... shall continuously maintain ... a registered agent[.]" N.J.S.A. § 14A:4-1(1). "**Every registered agent shall be an agent of the corporation** which has appointed him, **upon whom process against the corporation may be served.**" N.J.S.A. § 14A:4-2(1). Correspondingly, the New Jersey Court Rules provide that service may be effected "[u]pon a corporation, by serving a copy of the summons and complaint ... o[n] any person authorized by appointment or by law to receive service of process on behalf of the corporation," including a registered agent for service. N.J. Ct. R. 4:4-4(a)(6); *see also Senju Pharm. Co., Ltd. v. Metrics, Inc.*, 96 F. Supp. 3d 428, 436 (D.N.J. 2015) (noting that "New Jersey Court Rule 4:4-4(a)(6) allows for *in personam* jurisdiction over a corporate defendant by personal service within the state upon an authorized agent of the

corporation.").[7] Indeed, service on a registered agent is a cornerstone of corporate jurisprudence.

B. Plaintiffs served Defendant's registered agent for service in accordance with New Jersey's rules for formal service of process, thus satisfying *Encompass's* bright-line rule for proper service.

On July 11, 2019, at 9:00 A.M., Plaintiffs served Defendant with the state court complaints underlying these improperly removed actions. (*See* **Ex. H, I, & K** to McDonough Cert.). In an abundance of caution, Plaintiffs' process server took photographs proving that Plaintiffs' Affidavits of Service accurately reflect the time and date of service upon Defendant's registered agent. (*See* **Ex. H** to McDonough Cert.). However, it should again be noted that nowhere in Defendant's oppositions does Defendant dispute any aspect of the factual record as set forth by Plaintiffs.

As stated, service on a corporation's registered agent constitutes effective service pursuant to New Jersey Court Rule 4:4-4(a)(6) and N.J.S.A. §§ 14A:4-1 & 2, and all case law interpreting the same. No court has ever suggested otherwise. Consequently, Plaintiffs' service here on Defendant's registered agent constituted effective service. This is the very type of dispute the Third Circuit sought to spare district courts from having to resolve by creating a bright-line rule. Under that regime, adopted in *Encompass*, Defendant was "properly joined and served" within the meaning of the forum defendant rule. Defendant's attempts to paint the circumstances as presenting some interesting, novel issue must yield to the pedestrian nature of the inquiry. The reason no case has ever questioned whether serving an agent is proper service under § 1441(b)(2) is because no

[7] Although not certain, it appears very likely that the agent in *Senju* was the exact agent appointed by and receiving service on behalf of Defendant here. *See Senju*, 96 F. Supp. 3d (noting the plaintiffs served the defendant "under Rule 4:4-4(a)(6) via its registered agent in West Trenton, New Jersey[,]" where CT Corp.'s registered office is located).

case has ever seen fit to go past the essential, self-answering first step in that inquiry—asking whether serving a registered agent for service is effective service under state rules.

C. Plaintiffs properly served Defendant well before Defendant's attempted removals, mandating remand.

Defendant cannot and does not dispute that on July 11, 2019, at 9:00 A.M., Plaintiffs served Defendant's registered agent for service in all seven of the above-captioned matters. Similarly, Defendant does not dispute that service of process occurred well before Defendant's attempted removals under 28 U.S.C. § 1441(b)(2), beginning on July 11, 2019, at 12:20 P.M. Defendant only disputes that service was effective under New Jersey law.

Since Defendant has no reasonable basis in law or fact for that position, as ***no court has ever even suggested*** that service on a corporation's registered agent does not constitute effective service, Plaintiffs "properly ... served" Defendant within the meaning of 28 U.S.C. § 1441(b)(2). That is the only legal inquiry at issue. After that, the motions turn on the simple matter of determining what came first—service, or removal. *See Encompass*, 902 F.3d at 153-54 (permitting only "***pre-service*** machinations" for removal under § 1441(b)(2)). As Defendant does not dispute, and the uncontroverted evidence provided by Plaintiffs shows, proper service on Defendant came first, so Defendant lost the race—a race ***Defendant insists on running*** through its campaign to divest plaintiffs of state court jurisdiction.

