BEFORE THE UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: ZIMMER M/L TAPER HIP PROSTHESIS OR M/L TAPER HIP PROSTHESIS WITH KINECTIV TECHNOLOGY AND VERSYS FEMORAL HEAD PRODUCTS LIABILITY LITIGATION

MDL DOCKET NO. 2859

ZIMMER'S OPPOSITION TO MOTION FOR TRANSFER

ORAL ARGUMENT REQUESTED

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INTRODUCTION

With their Brief in Support of Plaintiffs' Motion For Transfer (MDL 2859, Dkt. 1-1, "Plaintiffs' Motion"), Plaintiffs provide a pro forma, boilerplate argument for centralization, one that ignores the history behind the different products at issue and the litigation involving them. That product and litigation history, as well as the parties' informal coordination agreements already in place, warrant denial of Plaintiffs' bid for centralization.

With regard to product history, the VerSys head ("VerSys Head"), the M/L Taper Stem ("M/L Taper Hip Stem"), and the M/L Taper Stem with Kinectiv Technology ("Kinectiv Neck-Stem") have each been on the market for over a decade, having been released by Zimmer, Inc. in **1996**, **2003**, and **2007**, respectively. Each of the products remains on the market to this day, and in the aggregate, Zimmer has sold millions of these components. As demonstrated by their varied release dates, these products were developed at different times by different design teams. Thus, discovery into the different products will involve different documents and different company and third-party witnesses.

Importantly, these products are not united by some watershed event – such as a contemporaneous recall – that warrants grouping them together in an MDL. As Plaintiffs note, the risk of idiosyncratic patient sensitivity to metal and corrosion (also known as "metal reaction") has been known for years, and unlike the products at issue in the MDL Plaintiffs plainly want to replicate here – *In re Stryker Rejuvenate and ABG II Hip Implant Prods. Liab. Litig.* (MDL No. 2441) (the "Rejuvenate MDL") – Zimmer's products have not been recalled from the market for issues related to metal reactions. In fact, over their long clinical and commercial history, these products have demonstrated exceedingly low rates of metal reactions.

The litigation history of these products reflects the rarity of metal reactions associated with their use. Again, though Zimmer has sold millions of these components, over the past

several years, lawsuits filed by patients alleging a metal reaction to them have dripped onto federal dockets at a slow trickle. Just 20 federal lawsuits properly within the scope of Plaintiffs' proposed MDL have been identified for transfer.[1] Plaintiffs provide no reason to suggest that the pace of filings will increase. And as it stands, 16 of these 20 lawsuits involve plaintiffs represented by one of the following three law firms: (1) Osborne & Associates; (2) Meshbesher & Spence; and (3) Lieff Cabraser. Zimmer and its counsel in all cases, Faegre Baker Daniels, have already proactively reached agreements regarding common discovery with two of the three main plaintiffs' firms, and anticipate similar coordination with the third firm and any others, as appropriate, as their cases move past the pleadings stage and into discovery.

For these reasons, outlined more fully below, Defendants Zimmer, Inc., Zimmer US, Inc., Zimmer Biomet Holdings, Inc., Zimmer Surgical, Inc., and Zimmer Biomet Fegan, Inc., respectfully oppose centralization of these actions. MDL treatment is neither needed nor justified. It will not increase the convenience of the parties or the witnesses, or further the just and efficient conduct of this litigation, any more than the parties' present coordination efforts.

Should the Panel disagree, Zimmer requests transfer of the cases to the Honorable Sarah Evans Barker in the United States District Court for the Southern District of Indiana. Judge Barker has presided over multiple terminated MDLs, including *In re Bridgestone/Firestone, Inc., Tires Products Liability Litigation* (MDL No. 1373), in which she adjudicated a large and complex products liability MDL. In the alternative, Zimmer believes the Northern District of Illinois is also an appropriate transferee district.

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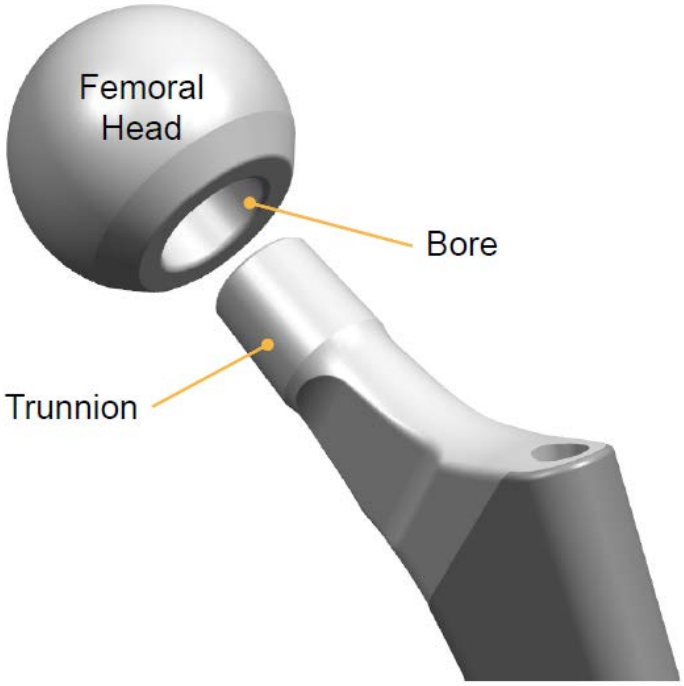
[1] There are 22 constituent actions on the schedule (the "Pending Cases"). However, the *Heineman* case Plaintiffs included in their Schedule does not involve the products for which Plaintiffs seek centralization, and it has been removed from the case counts in this brief. Similarly, neither Plaintiffs nor Zimmer seek transfer of the *Adams* case, given its advanced procedural posture. Thus, Zimmer's brief focuses on only the 20 cases legitimately proposed for transfer.

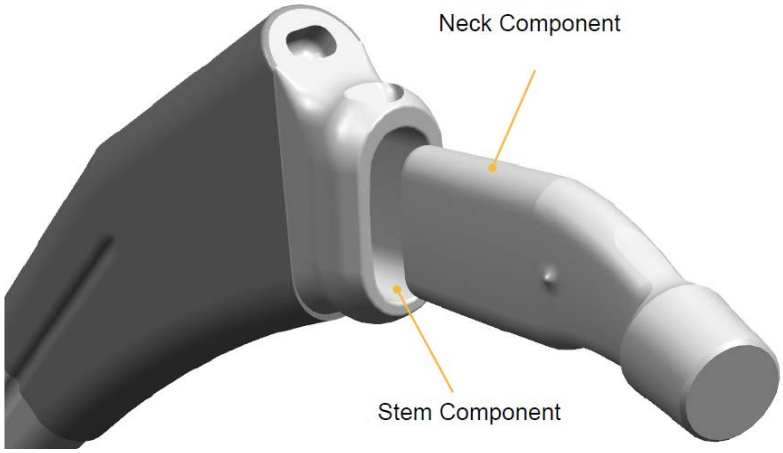
BACKGROUND ON THE DIFFERENT ZIMMER COMPONENTS

A human hip is a ball-and-socket joint, with the acetabulum (a part of the pelvis) serving as the socket and the head of the femur serving as the ball. Hip replacements are made of artificial materials which substitute for the natural ball and socket of the human hip. The femoral portion of a hip implant typically has a head, a neck, and a stem that replace the bone at the top of the femur, which is removed during hip replacement surgery. Historically, this femoral portion has been comprised of one piece (a "monoblock" stem); two pieces, head and stem (a "modular" stem); or three pieces, head, neck, and stem (a "dual-modular" stem).

