

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CHAMBERS OF
SUSAN D. WIGENTON
UNITED STATES DISTRICT JUDGE

MARTIN LUTHER KING COURTHOUSE
50 WALNUT ST.
NEWARK, NJ 07101
973-645-5903

May 17, 2016

**Re: Zimmer Duron Hip Cup Products Liability Litigation
MDL No. 2158**

Dear State Court Judge,

Please be advised that I have been assigned by the United States Judicial Panel on Multidistrict Litigation to serve as the Transferee Judge, presiding over the above-captioned federal multi-district litigation involving the Zimmer Durom Acetabular Component (“Durom Cup”) pending in the United States District Court for the District of New Jersey, *In re: Zimmer Durom Hip Cup Products Liability Litigation*, MDL No. 2158 (the “MDL”). While many cases have resolved in this litigation by way of settlement, many cases still remain, rendering bellwether or single trials unfeasible. Additionally, although this litigation has been pending since 2009, new cases are filed regularly. In an effort to expedite resolution, I encouraged counsel to explore options to bring this MDL to a foreseeable end. Recently, a group of Plaintiff’s Liaison Counsel and Zimmer entered into a Settlement Agreement intended to resolve all actions and claims of United States plaintiffs and claimants who were implanted with a Durom Cup and subsequently had the Durom Cup removed. **To participate in the Settlement Agreement, participating counsel must register every individual plaintiff or claimant they represent, regardless of whether the plaintiff or claimant has filed a lawsuit in federal court, state court, or has not filed a lawsuit. Participation in the Settlement Agreement does not obligate a claimant to accept a settlement offer; however, registration of a claimant will provide the parties (and the Court if requested) with pertinent information about the claim.** A copy of the Settlement Agreement, dated February 11, 2016, is enclosed as Exhibit A. In order to facilitate the success of the Settlement Agreement, I entered a Case Management Order (the “CMO”), after permitting objecting plaintiffs’ counsel an opportunity to be heard. **The CMO requires all plaintiffs who have filed cases in the MDL to participate in the Settlement Agreement,** and that all pre-trial discovery be stayed as long as the Settlement Agreement remains in effect. A copy of the Case Management Order, dated May 13, 2016, is enclosed as Exhibit B.

Many of the individual plaintiffs who have filed cases in the MDL are represented by attorneys who also represent plaintiffs who have filed Durom Cup cases in state court. **To ensure that the Settlement Agreement has the desired effect of resolving the Durom Cup litigation, I encourage you to consider entering a similar order requiring any individual plaintiff in a Durom Cup lawsuit pending before you to participate in the Settlement Agreement and, to the extent necessary, stay any state court proceedings pending resolution of any individual plaintiff’s Durom Cup case.** Of course these case-management decisions are yours, and yours alone.

However, I do believe that it is sensible and appropriate that we try to coordinate our efforts to bring this litigation to a global conclusion. Given my involvement in these cases since 2009, I believe the process provided for in the Settlement Agreement is the best and most efficient way to achieve this shared objective.

If you have questions about the Settlement Agreement, I would direct you to the Plaintiffs' Liaison Counsel and counsel for Zimmer who are referenced in the Settlement Agreement. I would also be happy to discuss with you my experience with the Durom Cup litigation, and my efforts to bring this litigation to a conclusion through the Settlement Agreement. Please feel free to contact me. Thank you for your consideration.

Very truly yours,

_/s/ Susan D. Wigenton

Susan D. Wigenton, U.S.D.J.

Enclosures

cc: J. Joseph Tanner and Andrew L. Campbell
Faegre Baker Daniels LLP
300 N. Meridian Street, Suite 2700
Indianapolis, IN 46204)

Plaintiff's Counsel