

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

In re: DePUY ORTHOPAEDICS, INC.,	)	MDL Docket No. 1:10-md-2197
ASR™ HIP IMPLANT PRODUCTS	)	
LIABILITY LITIGATION	)	
	)	
	)	
	)	
	)	Judge David A. Katz
	)	
	)	
	)	
This Document Applies to All Cases	)	

**CASE MANAGEMENT ORDER NO. 17:**

**APPOINTMENT OF CLAIMS ADMINISTRATOR AND SPECIAL MASTERS IN AID  
OF A PROPOSED PRIVATE SETTLEMENT AGREEMENT**

The MDL Plaintiffs’ Executive Committee and state leadership counsel in various coordinated state court proceedings and DePuy Orthopaedics, Inc. and its successors (collectively “Parties”) have entered into a Final Settlement Agreement reflecting a proposed private settlement of certain ASR and ASR XL cases.

Under the provisions of the Final Settlement Agreement, the Parties have identified and appointed a Claims Administrator and Special Masters to assist in the administration and implementation of certain terms of the settlement with the authority of binding arbitrators. A

joint request is now made for the appointment of the Claims Administrator and Special Masters to perform certain duties consistent with the Final Settlement Agreement. The Court, pursuant to its inherent authority and having considered the consent of the Parties, the oral presentation made by counsel and all written submissions, and cognizant of the important public policy of encouraging settlement among litigating parties, hereby issues the following Order.

IT IS HEREBY ORDERED AND DECREED THAT:

1. Appointment of Claims Administrator and Special Masters: The Court hereby appoints the following individuals as Claims Administrator and Special Masters named below to perform the duties consented to by the Parties and set forth in the Final Settlement Agreement, as set forth under the terms of this Order:

a. Claims Administrator:

Hon. James J. McMonigle (Ret.)  
1375 East Ninth St.  
2100 One Cleveland Center  
Cleveland, OH 44114-1724

b. Special Masters:

Hon. Marina Corodemus (Ret.)  
120 Wood Ave. S  
Iselin, New Jersey 08830

Hon. John K. Trotter (Ret.)  
JAMS  
500 N. State College Blvd., 14<sup>th</sup> Floor  
Orange, CA 92868

Catherine A. Yanni  
JAMS  
Two Embarcadero Center, Suite 1500  
San Francisco, CA 94111

2. Special Master and Claims Administrator Duties: The duties of the Special Master and Claims Administrators are set forth in the Final Settlement Agreement. A purpose of this Order is to provide notice to all parties and their counsel of the availability of the Special masters to assist in the informed consent process and to be available to answer questions with the Settlement Oversight Committee regarding the terms and conditions of the U.S. Program. Specifically, the Claims Administrator and Special Masters shall fully perform the duties as set forth below, which are consented to by the Parties and as set forth in the Final Settlement Agreement including but not limited to:

a. Special Masters: The duties of the Special Masters under this Order, as set forth in the Final Settlement Agreement shall include but are not limited to the following: (i) assist Primary Law Firms, Principal Responsible Attorneys and/or Interested Counsel with the informed consent process, including answering both general and specific questions with respect to the settlement, and to accept service from Primary Law Firms, Principal Responsible Attorneys and/or Interested Counsel of documents identifying Claimants from whom they obtained informed consent, pursuant to the terms of the Final Settlement Agreement; (ii) provide a report to DePuy, at its request, with respect to counsel's good faith in conducting the informed consent process and participation in the U.S. Program, (iii) meet and confer with the Primary Law Firm and all counsel with any financial interest and DePuy, if so requested, and at the conclusion of the meet and confer process after a hearing and an opportunity to be heard, to determine whether counsel did or did not act in good faith in connection with the informed consent process and participation in the U.S. Program, pursuant to the terms of the Final Settlement Agreement; (vi) resolve any dispute regarding lien responsibilities

consistent with the terms of the Final Settlement Agreement and individual release and (vii) work with the Settlement Oversight Committee (“SOC”) to answer any questions from any Eligible U.S. Claimant or their counsel relating to participation in the U.S. Program.

b. Claims Administrator: The duties of the Claims Administrator shall be to supervise and administer the private settlement program as set forth in the Final Settlement Agreement.

3. Ex Parte Communications: The Claims Administrator and Special Masters may have ex parte communications with each other, members of the Settlement Oversight Committee, the Parties, the Claimants or their representatives, Claimants’ counsel or the Court where necessary for the full and fair implementation of this Order and the Final Settlement Agreement without violating any attorney-client privilege.

4. Determinations under the Final Settlement Agreement: Pursuant to the terms of the Final Settlement Agreement and the consent of all eligible claimants who enroll under the resolution process created by the U.S. Program, all determinations and awards with respect to the claims processed under the U.S. Program by the Claims Administrator and Special Masters shall be in writing and, as agreed by the Parties and Claimants, be made with the authority that each will have as an arbitrator making decisions that are binding and final. All determinations and awards with respect to claims processed under the U.S Program are limited to the review procedures in the Final Settlement Agreement and are not subject to judicial review.