D. Defendant's lack of a reasonable basis for removal warrants reimbursement of Plaintiffs' reasonable fees and costs.

As Defendant had no basis for removal at all, Plaintiffs requested reimbursement of fees and costs in the opening briefs for having to file motions to remand. Plaintiffs

stand by that request, as the purported basis finally proffered by Defendant is plainly unreasonable.[8]

Defendant claims that Plaintiffs' reliance on *Katzenko v. Desiral*, No. 18-cv-13179, 2018 WL 5112450 (D.N.J. Oct. 18, 2018) is "inapposite," despite Plaintiffs openly acknowledging the fees in *Katzenko* were awarded for ***two*** instances of failure to apprise the Court of a fact that precluded removal: 1) lack of diversity, ***and*** 2) service on the forum defendant. *See Katzenko*, 2018 WL 5112450, at *1 ("As ***two*** separate rules [§§ 1332(a) & 1441(b)(2)] precluded removal, the Court will award fees, costs, and expenses.") Incredibly, Defendant "distinguishes" *Katzenko* from the instant matters by completely ignoring the Court's consideration of the forum defendant rule, and pretending instead that the fee award was solely based on the removing party's false assertion with respect to diversity. Defendant's strongest counter thus appears to be admission by silence that it ***only*** knowingly, falsely removed on ***one*** of the two bases at issue in *Katzenko*.[9] Plaintiffs maintain that their request for reimbursement of the reasonable fees and costs is warranted.

II. Defendant's purported basis is a collection of red herrings.

[8] A reasonable basis for removal might, for example, be predicated on a split of authority within the district. *See, e.g., Jones v. Johnson*, No. 14-1379 (RBK/KMW), 2014 WL 12577160, at *2 (D.N.J. Aug. 14, 2014) (declining to award fees for the defendant's snap removal due to this District's pre-*Encompass* split on the propriety of a § 1441(b)(2) removal before service); *see also Williams v. Daiichi Sankyo, Inc.*, 13 F. Supp. 3d 426, 433 (D.N.J. 2014) (same). There is no split of authority in this District, or anywhere else for that matter, on the effectiveness of service on a registered agent for service.

[9] Defendant also contends that Plaintiffs' request for fees and costs in this context "is a tactical decision ... almost never seen in the District of New Jersey (other than when made by out-of-state law firms)." (Def.'s Opp. at 10). The request for costs is an effort to deter Defendant's abusive tactic of snap removing before even checking to verify service, and also when apprised of service. Due to Defendant's efforts to snap remove, in this day and age of electronic filing, Plaintiffs incur additional costs of having a process server stationed at the agent for service with a mobile printer to beat the snap removal. Here, despite those efforts, Defendant improperly removed and should be responsible for costs in the remand efforts.

Defendant's purported basis for removal—that serving a registered agent for service does not constitute effective service—is not based on any existing facts or law. It is a Hail Mary that, if completed, would precipitate a dramatic expansion of the "peculiar" and "narrow" procedural loophole of snap removal begrudgingly recognized in *Encompass*,[10] as well as a landscape-altering shift in the regime of service on corporations in New Jersey generally. *Encompass*, 902 F.3d at 153.

Furthermore, the case relied upon heavily by Defendant, *Tucci*, supports ***Plaintiffs***, not Defendant. In *Tucci*, Judge Simandle expressly stated his holding applied only to "a statutory agent, rather than on an agent appointed by the defendant," among many other critically distinguishing factors. *Tucci*, 600 F. Supp. 2d at 636. Defendant additionally took pains to present the Court with string-cites of cases to support its argument, but those cases ***all*** assume service on an agent is proper, while primarily addressing other issues.

A. *Tucci* is unavailing to Defendant and actually supports Plaintiffs.

Tucci explicitly stated that its holding did ***not*** apply to service on registered agents for service, such as Defendant's registered agent here. *See Tucci*, 600 F. Supp. 2d at 636. Despite Defendant's statements to the contrary, *Tucci* and more recent case law from this District have in fact consistently held that service of a registered agent, such as CT Corp., constitutes "service" within the framework of § 1446(b).