In hip replacement systems with head-neck modularity (that is, systems with a separate head and stem), the femoral head has a circular bore that mates with the trunnion on the neck of the hip stem, as shown below:



In hip replacement systems with dual-modularity, there is an additional, second junction, where the neck of the femoral portion mates with the stem, as the following example shows:



Plaintiffs seek MDL treatment as to three different Zimmer hip replacement components. The first is the VerSys Head, which is a metal "ball" or femoral head. The VerSys Head was first cleared for marketing by the FDA **over two decades ago, in 1996**. It is made of metal (cobalt chromium), and it is the component in the femoral portion of the hip replacement that interacts with the "socket" formed by the acetabular component and liner, as shown below:

The VerSys Head

The second hip replacement component for which Plaintiffs seek centralization is the M/L Taper Hip Stem, which is one of Zimmer's many hip stems that can pair with a VerSys Head. The M/L Taper Hip Stem was first cleared by the FDA **15 years ago, in 2003**, and has been used with the VerSys Head since its release. It is a one-piece, single-modular stem.

The third component proposed for centralization is the Kinectiv Neck-Stem, which is a rarer type of hip component design. It is fundamentally different than the M/L Taper for a simple reason: unlike the M/L Taper, and as shown below, the Kinectiv is a two-part, dual-modular component comprised of: (1) a stem component; and (2) a neck component. This dual-modularity permits the surgeon to customize a patient's neck length and angle to "tune" the new hip replacement so that it more closely replicates a patient's unique anatomy.

The Zimmer M/L Taper Hip Stem **vs.** **The Kinectiv Neck-Stem**

As discussed below, creating an MDL involving these different hip replacement products will not further the goals of § 1407, and the Panel should deny Plaintiffs' Motion.

CENTRALIZATION WILL NOT SERVE THE CONVENIENCE OF THE PARTIES OR WITNESSES, OR THE JUST AND EFFICIENT CONDUCT OF THE ACTIONS

The Panel should decline to centralize these cases. The moving party has the burden of proving that transfer under § 1407 is appropriate. *In re Chiropractic Antitrust Litig.*, 483 F. Supp. 811, 813 (J.P.M.L. 1980). Even where actions involve one or more common questions of fact, centralization is not automatic and may not be justified. *See In re Reglan/Metoclopramide Prods. Liab. Litig.*, 622 F. Supp. 2d 1380, 1381 (J.P.M.L. 2009). Pursuant to § 1407, centralization is only appropriate upon determination that the proposed transfer will (1) be in the convenience of the parties and the witnesses, and (2) promote the just and efficient conduct of

the actions. The proposed transfer will not achieve those goals for three basic reasons:

I. The different components at issue have been on the market for 10, 15, and 20-plus years, and litigation involving these components has been steadily minimal and easily manageable without centralization;

II. Because the components were developed by different Zimmer employees and consultants during different time frames, little overlap will exist in document and deposition discovery among the different products; and

III. Zimmer and its counsel have already been proactively coordinating with Plaintiffs' counsel who have multiple M/L Taper cases, as well as counsel who have multiple Kinectiv cases, and these coordination efforts are already achieving the goals of efficiency and common discovery without the need for MDL treatment.

As outlined below, these three reasons warrant denial of Plaintiffs' request for an MDL.

I. Litigation Involving These Products Has Been Minimal and Manageable in the Decades Since Their Release.

A. The products' long commercial history and low number of lawsuits demonstrate that centralization is not needed.

The Panel has shown significant reluctance to form an MDL when: (1) the products at issue have been on the market for a long time, and (2) the number of lawsuits during the product's commercial availability has been historically low and manageable without MDL treatment. *See In re Proton-Pump Inhibitor Prods. Liab. Litig.*, 273 F. Supp. 3d 1360, 1362-63 (J.P.M.L. 2017) (denying centralization and noting that "caution is warranted . . . given that the first PPI came to market more than two decades ago and the drugs have been taken by millions of Americans"); *see also In re Lipitor (Atorvastatin Calcium) Mktg., Sales Practices, and Prods. Liab. Litig.*, 959 F. Supp. 2d 1375, 1376 (J.P.M.L. 2013) (denying centralization after noting that product at issue had been on the market since the late 1990s and lawsuits had been relatively low in number); *In re Medtronic, Inc., Bipolar Polyurethane-Insulated Pacemaker Leads Prods. Liab. Litig.*, MDL No. 1169, Dkt. 22, p. 2 (unpublished Transfer Order), at 2 (J.P.M.L. Mar. 27, 1997) (denying centralization and noting that cases "had moved through the federal court system

for at least 12 years without any party perceiving a need to seek multidistrict treatment").

That is precisely the situation before the Panel here. The VerSys Head has been on the market for 22 years, the M/L Taper has been on the market for 15 years, and the Kinectiv has been on the market for 11 years. Inevitably, there have been lawsuits involving these products. However, they have been historically low in number, they remain low in number, and they have been managed and can continue to be managed without an MDL.

Rather than acknowledging the products' **known** history, Plaintiffs ask the Panel to create an MDL based on an **unknown** future. They speculate that many more filings may come. But their warnings of "many more cases" are inconsequential to the question of whether the Panel should create an MDL. (Dkt. 1-1, pp. 2, 12, 14.) The Panel has repeatedly held that the "mere possibility of future filings" does not support the creation of an MDL. *In re Mirena IUS Levonorgestrel-Related Prods. Liab. Litig.*, 38 F. Supp. 3d 1380, 1381 (J.P.M.L. 2014) ("Although plaintiffs assert that the number of actions is likely to expand substantially, the mere possibility of additional actions does not convince us that centralization is warranted."); *In re Qualitest Birth Control Prods. Liab. Litig.*, 38 F. Supp. 3d 1388, 1389 (J.P.M.L. 2014) ("we are disinclined to take into account the mere possibility of future filings in our centralization calculus"); *In re Lipitor (Atorvastatin Calcium) Marketing, Sales Practices and Prods. Liab. Litig.*, 959 F. Supp. 2d at 1376; *In re Zimmer, Inc., Centralign Hip Prosthesis Prods. Liab. Litig. II*, 366 F. Supp. 2d 1384, 1385 (J.P.M.L. 2005).

