

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: STRYKER REJUVENATE AND ABGII HIP IMPLANT PRODUCTS LIABILITY LITIGATION
This Document Relates to All Actions

MDL No. 13-2441 (DWF/FLN)

AMENDED PRETRIAL ORDER NO. 29

**MASTER ANSWERS A RESPONSE TO
EACH INDIVIDUAL COMPLAINT,
*NUNC PRO TUNC***

Based on the Court's discussions with the parties, the Court hereby amends PTO No. 29 (Doc. No. 640) to include additional language clarifying its impact.

On July 5, 2013, "[e]ach defendant [was] granted an indefinite extension of time for responding by motion or answer to the complaint(s) until this Court, by subsequent order, sets a date by which defendants shall respond by motion, answer or otherwise." (See Doc. No. 5 at 2 (Pretrial Order No. 1).)

On January 14, 2014, PLCC first filed a Notice of Master Long Form Complaint with attached Master Long Form Complaint. (Doc. No. 163.) The Court subsequently entered Pretrial Order No. 10 permitting PLCC to file the Master Long Form Complaint "to set forth potential claims that individual Plaintiffs may assert against Defendants in this litigation." (Doc. No. 161 at 1 (Pretrial Order No. 10), as clarified by Doc. No. 342 at 1 (Amended Pretrial Order No. 10).) In response to the Master Long Form Complaint, defendants Howmedica Osteonics Corp, Stryker Corporation, and Stryker Sales Corporation filed Master Answers to the Master Long Form Complaint on August 22,

2014. (*See* Doc. Nos. 461, 462, 463 (hereinafter “Master Answers”).) However, no Order had been entered at that time deeming each Master Answer, pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, a response to each complaint filed in each individual action in this MDL.

On November 3, 2014, leadership counsel announced a private settlement agreement, and “[u]pon the Court’s own motion, discovery in this litigation [was] stayed until September 1, 2015, unless otherwise ordered or agreed.” (Doc. No. 534 at 5 (PTO No. 24).)

One or more plaintiffs have filed notices of voluntarily dismissal without prejudice in individual actions pursuant to Rule 41(a)(1)(A)(i) since the announcement of the private settlement agreement and the court-ordered stay of discovery in this litigation. These notices are inconsistent with leadership counsels’ and the Court’s intentions regarding the use of master pleadings to create efficiencies and aid in the administration of this case.

Based on the foregoing,

IT IS HEREBY ORDERED BY THE COURT, each Master Answer is deemed filed in each member case in this MDL, *nunc pro tunc* to the date each Master Answer was filed *via* CM/ECF in Case No. 0:13-md-02441-DWF-FLN. Further, each Master Answer is deemed an answer to each complaint filed in each member case as contemplated by Fed. R. Civ. P. 8(b), *nunc pro tunc* to the date each Master Answer was filed *via* CM/ECF in Case No. 0:13-md-02441-DWF-FLN, with the effect of, among

other things, prohibiting the filing of notices of voluntary dismissals in member cases pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i).

IT IS FURTHER ORDERED BY THE COURT, PLCC and Lead Defense Counsel shall confer and jointly advise the Court which plaintiffs in this MDL filed notices of voluntarily dismissal pursuant to Rule 41(a)(1)(A)(i) since the announcement of the private settlement program and court-ordered stay of litigation on November 3, 2014, and what, if any, further action by the Court may be necessary in light of this Order.

Dated: May 27, 2015

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