

[INSERT NAME],

Plaintiff(s)

vs.

HOWMEDICA OSTEONICS CORPORATION, a New Jersey Corporation, d/b/a STRYKER ORTHOPAEDICS, JILL DOE MANUFACTURERS (1-10), JACK DOE WHOLESALERS (1-10), JAKE DOE SELLERS (1-10), JANE DOE DISTRIBUTORS and MARKETERS (1-10), JIM DOE HEALTH CARE PROVIDERS (1-10), and JEAN DOE (1-10),

Defendants

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY**

**MASTER DOCKET NO. BER-L-936-13
CASE NO. 296**

[INSERT INDIVIDUAL DOCKET NO.]

**SHORT FORM COMPLAINT
AND JURY TRIAL DEMAND**

1. Plaintiff, [NAME], states and brings this civil action as a related action in the matter entitled In Re Stryker Rejuvenate Hip Stem and ABG II Modular Hip Stem Litigation, Case No. 296. Plaintiff(s) is/are filing this Short Form Complaint as permitted by Case Management Order # 4 and Implementing Order dated April 10, 2013 of this Court.

PARTIES, JURISDICTION AND VENUE

2. Plaintiff, _____, is a resident and citizen of the State of _____ and claims damages as set forth below.
3. Plaintiff's Spouse, _____, is a resident and citizen of the State of _____, and claims damages as set forth below. *Cross out Spousal Claim if not applicable.*
4. Plaintiff brings this action [*check the applicable designation*]:

- On behalf of himself/herself;
- In a representative capacity as the _____ of the _____ having been duly appointed as the _____ by the _____ Court of _____. A copy of the Letters of Administration for a wrongful death claim is annexed hereto if such letters are required for the commencement of such a claim by the Probate, Surrogate or other appropriate court of the jurisdiction of the decedent. *Cross out if not applicable.*

FACTUAL ALLEGATIONS

Allegations as to Right-Side Implant/Explant Surgery(ies): *(Cross out if not applicable)*

5. Plaintiff was implanted with a Rejuvenate / ABG II *(cross out the one that is inapplicable)* Modular hip stem on his/her right hip on or about _____ (date), at the _____ (medical center and address), in _____, by Dr. _____.
Cross out if not applicable.
6. Plaintiff had the right hip stem at issue explanted on _____, at _____ (medical center and address) by Dr. _____. *Cross out if not applicable.*
7. Plaintiff will have the right hip stem at issue explanted on or about _____, at _____ (medical center and address) by Dr. _____.
Cross out if not applicable.
8. Plaintiff has not yet scheduled a surgery for explantation of the right hip stem at issue. *Cross out if not applicable.*

Allegations as to Left-Side Implant/Explant Surgery(ies): *(Cross out if not applicable)*

9. Plaintiff was implanted with a Rejuvenate / ABG II *(cross out the one that is inapplicable)* Modular hip stem on his/her left hip on or about _____ (date),

at the _____ (medical center and address), in _____, by Dr. _____.
Cross out if not applicable.

10. Plaintiff had the left hip stem at issue explanted on _____, at _____
(medical center and address) by Dr. _____. *Cross out if not applicable.*

11. Plaintiff will have the left hip stem at issue explanted on or about _____, at
_____ (medical center and address) by Dr.
_____. *Cross out if not applicable.*

12. Plaintiff has not yet scheduled a surgery for explantation of the left hip implant
at issue. *Cross out if not applicable.*

ALLEGATIONS AS TO INJURIES

13. (a) Plaintiff claims damages as a result of (check all that are applicable):

- _____ injury to herself/himself
- _____ injury to the person represented
- _____ wrongful death
- _____ survivorship action
- _____ economic loss

(b) Plaintiff's spouse claims damages as a result of (check all that are
applicable): *Cross out if not applicable.*

- _____ loss of services
- _____ loss of consortium

14. Plaintiff has suffered injuries as a result of implantation of the hip implant(s) at
issue manufactured by the Defendant as shall be fully set forth in Plaintiff's
anticipated Amended Complaint, as well as in Plaintiff's Fact Sheet and other

responsive documents provided to the Defendant and are incorporated by reference herein.

