

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: ZIMMER NEXGEN KNEE)	
IMPLANT PRODUCTS LIABILITY)	MDL NO. 2272
LITIGATION)	
)	
This Document Relates to All Cases)	Master Docket Case No. 1:11-cv-05468
)	
)	Honorable Rebecca Pallmeyer

**AGREED CASE MANAGEMENT PLAN REGARDING
COORDINATION WITH OTHER LITIGATION: CMO 5**

The parties present the following Agreed Case Management Plan Regarding Cooperation With Other Litigation¹ and request that this Court send the letter attached as Exhibit "A" to each state court in which a case involving the same Zimmer products at issue in this MDL is pending.

Coordination to Extent Practical: The plaintiffs and defendants in this litigation, and in particular lead counsel for the same, shall work to coordinate to the extent practicable the conduct of this litigation with other product liability actions involving the NexGen Flex Femoral Components and 5950 MIS Stemmed Tibial Component, as defined by the Panel's August 8, 2011, Transfer Order. Such coordination is intended to conserve scarce judicial resources, eliminate duplicative discovery, serve the convenience of the parties and witnesses, and promote the just and efficient conduct of this litigation, while at the same time protecting the interests of the MDL plaintiffs and the state court plaintiffs. It is contemplated by the Court and the parties that all discovery conducted in these proceedings may be utilized in any related state court action, in accordance with that state's law and rules of evidence and procedure, and vice versa,

¹ The parties previously proposed this plan as part of proposed Case Management Order Three, submitted to the Court on December 8, 2011. Because the parties are in the process of conducting and scheduling depositions, the parties respectfully request that this Court enter this Case Management Order Five.

subject to an appropriate cost-sharing provisions between the federal and coordinated state litigations that will be the subject of a further order.

Coordination with State Courts: In order to achieve the full benefits of this MDL proceeding, this Court may make efforts to coordinate with state courts presiding over related cases, to the extent such state courts so desire, such as through joint orders that will allow the parties in the state court actions to fully utilize any discovery conducted in the MDL proceedings and vice versa, without prejudice to either the state or federal court actions. The Court expects counsel for parties in the MDL proceeding to take reasonable steps to assure such coordination is achieved wherever it is practicable. To that end, lead counsel for the parties shall jointly submit to the Court as needed a status report on the state court cases, along with contact information for all state court judges presiding over such cases.

Coordination by Plaintiffs' Counsel: All discovery directed to the defendants and non-party witnesses on behalf of the plaintiffs shall be undertaken by, or under the direction of, the PSC on behalf of all plaintiffs with cases in these MDL proceedings. The PSC shall, where practicable and provided appropriate provision for the payment of fees and costs related to common benefit work product is agreed in advance, coordinate their requests with the plaintiffs' counsel in state court litigation to the extent practicable to eliminate duplicative discovery.

Discovery. Counsel for the parties in the MDL shall work cooperatively to facilitate the entry of a protective order in the state court matters that is similar or identical to the protective order entered by this Court, subject to the laws and procedure of that state. The parties agree that non-redundant discovery may be undertaken in the state court matters as provided under applicable state court rules.² Following the entry of a mutually agreeable protective order in the

² To the extent that a discovery dispute arises during a deposition regarding the redundancy of any questioning, the parties should direct that dispute to this Court.

state court cases, Zimmer shall direct state court plaintiffs' counsel to the PSC for the production of documents where a state court plaintiff serves Zimmer with discovery substantially similar to discovery previously served on Zimmer in this MDL. In such a case, Zimmer shall identify by bates number the documents to be produced by the PSC, and the PSC shall produce only those documents identified by Zimmer, subject to any cost sharing arrangements.

Depositions noticed in this MDL may be cross-noticed in any state court proceeding. Questioning shall not be redundant. Total questioning may not exceed 14 hours for non-key witnesses and 21 hours for key witnesses, which is inclusive of the 7 hours permitted by Fed. R. Civ. P. 30(d)(1). The parties shall agree in advance as to the designation of "key" witnesses and, to the extent the parties are not able to agree on said designation, the Court shall so designate.

IT IS SO ORDERED.

