



PLEASE RESPOND TO THE DALLAS OFFICE

May 31, 2018

**Via ECF**

Honorable Susan D. Wigenton  
 United States District Court  
 District of New Jersey  
 Martin Luther King Building & U.S. Courthouse  
 50 Walnut Street  
 Newark, NJ 07102

Re: Civil Action No. 2:09-cv-04414-DFW-SCM; *In Re: Zimmer Durom Hip Cup Products Liability Litigation*; MDL-2158

Dear Judge Wigenton:

Waters & Kraus, as Co-Plaintiffs' Liaison Counsel in the above-referenced matter, writes in response to the letter sent to you by James Cecchi and Christopher Seeger on May 30, 2018 ("May 30th Letter") [Dkt. 979]. Since Messrs. Cecchi and Seeger's May 30th Letter simply reiterates their April 20, 2018 [Dkt. 973] request to make up new, after-the-fact guidelines for distributing the Common Benefit Fund ("CBF") in this litigation, we will not go to the trouble of again explaining why Case Management Order No. 3 ("CMO No. 3") [Dkt. 33] renders their volunteered services unnecessary. It is worth noting, however, that in making this request again, Messrs. Cecchi and Seeger continue to ignore the rules established by this Court. Given their total lack of involvement in the work of Plaintiffs' Liaison Counsel prior to 2017, it is perhaps not surprising that they would not be familiar with the guidelines established by CMO No. 3 back in 2011. However, there is no excuse for their failure to abide by the Court's published Local Rules, which required a filed response – *if opposed* – to Plaintiffs' Motion Seeking Disbursements from Common Benefit Fund [Dkt. 972] no later than May 7, 2018. Since no such response was filed by that date *or even today's date*, that motion should be treated as unopposed and granted.<sup>1</sup>

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<sup>1</sup> It should also, of course, be granted on its merits.

WATERS &amp; KRAUS, LLP ATTORNEYS AND COUNSELORS

DALLAS: 3141 HOOD ST SUITE 700 DALLAS, TEXAS 75219 TEL 214 357 6244 FAX 214 357 7252

LOS ANGELES: 222 NORTH SEPULVEDA BOULEVARD SUITE 1900 EL SEGUNDO, CALIFORNIA 90245 TEL 310 414 8146 FAX 310 414 8156

ILLINOIS: 1530 3RD AVENUE A 2ND FLOOR MOLINE, ILLINOIS 61265 TEL 800 226 9880 (by appointment only)

## PARTNERS

C. Andrew Waters (CA,DC,NC,OR,TX)

Peter A. Kraus (CA,MO,TX,VA)

Charles S. Siegel (PA,TX)

Michael L. Armitage (CALA)

Gary M. Paul (CA)

Scott L. Frost (CA,GA,HI,IN,KY,OR,TX)

Leslie C. MacLean (PA,TX)

Michael B. Gurien (CA)

Jonathan A. George (CA,PA,TX,VA)

Kevin M. Loew (CA)

Gibbs C. Henderson (IL,TX)

Joy Sparling (IL)

Susannah B. Chester-Schindler (LA,TX)

## ASSOCIATES

Andrew Seitz (CA)

Caitlyn Silhan (CA,TX)

Erin M. Wood (TX)

Susan M. Ulrich (CA,MA)

Patrick J. Wigle (TX)

David C. Humen (TX)

Rajeev K. Mittal (CA)

Michael P. Connett (CA,PA)

Charles P. Stern (GA,TX)

Jillian Rice-Loew (CA)

Rachel A. Gross (TX)

Christopher L. Johnson (TX)

Bart A. Seemen (CA)

Sally R. Bage (TX)

Jessica Stone (CA)

Alexandra B. Ascione (CA)

Zachary A. Cohen (CA)

Kyle Tracy (CA)

Elizabeth A. Post (CA)

## OF COUNSEL

B. Scott Kruka (PA,TX)

Loren Jacobson (NY,TX)

Wm. Paul Lawrence II (TX,VA)

William Galerston (IL,TX)

Randall L. Iola (IL,OK,TX)

Kay Gunderson Reeves (TX,WA)

Steven M. Gruber (AL,MN,TX)

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Once the members of Plaintiffs' Liaison Counsel who have abided by CMO No. 3 and the Court's rules – Waters & Kraus, Pogust Braslow & Millrood, LLC, and Lieff Cabraser Heimann & Bernstein, LLP – have been compensated for their documented hours and expenses, Plaintiffs' Liaison Counsel and, if necessary, the Court, can then deal with the issue of how to divide the remaining funds in the CBF.

Thank you in advance for your consideration.

Respectfully,

A handwritten signature in blue ink, appearing to read "Peter A. Kraus". The signature is fluid and cursive, with the first name "Peter" being the most prominent.

Peter A. Kraus

/pak