

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: STRYKER REJUVENATE AND
ABGII HIP IMPLANT PRODUCTS
LIABILITY LITIGATION

MDL No. 13-2441 (DWF/FLN)

PRETRIAL ORDER NO. 29

This Document Relates to All Actions

**MASTER ANSWERS FILED IN
INDIVIDUAL ACTIONS,
*NUNC PRO TUNC***

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. (Doc. No. 163.) The Court subsequently entered an order permitting to file a 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).) The allegations and parties¹ named in the Master Long Form Complaint were “deemed pled in any previously filed Complaint” and in any subsequently filed complaint. (*Id.*) PTO No. 10 expressly contemplated that the individual pleadings would be amended as a matter of right as cases were selected for trial. (*Id.* at 2-3.)

¹ Amended Pretrial Order No. 10 was entered on June 2, 2014, solely to clarify Paragraph 2 intended to deem all parties named in the Master Long Form Complaint also named in the individual complaints, “*nunc pro tunc* to the date each such complaint was originally filed.” (Doc. No. 342 at 1.)

On August 22, 2014, defendants Howmedica Osteonics Corp, Stryker Corporation, and Stryker Sales Corporation filed Notices of Master Answers. (Doc. Nos. 461, 462, 463.) However, no Order had been entered at that time deeming the Master Answers as responses to the complaints filed in the individual actions filed in or transferred to 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).)

The Court has been informed certain plaintiffs have recently filed notices of voluntarily dismissal without prejudice in individual actions pursuant to Rule 41(a)(1)(A)(i) asserting the defendants have not served an answer. These notices are inconsistent with leadership counsels’ and the Court’s reliance on master pleadings to create efficiencies and aid in the administration of this case.

Based on the foregoing,

IT IS HEREBY ORDERED BY THE COURT, defendants Howmedica Osteonics Corp, Stryker Corporation, and Stryker Sales Corporation’s Notices of Master Answers to the Master Long Form Complaints are hereby deemed filed in response to all filed complaints in individual actions that are commenced in or transferred to this MDL, *nunc pro tunc* to the date each such Notice of Master Answer was originally filed.

IT IS FURTHER ORDERED BY THE COURT, Leadership Counsel shall jointly advise the Court at or before the next Status Conference, as necessary, which

cases in this MDL have been voluntarily dismissed pursuant to Rule 41(a)(1)(A)(i) since the announcement of the Private Settlement Program and Court ordered stay of discovery on November 3, 2014, and what if any further action by the Court may be necessary.

Dated: May 27, 2015

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