Consequently, to the extent that Judge Simandle's ruling on § 1446(b) can shed any light on the inquiry presented by Defendant here—which inexplicably attempts to bypass the simpler test provided by *Encompass*—the *Tucci* holding actually supports the

[10] The Third Circuit found in *Encompass* that "snap removal" was not an "absurd result"—nothing more. *See Encompass*, 902 F.3d at 153-54 (noting that the Court's holding "may be peculiar[,]" but was "not so outlandish as to constitute an absurd or bizarre result.") The Third Circuit specifically stated snap removal is something that the Court envisioned occurring only in "narrow circumstances," and that the plaintiff in *Encompass* had failed to "argue that the practice is widespread." *Id.* at 153, n. 4.

notion that serving a registered agent for service, without more, satisfies the "properly ... served" language of § 1441(b)(2).[11]

There is no need, however, to look at cases interpreting "service" in the context of § 1446(b) to help the Court interpret "properly ... served" in the context of § 1441(b)(2). That is a diversion from the simple inquiry guided by *Encompass*, which already set forth what "properly ... served" means—it means service in accordance with New Jersey state law.[12]

1. Judge Simandle held that service on a registered agent such as CT Corp. constitutes "service" under § 1446(b) sufficient to trigger the removal period.

In *Tucci*, the Court expressly held that its decision on the statutory agent at issue did not apply to registered agents for service. Defendant asserts, incorrectly, *"Tucci* did not directly address whether the thirty-day removal clock is triggered upon service of a defendant's ***designated agent*** ... and merely stated in dicta that its holding would not apply to designated agents." (Def.'s Opp. at 5 (citing *Tucci* at 600 F. Supp. 2d at 633, 636)

[11] Additionally, and as noted by Defendant, Judge Simandle's decision in *Tucci* was supported by a bevy of federal cases that had held similarly with respect to the meaning of "receipt by the defendant" under 28 U.S.C. § 1446(b). In stark contrast here, Defendant asks the Court to reinterpret either one or both of the forum defendant rule and New Jersey's state rules on service, in a dramatically new fashion, without presenting to the Court a single case that the Court can look to for support.

[12] Were the Third Circuit to be faced with *Tucci* on appeal today, and to apply the same "bright-line rule" that it adopted in *Encompass*, the Court would likely reverse and remand *Tucci* based on the plain text meaning of 28 U.S.C. § 1446(b). If the trigger for the removal period is "receipt by the defendant, ***through service or*** otherwise," then service alone unquestionably satisfies "receipt by the defendant," without anything more. 28 U.S.C. § 1446(b). Indeed, *Encompass* actually mentions 28 U.S.C. § 1446(b) in a footnote, stating that the Court would endeavor not to "displace the plain meaning" of § 1446(b). *Encompass*, 902 F.3d at 153, n. 3. Further, under the rule adopted in *Encompass*, "service" under 28 U.S.C. § 1446(b) is satisfied by serving the corporation in any manner that plainly complies with the state's rules for "formal service of process," including service on a statutory agent. *Id.* at 153. The Third Circuit would thus hold, at least in keeping with *Encompass*, that service upon any agent authorized to accept service under New Jersey law—statutory or otherwise—would trigger the removal period in *Tucci*.

(emphasis in original)). That characterization of *Tucci* is irreconcilable with the opinion itself.

Indeed, at the very pin-cite referenced by Defendant, Judge Simandle was in fact setting forth "***the result that the Court adopts*** in this case: ***where service is made on a statutory agent, rather than on an agent appointed by the defendant***, the time to remove the action" under 28 U.S.C. § 1446(b) does not begin to run. *Tucci*, 600 F. Supp. 2d at 636. The "result that the Court adopts" is the very opposite of *dicta*, and the result adopted in *Tucci* is that "service ... on an agent appointed by the defendant" constitutes "service" under § 1446(b). *Id.*

Notwithstanding all that, Defendant asserts "Judge Simandle's rationale is contrary to his dicta that service on a designated agent *would* start the removal clock[,]" (Def.'s Opp. at 5), essentially arguing that the Court would not have held what it held based on its apparent reasoning, even though that ***is*** what the Court held. Judge Simandle could not have been any clearer: his holding—that serving a statutory agent alone does ***not*** constitute service under § 1446(b)—categorically ***did not apply to "an agent appointed by the defendant***[,]" which means that ***serving an agent appointed by the defendant would constitute "service"*** sufficient to satisfy the "receipt by the defendant" trigger under § 1446(b). *Tucci*, 600 F. Supp. 2d at 636.

