

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
BROOKLYN DIVISION

IN RE: EXACTECH POLYETHYLENE
ORTHOPEDIC PRODUCTS LIABILITY
LITIGATION

1:22-md-03044 (NGG) (MMH)

MDL No. 3044

Judge Nicholas G. Garaufis
Magistrate Judge Marcia M. Henry

THIS DOCUMENT APPLIES TO:

ALL CASES

CASE MANAGEMENT ORDER NO. 1

For good cause shown and the parties having consented to the form, substance, and entry of this Order, it is on this 25th day of January 2023 Ordered:

1. **Master and Short Form Complaints.** The Plaintiffs' Executive Committee ("PEC") will file the Master Complaint by January 26, 2023 and submit the Short Form Complaint by February 2, 2023. Any Plaintiff who filed a Complaint in this MDL or had a Complaint transferred to this MDL shall file a Short Form Complaint in the Plaintiff's individual docket by February 26, 2023.

2. **Master and Short Form Answers.** The Defendants shall file a Master Answer to the Master Complaint by March 13, 2023. All allegations in the Short Form Complaints are hereby deemed denied and Defendants are not required to file Answers to Short Form Complaints until further Order of the Court.

3. **Electronic Service Order.** The parties have agreed upon and submitted a stipulated Electronic Service Order, which the Court entered on January 25, 2023.

4. **Preservation of Explants.** The Parties shall meet and confer on a potential protocol for the preservation of pathology specimens, explanted medical devices and unused medical devices and shall include a status update in their joint status report by March 13, 2023.

5. **Master Document Production.** The PEC will maintain a document depository (“MDL Document Depository”) for the use of Plaintiffs in these MDL proceedings. Production to the MDL Document Depository by Defendants shall be deemed sufficient to constitute production to all Plaintiffs in this MDL. Defendants will produce the document productions previously produced in cases coordinated on the Exactech Master Case docket (Case No. 01-2022-CA-2670) in the Eighth Judicial Circuit of Florida, Alachua County by February 27, 2023. The parties are meeting and conferring on the production of documents produced in other cases involving Exactech knees and hips, and shall include a status update in their joint status report by March 13, 2023.

6. **Written Discovery.** All discovery propounded to Defendants and non-party witnesses by Plaintiffs in this MDL shall be undertaken by, or under the direction of, the PEC on behalf of all Plaintiffs with cases in these MDL proceedings. All deadlines for responding to discovery previously propounded to Defendants by Plaintiffs in this MDL are hereby suspended.

7. **Science Day.** The parties shall meet and confer on the protocol for an in-person, off-the-record background tutorial regarding the products at issue and science relevant to this litigation. The Court will provide the parties available dates for Science Day in coordination with the State Court action in Alachua County, if feasible. A separate order will follow regarding the date and time of the Science Day presentation.

8. The next status conference will occur on March 23, 2023 at 2:30 PM by video.

IT IS SO ORDERED.

DATED: January 25, 2023

Marcia M. Henry
The Honorable Marcia M. Henry
United States Magistrate Judge