

**IN RE: STRYKER LFIT CoCr V40
FEMORAL HEADS HIP IMPLANT
LITIGATION**

[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-7859-17
CASE NO. 624**

[INSERT INDIVIDUAL DOCKET NO.]

**SHORT FORM COMPLAINT
AND JURY TRIAL DEMAND**

1. Plaintiff(s), [NAME(S)], state(s) and bring(s) this civil action as a related action in the matter entitled In Re Stryker LFIT CoCr V40 Femoral Heads Hip Implant Litigation, Case No. 624. Plaintiff(s) is/are filing this Short Form Complaint as permitted by Case Management Order #3 and Implementing Order dated 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 an LFIT Anatomic CoCr V40 Femoral Head 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 was implanted with the following femoral stem during the ____ (date) surgery:
 - _____ Accolade TMZF
 - _____ Accolade II
 - _____ Other _____(Femoral Stem)
7. Plaintiff had the right femoral head at issue explanted on _____, at _____ (medical center and address) by Dr. _____. *Cross out if not applicable.*
8. Plaintiff will have the right femoral head at issue explanted on or about _____, at _____ (medical center and address) by Dr. _____. *Cross out if not applicable.*
9. Plaintiff has not yet scheduled a surgery for explantation of the right femoral head at issue. *Cross out if not applicable.*

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

10. Plaintiff was implanted with an LFIT Anatomic CoCr V40 Femoral Head on his/her left hip on or about _____ (date), at the _____ (medical center and address), in _____ by Dr. _____. *Cross out if not applicable.*

11. Plaintiff was implanted with the following femoral stem during the ____ (date) surgery:

- _____ Accolade TMZF
- _____ Accolade II
- _____ Other _____ (Femoral Stem)

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

13. Plaintiff will have the left femoral head at issue explanted on or about _____, at _____ (medical center and address) by Dr. _____.
Cross out if not applicable.

14. Plaintiff has not yet scheduled a surgery for explantation of the left femoral head at issue. *Cross out if not applicable.*

ALLEGATIONS AS TO INJURIES

15. (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

16. Plaintiff has suffered injuries as a result of implantation of the Device(s) at issue manufactured by the Defendants as shall be fully set forth in Plaintiff's Fact Sheet and other responsive documents provided to the Defendants and are incorporated by reference herein.

17. Plaintiff has suffered injuries as a result of the explantation of the Device(s) at issue manufactured by the Defendants as shall be fully set forth in Plaintiff's Fact Sheet and other responsive documents provided to the Defendants and are incorporated by reference herein. *Cross out if not applicable.*

18. Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff(s).

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

20. 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 Device(s) at issue.

CASE-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY

21. 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, NJPLA;
- _____ FOURTH CAUSE OF ACTION – STRICT PRODUCTS
LIABILITY – MANUFACTURING DEFECT, NJPLA;
- _____ FIFTH CAUSE OF ACTION – STRICT PRODUCTS
LIABILITY – FAILURE TO WARN, NJPLA;
- _____ 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
WARRANTIES;
- _____ NINTH CAUSE OF ACTION – VIOLATION OF CONSUMER
FRAUD AND/OR UNFAIR AND DECEPTIVE TRADE
PRACTICES UNDER STATE LAW;
- _____ TENTH CAUSE OF ACTION – NEGLIGENT
MISREPRESENTATION;
- _____ ELEVENTH CAUSE OF ACTION – LOSS OF CONSORTIUM
- _____ TWELFTH CAUSE OF ACTION – UNJUST ENRICHMENT
- _____ THIRTEENTH CAUSE OF ACTION – WRONGFUL DEATH
- _____ FOURTEENTH CAUSE OF ACTION – PUNITIVE DAMAGES

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 all applicable statutory damages of the state whose laws will govern this action;
3. For an award of attorneys' fees and costs;
4. For prejudgment interest and costs of suit;
5. For restitution and disgorgement of profits; and,
6. 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,

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.

Respectfully submitted,

Date: _____

DESIGNATION OF TRIAL COUNSEL

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

Date: _____