Furthermore, the reasoning behind Plaintiffs' claim that "dozens" of more lawsuits may be filed in the "near future," (Plaintiffs' Motion, p. 14), actually shows the lack of need for centralization. Plaintiffs claim that, because "more than 100,000 M/L Taper and Kinectiv stems with VerSys heads have been implanted in patients across the country," "it is inevitable that

many more cases" will be filed in the coming months. (*Id.* at p. 2.) But again, these sales have occurred over many, many years. If some defect existed in the products, such that the filing of an unmanageable number of individual lawsuits is truly "inevitable," why has that never materialized in the decades leading to this point? As explained in the Panel opinions cited above, a high number of product sales over a long period of commercialization should actually generate "great caution" regarding the need for an MDL, not a speculative conclusion that centralization is appropriate. *E.g.*, *In re Proton-Pump Inhibitor*, 273 F. Supp. 3d at 1362-63.

B. A recent increase of filings just prior to the filing of Plaintiffs' Motion does not indicate that MDL treatment is needed.

Additionally, centralization should be denied where the same firm attempts to manufacture an MDL by filing a series of duplicative lawsuits at the same time. *In re CVS Caremark Corp. Wage and Hour Employment Practices Litig.*, 684 F. Supp. 2d 1377, 1379 (J.P.M.L. 2010) (denying certification where movants were represented by the same firm, which began to litigate an action more than a year earlier, then filed others "immediately prior to filing" their motion). Here, counsel for the movants filed six of the 20 lawsuits – five of them in the District of Minnesota – all within the month of May 2018. However, in their duplicative Complaints, these plaintiffs allege injuries and revision surgeries that occurred years ago, in 2013 (*Laukka*), 2014 (*Hollenkamp*), 2015 (*Pastor*), and 2016 (*Hackett, Metzger,* & *Ness*). *See* Complaints, attached as Exhibits to Mot. to Transfer, (Dkt. Nos. 1-5, ¶ 63(e), 1-6, ¶ 62(e), 1-20, ¶ 63(e), 1-21, ¶ 63(e), 1-22, ¶ 63(e), & 1-23, ¶ 63(e)). Thus, this recent uptick in filings appears to have resulted not from an inordinate spike of recent product failures, but rather from one firm simply filing all of the lawsuits it was able to gather over the past few years at the same time, just before filing the Motion For Transfer.

C. The Stryker Rejuvenate and ABG II MDL does not predict future litigation activity with regard to the Zimmer products.

Finally, the Panel should disregard any argument by Plaintiffs that this proposed MDL parallels the Stryker Rejuvenate MDL, such that the number of cases eventually filed in that litigation signals how many might be filed if an MDL was created here. Plaintiffs' attempt to replicate the Rejuvenate MDL is clear. Many of their arguments for centralization, and even much of their prose, is lifted whole cloth from the motion for transfer filed in the Rejuvenate MDL. (*Compare* Plaintiffs' Motion *with* MDL 2441, Dkt. 1-1.) Namely, Plaintiffs' eight suggested common questions of fact, and those argued in the Rejuvenate MDL, are identical. (Plaintiffs' Motion, p. 10; MDL 2441, Dkt. 1-1, pp. 8-9.) They have also requested the same transferee district and judge from the Rejuvenate MDL and, throughout their motion for transfer, liken the M/L Taper Hip Stem and Kinectiv Neck-Stem to the devices at issue in that MDL.

But any comparison between Zimmer's products and those in the Rejuvenate MDL is utterly inapt. The Stryker products are made of different materials, have different designs, and have **vastly** different failure rates. Most importantly, in contrast to the longstanding commercial and clinical success of the VerSys Head, M/L Taper, and Kinectiv, the Stryker Rejuvenate's well-documented issues appeared suddenly and shortly after its commercialization, leading to its recall less than three years after it received FDA clearance. Thus, the Panel should disregard the Stryker products, and the Rejuvenate MDL, in making its decision on centralization.

In summary, the Panel has been clear: pending cases matter, and predictions of potential cases based on conjecture do not. Here, the number of filed cases has been historically low and manageable, and as a result, the Panel should deny Plaintiffs' bid for centralization.

II. Distinct Issues of Fact and a Lack of Overlapping Discovery Make Centralization Inappropriate.

Plaintiffs seek to force lawsuits involving three separate products developed many years

apart into a single MDL. The existence of multiple products, and the differences in factual issues, discovery, and organization, should be considered when determining whether transfer is appropriate. *In re Asbestos & Asbestos Insulation Material Prods. Liab. Litig.*, 431 F. Supp. 906, 910 (J.P.M.L. 1977); *see also In re OxyElite Pro & Jack3d Prods Liab. Litig.*, 11 F. Supp. 3d 1340, 1341 (J.P.M.L. 2014) (declining to transfer actions concerning two separate dietary supplements despite plaintiffs' "rel[iance] on the same series of FDA actions to support their claims," because of important differences and "distinct regulatory responses.").

Again, because the products at issue in Plaintiffs' proposed MDL have different development and regulatory histories that occurred separately and many years apart, there are insufficient common issues of fact and overlapping discovery to warrant centralization.

A. The proposed MDL involves distinct issues of fact that make centralization inappropriate.

Limited common issues of fact weigh against centralization. *See In re Circuit City Stores, Inc., Restocking Fee Sales Practices Litig.*, 528 F. Supp. 2d 1363, 1364 (J.P.M.L. 2007). Individualized causation and liability analyses, including the plaintiffs' different medical histories, do too. *See In re Ambulatory Pain Pump-Chondrolysis Prods. Liab. Litig.*, 709 F. Supp. 2d at 1377; *see also In re Cordarone*, 190 F. Supp. 3d 1346, 1347 (J.P.M.L. 2016). Common questions of law typically have minimal impact on the Panel's decision. *See In re Pharmacy Benefit Plan Adm'rs Pricing Litig.*, 206 F. Supp. 2d 1362, 1363 (J.P.M.L. 2002).

Here, individual issues of fact overwhelm any common ones. Plaintiffs argue there are common issues of fact regarding a potential failure to warn, manufacturing defects, fraud, and causation. These make up the bulk of the purportedly common issues of fact cited by Plaintiffs. (Dkt. 1-1, p. 10.) However, by their nature, each of those issues actually requires plaintiff-specific, individualized inquiry.

