

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

IN RE: DUROM HIP CUP PRODUCTS
LIABILITY LITIGATION,

Master Docket No. 09-4414(SDW)(MCA)
MDL No. 2158

This Order applies to all cases.

INITIAL SCHEDULING ORDER

THIS MATTER having come before the Court for an initial scheduling conference pursuant to Fed.R.Civ.P. 16, and the Court having reviewed Joint Discovery Plan, and the letters submitted by the parties in support of their respective position, and heard argument of counsel, and good cause appearing for the reasons set forth on the record at the conference on April 14, 2011,

IT IS THIS 3 day of May, 2011

ORDERED as follows:

1. The defendants shall answer or otherwise move with respect to the complaints in each case where mediation has occurred and no settlement has been reached through the mediation process established in Case Management Order No. 1 ("Non-Settling Cases").

2. As of the entry of this order, the following cases shall be considered Non-Settling Cases:

- a. Steven Andrus v. Zimmer US, Inc., et al., 2:10-cv-04585
- b. James Cabral v. Zimmer Holdings, Inc., et al., 2:10-cv-04636
- c. Todd Lovelace, et al. v. Zimmer Holdings, Inc., et al., 2:10-cv-03036
- d. Jack Stovall, et al. v. Zimmer US, Inc., et al., 2:10-cv-03931
- e. Todd Tyler v. Zimmer US, Inc., et al., 2:10-cv-03997
- f. Christine Walker, et al. v. Zimmer Holdings, Inc., et al., 2:10-cv-03531

g. John Joseph Waller, et al. v. Zimmer Holdings, Inc., et al, 2:10-cv-04716

h. Kenneth Walling v. Zimmer US, Inc., et al., 2:10-cv-06383

Only defendants who have been served must respond to the complaints in Non-Settling Cases. The defendants' responses to the complaints listed in paragraph 2(a) – (h) are due within 30 days of the date hereof. The defendants' responses to the complaints of future Non-Settling Cases are due within 30 days of the date the parties file an agreed Joint Notice Of Non-Settling Case or by further order of the Court if the parties cannot so agree that a case is a Non-Settling Case.

3. With respect to all other claims in which complaints have been filed and which have not yet been submitted to mediation or where mediation has not yet been completed ("Unmediated Cases"), Defendants obligation to answer or otherwise move with respect to the complaints shall remain stayed pending filing of an agreed Joint Notice Of Non-Settling Case or further order of the Court as provided in paragraph 2.

4. Plaintiffs' and Defendants' Liaison Counsel shall meet and confer with respect to a proposed Plaintiff Fact Sheet and Defendant Fact Sheet which may be served beginning May 16, 2011. If the parties are unable to agree upon any Fact Sheet, any disputes shall be submitted to the Court by May 9, 2011, so that the Court can resolve such disputes prior to the service of the Fact Sheets.

5. Pending further Order of the Court, Plaintiff Fact Sheets may be served only upon plaintiffs in the Non-Settling Cases. Defendants must complete Defendant Fact Sheets only in the Non-Settling Cases.

6. Plaintiffs' Liaison Counsel may serve up to 16 interrogatories, without subparts, relating to issues common to all cases ("Common Interrogatories"). Plaintiffs' initial Common Interrogatories may be served beginning May 16, 2011.

7. Counsel for individual plaintiffs in Non-Settling Cases may serve up to five interrogatories, without subparts, relating to their individual cases, which are not duplicative of the Common Interrogatories. All such interrogatories shall first be submitted to Plaintiffs' Liaison Counsel for review to ensure that they are not duplicative of the Common Interrogatories. Individual plaintiffs' interrogatories may be served on or after July 15, 2011.

8. The defendants may serve up to 16 interrogatories, without subparts, upon each Plaintiff in the Non-Settling Cases. Defendants' initial interrogatories may be served beginning May 16, 2011.

9. Plaintiffs' Liaison Counsel may serve requests for production of documents and requests for admission with respect to issues common to all cases. Plaintiffs' initial requests for production and requests for admission may be served beginning May 16, 2011. Such requests for production of documents or requests for admission may be unlimited in number, subject to the limitations provided in Fed.R.Civ.P. 26(b)(2)(C).

10. Counsel for individual plaintiffs in Non-Settling Cases may serve non-duplicative requests for production and requests for admission. All such requests shall first be submitted to Plaintiffs' Liaison Counsel to be reviewed, approved, and served. Individual plaintiffs' requests for production and requests for admission may be served on or after July 15, 2011. Such requests for production of documents or requests for admission may be unlimited in number, subject to the limitations provided in Fed.R.Civ.P. 26(b)(2)(C).

11. Defendants may serve requests for production of documents and requests for admission in the Non-Settling Cases. Defendants' initial requests for production and requests for admission may be served beginning May 16, 2011. Such requests for production of documents or requests for admission may be unlimited in number, subject to the limitations provided in Fed.R.Civ.P. 26(b)(2)(C).

12. The parties shall respond to the Fact Sheets within 45 days of service, and initial requests for production, initial interrogatories, and any initial requests for admission within 30 days of service, subject to reasonable requests for enlargements of time.

13. The parties may proceed with depositions with respect to common issues and in the Non-Settling Cases at their discretion, but not prior to June 15, 2011.

14. There will be an in-person status conference before the undersigned on June 29, 2011 at 12:30 p.m.



MADELINE COX ARLEO, U.S.M.J.

General Information

Court	United States District Court for the District of New Jersey; United States District Court for the District of New Jersey
Federal Nature of Suit	Personal Injury - Product Liability[365]
Docket Number	2:09-cv-04414