BEFORE THE UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

In re: Zimmer NexGen Knee Products Liability Litigation	MDL Docket No. _____ ORAL ARGUMENT REQUESTED

MOTION OF PLAINTIFF FRED STONE FOR TRANSFER OF ACTIONS TO THE NORTHERN DISTRICT OF ILLINOIS OR A MORE APPROPRIATE JURISDICTION PURSUANT TO 28 U.S.C. § 1407 FOR COORDINATED OR CONSOLIDATED PRETRIAL PROCEEDINGS

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NOW COMES Moving Plaintiff Fred Stone, plaintiff in *Fred Stone v. Zimmer Inc.; Zimmer Holdings, Inc. et. al.*, currently pending in the Northern District of Illinois, (hereinafter "Moving Plaintiff") and hereby respectfully moves, by and through his undersigned counsel, that the Judicial Panel on Multidistrict Litigation (the "Panel") enter an order pursuant to 28 U.S.C. § 1407 and Rule 7.2 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, transferring the actions identified in the attached Schedule of Actions, as well as all subsequently filed related Zimmer NexGen Knee Implant Device actions, to the United States District Court for the Northern District of Illinois or a more appropriate jurisdiction if determined by the Panel, for coordinated or consolidated pretrial proceedings.

In support of his Motion, and as more fully articulated in the accompanying Brief, Moving Plaintiff states:

1. Zimmer NexGen high-flex Knee Implant Devices have been reported to have a failure rate of 9 percent. Concerns regarding the premature failure rate of these knee implants was brought to the attention of the company by one of its top consultants several years ago.
2. Since 2003 Zimmer has manufactured and sold approximately 150,000 NexGen high-flex knee implants. Based on the high failure rates that have been reported with these knee implants plaintiffs anticipate that there will be hundreds if not thousands of these cases filed.
3. On September 13, 2010, the FDA issued a Class II recall relating to the NexGen MIS Tibial components, because a study revealed a failure rate of up to 24% when a stem/keel was not used with the tibial component. About 68, 384 MIS Tibial components were part

of the recall based on improper instructions/warnings stating that the drop stem was not required.

4. The NexGen MIS Tibial component is marketed and promoted as compatible with the LPS-Flex and CR-Flex femoral components and they are often used together. Of the twenty-eight filed cases many of them are a combination of a NexGen high-flex and NexGen MIS tibial.
5. The actions identified in the attached Schedule of Actions (the "Zimmer NexGen Knee Cases") have been filed and are pending in the districts indicated in the Schedule.
6. To date, plaintiffs have filed twenty-eight Zimmer NexGen Knee Cases. The cases are pending in the United States District Courts for the District of Nevada, the District of Minnesota, the District of North Dakota, the Northern District of Illinois, the Western District of Kentucky, the Eastern District of Wisconsin, the Eastern District of Michigan, the Middle District of Tennessee, the Middle District of Pennsylvania, the Eastern District of Pennsylvania, the Southern District of Florida, the Eastern District of New York, and the Southern District of Iowa.
7. All Plaintiffs have alleged claims against one or both of the following Defendants, Zimmer Inc.; and Zimmer Holdings, Inc.
8. Defendants Zimmer, Inc. and Zimmer Holdings, Inc. are corporations organized and existing under the laws of the state of Delaware and whose principal places of business are located in Warsaw, Indiana.
9. All of the complaints in the Zimmer NexGen Knee Cases assert one or more claims under the following theories of liability: negligence, negligence per se, negligent failure to warn, negligent design defect, strict product liability and breach of express and implied

warranty, negligent misrepresentation. Some cases involve other, similar claims, including but not limited to: unjust enrichment and violations of states consumer protection statutes.

10. All of the complaints make very similar factual allegations, and thus any necessary discovery will arise from common questions of fact.

11. In accordance with 28 U.S.C. § 1407, the transfer and coordination or consolidation of the Zimmer NexGen Knee Cases will serve the convenience of the parties, witnesses, counsel, and the judicial system.

12. Absent pretrial coordination or consolidation, the possibility of inconsistent pretrial rulings exists, especially with respect to the proper scope and extent of discovery, class certification, and other factual and legal matters.

13. Given the procedural posture of the Zimmer Knee Cases, no judicial resources will be wasted if these cases are transferred.

WHEREFORE, for the reasons stated herein and in the accompanying Brief, Plaintiff respectfully requests that the Panel issue an order transferring all actions listed in the attached Schedule of Actions, as well as all subsequently filed related actions, to the United States District Court for the Northern District of Illinois or another jurisdiction if determined more appropriate, for coordinated or consolidated pretrial proceedings.

Dated this 6th day of June, 2011.

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