With regard to failure to warn, the learned intermediary doctrine, which provides that Zimmer had a duty to warn only the plaintiffs' surgeons of the products' risks, rather than plaintiffs themselves, necessarily entails individual analysis of what each plaintiff's surgeon already knew about the risks, whether the surgeon actually read the product warnings, and whether some other warning would have caused the surgeon to not implant the product at issue. Causation is individualized too. Patient factors (e.g., hypersensitivity, variability in response to metal release, body mass index) and surgeon factors (e.g., surgeons' awareness of metal reaction and adverse local tissue reaction, the cleanliness of the head and neck during the procedure, the impaction force, and surgical technique) are sure to play a pivotal role in each and every action. Of course, manufacturing defects are, by definition, individualized, since they involve inquiry into whether each individual's particular components were manufactured according to specification. Fraud, too, is an issue that will require individual discovery into what alleged misrepresentations were made, who made them and to whom, were they relied upon, etc.

Thus, the purportedly common issues of fact identified by Plaintiffs to support their bid for centralization are actually the same individualized, plaintiff-specific issues that make product liability cases less appropriate for centralization. Admittedly, the Panel commonly creates MDLs involving product liability lawsuits. But they do so when those lawsuits will share significant common discovery that will have bearing on these individual inquiries. As discussed in the next section, Plaintiffs' attempt to combine M/L Taper Hip Stem cases with Kinectiv Neck-Stem cases, and to lump in the VerSys Head as well, means that the most crucial, core discovery regarding these products will not overlap.

B. Because the products proposed for centralization were developed at separate times, by separate people, creating separate documents and witnesses, the Panel should not grant centralization.

Here, Plaintiffs' proposed MDL involves three distinct products with three separate periods of development: the VerSys Head (released **1996**), the M/L Taper Hip Stem (released **2003)**, and the Kinectiv Neck-Stem (released **2007**). Because these products were all developed by Zimmer as separate projects several years apart, virtually all of the discovery at the heart of a product liability lawsuit will have little to no overlap from product to product. Specifically, and by way of example only, all of the following discovery will vary for each product at issue:

(1) Company Witnesses (i.e., the current and former Zimmer employees who participated in the development, design, testing, and pursuit of regulatory clearance for the products, which will vary from product to product);

(2) Project History Files and other development documents (i.e., the company documents contemporaneously outlining the products' respective developments, from ideation to release);

(3) Design History Files (i.e., the company documents outlining each products' respective design inputs, risk analyses, test protocols, test results, etc.);

(4) Manufacturing Records (i.e., the records demonstrating the methods for manufacturing each product according to their unique design specifications);

(5) Regulatory Submissions (i.e., the respective 510(k) submissions to FDA to seek clearance to market the products, as well as any follow-up communications with FDA as part of the regulatory clearance process);

(6) Marketing Materials (i.e., the promotional literature produced for each respective product created to help educate surgeon customers on the products' features);

(7) Package Inserts and IFUs (i.e., the documents packaged with each respective product providing the indications, contraindications, and warnings for the products);

(8) Surgical Technique Guidance (i.e., the literature provided by Zimmer instructing surgeons on the use of Zimmer's surgical instruments for each respective product); and

(9) Email (i.e., the email obtained from relevant custodians - which will unavoidably vary from product to product - through the use of search terms - which will inevitably vary from product to product).

With regard to discovery, the principal problem with Plaintiffs' proposed MDL is that it groups M/L Taper Hip Stem cases with Kinectiv Neck-Stem cases – a decision Plaintiffs

presumably made because, unless the filed cases involving these products are combined, there are plainly too few lawsuits to warrant MDL treatment. But the discovery in these cases does not sufficiently overlap to warrant centralization.

Thus, efficiencies in the filed M/L Taper Hip Stem cases are best achieved by having Zimmer and its counsel reach coordination agreements (e.g., cross-noticing depositions, allowing documents produced in one case to be used in all similar cases, etc.) with plaintiffs' counsel in those cases, and then doing the same thing, separately, with the plaintiffs' attorneys in the Kinectiv Neck-Stem cases. In fact, as discussed in the next section, Zimmer is already doing exactly that, making creation of an MDL superfluous.

III. The Parties Can Continue to Avail Themselves of Alternatives to Section 1407 Transfer to Minimize Duplicative Discovery, In Lieu of an MDL.

At this stage, continued cooperation among the parties is the best option for conserving resources and creating efficiencies in the litigation at hand. The Panel has repeatedly said that, when considering a motion for transfer, "centralization under Section 1407 should be the **last solution** after considered review of all other options." *In re Comcast Corp. Employee Wage & Hour Employment Practices Litig.*, 190 F. Supp. 3d 1344 (J.P.M.L. 2016) (emphasis added). Parties "can avail themselves of alternatives to Section 1407 transfer to minimize whatever possibilities there might be of duplicative discovery [or] inconsistent pretrial rulings." *In re Shoulder Pain Pump—Chondrolysis Prods. Liab. Litig.*, 571 F. Supp. 2d 1367, 1368 (J.P.M.L. 2008). "These options include transfer pursuant to 28 U.S.C. § 1404, as well as voluntary cooperation and coordination among the parties and the involved courts to avoid duplicative discovery or inconsistent pretrial rulings." *In re Comcast Corp.*, 190 F. Supp. 3d at 1344; *In re Dollar Tree Stores Inc., FLSA and Wage & Hour Litig.*, 829 F. Supp. 2d 1376, 1377 (J.P.M.L. 2011) ("The Panel is convinced that cooperation among the parties and deference among the

courts can easily minimize the possibilities of duplicative discovery or inconsistent pretrial rulings in the actions now before the Panel" and "informal cooperation to avoid duplicative proceedings is appropriate **where most plaintiffs share counsel**." (emphasis added)).

Where, as here, the majority of cases have been filed by the same firms, the parties are easily able to utilize informal structures to coordinate and share information. *See In re Mirena IUS Levonoregestrel*, 38 F. Supp. 3d. at 1381 (finding that, because a small group of lawyers control the majority of the cases, coordination without centralization is more feasible); *see also In re American-Manufactured Drywall Prods. Liab. Litig.*, 716 F. Supp. 2d 1367, 1368 (J.P.M.L. 2010) (denying transfer, noting that "plaintiffs in many of the actions share counsel, which should further facilitate cooperation among the parties and coordination of the actions"). Indeed, voluntary cooperation is even more feasible where the actions "are filed by a single plaintiffs' counsel, and name the same defendant, which has national counsel coordinating its response to [the] litigation." *In re Mirena IUS Levonoregestrel*, 38 F. Supp. 3d at 1381.

