

*Mealey's PI/Product Liability - Settlement Agreement Reached In Zimmer NexGen  
Knee MDL, Lead Counsel Tell Judge*

Mealey's Daily News Update

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## **Body**

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Lead counsel in the Zimmer NexGen knee multidistrict litigation on Feb. 6 told an Illinois federal judge that they have reached an agreement in principle that will potentially resolve all MDL cases and similar cases filed in state court as of Jan. 15 (In Re: Zimmer NexGen Knee Implant Products Liability Litigation, MDL Docket No. 2272, N.D. Ill., Eastern Div.).

(Joint motion available 28-180215-004M )

The parties do not state how many cases will be settled, but the Judicial Panel on Multidistrict Litigation reports that there are 286 current MDL cases, down from a high of 1,741. Defendant Zimmer Biomet Holdings Inc. does not report the number of NexGen cases pending against it.

In a joint motion for a new case management order, lead counsel for plaintiffs in the U.S. District Court for the Northern District of Illinois told the court that after a global mediation session, they reached the agreement in principle on a confidential settlement. The proposed court order seeks a stay of proceedings pending the outcome and administration of the settlement.

### **New Cases Must Have Experts**

They also ask the court to order all MDL plaintiffs' counsel to coordinate and consult with plaintiffs' co-lead counsel Tobias L. Millrood of Pogust, Braslow & Millrood in Conshohocken, Pa., and Peter Flowers of Foote, Meyers, Mielke & Flowers in St. Charles, Ill.

The parties also ask the court to order plaintiffs in cases filed after Jan. 15, 2018, to serve defendant Zimmer Inc.'s counsel with expert reports within 90 days of transfer into the MDL. They ask that those new cases be stayed pending administration of the settlement-in-principle.

Any new cases that are unresolved after the stay ends will have 60 days to serve Zimmer with expert reports that must contain "admissible opinions establishing all elements of the plaintiffs' claims requiring expert

testimony, including, where necessary, defect and/or negligence and causation." They also ask that the experts testify at trial except under exceptional circumstances.

If new plaintiffs fail to resolve their cases, fail to serve expert reports or voluntarily dismiss their cases after the deadline, the parties ask that they be sanctioned.

## 2 Defense Bellwether Verdicts

Plaintiffs allege that the NexGen knee prosthesis is defective and that the defect results in premature loosening.

MDL bellwether trials took place in October 2015 and January 2017, and each resulted in a defense verdict.

Judge Rebecca R. Pallmeyer ordered more bellwether trials to be chosen from a pool of 36 cases selected randomly. Most recently, the judge selected two MIS Tibial Component loosening cases to be ready for trial.

## Counsel

Plaintiffs' co-lead counsel are Millrood, James R. Ronca of Anapol Weiss in Philadelphia and Timothy Becker of Johnson Becker in Minneapolis.

Zimmer is represented by Andrea Roberts Pierson of Faegre Baker Daniels in Indianapolis and Peter A. Meyer, James Stephen Bennett and Abigail M. Butler of Faegre Baker in Fort Wayne, Ind.