8-29-12


THE HONORABLE REBECCA R. ALLMEYER
U.S. DISTRICT COURT JUDGE

Dear Judge [Judge's name]

As you may be aware, there is multidistrict litigation pending before my court, *In Re: Zimmer NexGen Knee Implant Products Liability*, MDL No. 2272 (the "MDL"). It is my understanding that this litigation involves the same Zimmer products that are at issue in matters before your court. I want to take this opportunity to introduce myself and begin what I hope will be a relationship of coordination between our courts. I believe such a relationship will benefit both your court and mine, and create efficiencies for all parties as these cases proceed.

I will ask the parties to notify you when deadlines are set in the MDL. I encourage your court to consider adopting similar deadlines so that we may more easily and efficiently work together to handle any common disputes or issues that arise in these cases.

If you have any suggestion as to how your court and mine can assist each other regarding this litigation, I would be happy to hear from you. You would be welcome to attend any hearings in my court. If you think that I should attend any hearings in your court, please let me know.

If there is anything else we can do to assist each other and counsel, by telephone conference or by any other means, please let me know.

Respectfully,

Judge Rebecca R. Pallmeyer

ZIMMER NEXGEN MDL

STATE CASES

CASE NAME	CASE JURISDICTION	PLAINTIFF'S COUNSEL
Cole Brancati v. Zimmer Holdings, Inc.; Zimmer, Inc.; Zimmer Tri-State; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Orthobiologics, Inc. Cause No. L-8768-11	Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401	Ellen Relkin Weitz & Luxenberg, PC 700 Broadway New York, NY 10003
Ethel and Charles Bromley v. Zimmer Holdings, Inc.; Zimmer Tri-State; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Orthobiologics, Inc. Cause No. ATL-L-10514-11	Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401	Christopher A. Seeger Seeger Weiss LLP 550 Broad Street Suite 920 Newark, NJ 07102
Glen Brotherton v. Zimmer Holdings, Inc.; Zimmer Tri-State; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Orthobiologics, Inc. Cause No. ATL L 3592 11	Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401	Peter Samberg Weitz & Luxenberg, P.C. 200 Lake Drive East, Suite 205 Cherry Hill, NJ 08002
Doreatha Brown v. Zimmer, Inc., Zimmer Holdings, Inc., and Zimmer Orthopaedic Surgical Products, Inc. Cause No. 43D01-1206-CT-54	Kosciusko County Circuit Court Indiana Courthouse 100 West Center Street Room 14 Warsaw, IN 46580	Peter J. Flowers Foote, Meyers, Mielke & Flowers 3 North LaSalle Street, Suite 300 St. Charles IL, 60174 Gregory L. Laker Taken M. Thompson Cohen & Malad, LLP One Indiana Square, Suite 1400 Indianapolis, IN 46204

CASE NAME	CASE JURISDICTION	PLAINTIFF'S COUNSEL
Ray Bryant v. Zimmer, Inc.; Zimmer Holdings, Inc.; Wilson/Phillips Holdings, Inc.; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Tri-State Cause No. CL11001985-00	Roanoke City Circuit Court P. O. Box 2610 315 West Church Avenue Roanoke, VA 24010-2610	Patrick T. Fennell Crandall & Katt 374 Elm Ave., S.W. Roanoke, VA 24016
Sophie Campanioni v. Zimmer Holdings, Inc.; Zimmer Tri-State; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Orthobiologics, Inc. Cause No. ATL L 3598 11	Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401	Peter Samberg Weitz & Luxenberg, P.C. 200 Lake Drive East, Suite 205 Cherry Hill, NJ 08002
Angela & John Di Maria v. Zimmer Holdings, Inc.; Zimmer Tri-State; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Orthobiologics, Inc. Cause No. ATL L 3595 11	Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401	Peter Samberg Weitz & Luxenberg, P.C. 200 Lake Drive East, Suite 205 Cherry Hill, NJ 08002
Kathleen Durkes v. Zimmer, Inc.; Zimmer Holdings, Inc.; Zimmer Tri-State; and Zimmer Orthopaedic Surgical Products, Inc. Cause No. 43-D01-1202-CT-00019	Kosciusko County Superior Court Courthouse 100 West Center Street Room 14 Warsaw, IN 46580	Jackie R. Quinton The Edwards Law Firm 8282 S. Memorial Rd., Suite 100 Tulsa, OK 74133
Susan Flood v. Zimmer, Inc.; Zimmer Holdings, Inc.; Zimmer Orthobiologics, Inc.; and Zimmer Orthopaedic Surgical Products, Inc. Cause No. L-10339-10	Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401	Gregory L. Laker Cohen & Malad, LLP One Indiana Square, Suite 1400 Indianapolis, IN 46204 Ellen Relkin Weitz & Luxenberg, PC 700 Broadway New York, NY 10003