Currently, there are twenty actions within the scope of Plaintiffs' proposed MDL, most of which have been filed by the same small group of three law firms: (1) Osborne & Associates; (2) Meshbesher & Spence; and (3) Lieff Cabraser.[2] Zimmer is represented by the same counsel, Faegre Baker Daniels, across all pending cases and is willing to coordinate discovery and scheduling with the plaintiffs. In fact, before the Motion to Transfer was even filed, Zimmer and its counsel had already begun working with the main Plaintiffs' counsel in these cases to establish agreements to limit duplicative discovery and create efficiencies.

First, six of the twenty actions proposed for centralization are pending in the District of Maine, and all of those cases involve the M/L Taper Hip Stem. Prior to the filing of the Motion

[2] While Plaintiffs represent there are fourteen law firms filing the Pending Cases, a cursory review of the actions shows three firms are involved in at least four-fifths of the cases. (Dkt. 1-1, p. 2.)

to Transfer, Zimmer, Plaintiffs, and the Court in those cases crafted and entered into a formal, coordinated discovery order that allows for "Master" common document discovery on that product and the VerSys Head, as well as "Master" common deposition discovery. (*See* Maine Coordinated Discovery Order, attached as Exh. A.) Under the Order, the parties are to complete common written discovery and document production by December 31, 2018, and all common fact discovery closes on April 1, 2019. (*Id.* at p. 5.) Lieff Cabraser serves as Plaintiffs' counsel in three of the cases subject to the Order; Osborne & Associates serves as counsel for one of the plaintiffs, and the Fitzgerald Law Group serves as counsel in the remaining two cases. Similarly, Zimmer's counsel has inquired whether Lieff Cabraser would be willing to suggest to the Court in another M/L Taper case, *Luckasavage v. Zimmer, Inc., et al.*, pending in the Southern District of New York, that the parties adopt in that case the same schedule and discovery coordination mechanisms outlined in the Maine Order. Zimmer's counsel also suggested the possibility of consenting to Section 1404 transfer of *Luckasavage* to the District of Maine. As of the time of this filing, Lieff Cabraser had agreed to evaluate those proposals with their client.

Zimmer has also come to an agreement with Osborne & Associates regarding common discovery in Kinectiv Neck-Stem cases. Specifically, Zimmer and Osborne & Associates have agreed that common documents produced in past Kinectiv Neck-Stem cases can be used in other cases, thereby greatly reducing Zimmer's production burden, and the burden on the plaintiffs to re-request the information in each case. As a result of Kinectiv Neck-stem litigation filed by Osborne & Associates, Zimmer has already responded to over 100 requests for production with a voluminous production, and it will allow those documents to be used in all of that firm's Kinectiv Neck-Stem cases presently proposed for centralization. Zimmer and Osborne & Associates have also agreed to cross-notice depositions of relevant Zimmer witnesses. Notably,

Osborne & Associates is co-counsel with Meshbesher & Spence on multiple of the Kinectiv Neck-Stem cases, meaning that firm and its clients will also reap the benefits of the parties' discovery coordination efforts. Meshbesher & Spence's cases were all recently filed, but Zimmer and its counsel look forward to cementing plans for discovery coordination in that firm's cases as they progress past the pleadings stage.

In short, Zimmer and the main plaintiffs' firms have already engaged in the exact voluntary coordination that makes an MDL unnecessary and nullifies whatever efficiency one would provide. Thus, the Panel should decline to grant centralization.

IF THIS PANEL FINDS THAT TRANSFER IS APPROPRIATE, ZIMMER REQUESTS TRANSFER TO THE HONORABLE SARAH EVANS BARKER IN THE SOUTHERN DISTRICT OF INDIANA.

The Panel should deny Plaintiffs' Motion. However, if the Panel decides an MDL proceeding is appropriate to consolidate cases alleging metal reactions in connection with these products, it should transfer the actions to the Southern District of Indiana. There is no clear geographical epicenter of this litigation, making proximity to Zimmer's headquarters and witnesses the principal factor in determining a transferee district.

The Panel considers a number of factors in selecting an appropriate transferee district. Those factors include, but are not limited to the following: the preference of the parties; the location of an important party (i.e., the defendant(s)) near the transferee district; the docket conditions of the transferee district and judge; the geographic centrality of the transferee district; the general experience of the transferee judge; accessibility of the transferee district for parties, witnesses, and counsel; and the location of parties, witnesses, and documents. *See, e.g.*, *In re Mirena IUD Prods. Liab. Litig.*, 938 F. Supp. 2d 1355, 1358 (J.P.M.L. 2013); *In re Camp Lejeune, North Carolina Water Contamination Litig.*, 763 F. Supp. 2d 1381, 1382 (J.P.M.L. 2011); *In re Trasylol Prods. Liab. Litig.*, 545 F. Supp. 2d 1357, 1358 (J.P.M.L. 2007).

Application of these factors weighs in favor of transfer to the Southern District of Indiana to a judge experienced in product liability MDLs. In the alternative, Zimmer also proposes the Northern District of Illinois as an appropriate district for the proposed MDL.

I. Centralization in the Southern District of Indiana is Appropriate.

The Southern District of Indiana makes the most sense as a transferee district. Zimmer, Inc., Zimmer Biomet Holdings, Inc., and Zimmer US, Inc. are the principal defendants in the Pending Cases. Zimmer, Inc. is headquartered in Warsaw, Indiana, and so are Zimmer Biomet Holdings and Zimmer US. Zimmer's national counsel is Faegre Baker Daniels, and the FBD attorneys working on these cases are primarily located in Indiana and Chicago, Illinois. Many of the cases have been filed in the Midwest. There is one case in Wisconsin, one case in Michigan, and the six new cases in Minnesota. The Southern District of Indiana would be very convenient for the parties and the witnesses, given its proximity to Zimmer. Furthermore, Indianapolis has an international airport and is easily accessed by all counsel and witnesses. And geographically, Indianapolis is centrally located. The only parties common to all actions are the Zimmer Defendants, and Zimmer's witnesses, documents, and counsel are located in Indiana, or nearby. Indeed, many of the cross-noticed depositions noted above have already occurred in Indiana.

In terms of a proper transferee judge, Judge Sarah Evans Barker has over 30 years of experience on the bench. Important here, Judge Barker has experience managing multiple centralized actions, including complex products liability MDLs. The Judge's extensive experience would benefit the parties and promote judicial economy. That said, because of proximity to Zimmer, its counsel, and the key witnesses, centralization before any judge in the Southern District of Indiana would prove ideal. As a result, the Southern District of Indiana is the most appropriate venue.