5. Review of Orders and Findings: The private U.S. Program is intended by the Parties to be self-executing pursuant to the consent of the Parties and the participating Claimants

and their counsel, and is not subject to judicial review. All findings of fact by the Claims Administrator and Special Masters shall be final pursuant to the Parties' stipulation and shall not be subject to review by the Court.

6. Compensation: The Claims Administrator and Special Masters shall be compensated privately as specified in the Final Settlement Agreement, and pursuant to the agreement of the Parties.

7. Reports to Court: The Claims Administrator shall file periodic reports with the Court as they deem necessary, or by special request by the Court, reporting on the informed consent process for the U.S. Program or for any other matter they or the Court deems necessary.

8. Disclosures: Affidavits by the proposed Claims Administrator and Special Masters have been submitted and are attached hereto.

9. Qualified Settlement Funds: The Court also determines that the Escrow Accounts and Sub-funds established pursuant to the Final Settlement Agreement and related Escrow Agreement are Qualified Settlement Funds within the meaning of Treasury Regulation Section 1.468B-1.

IT IS SO ORDERED.

Dated: November 22, 2013

*s/ David A. Katz*

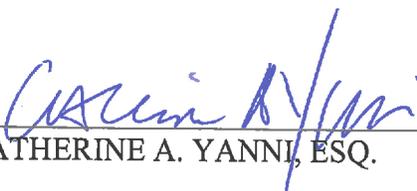
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Hon. David A. Katz  
United States District Court Judge



Superior Court of California, Los Angeles County, for all remaining PPA cases (Phenylpropanolamine, an additive in over the counter diet and cold medications). I was appointed Federal Mediator in *Baycol MDL* by The Hon. Michael J. David, District of Minnesota. I was appointed Settlement Special Master in the *Bextra MDL* to allocate and distribute multi-million dollar settlement proceeds. I was appointed Settlement Special Master in the *Ortho Evra MDL* to design and implement allocation of multi-million settlement proceeds to claimants. I was appointed Settlement Special Master in the *Zicam I and II MDL* for allocation of settlement proceeds. I was appointed Settlement Special Master in the *Zyprexa I and II MDL* by The Hon. Jack Weinstein, Eastern District of New York, to design and implement claims administration process and allocation of over \$800 million dollar settlement. Finally, I was appointed Federal Mediator in *Silicon Gel Breast Implant Litigation* by The Hon. Denise Hood, US District Court Eastern District Michigan.

5. I have thoroughly familiarized myself with the issues involved in the case captioned above, as a result of my knowledge of that case, I can attest and affirm that there are no grounds for disqualification that would prevent me from serving as a Special Master in the captioned matter.

  
\_\_\_\_\_  
CATHERINE A. YANNI, ESQ.

Sworn to before me this  
18th day of November, 2013

SEE ATTACHED JURAT

\_\_\_\_\_  
NOTARY PUBLIC

# Jurat

State of California

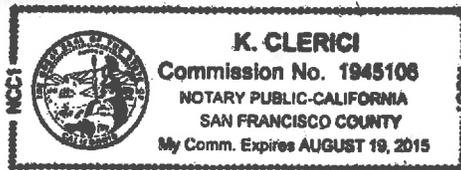
County of San Francisco

Subscribed and sworn to (or affirmed) before me on this 18<sup>th</sup> day of November,  
20 13 by Catherine A. Yanni

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature

(Notary seal)



## OPTIONAL INFORMATION

### INSTRUCTIONS FOR COMPLETING THIS FORM

The wording of all Jurats completed in California after January 1, 2008 must be in the form as set forth within this Jurat. There are no exceptions. If a Jurat to be completed does not follow this form, the notary must correct the verbiage by using a jurat stamp containing the correct wording or attaching a separate jurat form such as this one which does contain proper wording. In addition, the notary must require an oath or affirmation from the document signer regarding the truthfulness of the contents of the document. The document must be signed AFTER the oath or affirmation. If the document was previously signed, it must be re-signed in front of the notary public during the jurat process.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the jurat process is completed.
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Signature of the notary public must match the signature on file with the office of the county clerk.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different jurat form.
  - ❖ Additional information is not required but could help to ensure this jurat is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
- Securely attach this document to the signed document

### DESCRIPTION OF THE ATTACHED DOCUMENT

AFFIDAVIT OF CATHERINE A

(Title or description of attached document)

YANNI

(Title or description of attached document continued)

Number of Pages 2 Document Date 11/18/13

(Additional information)