2. Judge Mannion recently concurred with Plaintiffs' reading of *Tucci*.

A recent decision from this Court confirms Plaintiffs' reading of *Tucci*, and rejects Defendant's resoundingly, as is evident from the opinion's use of brackets to crystallize Judge Simandle's holding:

> The Third Circuit has not addressed whether service on a statutory agent triggers the removal period, **like it does for an agent in fact**. However, "the vast majority of courts ... have held that the thirty-day period for removal does *not*

> commence with service on a statutory agent, but instead when the defendant **[or an agent in fact]** receives the summons and complaint." *Trobiano v. Lagano*, No. 2:19-CV-4886-MCA-SCM, 2019 WL 3416774, at *4 (D.N.J. June 29, 2019) (Mannion, J.) (quoting *Tucci*, 600 F. Supp. 2d at 633-34) (italics and brackets in original).

The Court inserted that bracketed phrase—"**or an agent in fact**"—to ensure that *Tucci's* core proposition would not be lost in translation. Judge Mannion continued, instructively:

> Although the Court is inclined to deem the Surrogate a statutory agent, it hesitates to do so. The [statutory] language specifies that **service "shall be of the same effect as if duly served upon me (us)** within this State," **which suggests** that **the** Surrogate's **agency is more akin to an agent in fact.... If the Surrogate acted as a fact agent, then service upon the surrogate sufficed [within the meaning of § 1446(b)].** *Id.* at *5.

Defendant did not provide the Court with this recent decision, from the same courthouse, despite its evident value in understanding *Tucci*, on which Defendant chiefly relies. Instead, Defendant presented the Court with the inverse of both the question *Tucci* addressed and the answer that it reached. Taken together, or in part, *Tucci* and *Trobiano* make plain that service on a registered agent constitutes "service" in the context of a 1446(b) removal, and that is fatal to Defendant's argument.

B. General jurisdiction, which is not at issue, is unrelated to the question of effective service.

None of the cases cited by Defendant regarding general jurisdiction is applicable. The question here is whether ***serving*** a registered agent constitutes ***effective service*** under New Jersey's state rules for service, an inquiry that is guided by state law. Defendant's citations all address whether ***designating*** an agent ***confers minimum contacts*** sufficient to establish general jurisdiction, a wholly unrelated issue.

Defendant cites these general jurisdiction cases as support for the unremarkable contention that a registered agent for service is "not always a true 'agent' for ***all*** purposes[.]" (Def.'s Opp. at 7 (emphasis in original)). That may be so; surely, though, if nothing else, the one reliable purpose of a registered agent ***for service*** is to ***accept service*** on the corporation's behalf.

III. Defendant's apparent habit of shooting first and asking questions later is antithetical to the framework of removal, and further suggests that Defendant's purported basis is unreasonable.

Defendant's approach to removal of cases where it was sued in New Jersey, its home state, pursuant to 28 U.S.C. § 1441(b), appears to be: remove first, determine later—if at all—whether Defendant's asserted basis as to the propriety of the removal was actually grounded in the facts and the law. That tactics runs counter to the framework of removal to federal court, since, as the party filing the removal, Defendant holds all the cards. *See, e.g., Rivas v. Bowling Green Assocs., L.P.*, No. 13-cv-7812 (PKC), 2014 WL 3694983, at *1 (S.D.N.Y. July 24, 2014) (noting in the context of removal the "power [is] vested solely in the hands of the removing party" to "oust[] the state court of jurisdiction")). The present motions are a perfect example of what can result when a defendant wields that power improperly, as Plaintiffs here have waited nearly two months to rectify these defective removals.

That is precisely why notices of removal are subject to a requirement of reasonable inquiry—so that the Court, Plaintiffs, the docket clerks—everybody—does not have to get dragged along for the ride by abusive litigants.

A. Defendant's argument that Plaintiffs should have served Defendant directly to prevent snap removal is undercut by Defendant's improper snap removal of three cases recently filed and served upon Defendant at its corporate headquarters.

While these motions have been pending, Plaintiffs' counsel learned that Defendant removed three (3) similar actions (involving the same product) on the same basis that was asserted here—at least in the original notices of removal—diversity of jurisdiction existed, and service had not yet been effected, and thus, removal by the forum defendant was proper under *Encompass*. (*See* **Ex. S** to McDonough Cert.). However, the ECF dockets for those three (3) cases show that subsequently, within just a few days of snap removing, Defendant quickly consented to remand. (*See* **Ex. T** to McDonough Cert.). The undersigned contacted the plaintiffs' counsel in those actions and learned that service had been effected on Defendant at its corporate headquarters, and that Defendant's counsel, upon learning ***after*** its snap removals that Defendant's headquarters had been served, agreed to remand. (*See* McDonough Cert. at ¶ 23).

