

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: STRYKER REJUVENATE AND
ABG II HIP IMPLANT PRODUCTS
LIABILITY LITIGATION

MDL No. 13-2441 (DWF/BRT)

This Document Relates to:

MAXINE BERRYMAN,

Plaintiff,

v. Civil No. 14-3066 (DWF/BRT)

HOWMEDICA OSTEONICS CORP., d/b/a
STRYKER ORTHOPAEDICS, STRYKER
CORP., STRYKER SALES
CORPORATION and STRYKER IRELAND
LIMITED,

Defendants.

ORDER

In further management of its docket, on September 12, 2019 the Court entered Pretrial Order No. 42 (“PTO #42”) (MDL No. 13-2441 (DWF/BRT), Doc. No. [1394]) establishing certain mandatory tolling election response obligations on the part of Unrevised Plaintiffs in this multidistrict litigation. On January 15, 2020 the Court also entered Pretrial Order No. 44 Regarding Pending and Future Requests to Withdraw as Counsel in this MDL (“PTO#44”). (MDL No. 13-2441 (DWF/BRT), Doc. No. [1567]) Pursuant to PTO #44, counsel in the above captioned, *Maxine Berryman v. Howmedica Osteonics Corp., d/b/a Stryker Orthopaedics, Stryker Corp., Stryker Sales Corporation and Stryker Ireland Limited*, matter filed the required notice with the Court (MDL No.

13-2441 (DWF/BRT), Doc. No. [1609]; Civil No. 14-3066 (DWF/BRT), Doc. No. [10]) and also filed a Suggestion of Death indicating that the Unrevised Plaintiff was deceased. (MDL No. 13-2441 (DWF/BRT), Doc. No. [1608]; Civil No. 14-3066 (DWF/BRT), Doc. No. [9]) Also, a person self-identified as a family member (daughter-in-law) of the decedent Maxine Berryman contacted the Court recently and seemed to indicate an intention to dismiss the matter, but no dismissal has been filed to date.

IT IS HEREBY ORDERED that:

1. The following notice is issued to the estate or appointed legal representative of the deceased, unrevised Plaintiff in the above captioned, *Maxine Berryman v. Howmedica Osteonics Corp., d/b/a Stryker Orthopaedics, Stryker Corp., Stryker Sales Corporation and Stryker Ireland Limited* matter (MDL No. 13-2441 (DWF/BRT); Civil No. 14-3066) requiring a response to the Court to the following inquiry (to be communicated through current counsel): (1) identify the decedent's legal estate, successor or personal representative with legal authority to act on behalf of the decedent's estate (including confirming documentation of such legal status); (2) given the unrevised status of the decedent at the time of death, state whether or not the legal estate, successor or personal representative with legal authority to act on behalf of the decedent's estate consents to a dismissal of this litigation. If not, and the legal representative chooses to continue the litigation on behalf of the decedent then the legal representative must file the following (through current counsel) within 14 days of this Order: (i) a motion to substitute decedent's legal estate, successor or personal representative as Plaintiff in the matter (including confirming documentation of such

legal status); and (ii) identification of substituting counsel, or, if no counsel, then a statement of the intention of the legal successor or appointed representative to proceed pro se with the litigation.

2. If no response to this Order is received within 14 days, then current counsel will be permitted to withdraw and the *Maxine Berryman v. Howmedica Osteonics Corp., d/b/a Stryker Orthopaedics, Stryker Corp., Stryker Sales Corporation and Stryker Ireland Limited*, matter will be **DISMISSED** in its entirety **WITHOUT PREJUDICE**, without further notice.

Dated: March 12, 2020

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