II. The Northern District of Illinois Would Also be an Appropriate Venue.

With cases in the Midwest, cases on the East Coast, and a case on the West Coast, Zimmer's other proposed district, the Northern District of Illinois, is centrally located. Other factors weigh in favor of the Northern District of Illinois too. Zimmer's headquarters are located just two hours from Chicago by car, and thus the district is extremely convenient for Zimmer, and by extension, all of Zimmer's witnesses and Zimmer's documents. Furthermore, most of the attorneys on Zimmer's national counsel team handling these actions are located in Chicago and Indiana, which is within easy driving distance to Chicago.

Chicago is a convenient and easy destination for all litigants and their attorneys, with two major airports. It is in the middle of the country, making it geographically central too. Meshbesher & Spence, who filed the instant motion to transfer, is located in Minnesota, putting Chicago about halfway between the firm and Zimmer. As a result, Chicago is convenient for both Movants and Zimmer.

The Northern District of Illinois has plenty of MDL experience, having hosted and adjudicated 91 terminated MDLs, and a solid bench full of experienced judges. MDL No. 2272 (*In re Zimmer NexGen Knee Implant Prods. Liab. Litig.*) is currently winding down, and is before Judge Rebecca J. Pallmeyer. Judge Pallmeyer is an experienced, capable jurist, who steered the NexGen MDL to multiple bellwether trials and, ultimately, to a global settlement in principle. Should Judge Pallmeyer be open to accepting another MDL, she would be an excellent choice as a transferee judge. In the alternative, Chief Judge Ruben Castillo would also be an excellent choice, who also has MDL experience. Chief Judge Castillo has been on the bench for nearly a quarter-century. Further, he has handled multiple MDLs, specifically MDL No. 1070 (*In re Air Crash Disaster Near Roselawn, Indiana, on October 31, 1994*) and MDL No. 1997 (*In re Text Messaging Antitrust Litigation*). And, as Chief Judge of the district, he has

had visibility over the many MDLs successfully adjudicated there.

III. The District of Minnesota is an Inappropriate Venue.

Movants have requested that any MDL be located in the District of Minnesota before Judge Donovan Frank. While Judge Frank is no doubt an experienced MDL jurist, the District of Minnesota is not the most appropriate venue for this proposed MDL.

First, Movants' recent filings in the District of Minnesota just before seeking an MDL demonstrate an attempt to shop for their preferred forum. The other cases at issue in this Motion For Transfer have been pending for years in some instances, with no litigation in the District of Minnesota at all until the eve of Plaintiffs' bid for an MDL. Apart from Movants' strategic filing of cases in Minnesota immediately prior to filing their motion for transfer, the venue has no particular connection to this litigation: few parties are located there, cases have not been pending there for more than a few weeks, it is inconvenient for Zimmer's witnesses, and it is not geographically central. The Panel should not permit Movants to unilaterally dictate the location of an MDL with selective, strategic filings, as doing so would promote forum shopping and prejudice the litigants in the cases that have already been proceeding across the country in other jurisdictions, including Zimmer.

Furthermore, Movants rely, primarily, on the Stryker Rejuvenate MDL as support for why the District of Minnesota, and Judge Frank, would be a good fit. Again, Zimmer has legitimate concerns with Plaintiffs' eager interest to associate Zimmer's products with its competitors' products, or to liken the issues here with those present in the Rejuvenate MDL. As mentioned above, Movants ignore key differences between the products at issue in that MDL and those at issue here in terms of design, time on the market, regulatory history, and failure rates. The revision rate for the Stryker Rejuvenate was as high as nearly 30% according to some peer-reviewed literature (Meftah, Haleem, "Early corrosion-related failure of the rejuvenate modular

total hip replacement, 2014[3]), and the device was recalled a little over two years after it was placed onto the market. The proceedings in the Rejuvenate MDL were brief before a global settlement was reached. Zimmer intends to vigorously fight these lawsuits, and the merits of its products should be evaluated cleanly, without any association with the faults, history, or merits of competitors' products, or the litigation involving those products.

CONCLUSION

Plaintiffs' Motion For Transfer should be denied in its entirety. Zimmer has already engaged in coordination efforts with the principal plaintiffs' counsel in these actions, and it will work with movants' counsel on their newly filed cases as well. Furthermore, the commercial, clinical, and litigation history of the products at issue in the lawsuits indicates that centralization is simply unnecessary, particularly in light of Zimmer's demonstrated willingness to cooperate and coordinate with Plaintiffs' counsel informally.

If the Panel disagrees, and decides to form an MDL over Zimmer's objection, the Panel should centralize the subject actions in either the Southern District of Indiana or the Northern District of Illinois, two jurisdictions that have capable transferee judges, that are convenient to Zimmer's witnesses, and that are easily accessible to litigants and counsel nationwide.

Respectfully submitted,

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[3] *Available at* https://www.ncbi.nlm.nih.gov/pubmed/24647504.

BEFORE THE UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: ZIMMER M/L TAPER HIP PROSTHESIS OR M/L TAPER HIP PROSTHESIS WITH KINECTIV TECHNOLOGY AND VERSYS FEMORAL HEAD PRODUCTS LIABILITY LITIGATION

MDL DOCKET NO. 2859

EXHIBIT A
TO
ZIMMER'S OPPOSITION TO MOTION FOR TRANSFER

COORDINATED SCHEDULING ORDER

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

Janice E. Miller, et al. v. Zimmer, Inc. et al., No. 2:17-cv-00265-JDL

Rita Myrick v. Zimmer, Inc. et al., No. 2:17-cv-00480-JDL

Robert Lloyd, et al. v. Zimmer Biomet Holdings, Inc. et al., No. 2:17-cv-00352-JDL

Carol Waldeier v. Zimmer Biomet Holdings, Inc. et al., No. 2:18-cv-00004-JDL

Earle Pride, et al. v. Zimmer, Inc. et al., No. 2:18-cv-00108-JDL

Mary Graham-Fortin v. Zimmer Biomet Holdings, Inc., et al., No. 2:18-cv-00204-JDL

COORDINATED SCHEDULING ORDER

The complaints filed in the above-captioned matters assert substantially the same claims. Specifically, the matters are product liability actions that relate to the design, development, manufacture, testing, marketing, distribution, and sale of Zimmer, Inc. prosthetic hip replacement components known as the VerSys Hip System Femoral Head and the M/L Taper Hip Prosthesis Femoral Stem (collectively the "Products"). Plaintiffs[1]

[1] The parties herein are referred to collectively as Plaintiffs (Janice E. Miller, Rita Myrick, Earle Pride, Robert Lloyd, Carol Waldeier, and Mary Graham-Fortin) and Defendants (Zimmer, Inc., Zimmer US, Inc., and Zimmer Biomet Holdings, Inc. (formerly known as Zimmer Holdings, Inc.).

allege that they were implanted with the Products and subsequently suffered injuries from the Products due to mechanically assisted crevice corrosion ("MACC"), head/neck corrosion, trunnionosis, elevated Cobalt and/or Chromium serum levels, or adverse local tissue reaction that required revision surgery(ies) and other medical care and treatment. Plaintiffs allege defects in the design, manufacture, and warning of the Products. Zimmer denies all allegations.

