

LAW OFFICES OF
DAVIS, SAPERSTEIN & SALOMON, P.C.

375 CEDAR LANE
TEANECK, NJ 07666-3433

FACSIMILE: (201) 692-0444
Email: lawinfo@dsslaw.com
(201) 907-5000

800 INMAN AVENUE
COLONIA, NJ 07067
(732) 510-1000

39 BROADWAY, SUITE 520
NEW YORK, NY 10006
(212) 608-1917

CERTIFIED CIVIL TRIAL ATTY †
PENNSYLVANIA BAR ■
NEW JERSEY BAR ●
NEW YORK BAR ○
LOUISIANA BAR □
GEORGIA BAR ☒
ILLINOIS BAR ◆
D.C. BAR ◇
OF COUNSEL

RACHAEL NASS ●○
BENNETT J. WASSERMAN ●○†
CHRISTOPHER T. KAROUNOS ●

SAMUEL L. DAVIS ●○†
MARC C. SAPERSTEIN ●○○†
GARRY R. SALOMON ●†
STEVEN BENVENISTI ●■†
PAUL A. GARFIELD ●■†
—
LUIS L. HAQUIA ●○†
TERRENCE SMITH ●■
STEVEN H. COHEN ●○
PATRICIA Z. BOGUSLAWSKI ●†
ADAM LEDERMAN ●○†
ANGELA CERVELLI BENNETT ●
RENEE C. RIVAS ●
DAVID A. DRESCHER ●○
LISA A. LEHRER ●■□
KATE CARBALLO ●○
KEVIN DECIE ●
EVAN D. BAKER ●○○†
ANDREW LAVADERA ●

March 18, 2016

REPLY TO TEANECK

By ECF

Honorable Susan D. Wigenton, DJ
Martin Luther King, Jr. Courthouse
50 Walnut St.
Newark, NJ 07102

Re: *In Re Zimmer Durom Hip Cup Product Liability Litigation*, MDL 2158
Miller V. Zimmer Holdings, Inc., Case No. 2:09-cv-4414 SDW SCM

Dear Judge Wigenton:

I am writing pursuant to the Court's directive of March 14, 2016 to submit comments on the Defendant's proposed case management order no later than March 21, 2016.

This firm represents the following plaintiffs in this MDL:

<u>Plaintiffs</u>	<u>Case Number</u>
Dominic and Juliette Branca	2:12-6138
Danny and Tricia Coleman	2:14-7798
Edward and Patricia Goodman	1:12-8240 [USDC/SDNY and CTO-39]
Barbara Hall	2:13-4532
Gregory and Diane Kechejian	2:15-40
Robert and Annette Lahullier	2:13-5426
Steven Muhlstock	2:12-6203
Michael and Diane Sims	2:14-7655
Robert and Jacqueline Rohan	2:14-1052
Peter and Clare Ryerson	2:13-7204
Keith St. Clair [deceased]	2:14-7461
Bonnie and Richard Wiener	2:12-6230
John and Andrea Velez	2:13-5425

On behalf of these litigants, the Firm objects to the proposed case management order regarding a purported settlement agreement submitted to the Court by Defendants on March 11,

2016. We respectfully urge that the Court should not enter the proposed case management order. Since this firm has no cases pending in any state courts, we take no position with regard to matters outside of the MDL.

The purported settlement agreement was not authorized by or negotiated with the consent or knowledge of this firm or any of its clients. Prior orders of the Court addressing the administrative duties of Plaintiffs' liaison counsel and committee confer no authority on Plaintiff's Liaison Counsel to negotiate a binding settlement agreement on behalf of all plaintiffs. We do not believe the settlement agreement represents the best interest of the Firm's clients and is not binding on any of them.

The proposed case management order seeks to impose mandatory participation on all plaintiffs or else face dismissal motions filed by Defendants. Our clients object to compulsory participation in the settlement agreement or the process and procedures outlined in the proposed case management order.

Our clients object to the substantive provisions of the purported settlement agreement. To the extent that the Defendant's submission and proposed case management order seek the Court's approval of the documents' substance, we believe that is inappropriate, at the least because they in no way represent the interests of this Firm's clients.

Our clients object to the apparent plan to stay all litigation in all cases for a minimum of 18 months. For those of our clients who may not participate in the settlement agreement as proposed, this delay is irreparably prejudicial and unfair.

Our clients object to the precipitous deadlines that the proposed order and settlement agreement attempt to impose. This firm has not had the chance to meet with all clients as yet to discuss the facts of their cases and the impact these proposals may have.

Our clients also respectfully join in the legal and factual arguments of other plaintiffs and their counsel who have filed written opposition to the proposed case management order and the settlement agreement itself. Please accept those submissions as if incorporated here.

Finally, our clients object to the entry of the case management order and mandatory imposition of the settlement agreement on them without the opportunity to submit more comprehensive briefing and the chance to be heard at oral argument as the Court may allow. We therefore respectfully request that the Court direct an orderly briefing schedule that will allow detailed argument.

Respectfully submitted,
Davis, Saperstein & Salomon, PC
Attorneys for Plaintiffs

/s/ Terrence Smith
Terrence Smith [8297]
For the Firm

