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CATHERINE C. BLAKE

AUG 18 2017

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

IN RE: SMITH & NEPHEW
BIRMINGHAM HIP RESURFACING
(BHR) HIP IMPLANT PRODUCTS
LIABILITY LITIGATION

MDL No. 2775
Master Docket No. 1:17-md-2775

JUDGE CATHERINE C. BLAKE

**THIS DOCUMENT RELATES TO
ALL ACTIONS**

~~PROPOSED~~ CASE MANAGEMENT ORDER NO. 6
Preliminary Disclosures

The parties hereby submit this Stipulated Order regarding the exchange of preliminary information in the MDL.

I. Scope of Order

This Order applies only to personal injury actions properly made part of this MDL by the JPML Transfer Order of April 5, 2017. *See* Transfer Order [DE 81], MDL 2775 (J.P.M.L. Apr. 5, 2017). Specifically, this Order applies to actions brought by any U.S. citizen or resident against Smith & Nephew, Inc. by a plaintiff implanted with the following components of the Birmingham Hip Resurfacing (BHR) System, and only these components: (1) Birmingham Hip Resurfacing Femoral Head; and (2) Birmingham Hip Resurfacing Acetabular Cup, that (i) are currently pending in MDL No. 2775, or (ii) will be direct-filed in, removed to, or transferred to this Court.

II. Plaintiff's Preliminary Disclosure

1. Each Plaintiff shall provide (1) product identification/chart stickers for each component implanted; (2) operative report(s) from implant surgery or surgeries; and (3) operative report(s) from revision surgery or surgeries (collectively, "Plaintiff Preliminary

Disclosure”) within the time period provided below. The Plaintiff Preliminary Disclosure shall be submitted electronically to Plaintiffs’ and Defendant’s Lead Counsel. Service on Plaintiffs’ Lead Counsel shall be by email to: bhr@jonesward.com. Service on Defendant’s Lead Counsel shall be by email to: bhr-mdl-ppd@irwinllc.com.

2. Plaintiffs in matters pending in MDL 2775 as of the date of this Order will serve the Plaintiff Preliminary Disclosure within thirty (30) days of the date of this Order.

3. Plaintiffs in matters filed in or transferred to MDL 2775 after the date of this Order will serve the Plaintiff Preliminary Disclosure within thirty (30) days after the case is transferred to or filed in MDL 2775.

4. If any Plaintiff fails to materially comply with his or her obligations under this Order within the timelines established herein, Defendant’s Lead Counsel or designee shall send a notice of deficiency (the “Deficiency Letter”) to the Plaintiff’s counsel for the individual who allegedly failed to comply and copy Plaintiffs’ Lead Counsel at bhr@jonesward.com. The Deficiency Letter shall identify the alleged deficiency and state that the Plaintiff will have thirty (30) days to cure the alleged deficiency. If the alleged deficiency is not cured within that time (or within any extension of that time as agreed by the parties), Defendant may move for dismissal of Plaintiff’s claims, including dismissal with prejudice upon an appropriate showing.

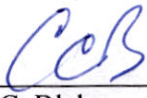
III. Defendant’s Preliminary Disclosure

1. For matters pending in MDL 2775 as of the date of this Order, Defendant shall produce within sixty (60) days of this Order copies of MedWatch forms (Form FDA 3500A) submitted to the U.S. Food and Drug Administration for Plaintiffs who have timely-served Plaintiff Preliminary Disclosures. The Defendant’s Preliminary Disclosure shall be submitted electronically to Plaintiffs’ Lead Counsel by email to: bhr@jonesward.com.

2. For matters filed in or transferred to MDL 2775 after the date of this Order, Defendant shall produce on a bi-monthly basis copies of MedWatch forms (Form FDA 3500A) submitted to the U.S. Food and Drug Administration for Plaintiffs who have timely-served Plaintiff Preliminary Disclosures.

Dated: _____

8/21/17



Catherine C. Blake
United States District Judge