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

IN RE: DEPUY ORTHOPAEDICS INC. ASR HIP  
IMPLANT PRODUCTS LIABILITY LITIGATION

MDL Docket No. 1:10-md-2197

Judge David A. Katz

This Document Relates to:

All Cases

AFFIDAVIT OF JAMES J. McMONAGLE

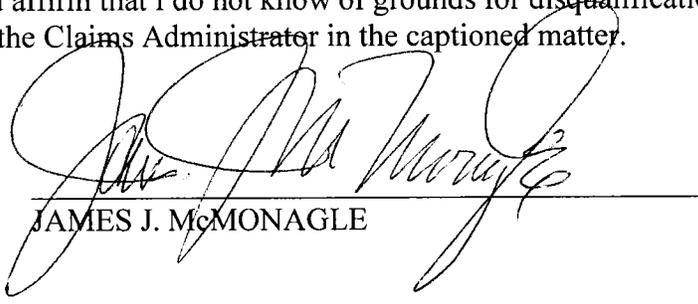
STATE OF OHIO )  
)ss.:  
COUNTY OF CUYAHOGA )

JAMES J. McMONAGLE, being duly sworn, deposes and says:

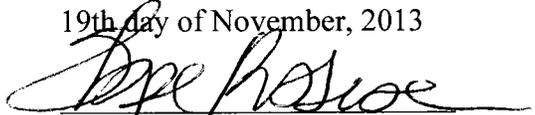
1. I served as a Judge of the Common Pleas Court of Cuyahoga County for thirteen years and retired from that position to become the General Counsel, Senior Vice President and Secretary, University Hospitals Health Systems and University Hospitals of Cleveland. I currently am Of Counsel to the law firm of Vorys, Sater, Seymour and Pease and have been involved with the mediation and arbitration of complex cases throughout the United States.

2. Of most relevance to this matter was my court appointment a decade ago by Judge Kathleen M. O'Malley of the Northern District of Ohio in the *In re: Sulzer Hip Prostheses Liability Litigation* as the *Claims Administrator*. That position required me to implement the Settlement Agreement and the Trust Documents in addition to making determinations regarding benefits for claimants. That settlement was fully and effectively administered and claimants were satisfactorily compensated.

3. To the extent possible, I have familiarized myself with the issues involved in the case captioned above, and can attest and affirm that I do not know of grounds for disqualification that would prevent me from serving as the *Claims Administrator* in the captioned matter.

  
\_\_\_\_\_  
JAMES J. McMONAGLE

Sworn to before me this  
19th day of November, 2013

  
NOTARY PUBLIC

DAVID POSCOE  
NOTARY PUBLIC  
Cuyahoga County, Ohio  
My Comm. Exp. 12-31-2017



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

State of California

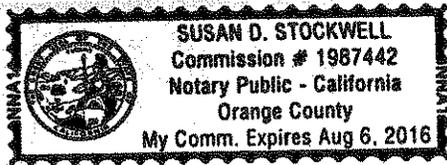
County of ORANGE

On 11/18/2013 before me, SUSAN D. STOCKWELL  
Date Here Insert Name and Title of the Officer

personally appeared John K. Trotter  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.

Signature: Susan D. Stockwell  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: AFFIDAVIT OF Hon. John K. Trotter

Document Date: 11/18/2013 Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

Corporate Officer — Title(s): \_\_\_\_\_

Individual

Partner —  Limited  General

Attorney in Fact

Trustee

Guardian or Conservator

Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**  
Top of thumb here

Signer's Name: \_\_\_\_\_

Corporate Officer — Title(s): \_\_\_\_\_

Individual

Partner —  Limited  General

Attorney in Fact

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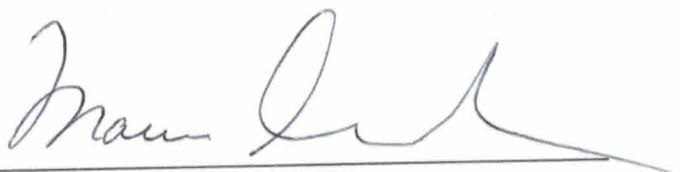
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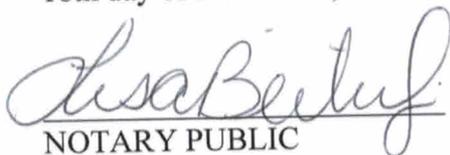
cases without appeal. I have been appointed Special Master by Courts in New Jersey, New York, Florida, and California.

5. I have thoroughly familiarized myself with the issues involved in the case captioned above, as a result of my knowledge of that case, I can attest and affirm that there are no grounds for disqualification that would prevent me from serving as a Special Master in the captioned matter.



HON. MARINA CORODEMUS

Sworn to before me this  
18th day of November, 2013



NOTARY PUBLIC

LISA BERKOWITZ  
ID # 2382995  
NOTARY PUBLIC OF NEW JERSEY  
Commission Expires 3/3/2014