The logical inference from these facts is that Defendant's counsel makes a habit of snap removing cases on the claimed sole basis that Defendant has not been served, without seeking to confirm the truth of that claim—even when service has been effected directly at corporate headquarters.

Not only that, Defendant ***knew in these cases*** that its agent had been served. (*See* McDonough Cert. at ¶ 6; *see also* **Ex. D**). Plaintiffs submit there is no excuse for a party's failure to investigate whether its registered agent was served; Defendant's willful failure in this case, however, to obtain the documents that Defendant was fully aware were in the possession of its registered agent, reflects a deliberate strategy.

B. Defendant's oppositions indicate that Defendant's process for receiving notification from CT Corp. takes significantly longer than Defendant's process for snap removing.

As stated in Defendant's oppositions, Defendant did not receive notification from CT Corp. that service had been effected in these matters until after midnight on July 12,

2019.[13] Service indisputably occurred at 9:00 A.M. on July 11, 2019 in all the actions. Consequently, the facts as presented by Defendant demonstrate that Defendant's process for receiving notification from CT Corp. that service has been accepted on Defendant's behalf routinely takes no less than fifteen (15) hours. This naturally begs the question: Did Defendant know that before making a habit out of filing snap removals within minutes to hours of an action being filed in state court? And, relatedly, ***how can Defendant assert*** to the Court with any degree of certainty that ***a removal is proper because, and only because, Defendant has not yet been served, if Defendant has no reasonable basis*** for knowing whether or not Defendant's designated party for service has, in fact, been served? Only Defendant can answer these pressing queries.

For now, Defendant resorts to boldly asking the Court to create new and unprecedented law that "***service*** upon a designated-***service*** agent does not constitute 'proper ***service,***'" (Def.'s Opp. at 10), because the "reasonableness" of Defendant's whole argument hinges on that linchpin.

CONCLUSION

For the reasons set forth herein, Plaintiffs respectfully request that the Court grant Plaintiffs' Motions and remand these actions back to the Superior Court of New Jersey, Bergen County, where they properly belong, and further request that the Court order Defendant to reimburse Plaintiffs for the reasonable fees and costs associated with the Motions.

Respectfully submitted,

WEITZ & LUXENBERG, P.C.

[13] Apparently, CT Corp. notified Defendant of service in one of the seven matters, *Wolfe*, No. 2:19-cv-15147-JMV-JBC, at 6:16 P.M. on July 11. 2019—still a delay of nine (9) hours from the time that service was actually effected.

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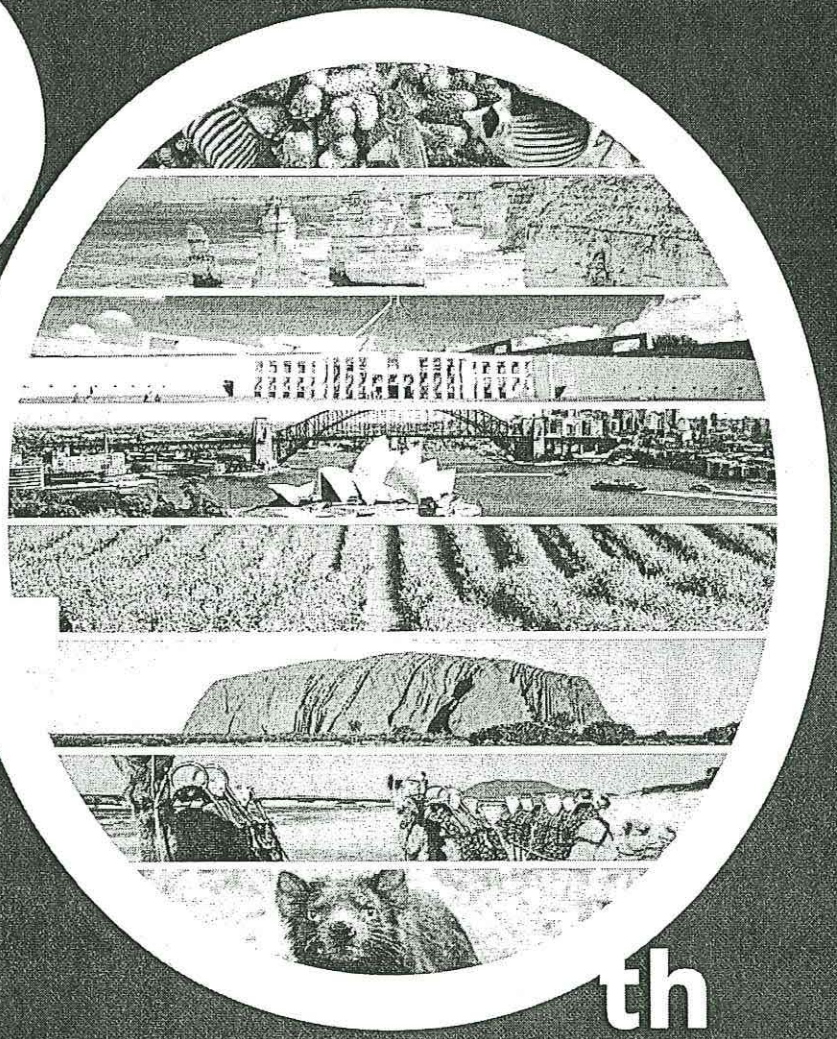
EXHIBIT C