15. Plaintiff has suffered injuries as a result of the explantation of the hip implant(s) at issue manufactured by the Defendant as shall be fully set forth in Plaintiff's anticipated Amended Complaint, as well as in Plaintiff's Fact Sheet and other responsive documents provided to the Defendant and are incorporated by reference herein. *Cross out if not applicable.*

16. Defendant, by its actions or inactions, proximately caused the injuries to Plaintiff(s).

17. Plaintiff(s) could not have known that the injuries he/she suffered were as a result of a defect in the hip implant(s) at issue until after the date the device was recalled from the market and the Plaintiff(s) came to learn of the recall.

18. In addition, Plaintiff could not have known that he/she was injured by excessive levels of chromium and cobalt until after the date he/she had his/her blood drawn and he/she was advised of the results of said blood-work and the fact that those blood work abnormalities were attributable to a defect in the hip implant(s) at issue.

DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY

19. The following claims and allegations are asserted by Plaintiff(s) and are herein adopted by reference (check all that are applicable):

- _____ FIRST CAUSE OF ACTION – NEGLIGENCE;
- _____ SECOND CAUSE OF ACTION – NEGLIGENCE PER SE;
- _____ THIRD CAUSE OF ACTION – STRICT PRODUCTS LIABILITY

– DEFECTIVE DESIGN;

_____ FOURTH CAUSE OF ACTION – STRICT PRODUCTS LIABILITY – MANUFACTURING DEFECT;

_____ FIFTH CAUSE OF ACTION – STRICT PRODUCTS LIABILITY – FAILURE TO WARN;

_____ SIXTH CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY;

_____ SEVENTH CAUSE OF ACTION – BREACH OF WARRANTY AS TO MERCHANTABILITY;

_____ EIGHTH CAUSE OF ACTION – BREACH OF IMPLIED WARRANTY;

_____ NINTH CAUSE OF ACTION – CONSUMER FRAUD AND/OR UNFAIR AND DECEPTIVE TRADE PRACTICES UNDER STATE LAW;

_____ TENTH CAUSE OF ACTION – GROSS NEGLIGENCE/MALICE;

_____ ELEVENTH CAUSE OF ACTION – LOSS OF CONSORTIUM;

_____ TWELFTH CAUSE OF ACTION – PUNITIVE DAMAGES

_____ THIRTEENTH CAUSE OF ACTION – MEDICAL MONITORING

In addition to the above, Plaintiff(s) assert the following additional causes of action under applicable state law:

PRAYER FOR RELIEF

WHEREFORE, Plaintiff(s) pray for judgment against Defendant as follows:

1. For compensatory damages requested and according to proof;
2. For punitive damages or exemplary damages against Defendant;
3. For all applicable statutory damages of the state whose laws will govern this action;
4. For medical monitoring, whether denominated as damages or in the form of equitable relief;
5. For an award of attorneys' fees and costs;
6. For prejudgment interest and costs of suit; and
7. For such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff(s) hereby demand(s) a trial by jury as to all claims in this action.

Respectfully submitted

Counsel for Plaintiffs

Phone:

Fax:

Date: _____

CERTIFICATION PURSUANT TO RULE 4:5-1

The undersigned attorney for Plaintiffs certifies as follows:

1. The matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding;
2. No other action or arbitration proceeding is contemplated; and
3. There are no known parties who may be liable to any party on the basis of the transaction or events which form the subject matter of their action that should be joined pursuant to R. 4:28.
4. I certify that the foregoing statements made by me are true to the best of my knowledge, information and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Attorneys for Plaintiffs

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, _____ is hereby designated as trial counsel in their matter.

Attorneys for Plaintiffs

