

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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In re: STRYKER REJUVENATE AND  
ABGII HIP IMPLANT PRODUCTS  
LIABILITY LITIGATION

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MDL No. 13-2441 (DWF/FLN)

This Document Relates to All Actions

**PRETRIAL ORDER NO. 24**

**ORDER REGARDING PRIVATE  
SETTLEMENT AGREEMENT**

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The Court was informed on November 3, 2014, by Lead Counsel Committee Chairperson Peter J. Flowers that the MDL Plaintiffs' Co-Lead Counsel, the New Jersey Multi-County Litigation Plaintiffs' Steering Committee, and Defendant Howmedica Osteonics Corp., on behalf of all defendants, have entered into a final Settlement Agreement reflecting a proposed private settlement of certain Stryker Rejuvenate Modular and ABG II Modular Hip Stem 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. The Court, pursuant to its inherent authority and having considered the consent of the Parties as to the appointment of the Claims Administrator and Special Masters, and cognizant of the important public policy of encouraging settlement among litigating parties, hereby issues the following Order:

**IT IS HEREBY ORDERED BY THE COURT,**

1. Appointment of Claims Administrator and Special Masters: With the consent of the parties, 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 written Settlement Agreement, as set forth under the terms of this Order:

a. Claims Administrator:

Hon. Diane Welsh (Ret.)  
JAMS  
1717 Arch Street  
Philadelphia, Pennsylvania 19103

b. Special Masters:

Hon. Arthur J. Boylan (Ret.)  
310 4th Avenue S.  
Minneapolis, Minnesota 55415

Hon. C. Judson Hamlin (Ret.)  
57 Paterson Street  
New Brunswick, New Jersey 08901

Edgar C. Gentle, III, Esq.  
Gentle, Turner, Sexton, Debrosse & Harbsion  
501 Riverchase Parkway East, Suite 100  
Hoover, Alabama 35244

2. Special Masters and Claims Administrator Duties: The duties of the Special Masters and Claims Administrator are set forth in the Settlement Agreement. The 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 (“SOC”) regarding the terms and conditions of the Settlement 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 Settlement Agreement, including but not limited to:

a. Special Masters: The duties of the Special Masters under this Order, as set forth in the Settlement Agreement, shall include, but are not limited to, the following: (i) assist the SOC and other counsel with the informed consent process, including answering both general and specific questions with respect to the settlement program; (ii) provide a report to Howmedica Osteonics Corp. (“HOC”), at its request, with respect to the status of the informed consent process and participation in the Settlement Program; and (iii) perform such other activities as set forth in the Settlement Agreement.

b. Claims Administrator: The duties of the Claims Administrator shall be to supervise and administer the private Settlement Program and perform such other activities as set forth in the Settlement Agreement.

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

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

5. Review of Orders and Findings: The private Settlement 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.

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

7. Reports to Court: The Claims Administrator shall provide periodic reports to the Court as necessary, or by special request by the Court, reporting on the general status of the Settlement Program or on any other matter the Court deems necessary and appropriate.

8. Qualified Settlement Funds: The Court also determines that the Escrow Accounts and Sub-funds established pursuant to the Settlement Agreement and related

Escrow Agreement are Qualified Settlement Funds within the meaning of Treasury Regulation Section 1.468B-1.

9. Stay of Litigation: Upon the Court's own motion, discovery in this litigation shall be stayed until September 1, 2015, unless otherwise ordered or agreed.

10. All interested parties are directed to the official settlement program website for additional information and updates. The official settlement program website is: [www.StrykerModularHipSettlement.com](http://www.StrykerModularHipSettlement.com).

Dated: November 3, 2014

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge