

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

AUG -3 PM 2:03

CLERK'S OFFICE
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IN RE: SMITH & NEPHEW
BIRMINGHAM HIP RESURFACING
(BHR) HIP IMPLANT PRODUCTS
LIABILITY LITIGATION

MDL No. 2775 BY _____ DEPUTY
Master Docket No. 1:17-md-2775

JUDGE CATHERINE C. BLAKE

**THIS DOCUMENT RELATES TO ALL
ACTIONS**

[REDACTED] CASE MANAGEMENT ORDER NO. 3

Master Amended Consolidated Complaint, Short Form Complaints, and Motion to Dismiss

The parties hereby submit this Stipulated Order regarding Plaintiffs' Master Amended Consolidated Complaint ("MACC"), Short Form Complaints, and briefing on Smith & Nephew, Inc.'s ("S&N") anticipated motion to dismiss the MACC.

1. On or before August 4, 2017, Plaintiffs will serve on S&N a draft of the MACC which may include references to documents or information designated as "Confidential" pursuant to the Protective Order entered by this Court. The parties will confer in an effort to determine whether any such documents or information can be included in the MACC without need of filing under seal.

2. On or before August 11, 2017, Plaintiffs will file their MACC. If necessary, Plaintiffs will file a redacted version of the MACC in the public record and will file an unredacted version under seal. Leave to file an unredacted version of the MACC under seal is hereby granted by the Court.

3. In addition, all Plaintiffs in matters pending in MDL 2775 as of August 4, 2017 shall file a Short Form Complaint on or by August 31, 2017, in substantially the form attached as Exhibit "A" to this Order. The MACC shall be deemed adopted by and applicable to all Plaintiffs in matters filed in or transferred to MDL 2775 before or after the entry of this Order.

4. On or by October 16, 2017, S&N shall answer and/or file a motion to dismiss Plaintiffs' MACC and any other claims in any Short Form Complaint submitted in cases that were in this MDL 2775 as of August 4, 2017. The memorandum in support of the motion to dismiss filed pursuant to this paragraph shall not exceed, in total, fifty (50) pages, exclusive of any caption, table of contents, table of authorities, certifications, and signature block.

5. On or by November 30, 2017, Plaintiffs shall file their response to S&N's motion to dismiss. The response filed pursuant to this paragraph shall not exceed, in total, fifty (50) pages, exclusive of any caption, table of contents, table of authorities, certifications, and signature block.

6. On or by January 5, 2018, S&N shall file its reply brief in support of the motion to dismiss. Any reply brief filed pursuant to this paragraph shall not exceed, in total, twenty-five (25) pages, exclusive of any caption, table of contents, table of authorities, certifications, and signature block.

7. Any plaintiff whose case is pending in MDL 2775 as of August 4, 2017, who does not file a Short Form Complaint on or before August 31, 2017 must file by September 7, 2017, a motion for leave to file the Short Form Complaint after the August 31, 2017 deadline. The motion for leave should address the reasons the Short Form Complaint was not timely filed and must establish good cause for failing to meet the deadline. Defendant shall have until September

21, 2017 to file any oppositions to motions for leave to file a Short Form Complaint. Plaintiffs shall have until September 28, 2017 to file their replies.

8. Nothing in this Order shall be deemed to revive any claim asserted in any case pending in or transferred into this MDL that was dismissed with prejudice prior to the commencement of this MDL.

9. Any plaintiff whose case is transferred to this MDL after August 4, 2017 shall file a Short Form Complaint within thirty (30) days of transfer. All responses by S&N to any Short Form Complaint either direct filed in this MDL or submitted in cases transferred to this MDL after August 4, 2017 shall be stayed pending further Order of this Court, without prejudice to S&N to answer or move to dismiss on such schedule as the Court may later determine.

IT IS SO ORDERED, this 3^d day of August 2017.



HON. CATHERINE C. BLAKE
UNITED STATES DISTRICT JUDGE