

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK



IN RE: EXACTECH POLYETHYLENE : MDL No. 3044
ORTHOPEDIC PRODUCTS :
LIABILITY LITIGATION : Case No. 1:22-md-3044 (NGG) (MMH)

This Document Applies to All Cases

**AMENDED CASE MANAGEMENT
ORDER NO. 2**

I. SCOPE OF THE ORDER

This Amended Order shall apply to all Personal Injury Plaintiffs (“Personal Injury Plaintiffs” or “Plaintiffs”) and their counsel for actions relating to Exactech Polyethylene Orthopedic Products that are currently pending in MDL No. 3044, hereinafter subject to transfer to these proceedings, or that have been or will be direct-filed in the Court (collectively, “the MDL proceedings”), and the Exactech Defendants (“Exactech Defendants” or “Defendants”) and their counsel in the MDL proceedings.

Upon the entry of Case Management Order No. 2, the Personal Injury Plaintiffs and Exactech Defendants met and conferred to reach an agreement as to the secure online portal that counsel may use to submit the Plaintiff’s Preliminary Disclosure Form, Plaintiff Fact Sheet, and Defendant Fact Sheet. Plaintiffs and Defendants have now agreed to utilize the online MDL Centrality System, designed and provided by BrownGreer PLC (“BrownGreer”). The portal will provide a secure form of submission for case-specific forms and required documents related to each personal injury claimant. The cost for submitting via the MDL Centrality portal will be shared equally, where each claimant will pay \$25.00, and Defendants will pay \$25.00 per claimant. This one-time charge will cover all other document submissions for the personal injury claimant, including Plaintiff Fact Sheets.

II. PLAINTIFF’S PRELIMINARY DISCLOSURE FORM

1. The Plaintiff’s Preliminary Disclosure Form, attached as **Exhibit A**, shall be completed within thirty (30) days of the filing of the complaint in this MDL or within thirty (30) days of the transfer of the complaint from another District to this MDL, or within thirty (30) days of the signing of this Case Management Order No. 2, previously entered on January 26, 2023, whichever is later.

2. Plaintiffs will utilize the online MDL Centrality System designed and provided by BrownGreer and accessible at www.mdlcentrality.com/ to complete and serve the Plaintiff's Preliminary Disclosure Form, Plaintiff Fact Sheet, Plaintiff Supplemental Fact Sheet, Defense Fact Sheet and Supplemental Defense Fact Sheet *via* secure file transfer or encrypted transmission, as follows:

(a) Each Plaintiff who submits a Preliminary Disclosure Form using MDL Centrality, shall, by counsel or as *pro se*, establish a secure online portal in the MDL Centrality online system and obtain authorized user names and secure login passwords to permit use of MDL Centrality by such counsel or Plaintiff, by emailing Exactech@BrownGreer.com. Except as set forth herein, Counsel for a Plaintiff or each *pro se* Plaintiff shall be permitted to view, search and download on MDL Centrality only those materials submitted by that Plaintiff and by Defendants relating to that Plaintiff, and not materials submitted by or relating to other Plaintiffs.

(b) Defendants shall establish a secure online portal with the MDL Centrality online system and obtain authorized user names and secure login passwords to permit use of MDL Centrality by Defendants' counsel.

(c) The Plaintiffs' Liaison for the Personal Injury Plaintiffs, Co-Lead Counsel for the Personal Injury Plaintiffs, Attorney Designees Appointed by the Plaintiffs' Steering Committee for the Personal Injury Plaintiffs, and Defendants shall have access to and be able to view, search and download all materials submitted by all Plaintiffs and by all Defendants.

(d) Neither Plaintiffs nor Defendants will be given access to or knowledge of any reports, summaries, datasets, and/or other customizable information that another party has requested through MDL Centrality (including the fact that the request was made) without the requesting party's consent. If no consent is obtained from the requesting party, such requests and the information generated therefrom shall be considered the requesting party's work product and shall not be shared with any other party.

(e) Each Plaintiff and Defendants shall use the MDL Centrality System to obtain, complete or upload data, and serve the appropriate Preliminary Disclosure Form (including the upload of PDFs or other electronic images, photographs and videos of any records).

(f) Service of a completed Preliminary Disclosure Form shall be deemed to occur when the submitting party has performed each of the steps required by the MDL Centrality System to execute the online submission of the materials, and the submitting party has received confirmation on screen that the materials have been successfully submitted.

3. The Plaintiff's Preliminary Disclosure Form shall be completed by counsel for the Plaintiff. It is not a verified discovery response. Instead, the Form is designed to obtain basic information on product identification, implantation, and the status of any revision surgery. A fillable PDF form is available at: exactechmdlfilings.com.

4. In light of Plaintiffs' and Defendants' agreement to modify service instructions of the Plaintiff's Preliminary Disclosure Forms, all Plaintiffs shall have an additional two weeks to submit the Preliminary Disclosure Forms.

DATED: Brooklyn, New York
03-23-2023

Marcia M. Henry

The Honorable Marcia M. Henry
United States Magistrate Judge