Because the above-captioned actions have some common factual and legal issues, although the actions have not been consolidated, to avoid unnecessary cost and duplication of effort, the parties to the actions have agreed that a coordinated schedule for certain discovery is appropriate. Following a telephonic conference with the parties regarding a coordinated scheduling order, the Court orders:

I. SCOPE OF ORDER

This Order shall apply to all discovery conducted by the Plaintiffs and Defendants.

II. FACT DISCOVERY

a. Common Discovery.

Plaintiffs and Defendants may propound no more than 50 general (non-case specific) Master Interrogatories (including subparts); no more than 30 general Master Requests for Admission; and no more than 60 general Master Requests for Production of Documents. Documents produced in response to the Master Requests for Production will be designated with a "COMMON" tag on the production version of the documents.

Defendants shall produce documents to Plaintiffs' primary counsel in each individual case, unless the parties agree that documents will be produced to one or more

designated law firms who are responsible for maintaining a document repository. The format for such production shall be governed by an agreed-upon Global Protective and Confidentiality Order the Parties anticipate entering into and filing by **June 20, 2018**, and the Electronically Stored Information order entered on March 27, 2018 (ECF No. 40) in *Janice E. Miller, et al. v. Zimmer, Inc., et al.*, No. 2:17-cv-00265-JDL.

For depositions of all witnesses currently or formerly affiliated with Defendants ("common witnesses") the Parties shall avoid duplication of discovery efforts where possible and coordinate depositions of common witnesses to ensure that each witness is deposed only one time, absent a showing of exceptional circumstances that would warrant an additional deposition. To the extent Defendants designate a witness to testify to topics in response to a Rule 30(b)(6) notice of deposition, and Plaintiffs also notice the witness's deposition in his or her personal capacity, two depositions of the witness would be permitted. Common witness deposition transcripts may be used in each of the individual cases as if taken in the individual proceedings. All such depositions shall be taken in accordance with the Federal Rules of Civil Procedure, including the time limit set forth in Rule 30(d)(1).

Should Plaintiffs' counsel designate more than one examining attorney, Plaintiffs' counsel shall meet and confer for the purpose of determining how time shall be shared or allocated among Plaintiffs' counsel, the order of questioning, and responsibility for objections. Such coordination is intended to ensure all designated counsel have an appropriate amount of time to protect their clients' interests. If agreement cannot be reached, Plaintiffs' counsel are to notify the Court for assistance in setting the terms of any

particular deposition no later than five (5) days before commencement of the deposition. Parties will notify counsel three (3) days in advance of the deposition as to which attorneys will attend the deposition and examine witnesses.

Absent further Court order, Plaintiffs and Defendants are limited to 12 depositions of common witnesses, exclusive of depositions of keepers of records, expert witnesses, and third-party witnesses.

b. Case-Specific Discovery.

Plaintiffs and Defendants may propound no more than 40 Case-Specific Interrogatories (including subparts); no more than 25 Case-Specific Requests for Admission; and no more than 55 Case-Specific Requests for Production of Documents. The requests will be governed by the Federal Rules of Civil Procedure and the Local Rules of this Court.

Case-specific fact depositions include depositions of fact witnesses related to individual Plaintiffs, including health care providers, individual Plaintiffs, Defendants' sales representatives, or other case-specific witnesses. Plaintiffs and Defendants shall be limited to no more than 10 depositions of case-specific fact witnesses. Depositions of case-specific fact witnesses shall be governed by the Federal Rules of Civil Procedure and the Local Rules of this Court.

III. EXPERT DISCOVERY

The parties shall designate general and case-specific expert witnesses, produce expert reports, conduct expert depositions, and file and brief expert-related motions in limine and *Daubert* motions in accordance with the deadlines set forth below.

IV. COORDINATED SCHEDULE

a. Deadline for Fed. R. Civ. P. 26(f) Meet and Confer: **June 22, 2018**.

b. Deadline for Initial Disclosures: **July 6, 2018**. Plaintiffs' initial disclosures will include the implant product identification record, implant operative report, and revision operative report and a signed HIPAA authorization as agreed to by the parties. Within 21 days after the deadline for initial disclosures, and after receiving the product identification record and revision operative report, and medical authorization, Defendants will produce the package insert, surgical technique, Design History Files, 510k submissions, and Zimmer's Quality Investigation Report(s) identified in their initial disclosures for the products at issue.

c. Deadline for Amendment of Pleadings and Joinder of Parties: **November 30, 2018**.

d. Deadline to complete common written discovery and document production: **December 31, 2018**.

e. On or after **January 10, 2019**, the Court will conduct a conference with the parties to discuss the completion of case-specific discovery, including the deadlines for the designation of case-specific expert witnesses, the filing of dispositive motions, and the anticipated trial dates for each case. The Court expects the parties to engage in case-specific discovery simultaneously with the common discovery.

f. Close of common fact discovery: **April 1, 2019**.

g. Deadline for Plaintiffs' Common Non-Case-Specific Experts' Reports: **May 15, 2019**.

h. Deadline for Defendants' Common Non-Case-Specific Experts' Reports: **June 20, 2019**.

i. Deadline for Common Non-Case-Specific Expert Rebuttal Reports: **July 19, 2019**.

j. Deadline to Complete Common Non-Case-Specific Expert Depositions: **September 30, 2019**.

k. Deadline to file Common Non-Case-Specific Expert *Daubert* Motions and Dispositive Motions: **November 1, 2019**. The parties' responses to the motions and reply memoranda in support of the motions shall be governed by the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the District of Maine.

l. Parties shall hold an ADR/settlement conference by: **August 30, 2019**.

m. On or after **November 15, 2019**, the Court will conduct a conference with the parties to discuss the trial schedule for each case.

SO ORDERED.

/s/ John C. Nivison
U.S. Magistrate Judge

Dated this 8th day of June, 2018.