Australian Orthopaedic Association National Joint Replacement Registry

AOA
AUSTRALIAN ORTHOPAEDIC ASSOCIATION



20th ANNUAL REPORT 2019

Table IP8 Cumulative Percent Revision of Total Conventional Hip Prostheses Identified as having a Higher than Anticipated Rate of Revision

CPR	1 Yr	3 Yrs	5 Yrs	10 Yrs	18 Yrs
Newly Identified					
Accolade II/Trident Tritanium (Shell)	2.6 (1.8, 3.7)	3.5 (2.5, 5.0)			
Avenir/Fitmore	4.2 (1.9, 9.2)				
Corae/Fixa	5.2 (2.0, 13.2)	9.1 (3.4, 23.4)			
Friendly Hip/Delta-TT	5.6 (2.1, 14.2)	8.6 (4.0, 18.3)	8.6 (4.0, 18.3)		
HACTIV/Logical G	3.4 (2.1, 5.4)				
Secur-Fit Plus/PINNACLE	2.7 (1.2, 5.9)	4.4 (2.3, 8.3)	5.2 (2.8, 9.5)		
Re-Identified and Still Used					
CORAIL/Trabecular Metal (Shell)	6.3 (2.9, 13.6)	10.0 (5.3, 18.4)	12.7 (7.2, 21.9)		
CPT/Fitmore	4.1 (2.2, 7.5)	5.7 (3.3, 9.6)	6.6 (3.9, 11.1)		
CPT/Low Profile Cup	4.1 (1.8, 8.8)	5.6 (2.8, 11.0)	8.4 (4.7, 14.9)		
Taperloc/G7	1.5 (1.0, 2.2)	1.8 (1.2, 2.6)			
*Apex	2.2 (1.7, 2.9)	3.3 (2.7, 4.1)	4.8 (4.0, 5.8)	7.7 (6.5, 9.2)	
*Excia (cless)	4.0 (2.5, 6.4)	5.4 (3.5, 8.2)	5.9 (3.8, 9.0)		
*Furlong Evolution	4.3 (2.3, 7.8)	6.5 (3.8, 11.3)			
*ML Taper Kinectiv	2.4 (1.9, 3.0)	3.6 (3.0, 4.3)	4.5 (3.8, 5.2)		
*Novation	3.2 (2.3, 4.4)	4.1 (3.1, 5.4)	4.4 (3.3, 5.8)		
*Taper Fit	1.6 (1.1, 2.4)	2.8 (2.0, 3.9)	5.6 (4.1, 7.7)	11.5 (8.5, 15.3)	
*Trabecular Metal	3.5 (2.7, 4.4)	4.8 (3.9, 5.9)	5.4 (4.5, 6.6)	7.5 (6.1, 9.3)	
**Continuum	2.5 (2.2, 2.8)	3.4 (3.1, 3.7)	3.9 (3.6, 4.3)		
**Delta-One-TT	3.3 (1.3, 8.6)	6.3 (3.1, 12.9)			
**Dynasty	3.4 (2.6, 4.4)	4.5 (3.5, 5.8)	5.3 (3.9, 7.3)		
**Fin II	2.7 (2.1, 3.5)	3.6 (2.9, 4.5)	4.7 (3.9, 5.8)	7.7 (6.4, 9.2)	
**Furlong	3.7 (2.6, 5.4)	5.4 (4.0, 7.5)	5.9 (4.3, 8.0)		
**Mueller	1.9 (0.3, 12.6)	12.9 (6.0, 26.6)	15.3 (7.6, 29.5)	24.4 (13.7, 41.1)	
**Procotyl L	2.9 (2.1, 4.0)	4.1 (3.1, 5.4)	4.6 (3.5, 5.9)		
**Versafitcup DM	3.7 (2.5, 5.4)	4.4 (3.0, 6.3)			
Identified and no longer used					
