

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN RE: BIOMET M2a MAGNUM HIP)	
IMPLANT PRODUCTS LIABILITY)	CAUSE NO. 3:12-MD-2391
LITIGATION (MDL 2391))	
)	
)	
_____)	
This Document Relates to the)	
Cases Listed on Exhibit 1)	
_____)	

ORDER REGARDING METAL-ON-POLYETHYLENE CASES

This order applies to plaintiffs who were initially implanted with a metal-on-polyethylene (MOP) hip replacement system. A list of those cases is attached (Exhibit 1).

Since 2012, cases involving alleged defects in Biomet's M2a Magnum system of hip implant products have been consolidated in this court as part of the multidistrict litigation to allow for consolidated and efficient pretrial proceedings. Although originally limited to cases involving the M2a Magnum and M2a-38 metal-on-metal hip implants, the MDL docket now includes a small number of metal-on-polyethylene device cases. Those cases were stayed and discovery was suspended, with limited exceptions, pursuant to the scheduling order entered on December 21, 2015 [Doc. No. 3047]. As the multidistrict portion of this litigation draws to a close, the court needs to determine whether the stay should be lifted, so case specific discovery can begin, or whether the case should be remanded to local courts for further proceedings and trial.

To accomplish that goal, it is hereby ORDERED that:

(1) The plaintiffs listed on attached Exhibit 1 shall have the attached Plaintiff's Expert Declaration of Causation (Exhibit 2) completed by an orthopedic surgeon, and shall send the completed and signed form to lead counsel for the Plaintiffs' Steering Committee by March 29, 2017, at the following address:

Biomet MDL Plaintiffs' Steering Committee
Attn: Brenda S. Fulmer, Esq.
Searcy Denney Scarola Barnhart & Shipley
2139 Palm Beach Lakes Blvd.
West Palm Beach, FL 33409

Failure to complete and return the Expert Declaration by the March 29 deadline will result in dismissal of your case *with prejudice*.

(2) The Plaintiffs' Steering Committee shall immediately forward to Biomet's counsel the Expert Declarations as they are received.

SO ORDERED.

ENTERED: December 15, 2016

/s/ Robert L. Miller, Jr.
Judge, United States District Court
Northern District of Indiana

EXHIBIT 1 - METAL-ON-POLYETHYLENE CASES

1	3:15cv491	GLYNN, David and Jeanne
2	3:16cv493	HODGE, Sandra and William
3	3:15cv425	JUST, Leroy
4	3:14cv1651	NELSON, Patricia and Willie
5	3:16cv115	WHITE, John

EXHIBIT 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN RE: BIOMET M2a MAGNUM HIP IMPLANT PRODUCTS LIABILITY LITIGATION (MDL 2391)))))))))	Case No. 3:12-MD-2391-RLM-MGG This Document Relates To All Cases
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PLAINTIFF’S EXPERT DECLARATION OF CAUSATION

1. Plaintiff’s name: _____
2. Plaintiff’s Civil Action No.: _____
3. Name of medical declarant: _____
4. Date(s) of Plaintiff’s metal-on-poly implant surgeries: _____
5. Date(s) of Plaintiff’s metal-on poly revision surgery or surgeries: _____
6. I am an orthopaedic surgeon. I have attached my curriculum vitae to this declaration.
7. I certify that I have reviewed and considered the evidence made available to me, which included Plaintiff’s medical records, x-rays and/or x-ray reports, and any tests regarding the level of metal ions in Plaintiff’s blood stream.
8. I can state to a reasonable degree of medical certainty that Plaintiff has/had (*specify: metallosis, metal poisoning, tissue and/or bone loss, aseptic lymphocytic vasculitis-associated lesions, implant loosening, and/or early device failure*).
9. I can state to a reasonable degree of medical certainty that Plaintiff’s condition(s) identified in paragraph 8 were caused by the Biomet metal-on-poly implant.

10. I can state to a reasonable degree of medical certainty that Plaintiff's metal-on-poly implant (*specify: had some actionable defect, was not designed in accordance with the state of the art, was not adequately described in Biomet's Instructions for Use*).

11. The basis for my opinions in paragraph 8 is (specify the grounds for your opinion, including specific records reviewed or medical literature; provide an attachment if necessary): _____

12. The basis for my opinions in paragraph 9 is (specify the grounds for your opinion, including specific records reviewed or medical literature; provide an attachment if necessary): _____

13. In forming my opinion in paragraph 9, I considered the following possible alternate causes of the injury or injuries listed in paragraph 8: _____

14. I have ruled out the possible alternate causes listed in paragraph 13 because: _____

15. The basis for my opinions in paragraph 10 is (specify the grounds for your opinion, including specific records reviewed or medical literature; provide an attachment if necessary): _____

I hereby declare under the penalty of perjury that the foregoing is true and correct.

Executed on: _____

Surgeon Declarant's Signature