

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

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IN RE: DEPUY ORTHOPAEDICS,)	MDL Docket No. 1:10-md-2197-DAK
INC. ASR HIP IMPLANT)	
PRODUCTS LIABILITY)	
LITIGATION)	HONORABLE DAVID A. KATZ
)	
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)	<u>CASE MANAGEMENT ORDER NO. 16</u>
This Document Relates to:)	
ALL CASES)	ORDER FOR THE APPOINTMENT
)	OF PLAINTIFFS' SETTLEMENT
)	OVERSIGHT COMMITTEE
_____)	

In each Multi District Litigation matter, the parties and the various courts involved attempt to balance many competing interests. In working towards a resolution of any mass tort case, one critical issue to establish at the outset, and maintain throughout the litigation, is an environment where cooperation and communication between the federal MDL and those who have cases in various state court jurisdictions is achieved.

In this litigation, Judge Deborah Mary Dooling of the Illinois Circuit Court of Cook County, Judge Richard A. Kramer of the San Francisco Superior Court, Judge Brian R. Martinotti of the New Jersey Superior Court of Bergen County, Hon. Crystal Dixon Mittelstaedt, Maryland Circuit Court for Prince George's County, along with many other state court judges and myself, each assigned as the presiding judge for the respective coordinated proceedings, sought to foster cooperation in this litigation with the Plaintiffs' leadership from those respective states, the MDL and the defense.

This cooperation and communication has resulted in a coordinated group of Plaintiffs' attorneys from the MDL as well as the cooperating state court jurisdictions working together to prepare and advance this litigation together at all stages. While each court maintains its jurisdictional independence as set forth, for example, in CAJCCP CMO 1, Section C – Jurisdiction, cooperation of state and federal litigation in mass torts such as this provides the ability to review massive document production in an efficient and effective manner. In this case, Defendants produced over five million documents, consisting of almost 80 million

pages. The coordinating leadership of Plaintiffs' counsel from the MDL and cooperating state courts was essential to the organization, direction and completion of the necessary document review. Because of the cooperative efforts of Plaintiffs' attorneys from both the MDL and state court litigations, the daunting task of reviewing those documents was completed allowing additional discovery and trial preparation to advance.

This coordinating leadership also completed 58 fact witness depositions in six states and three international venues which resulted in 101 days of testimony and 37,033 pages of transcripts, communicated with individual plaintiff's counsel as needed and created a website for participating attorneys as a clearinghouse of substantive information, retained and prepared multiple expert witnesses, tried two cases to verdict, and prepared for five additional trials for Fall 2013 in state court venues and the MDL. Finally, this group and the appointed Plaintiffs' leadership have expended significant sums of money for costs and invested significant labor in furtherance of this litigation. The result has been the creation of a singular work product encompassing the document review, depositions, experts, trial strategies, preparation and exhibits.

Because of the cooperation and communication fostered by the presiding Judges and achieved by the respective leadership and defense, no competing work product was created. The excessive cost and inefficiencies that come from multiple jurisdictions moving at cross purposes was eliminated in this case. The plaintiffs in each jurisdiction dramatically benefited from this unprecedented development of a single work product and each jurisdiction was then able to utilize that single work product to develop the cases within their independent jurisdictions.

This case has now reached a point of a private resolution agreement. Along with Judges Dooling, Kramer, Martinotti, and Mittlestaedt, we have determined that continued cooperation is appropriate as settlement advances an important public policy and that a committee should be appointed in furtherance of a private resolution.

This committee will address the prospective resolution, build consensus, effectuate a fair settlement for all who may qualify under the terms of a private resolution agreement, and assist and oversee the program which would be developed as a result of any private resolution as well as interact with those federal and state courts having jurisdiction over cases relating to the ASR Hip matter and take all actions necessary and/or incidental to the fair resolution of claims of those individuals entitled to compensation under the terms of said

private resolution agreement. The Committee shall include representatives from both the MDL and state courts who have been integral parts of the cooperative team that has advanced this litigation to this critical juncture.

Now therefore, the Court, in anticipation of adoption and endorsement by the State Court Judges from cooperating jurisdictions, appoints the following firms by the designated representatives as members of said "Settlement Oversight Committee," to serve until further Order of the Court, in accordance with and pursuant to the terms of any private agreement reached between the parties on behalf of all those who may qualify in any of the cooperating jurisdictions:

Steven J. Skikos
Adriana Suarez Desmond
SKIKOS, CRAWFORD, SKIKOS & JOSEPH LLP

Michael A. Kelly
Khaldoun A. Baghdadi
WALKUP, MELODIA, KELLY & SCHONENBERGER

Ellen Relkin
Perry Weitz
WEITZ & LUXENBERG, P.C.

Brian Panish
Hon. Peter J. Polos (Ret.)
PANISH SHEA & BOYLE, LLP

R. Eric Kennedy
WEISMAN, KENNEDY & BERRIS CO., L.P.A.

Peter J. Flowers
MEYERS & FLOWERS

Mark P. Robinson, Jr.
ROBINSON, CALCAGNIE, ROBINSON, SHAPIRO,
DAVIS, INC.

Kenneth M. Seeger
Brian J. Devine
SEEGER SALVAS, LLP

Michael Papantonio
Ben W. Gordon, Jr.
LEVIN, PAPANTONIO, THOMAS, MITCHELL,
RAFFERTY & PROCTOR, P.A.

Lawrence J. Gornick
KAISER & GORNICK, LLP

Christopher A. Seeger
David R. Buchanan
SEEGER WEISS LLP

Daniel R. Lapinski
WILENTZ, GOLDMAN & SPITZER, P.A.

Michelle L. Kranz
ZOLL, KRANZ & BORGESS, LLC

Edward Blizzard
BLIZZARD MCCARTHY & NABERS, LLP

Jayne Conroy
HANLEY CONROY BIERSTEIN SHERIDAN FISHER
HAYES LLP

IT IS SO ORDERED.

Date: November 18, 2013

U.S.

s/ David A. Katz

DAVID A. KATZ
DISTRICT JUDGE