+**Conserve Plus	1.5 (0.4, 5.8)	3.0 (1.1, 7.8)	3.8 (1.6, 8.8)	10.9 (6.5, 18.1)	
+Linear/Acetabular Shell (Global)	2.1 (0.5, 8.1)	7.5 (3.6, 15.1)			
Anatomic II/Duraloc Option	1.7 (0.2, 11.2)	6.7 (2.6, 16.8)	10.1 (4.7, 21.1)	12.1 (6.0, 23.9)	
Anca-Fit/PINNACLE	6.0 (2.7, 12.8)	8.0 (4.1, 15.3)	11.0 (6.3, 19.1)	16.2 (10.0, 25.6)	
F2L/Delta-PF	5.6 (2.6, 12.1)	10.3 (5.9, 17.9)	12.3 (7.3, 20.2)	16.5 (10.6, 25.3)	
Friendly Hip/Cup (Exactech)	2.1 (0.5, 8.0)	3.2 (1.0, 9.5)	6.5 (3.0, 14.0)	14.1 (8.2, 23.6)	
MBA (exch neck)/PINNACLE	2.2 (0.9, 5.3)	3.6 (1.8, 7.1)	7.6 (4.7, 12.1)		
Secur-Fit Plus/Secur-Fit	3.1 (1.4, 6.7)	7.3 (4.4, 11.9)	7.8 (4.8, 12.6)	10.1 (6.5, 15.3)	
Taperloc/M2a^{MoM}	1.8 (0.9, 3.3)	4.3 (2.9, 6.5)	7.4 (5.4, 10.0)	12.4 (9.8, 15.7)	
Taperloc/Versafitcup CC	5.8 (2.8, 11.8)				
*ABGII (exch neck)	4.5 (2.5, 8.0)	11.1 (7.8, 15.8)	20.5 (15.9, 26.2)		
*Adapter (cless)	3.2 (2.2, 4.8)	6.9 (5.2, 8.9)	11.7 (9.5, 14.3)	19.5 (16.6, 22.8)	
*Adapter (ctd)	4.1 (1.9, 8.9)	9.1 (5.4, 15.2)	17.0 (11.6, 24.5)	23.7 (17.1, 32.3)	
*BMHR VST	1.9 (0.8, 4.6)	4.6 (2.7, 8.0)	7.0 (4.5, 10.9)		
*CBH Stem	4.0 (2.3, 7.2)	7.4 (4.9, 11.3)	9.9 (6.8, 14.1)	14.7 (10.8, 20.0)	
*Edinburgh	6.0 (3.1, 11.7)	9.6 (5.6, 16.4)	12.5 (7.7, 20.0)	17.6 (11.1, 27.2)	
*Elite Plus	1.5 (1.1, 2.0)	2.8 (2.3, 3.5)	4.2 (3.5, 5.1)	7.7 (6.7, 8.8)	13.7 (12.0, 15.6)
*Emperion	4.8 (3.2, 7.0)	6.0 (4.2, 8.5)	7.2 (5.2, 10.0)	17.7 (11.9, 25.9)	
*K2	5.2 (3.7, 7.3)	7.5 (5.7, 10.0)	9.8 (7.7, 12.6)	14.0 (11.2, 17.4)	
*LYDERIC II	3.1 (1.3, 7.2)	5.7 (3.0, 10.6)	7.1 (4.0, 12.5)	12.0 (7.2, 19.9)	
*MSA	5.8 (3.4, 9.8)	9.5 (6.3, 14.1)	11.3 (7.8, 16.3)		