

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: STRYKER REJUVENATE AND
ABG II HIP IMPLANT PRODUCTS
LIABILITY LITIGATION

MDL No. 13-2441 (DWF/FLN)

This Document Relates to All Actions

AMENDED PRETRIAL ORDER NO. 10

**MASTER LONG AND SHORT
FORM COMPLAINTS AND
JURY TRIAL DEMAND**

APPLICABILITY OF ORDER

1. This stipulated amended Order applies to all individual personal injury Complaints filed by Plaintiffs and their counsel for actions relating to Stryker Rejuvenate or ABG II Hip Implant Products that are filed directly in MDL No. 13-2441, or are transferred to these proceedings. The sole reason for amendment is to clarify

Paragraph 2.

2. Plaintiffs shall file a Master Long Form Complaint and a Master Short Form Complaint as administrative devices to set forth potential claims detailed in the Master Long Form Complaint that individual Plaintiffs may assert against Defendants in this litigation. All allegations pled therein are deemed pled, and all parties named therein are deemed to be named, in any previously filed Complaint and in any Short Form Complaint hereafter filed, *nunc pro tunc* to the date each such Complaint was originally filed. The Master Long Form Complaint and Master Short Form Complaint are attached hereto as Exhibits A and B, respectively.

SERVICE

3. Notwithstanding the provisions of this Order for procedures for Complaints, Defendants do not waive service and all Defendants must be served in accordance with the Federal Rules of Civil Procedure or as otherwise agreed to by the parties. Pretrial Order No. 7 details an agreed upon e-mail service program.

FORM OF DIRECT FILED COMPLAINTS

4. In the interests of judicial economy, Plaintiffs filing cases directly into MDL No. 13-2441 (DWF/FLN) shall file Short Form Complaints, which are an abbreviated form and briefly articulate certain basic elements of Plaintiffs' claims without the need for detailed pleadings. Said Short Form Complaint is attached hereto as Exhibit B.

5. Plaintiffs and Defendants have stipulated and agreed that at this time until further Order of the Court, they will not assert that any Short Form Complaint or future Answer filed in this coordinated proceeding (1) fails to state a recognizable cause of action; (2) fails to state a claim upon which relief may be granted; (3) fails to plead allegations with sufficient particularity; or (4) waives any applicable defenses. The Parties have further stipulated and agreed that until further Order from the Court, they will not file motions pursuant to Rule 12(b)(6) against any filed Short Form Complaints or future Answers asserting a failure to plead allegations with specificity, or failing to meet the requirements of Fed. R. Civ. P. 8. Motion practice on the individual personal injury Complaints and future Answers subject to this Order shall be stayed and may proceed only upon leave of the Court.

6. Plaintiffs chosen for bellwether consideration shall file an Amended Complaint no later than thirty (30) days after the date of selection for bellwether consideration, identifying the actual claims he or she intends to pursue at trial and setting forth specific allegations to conform with applicable state law specific to the individual Plaintiff's claims.

7. All Plaintiffs have the express right to file and serve an Amended Complaint, consistent with the relevant Federal Rules of Civil Procedure, regardless of selection for bellwether consideration, which more fully sets forth the facts specific to their case, the causes of action and allegations against Defendants and theories of liability alleged.

Dated: June 2, 2014

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge