

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

MARTIN GOLDSTEIN

Plaintiffs,

- vs -

ZIMMER HOLDINGS INC., AND ZIMMER,
INC.,

Defendants.

Civil Action No.: 2:12-cv-6085

CERTIFICATION OF TERRENCE SMITH

Terrence Smith, of full age, certifies as follows:

1. I am an attorney at law admitted to the bar of the U.S. District Court for the District of New Jersey with the firm Davis, Saperstein and Salomon, P.C., attorneys for Plaintiff Martin Goldstein

2. I am personally familiar with the facts of this matter.

3. Martin Goldstein filed his complaint in the U.S. District Court for the District of New Jersey on September 28, 2012, setting out product liability and other claims against the Defendants for the defective Durom Cup Acetabular Component Mr. Goldstein had implanted in November 2007 and revised in September 2012.

4. The case was later consolidated with other matters in MDL 2158 IN RE: DUROM HIP CUP PRODUCTS LIABILITY LITIGATION.

5. Before the filing of Mr. Goldstein's lawsuit, I and other law firm personnel collected all relevant medical records, preserved his prosthetic hardware, and conducted medical research on the Durom device and its regulatory and clinical histories, legal research pertinent to the anticipated suit, and devoted substantial time and effort to the preparation of the case for formal litigation.

6. In accordance with this Court's directive, Plaintiff, through counsel, forwarded all medical records to Defendant in advance of court-ordered mediation.

7. That mediation took place on January 14, 2015 and successfully concluded the parties' disputes on all issues. As part of that mediation process, Plaintiffs paid half of Mediator Alex Polsky's professional fees.

8. Plaintiff, through counsel's efforts, has also negotiated and resolved attendant disputes over Medicare lien reimbursements.

9. No attorney from any other law firm or committee participated in any information exchange, negotiation or other activity on behalf of Mr. Goldstein at any time since the filing of his lawsuit.

10. The attorneys at Davis, Saperstein and Salomon are not members of any plaintiffs' committees in this litigation and have not participated in planning or execution of any discovery strategies or discovery negotiations with Defendants.

11. Neither Plaintiff nor his attorneys have received any assistance from any other attorney or received any substantive information or shared work product from any other attorney.

12. With regard to the mediation process, no information was shared because of the universal confidentiality agreements imposed on all settling plaintiffs.

13. All of the time and effort to resolve Mr. Goldstein's case was done exclusively by the Davis, Saperstein & Salomon firm.

14. Defendant tendered the settlement draft net of the court-ordered common benefit assessment on February 20, 2015.

15. On January 21, 2011, this Court issued Case Management Order 3, which established a Common Benefit Fund. That Order provided, in part, that beginning December 2,

2010, plaintiffs entering into settlement agreements with the Defendants “are subject to a four percent (4%) assessment of the plaintiff’s gross monetary recovery, to be withheld by the Defendants and paid into the Common Benefit Fund.” In the Court’s Order, the Court also reserved the right to change the percentage based on factors contained in Model Rule of Professional Conduct 1.5 for determining the “reasonableness of a fee.” [Exhibit A attached].

16. Because Mr. Goldstein received no benefit from any common effort or work product, I respectfully request that the Court waive the Common Benefit assessment as to them and direct Defendants to release all money held on their account.

/s/ Terrence Smith
Terrence Smith