

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**IN RE: STRYKER LFIT V40 FEMORAL
HEAD PRODUCTS LIABILITY LITIGATION**

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MDL No. 17-md-2768-IT

This Document Relates To:

All Cases

**CASE MANAGEMENT ORDER NO. 6
(Certification of Case Questionnaires and Plaintiff Fact Sheets)
November 5, 2019**

TALWANI, D.J.

This Order amends the court’s prior procedural orders in MDL Docket No. 2768 (“MDL No. 2768”) as set forth herein. This Order applies to all cases previously or hereafter transferred to this MDL, or those which are directly filed in this District for consolidation with this MDL. Plaintiffs’ Administrative Counsel shall promptly notify all counsel of record for Plaintiffs of this Order.

1. Stay of Litigation: On November 2, 2018, the court stayed discovery in this litigation through July 31, 2019. Order Aiding Private Settlement [#889]. The discovery stay is reinstated for a period of 120 days from the date of this Order, except as provided herein or as ordered by the court.

2. Case Questionnaires and Certifications: Pursuant to Case Management Order No. 1 (“CMO #1”) [#216] ¶ 5.c.i, each Plaintiff is required to complete and serve the Case Questionnaire, a copy of which is attached as Exhibit A to CMO #1 [#216]. For each case that has not otherwise been resolved or dismissed from this docket as of the date of this Order, Plaintiff’s counsel of record *shall execute a Case Questionnaire Certification attached hereto as*

Exhibit 1, and shall serve the Case Questionnaire Certification *along with Plaintiff's completed Case Questionnaire (including required documentation)* via Plaintiffs' Co-Lead Counsel's secure document repository (<https://www.hocv40.com>) **within thirty (30) days** of this Order, or within thirty (30) days of the direct filing of a case in, or the transfer of a complaint to, this MDL (whichever is later). Plaintiffs' Co-Lead Counsel shall then promptly coordinate service on Defendant.

3. Plaintiff Fact Sheets and Certifications: Pursuant to the Fact Sheet Implementation Order [#479], each Plaintiff is required to complete, verify, and serve the Plaintiff Fact Sheet ("PFS") attached to the Fact Sheet Implementation Order [#479] as Exhibit A. For each case that has not otherwise been resolved or dismissed from this docket as of the date of this Order, Plaintiff's counsel of record *shall execute a PFS Certification attached hereto as Exhibit 2*, and shall serve the PFS Certification along with Plaintiff's completed PFS (including required documentation, in the form previously approved in the Fact Sheet Implementation Order) **within forty-five (45) days** of this Order, or within forty-five (45) days of the direct filing of a case in, or the transfer of a complaint to, this MDL (whichever is later).

4. Notice of Deficiency and Dismissal for Failure to Prosecute

In the event that a Plaintiff does not provide a fully completed Case Questionnaire or PFS, or counsel fails to provide a signed Case Questionnaire Certification or signed PFS Certification by the above noted deadlines, and the deficiency is not cured within fifteen (15) days of notice of the deficiency by Defendant, Plaintiff's action may be dismissed pursuant to Fed. R. Civ. P. 41 for failure to prosecute. The court notes that failure to serve a fully completed Case Questionnaire accompanied by a signed Case Questionnaire Certification or failure to serve

a fully completed PFS accompanied by a signed PFS Certification shall be deemed a failure to timely serve for purposes of this provision.

5. Suggestion of Death: In all actions pending in this MDL or filed or transferred to this MDL in the future, if a Plaintiff has died since bringing the action, counsel shall file a suggestion of death pursuant to Fed. R. Civ. P. 25(a)(1) within **thirty (30) days** of this Order or within thirty (30) days of learning of the death (whichever is later). Counsel shall promptly thereafter file a motion for substitution of parties, or the deceased Plaintiff's action will be dismissed as required by Fed. R. Civ. P. 25(a)(1).

6. Ongoing Obligations of Counsel of Record Regarding Filed Complaints and Certifications: With regard to each complaint pending in this MDL, or filed or transferred to this MDL in the future, and each certification required by this Order, the court reminds Plaintiff's counsel of record of the ongoing "reasonable inquiry" obligations set forth in Fed. R. Civ. P. 11(b) and the duties to disclose or supplement under Fed. R. Civ. P. 26(e)(1). If the court determines that either of these rules has been violated, the court may impose an appropriate sanction under Fed. R. Civ. P. 11 or Fed. R. Civ. P. 37 on any attorney or law firm that violated the rule or is responsible for the violations.

IT IS SO ORDERED.

Date: November 5, 2019

/s/ Indira Talwani
United States District Judge

EXHIBIT 1

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

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MDL No. 17-md-2768-IT

**CASE QUESTIONNAIRE
CERTIFICATION OF COUNSEL**

I, **[INSERT COUNSEL NAME]**, hereby represent and declare, that I currently represent **[INSERT PLAINTIFF NAME]** in the above-referenced Multidistrict Litigation. After diligent and reasonable inquiry by me, I further represent, declare and certify that to the best of my knowledge, information and belief, all of the information provided in this Case Questionnaire is true, correct and complete. I further acknowledge my ongoing duty to supplement this Case Questionnaire in accordance with the court's prior orders to provide complete, correct, and/or additional information within 30 days of becoming aware of such information.

[Insert Counsel Name]
[INSERT FIRM NAME]
[Insert Firm Address]
Email: [Insert Email Address]
Telephone: [Insert Telephone Number]

Counsel for Plaintiff(s)
[Insert Plaintiff(s) Name(s)]

Dated:

EXHIBIT 2

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

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PLAINTIFF FACT SHEET
CERTIFICATION OF COUNSEL

I, **[INSERT COUNSEL NAME]**, hereby represent and declare, that I currently represent **[INSERT PLAINTIFF NAME]** in the above-referenced Multidistrict Litigation. After diligent and reasonable inquiry by me, I further represent, declare and certify that to the best of my knowledge, information and belief, all of the information provided in this Plaintiff Fact Sheet is true, correct and complete. I further acknowledge my ongoing duty to supplement this Plaintiff Fact Sheet in accordance with the court's prior orders to provide complete, correct, and/or additional information within 30 days of becoming aware of such information.

[Insert Counsel Name]
[INSERT FIRM NAME]
[Insert Firm Address]
Email: [Insert Email Address]
Telephone: [Insert Telephone Number]

Counsel for Plaintiff(s)
[Insert Plaintiff(s) Name(s)]

Dated: