

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
(BROOKLYN)

**IN RE: EXACTECH POLYETHYLENE
ORTHOPEDIC PRODUCTS LIABILITY
LITIGATION**

No.: 1:22-md-03044-NGG-MMH

This Document Relates to All Cases

MDL No. 3044

PRACTICE AND PROCEDURE ORDER NO. 5
(Electronic Service)

This Practice and Procedure Order (“Electronic Service Order”) submitted by stipulation is entered to eliminate delays associated with service of Complaints in this MDL proceeding and to promote efficiency. Accordingly, it is ORDERED as follows:

A. For Complaints that are properly filed in, removed to, or transferred to MDL No. 3044, TPG, Inc., Osteon Holdings, Inc., Osteon Merger Sub, Inc., and Osteon Intermediate Holdings II, Inc., (collectively, “TPG Defendants”) agree to waive formal service of summons pursuant to Fed. R. Civ. P. 4 and will accept service of Complaints in MDL No. 3044 on behalf of Defendants.

SERVICE UPON CERTAIN TPG/OSTEON DEFENDANTS

B. Service upon Defendants TPG, Inc., Osteon Holdings, Inc., Osteon Merger Sub, Inc., and Osteon Intermediate Holdings II, Inc. will be deemed complete upon providing copies of the Complaint, Summons, and Civil Cover Sheet to Defendants’ counsel, Kirkland & Ellis LLP, via email to the following email address: TPG_Complaints@kirkland.com.

C. Each email shall contain the Complaint, Summons, and Civil Cover Sheet for only one case, and the subject line of each email must state the Plaintiff's first and last name. The body of each email must include contact information for counsel of record.

D. Defendants' email system will generate an automated response to the sender upon receipt of an e-mail to the designated address. The automated response will confirm receipt of the e-mail and shall constitute proof of service upon Defendants. Defendants will not otherwise respond to e-mails sent to the above e-mail address. If no such automated reply is received within 24 hours, Plaintiffs must re-serve the Complaint pursuant to the terms of this Order. Upon successful e-mail service, the date of the initial effort to serve the Complaint via e-mail shall be deemed the date of initial e-mail service. Any failure to have successful automated reply will be promptly corrected.

E. Plaintiffs shall make proof of electronic service to the Court as required by Rule 4(l) of the Federal Rules of Civil Procedure using the Template Proof of Service, attached hereto as **Exhibit A**.

F. Acceptance of electronic service shall not constitute a waiver of any defense, but Defendants shall not challenge the adequacy of service if made pursuant to this Order.

SO ORDERED.

Dated: Brooklyn, New York

April 14, 2023

s/ Nicholas G. Garaufis

NICHOLAS G. GARAUFIS
United States District Judge

EXHIBIT A

**UNITED STATES DISTRICT COURT
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This Document Relates to:

[INSERT PLAINTIFF NAME & CASE
NUMBER HERE]

MDL No. 3044

PROOF OF SERVICE

I am over the age of eighteen years and not a party to the within-entitled action. I certify that on _____, I served a true and correct copy of document(s) entitled:

1. SUMMONS IN A CIVIL ACTION;
2. COMPLAINT;
3. CIVIL COVER SHEET

on TPG, Inc., Osteon Holdings, Inc., Osteon Merger Sub, Inc., and Osteon Intermediate Holdings II, Inc., Inc. at TPG_Complaints@kirkland.com pursuant to the Electronic Service Order that was entered on _____.

Date: _____

/s/ _____
[Plaintiffs' Counsel Signature]