

**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MINNESOTA**

Chambers of  
**DONOVAN W. FRANK**  
DISTRICT JUDGE

Warren E. Burger Federal Building  
and United States Courthouse  
316 North Robert Street, Suite 724  
St. Paul, Minnesota 55101  
(651) 848-1290

February 18, 2014

**BY U.S. MAIL AND ECF**

Honorable Eileen M. Brewer  
State of Illinois  
Circuit Court of Cook County  
Daley Center  
50 W. Washington St., Room 2204  
Chicago, IL 60602

Honorable David F. Rees  
Multnomach County Courthouse  
1021 SW Fourth Avenue, Room 732  
Portland, OR 97204-1123

Honorable Janet M. Boes  
Michigan State Circuit Court  
10th Circuit  
111 S. Michigan Ave.  
Saginaw, MI 48602

**Re: In re: STRYKER REJUVENATE AND ABGII HIP IMPLANT PRODUCTS  
LIABILITY LITIGATION  
MDL No. 13-2441 (DWF/FLN)**

Dear State Court Judges:

By order dated June 12, 2013, the Judicial Panel on Multi-District Litigation determined that a number of federal *Stryker* cases involved common questions of fact and that centralization of the *Stryker* cases was appropriate. The Panel ordered that such cases be transferred to the United States District Court - District of Minnesota and assigned to me to coordinate discovery and other pretrial matters. To date, approximately 573 *Stryker* cases have been transferred to, or filed in, this MDL. Plaintiffs estimate that approximately more than 1,000 cases will be filed in the coming months.

Magistrate Judge Franklin L. Noel is also teaming up with me on these cases. Magistrate Judge Noel will be available as the case progresses for specialized pretrial issues, including discovery issues. His assistance will expedite the matter.

Counsel in this MDL case have informed me that a number of *Stryker* cases are also being litigated in state courts across the country. Presently, that number would appear to be approximately 773 cases in New Jersey and well over 100 cases outside the State of New Jersey. Prior to coming to the federal bench in 1998, I was a state court judge for 14 years here in Minnesota. As a result of my state court experience, I am hopefully aware and sensitive to the issues confronting state court judges when they have individual cases involved in a MDL case. In setting a schedule for the MDL case, I am mindful of the balance I must keep to serve the interests of justice and the parties. On the one hand, the Court must ensure that these cases proceed ahead expeditiously by the Court's efforts to coordinate discovery and move toward trial. Yet, on the other hand, the Court must ensure that the cases are not

brought to trial in too hasty a manner, leading to a verdict for either side that does not represent a fair attempt at discovery and thus does not characterize the essence of the lawsuits.

I am writing this letter to you because I understand that you currently have one or more of those state cases, and I would like your input concerning the coordination of the state and federal cases. In my previous MDL cases, the state and federal courts, with few exceptions, were able to coordinate pretrial matters to effectuate a meaningful and prompt resolution of those cases. My goal, of course, in addition to permitting fair discovery that will lead to meaningful bellwether trials and verdicts, is to minimize courts issuing conflicting orders concerning document production, document preservation, discovery deadlines, protocols for electronic document production, and scheduling of depositions and deposition protocol. In fact, one of my pretrial orders has set up a system for cross-noticing depositions to avoid unnecessary duplication of effort. One benefit, of course, of state-federal coordination may be to prevent two or more courts from deciding the same issue. Similarly, I will do my part in minimizing the same witness being deposed more than once. I hope that such coordination will serve to balance the interests of the federal and state litigation.

I have issued, or will be issuing shortly, a number of pretrial orders that address issues regarding docket and filing procedures, confidentiality issues, preservation of records, and deposition guidelines. Eventually, I will issue an order setting up the procedure by which the lawyers involved in the case will identify bellwether or representative cases to be tried. My schedule will accommodate such trial dates as the interests of justice and the interests of the parties would serve.

I have also appointed a Lead Counsel Committee and a Plaintiffs' Steering Committee to represent the interests of Plaintiffs as well as Liaison Counsel to the District of Minnesota and Liaison Counsel to the State Courts. At least monthly Status Conferences are being conducted by me at this time. The District of Minnesota has also established a website dedicated to this litigation to inform Plaintiffs, potential Plaintiffs, counsel, and the general public as to the status of the case. The website's address is: [www.mnd.uscourts.gov](http://www.mnd.uscourts.gov).

I would greatly appreciate your input on anything that we can do to increase the coordination of state and federal cases without compromising the rights of individual litigants, while, at the same time, respecting the discretion of individual judges across the country.

If you have any questions, please do not hesitate to contact me. My e-mail address is: [frank\\_chambers@mnd.uscourts.gov](mailto:frank_chambers@mnd.uscourts.gov). Also, as I mentioned above, you can view any orders that I have issued thus far, and otherwise monitor the events in this case, by viewing *Stryker Rejuvenate* MDL 13-2441 at: [www.mnd.uscourts.gov](http://www.mnd.uscourts.gov).

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Thank you for your attention to this matter. If you have any questions, please feel free to give me a call.

Very truly yours,

s/Donovan W. Frank

DONOVAN W. FRANK  
Judge of United States District Court

DWF:rlb