BEFORE THE UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: ZIMMER M/L TAPER HIP PROSTHESIS OR M/L TAPER HIP PROSTHESIS WITH KINECTIV TECHNOLOGY AND VERSYS FEMORAL HEAD PRODUCTS LIABILITY LITIGATION

MDL DOCKET NO. 2859

SCHEDULE OF ACTIONS

	Case Caption and Number	District	Represented Defendants	Judge
1	Adams v. Zimmer US, Inc., et al., PA/5:17-cv-00621-EGS	Eastern District of Pennsylvania	Zimmer US, Inc., Zimmer, Inc., Zimmer Biomet Holdings, Inc. (incorrectly named as Zimmer Holdings, Inc.), Zimmer Surgical, Inc.	Judge Edward G. Smith
2	Derifield v. Zimmer, Inc., et al., AK/3:18-cv-00021-HRH	District of Alaska	Zimmer US, Inc., Zimmer, Inc., Zimmer Biomet Holdings, Inc. (incorrectly named as Zimmer Holdings, Inc.)	Judge Russel H. Holland
3	Graham-Fortin v. Zimmer, Inc., et al, ME/2:18-cv-00204-JDL	District of Maine	Zimmer, Inc. (incorrectly named as Zimmer Biomet, Inc.), Zimmer US, Inc. (incorrectly named as Zimmer Biomet US, Inc., f/k/a Zimmer US, Inc.), and Zimmer Biomet Holdings, Inc.	Judge Jon Levy

4	Hackett v. Zimmer, Inc., et al., MN/0:18-cv-01407-DWF-DTS	District of Minnesota	Zimmer, Inc., Zimmer Biomet Holdings, Inc.	Judge Donovan Frank
5	Harms v. Zimmer, Inc., et al., MN/0:18-cv-01378-DWF-LIB	District of Minnesota	Zimmer, Inc., Zimmer Biomet Holdings, Inc.	Judge Donovan Frank
6	Heineman v. Zimmer Biomet, Inc., et al., FL/8:17-cv-02420-SDM-AAS	Middle District of Florida	Zimmer US, Inc. (incorrectly named as Zimmer Biomet US, Inc.), Zimmer, Inc. (incorrectly named as Zimmer Biomet, Inc.), Zimmer Biomet Holdings, Inc.	Judge Steven D. Merryday
7	Hickey v. Zimmer, Inc., et al., AK/3:16-cv-00045-SLG	District of Alaska	Zimmer US, Inc., Zimmer, Inc., Zimmer Biomet Holdings, Inc. (incorrectly named as Zimmer Holdings, Inc.)	Judge Sharon Gleason
8	Hollenkamp v. Zimmer, Inc., et al., MN/0:18-cv-01304-DWF-DTS	District of Minnesota	Zimmer, Inc., Zimmer Biomet Holdings, Inc.	Judge Donovan Frank
9	Laukka v. Zimmer, Inc., et al., MN/0:18-cv-01305-DWF-DTS	District of Minnesota	Zimmer, Inc., Zimmer Biomet Holdings, Inc.	Judge Donovan Frank
10	Liesch v. Zimmer Biomet, Inc., et al., WI/1:17-cv-1036-WCG	Eastern District of Wisconsin	Zimmer Inc. (incorrectly named as Zimmer Biomet, Inc.), Zimmer US, Inc. (incorrectly named as Zimmer Biomet US, Inc.), Zimmer Biomet Holdings, Inc.	Judge William C. Griesbach
11	Lloyd v. Zimmer Biomet Holdings, Inc., et al., ME/2:17-cv-00352-JDL	District of Maine	Zimmer Inc. (incorrectly named as Zimmer Biomet, Inc.) and Zimmer Biomet Holdings, Inc.	Judge Jon Levy

12	Luckasavage v. Zimmer, Inc., et al., NY/1:17-cv-07451-GBD	Southern District of New York	Zimmer, Inc., Zimmer US, Inc., Zimmer Biomet Holdings, Inc.	Judge George B. Daniels
13	Metzger v. Zimmer, Inc., et al., MN/1:18-cv-01310-DWF-DTS	District of Minnesota	Zimmer, Inc., Zimmer Biomet Holdings, Inc.	Judge Donovan Frank
14	Miller v. Zimmer Biomet Holdings, Inc., et al., ME/2:17-cv-00265-JDL	District of Maine	Zimmer, Inc. (incorrectly named as Zimmer Biomet, Inc.), Zimmer US, Inc. (incorrectly named as Zimmer Biomet US, Inc., f/k/a Zimmer US, Inc.), and Zimmer Biomet Holdings, Inc.	Judge Jon Levy
15	Myrick v. Zimmer, Inc., et al., ME/2:17-cv-00480-JDJ	District of Maine	Zimmer, Inc., Zimmer US, Inc., Zimmer Biomet Holdings, Inc.	Judge Jon Levy
16	Ness v. Zimmer, Inc., et al., MN/0:18-cv-01326-DWF-DTS	District of Minnesota	Zimmer, Inc. and Zimmer Biomet Holdings, Inc.	Judge Donovan Frank
17	Pastor v. Zimmer, Inc., et al., MI/2:18-cv-11461-DPH-SDD	Eastern District of Michigan	Zimmer, Inc. and Zimmer Biomet Holdings, Inc.	Judge Denise Page Hood
18	Pride v. Zimmer, Inc., et al., ME/2:18-cv-00108-JDL	District of Maine	Zimmer, Inc. and Zimmer Biomet Holdings, Inc.	Judge Jon Levy
19	Roberts v. Zimmer Biomet, Inc., et al, CA/4:18-cv-03564-DMR	Northern District of California	Zimmer Biomet Holdings, Inc., Zimmer, Inc. (incorrectly named as Zimmer Biomet, Inc.), and Zimmer Biomet Fegan, Inc.	Judge Donna M. Ryu
20	Shaw v. Zimmer Biomet, Inc., et al., NY/1:17-cv-2119-PAC	Southern District of New York	Zimmer, Inc. and Zimmer Biomet Holdings, Inc.	Judge Paul A. Crotty
21	Viania v. Zimmer, Inc., et al., NY/2:17-cv-01641-ADS-AYS	Eastern District of New York	Zimmer, Inc. and Zimmer Biomet Holdings, Inc.	Judge Arthur D. Spatt

22	Waldeier v. Zimmer, Inc., et al., ME/2:18-cv-00004-JDL	District of Maine	Zimmer, Inc. and Zimmer Biomet Holdings, Inc.	Judge Jon Levy

BEFORE THE UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: ZIMMER M/L TAPER HIP PROSTHESIS OR M/L TAPER HIP PROSTHESIS WITH KINECTIV TECHNOLOGY AND VERSYS FEMORAL HEAD PRODUCTS LIABILITY LITIGATION

MDL DOCKET NO. 2859

PROOF OF SERVICE

I hereby certify that on the 11th day of July, 2018, the Zimmer Defendants' Response in Opposition to Plaintiffs' Motion for Transfer was filed with the Clerk of the Judicial Panel on Multidistrict Litigation pursuant to its electronic case filing system (ECF). The ECF sent a Notice of Filing to the following attorneys of record who have consented to accept via this method.

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Heinman v. Zimmer Biomet Inc. et al (17-cv-02420)
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