CASE NAME
Evelyn Fyffe v. Zimmer, Inc.; Zimmer GMBH; and Zimmer Orthopaedic Surgical Products, Inc.
Cause No. 28C01-1203-P2-000012

CASE JURISDICTION
Greene County Circuit Court
Courthouse
P.O. Box 309
Bloomfield, IN 47424

PLAINTIFF'S COUNSEL
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Mineola, NY 11501

Hugh & Kay Geiger v. Zimmer, Inc.; Zimmer Holdings, Inc.; and Zimmer Orthopaedic Surgical Products, Inc.
Cause No. 43C01-1203-CT-21

Kosciusko County Circuit Court
Indiana
Courthouse
100 West Center Street Room 14
Warsaw, IN 46580

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Violet Haynes v. Zimmer US, Inc.
Cause No. 501049/2011

Superior Court of New York
Kings County
The Kings County Clerk
Supreme Court Building
360 Adams Street, Room 189
Brooklyn, NY 11201

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Indianapolis, IN 46290
Peter E. Tangredi
Peter E. Tangredi & Associates
202 Mamaroneck Avenue
Suite 500
White Plains, NY 10601

CASE NAME
Sean Hite v. John T. Burton, Zimmer, Inc., Zimmer Holdings, Inc., Wilson/Phillips Holdings, Inc., Zimmer Orthopaedic Surgical Products, Inc., and Zimmer Tri-State
Cause No. FOS039603

CASE JURISDICTION
Superior Court of California
Solano County
Hall of Justice
600 Union Avenue, Room 203
Fairfield, CA 94533

PLAINTIFF'S COUNSEL
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San Francisco, CA 94105

Janice & Michael Jenkins v. Zimmer, Inc. and Mark Hartzband, M.D.
Cause No. L3014-11

Superior Court of New Jersey
Passaic County Court House
77 Hamilton Street
Paterson, NJ 07505

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570 W. Mt. Pleasant Avenue
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Livingston, NJ 07039

Vivian Johnson v. Zimmer Holdings, Inc.; Zimmer Orthopaedic Surgical Products, Inc.; Zimmer Tri-State; and Zimmer Orthobiologics, Inc.
Cause No. ATL-L-138-12

Superior Court of New Jersey
Atlantic County
Atlantic County Civil Courts Bldg.
1201 Bacharach Blvd
Atlantic City, NJ 08401

Christopher A. Seeger
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Newark, NJ 07102

Sharlane Lemke v. Zimmer Tri-State; Zimmer Holdings, Inc.; Zimmer Orthobiologics, Inc.; and Zimmer Orthopaedic Surgical Products, Inc.
Cause No. ATL L 3587 11

Superior Court of New Jersey
Atlantic County
Atlantic County Civil Courts Bldg.
1201 Bacharach Blvd
Atlantic City, NJ 08401

Peter Samberg
Weitz & Luxenberg, P.C.
200 Lake Drive East, Suite 205
Cherry Hill, NJ 08002

CASE NAME
Donna Kay McKay v. Zimmer, Inc.; Zimmer Holdings, Inc.; and Zimmer Orthopaedic Surgical Products, Inc.
Cause No. 43C01-1203-CT-22

Teresa Pacetti v. Zimmer, Inc.; Zimmer Holdings, Inc.; Wilson/Phillips Holdings, Inc.; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Tri-State
Cause No. CL11-2085

Jarrel Pennington v. Zimmer, Inc.; Zimmer Holdings, Inc.; and Zimmer Orthopaedic Surgical Products, Inc.
Cause No. 43C01-1203-PI-28

James and Ana Procopio v. Zimmer, Inc.; Zimmer Holdings, Inc.; Zimmer Tri-State; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Orthobiologics, Inc.
Cause No. ATL-L-1550-12

CASE JURISDICTION
Kosciusko County Circuit Court
Courthouse
100 West Center Street Room 14
Warsaw, IN 46580

Roanoke City Circuit Court
P. O. Box 2610
315 West Church Avenue
Roanoke, VA 24010-2610

Kosciusko County Superior Court
Courthouse
100 West Center Street Room 14
Warsaw, IN 46580

