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U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

JUL 19 2017

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

2017 JUL 20 AM 9:12

UNITED STATES DISTRICT JUDGE

CLERK'S OFFICE  
AT BALTIMORE

<p><b>IN RE: SMITH &amp; NEPHEW BIRMINGHAM HIP RESURFACING (BHR) HIP IMPLANT PRODUCTS LIABILITY LITIGATION</b></p>	<p>BY _____ DEPUTY</p> <p><b>MDL: 1:17-MD-2775-CCB</b></p> <p><b>THIS DOCUMENT RELATES TO: ALL ACTIONS</b></p>
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~~PROPOSED~~ **CASE MANAGEMENT ORDER NO. 4**  
**Plaintiffs' Settlement Counsel**

1. Notwithstanding that the parties do not believe settlement discussions would be fruitful at this early stage of the litigation, the Court has determined that it would be in the interest of judicial economy, and an appropriate use of the parties' time and resources, to appoint specific counsel for Plaintiffs ("Plaintiffs' Settlement Counsel") to engage in general settlement discussions with appropriate counsel designated by Defendant, as opposed to participating in detailed discovery, trial preparations, and presentations at trial, wherein those time-consuming tasks would distract counsel from pursuing avenues for potential resolution of some or all of the issues in this MDL.
2. Plaintiffs' Settlement Counsel are expected to hold discussions with appropriate counsel designated by Defendant in an effort to establish common understandings in an attempt to resolve this matter prior to remand of some or all of the member cases.
3. This Order is intended solely to facilitate potential settlement discussions and help guide the litigation. It is not meant to prejudice either party as to their respective positions on the merits of this case or the willingness to resolve any case at this stage of the litigation without trial and dispositive motions available under the rules, and is not meant to otherwise alter the substantive or procedural rights of the parties.

4. Upon recommendation of the Plaintiffs' Steering Committee, the Court hereby appoints as Plaintiffs' Settlement Counsel: **Ben W. Gordon, Jr.**, of Pensacola, Florida, and **Michael P. McGartland**, of Ft. Worth, Texas. Upon the Court's approval, Defendant shall provide Plaintiffs' Settlement Counsel with the name(s) of counsel for Smith & Nephew who will address the topics outlined in this Order on Defendant's behalf.
5. Plaintiffs' Settlement Counsel shall report to Plaintiffs' Lead Counsel and the Plaintiffs' Steering Committee member designated by Lead Counsel as Settlement Liaison Counsel, the status of any discussions with Defendant on the topics outlined in this Order. However, the Court reserves the option of holding private conferences with Plaintiffs' Settlement Counsel and Counsel for Smith & Nephew, as needed, to promote the objectives of this Order.
6. As the Court may require, or as may be otherwise appropriate, the parties will be prepared to report on the status of any ongoing discussions concerning these matters.

SO ORDERED, this 20<sup>th</sup> day of July 2017.



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Catherine C. Blake  
Chief Judge, United States District Court