

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE: ZIMMER DUROM HIP CUP
PRODUCTS LIABILITY LITIGATION

MDL No. 2158 (SDW)

**CASE MANAGEMENT ORDER NO. 2
DIRECT FILING OF ACTIONS IN THE DISTRICT OF NEW JERSEY**

I. SCOPE OF ORDER

1. This order shall apply to all Plaintiffs and their counsel for actions relating to the IN RE: ZIMMER HOLDINGS, INC. litigation that are currently pending in MDL No. 2158, hereafter subject to transfer to these proceedings, or that have been or will be originally filed in the Court (collectively, "The MDL proceedings") and all Defendants and their counsel in the MDL proceedings.

II. DIRECT FILING OF CASES INTO MDL NO. 2158

2. In order to eliminate delays associated with the transfer of cases filed in other federal district courts to this Court, and to promote judicial efficiency, any plaintiff whose case would be subject to transfer by the Judicial Panel on Multidistrict Litigation to MDL 2158 may file his or her case directly in the United States District Court for the District of New Jersey ("District of New Jersey").

3. Each case filed directly in MDL 2158 that emanates from a district outside the District of New Jersey will be filed in MDL 2158 for pretrial proceedings only. The plaintiff filing any such action in the District of New Jersey shall designate the federal district court where he or she asserts venue is proper and allege in the complaint facts related to locating the action in a federal judicial district where venue would be proper, including: (a) the plaintiffs'

current residence and domicile, (b) the plaintiffs' residence and domicile at the time of the implant and revision surgeries, (c) the location of the implant and revision surgeries, and (d) the location of the office of the surgeon performing the implant and revision surgeries.

4. All Plaintiffs and Defendants agree to direct filing of cases emanating from districts outside the District of New Jersey in MDL 2158 on the condition that any such cases are subject to remand under 28 U.S.C. § 1407 and/or transfer under 28 U.S.C. § 1404 to the appropriate federal judicial district at the conclusion of pretrial proceedings unless otherwise stipulated to by the parties and so ordered by the Court. The defendants retain, and do not waive, all rights to challenge the jurisdiction or venue of cases consolidated in MDL 2158 and filed in the District of New Jersey before or after the entry of this order, including challenging the venue asserted as proper by plaintiffs in their complaints on any grounds, including, but not limited to, *forum non conveniens*.

5. The inclusion of any action in *In Re: Zimmer Holdings, Inc., MDL No. 2158*, whether such action was or will be filed in the District of New Jersey, shall not constitute a determination by this Court that jurisdiction or venue is proper in the District of New Jersey.

6. The fact that a case was filed directly in the District of New Jersey pursuant to this Order will have no impact on the choice of law to be applied.

IT IS SO ORDERED.

Dated: _____

3/11/10



Hon. Madeline Cox Arleo
United States Magistrate Judge