

**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 ALL ACTIONS

QUALIFIED PROTECTIVE ORDER

Defendant Howmedica Osteonics Corp. (“HOC”) and Plaintiffs’ Counsel for plaintiffs and claimants asserting similar claims against HOC (“Counsel”) have entered into a private Settlement Agreement to permit enrollment in a settlement program similar to the settlement programs previously announced on November 3, 2014 and December 19, 2016 (the “Settlement Program”). (*See* PTO No. 46 Order Regarding Private Settlement Agreement (Sept, 9, 2020) [1853].) The individuals who enroll in and are qualified for the Settlement Program have asserted similar claims against HOC and have retained Counsel to represent them in relation to the above-captioned action. Counsel agrees that they represent the individuals who enroll in and are qualified for the Settlement Program.

IT IS HEREBY ORDERED that:

1. Plaintiff’s Unopposed Motion for Entry of a Qualified Protective Order (Doc. No. [1857]) is **GRANTED**;
2. By virtue of their status as Counsel for the individual who enroll in and are qualified for the Settlement Program (the “Settling Individuals”), Counsel shall resolve

any potential Part A and/or Part B fee-for-service Medicare Secondary Payer (MSP) claim(s) related to settlements, judgments, awards, or other payments associated with the above-captioned action for those Settling Individuals who are or were Medicare beneficiaries.

3. Counsel has also retained Archer Systems, LLC (“Archer”) to identify and resolve potential healthcare liens with Medicaid agencies, TRICARE, Veteran’s Administration, Department of Defense, Indian Health Services, and private health insurers, (hereinafter, collectively “the Agencies”) claim(s) related to settlements, judgments, awards, or other payments associated with the above captioned action for those Settling Individuals who are or were beneficiaries of the Agencies.

4. The entry of this HIPAA-compliant qualified protective order is necessary in this action in order to permit the Agencies to transmit lists of information, including protected health information and other related information regarding the Settling Individuals to Archer, rather than providing copies of individual HIPAA authorizations and information on a claimant-by-claimant basis, including any third-party authorized by Archer or the Court to assist in the resolution of the Agencies’ potential liens and reimbursement claims.

5. **IT IS FURTHER ORDERED** that:

a. This Qualified Protective Order shall apply to all “protected health information” and “individually identifiable health information,” as defined by 45 CFR § 160.103, or information that is otherwise protected from disclosure by the Privacy Act, 5 U.S.C. § 551a, the Health Insurance Portability and

Accountability Act of 1996, Pub. L. 104-191, 42 CFR § 431 Subpart F, titled “Safeguarding Information on Applicants and Recipients” and other applicable state law, created, received or collected from Plaintiffs by the Agencies, including, but not limited to: (a) names and addresses, dates of birth, social security numbers, identification numbers and other demographic information that identifies, or could be used to identify the Settling Individuals; (b) eligibility and entitlement information for the Settling Individuals; (c) claims information relating to the past, present, or future health care of the Settling Individuals; (d) claims information relating to the provision of healthcare to the Settling Individuals; and (e) claims information relating to the past, present, or future payment for the provision of healthcare to the Settling Individuals.

b. Each Agency is hereby authorized and directed to transmit to Archer to assist in the resolution of potential liens or reimbursement claims, any information, including claims information and other protected health information, for those Settling Individuals against whom they may assert liens or reimbursement claims.

c. Archer shall not use or disclose any protected health information or individually identifiable health information subject to this Qualified Protective Order for any purpose other than this litigation, including compliance with any applicable Court orders or other legal obligations. Similarly, the Agencies shall only use the information for the Settling Individuals for the specific purposes of transmitting to Archer any information, including claims information and other

protected health information, for those Settling Individuals and qualified in the above-captioned matter against whom the Agencies have asserted liens or reimbursement claims, or in whose potential settlements the Agencies may have an interest. The Agencies shall only make the information for the Settling Individuals available to those within their respective Agency who need access to the information for the Settling Individuals for the specific purpose stated in this paragraph. If the Agency utilizes outside vendors or companies to perform part or all of their tort recovery practices, the outside vendors or companies shall be expressly bound by all terms and conditions of this Qualified Protective Order.

d. Archer shall maintain any protected health information or individually identifiable health information subject to this Qualified Protective Order in a secure and safe area and shall exercise the same standard of due and proper care with respect to the storage, custody, use and/or dissemination of such protected health information as is exercised by Archer with respect to its own confidential proprietary information.

Dated: October 8, 2020

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