

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

CMO-8 NOTIFICATION FOR DISMISSAL

Zimmer provides this notification to the Court identifying Plaintiffs who failed to comply with the requirements of Case Management Order No. 8 (dkt. 1265):

1. On August 25, 2014, Zimmer filed its Motion for Sanctions (dkt. 1158) and Motion for Entry of a *Lone Pine* Order (dkt. 1159), which ultimately led to the Court's entry of CMO-8. Since then, 624 cases (44% of the cases in the MDL as of August 2014) have been dismissed or remanded, are subject to pending motions to dismiss or remand, and/or are subject to dismissal under CMO-8.

2. The Court established a process under CMO-8 requiring Plaintiffs to submit evidence of loosening for all cases filed in this MDL or face dismissal. Specifically, CMO-8 requires all Plaintiffs to submit either (a) a medical record that evidences loosening or (b) a certification that Plaintiffs' counsel has reviewed the medical records and has a reasonable and good faith basis for recommending continued prosecution of the case in this MDL.

3. The 263 Plaintiffs identified in Exhibit A failed to supply the required documentation or certification by February 15, 2015, the deadline under CMO-8. Their cases

must be dismissed pursuant to Paragraph 3 of CMO-8, subject to the conditions set forth in Paragraphs 4 and 5 of the Order.¹

4. Because all of the defense bellwether case selections have been dismissed, the deadline for disclosing three new defense bellwether case selections is March 2, 2015. So that the pool of available bellwether picks is relatively certain, Zimmer respectfully requests that the Court promptly dismiss all 263 cases listed in Exhibit A.

Respectfully submitted,

Dated: February 20, 2015

FAEGRE BAKER DANIELS LLP

/s/ April E. Sellers

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¹ Plaintiffs identified with an asterisk have failed to comply with CMO-8 and are subject to dismissal under the terms of the Order. They also have filed a Notice of Voluntary Dismissal without Prejudice, a Motion to Dismiss without Prejudice, or a Motion to Remand. The Court should dispose of those cases under the terms of CMO-8 and deny their alternative and inappropriate procedural requests.

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CERTIFICATE OF SERVICE

I certify that on February 20, 2015, a copy of the foregoing *CMO-8 Notification for Dismissal* was served on each Plaintiff's counsel, by ECF and U.S. Mail, and on the MDL Lead and Liaison counsel by ECF and electronic mail.

/s/ April E. Sellers