Superior Court of New Jersey
Atlantic County
Atlantic County Civil Courts Bldg.
1201 Bacharach Blvd
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CASE NAME	CASE JURISDICTION	PLAINTIFF'S COUNSEL
Peter & Barbara Res v. Zimmer Holdings, Inc.; Zimmer Tri-State; Zimmer Orthopaedic Surgical Products, Inc.; and Zimmer Orthobiologics, Inc. Cause No. ATL-L-9099-11	Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401	Samuel L. Davis Davis, Saperstein & Salomon, P.C. 375 Cedar Lane Teaneck, NJ 07666
Sarah Reynolds v. Zimmer, Inc.; Zimmer Holdings, Inc.; and Zimmer Mid-Atlantic Inc. Cause No. N12C-04-203 JRS	Superior Court of Delaware New Castle County Courthouse 500 North King Street Wilmington, DE 19801	James R. Ronca Anapol Schwartz 1710 Spruce Street Philadelphia, PA 19103
Chris Romanowski v. Zimmer Holdings, Inc., Zimmer, Inc., Zimmer Tri-State, Zimmer Orthopaedic Surgical Products, Inc., and Zimmer Orthobiologics, Inc. Cause No. L-5486-12	Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401	Joseph J. Rhoades Law Offices of Joseph J. Rhoades 1225 King Street, 12th Floor Wilmington, DE 19801 Ellen Relkin Weitz & Luxenberg, PC 700 Broadway New York, NY 10003
Lillian Smith v. Zimmer, Inc.; Zimmer Holdings, Inc.; and Zimmer Mid-Atlantic, Inc. Cause No. NIIC-05-265	Superior Court of Delaware New Castle County Courthouse 500 North King Street Wilmington, DE 19801	Joseph J. Rhoades Law Offices of Joseph J. Rhoades 1225 King Street, 12th Floor Wilmington, DE 19801
Muriel and Harley Soulia v. Zimmer, Inc.; Zimmer Holdings, Inc.; Zimmer US, Inc., and Zimmer Surgical, Inc.	Superior Court, Rutland Unit Vermont Superior Court Rutland Civil Division	Thomas R. Anapol Anapol Schwartz 1710 Spruce Street Philadelphia, PA 19103 Christopher Corsones Corsones & Corsones 1 Nickwackett St.

CASE NAME	CASE JURISDICTION	PLAINTIFF'S COUNSEL
Cause No. 559B-11 Rdcv	83 Center Street Rutland, VT 05701	Rutland, VT 05701
Felicia Tucker-Willis v. Zimmer, Inc.; Zimmer Holdings, Inc. and Zimmer Ohio Cause No. 11 CVB05-6285	Court of Common Pleas Franklin County, Ohio Courthouse 345 South High Street, 1st Floor Columbus, OH 43215	Paul W. Danielsen Jill Sanoff Law Offices of Paul W. Danielsen 826 Orange Ave #310 Coronado, CA 92118 Daniel N. Abraham Colley, Shroyer & Abraham Co., LPA Hoster & High Building 536 South High Street Columbus, OH 43215
Josephine & Bernado Vapore v. Zimmer, Inc. and Zimmer Tri-State Cause No. L-59-12	Superior Court of New Jersey Atlantic County Atlantic County Civil Courts Bldg. 1201 Bacharach Blvd Atlantic City, NJ 08401	James R. Ronca Anapol Schwartz 1710 Spruce Street Philadelphia, PA 19103
Paula & James Wiegierink v. Zimmer, Inc.; Zimmer Holdings, Inc.; and Zimmer Orthopaedic Surgical Products, Inc. Cause No. 1203-CT-23	Kosciusko County Circuit Court Courthouse 100 West Center Street Room 14 Warsaw, IN 46580	Robert T. Dassow Hovde Dassow & Deets, LLC 201 W. 103rd St., Suite 500 Indianapolis, IN 46290
Susanne Wroblewski v. Zimmer, Inc., Zimmer Holdings, Inc., and Zimmer Orthopaedic Surgical Products, Inc. Cause No. 43D01-1206-CT-53	Kosciusko County Circuit Court Indiana Courthouse 100 West Center Street Room 14 Warsaw, IN 46580	Peter J. Flowers Foote, Meyers, Mielke & Flowers 3 North LaSalle Street, Suite 300 St. Charles IL, 60174
		Gregory L. Laker Takeen M. Thompson Cohen & Malad, LLP One Indiana Square, Suite 1400 Indianapolis, IN 46204

