

## Notice of Approval Hearing

### **Were you, or a family member, implanted with a Zimmer Durom® Hip Implant in Canada?**

*This notice may affect your rights. Please read carefully.*

Class action lawsuits were initiated in Canada regarding allegations that the Zimmer Durom hip implant, or “Durom Cup,” was defective, and that it failed prematurely. Specifically, a class action was certified by the British Columbia court on September 2, 2011 in *Jones v. Zimmer GMBH et al.*, and by the Ontario court on September 24, 2014 in *McSherry v. Zimmer GMBH et al.* A proposed class action is also active in Quebec as *Major v. Zimmer GMBH*, and was authorized for settlement purposes on May 6, 2016

The Defendants, while not admitting liability, have agreed to a settlement of these lawsuits. The Defendants have also consented to the authorization of *Major* as a class action; the *Jones* Action and *McSherry* Action already having been certified. For a copy of the settlement agreement, or for more information, please contact Class Counsel listed below.

#### **Who is Eligible to Participate in the Settlement?**

The settlement applies to all persons who were implanted with the Durom Cup in Canada who have not opted out of the *Jones*, *McSherry*, or *Major* actions and/or who have affirmatively opted into the *Jones* action, and their estates and family members.

#### **The Terms of Settlement**

The settlement provides compensation to class members who timely submit all forms and documentation required under the Settlement Agreement, less deductions for legal fees. The settlement also provides for payment to public health insurers. Please refer to the settlement agreement, which is available on the website of Class Counsel, for specific terms and conditions.

#### **Court Hearings and Your Right to Participate**

Motions to approve the settlement agreement are scheduled to be heard by the British Columbia Court in Vancouver on June 28, 2016, the Ontario Court in Toronto on July 14, 2016, and the Quebec Court in Montreal on June 28, 2016. Class Counsel will also ask the courts to approve an award of fees and disbursements for their work in connection with *Jones*, *McSherry*, and *Major* during the hearings.

Class members who do not oppose the settlement need not appear at the hearings or take any other action at this time to indicate their desire to participate in the settlement. All class members have the right to present arguments to the courts as regards the settlement, or to object to the settlement, by delivering a written submission to Class Counsel on or before June 23, 2016. A class member who wishes to object to the settlement shall provide in his or her objection:

- (a) The full name, current mailing address, fax number, telephone number, and email address of the person who is objecting;
- (b) A brief statement of the nature and reasons for the objection;
- (c) A declaration that the person believes he or she is a member of the Class and the reason for that belief including, if available, the catalogue and lot numbers of his/her Durom Cup; and
- (d) Whether the person intends to appear at the relevant Approval Hearing or intends to appear by counsel, and if by counsel, the name, address, telephone number, fax number, and email address of counsel, and
- (e) A declaration under the penalty of perjury that the foregoing information is true and correct.

No class members may be required to pay costs arising from the class action or their submission of their opposition to the Settlement.

**For Québec Residents Only: Excluding Yourself from the Class Action**

If you are a resident of Quebec who has not already opted into the *Jones* action and you wish to exclude yourself from the *Major* action, you must deliver a written submission declaring your intention to opt out of the class action to the Clerk of the Superior Court of Quebec and Class Counsel by registered or certified mail at the addresses below on or before June 23, 2016. Your submission must include your name and address. If you exclude yourself from the class action, you will not be entitled to receive compensation under the settlement agreement. If you previously opted into the class in the *Jones* action, you are entitled to compensation in connection with your Durom Cup only as provided in the settlement agreement. For all other class members, the deadline for you to have excluded yourself from these lawsuits has already expired.

**Montréal Courthouse**

Clerk of the Superior Court of Québec  
Court file number: 500-17-081863-147  
1, Notre-Dame East  
Montréal (Québec) H2Y 1B6

**Trudel Johnston Lespérance**

Class Counsel in the *Major* Action  
750 Côte de la Place d'Armes  
Suite 90  
Montreal (Québec) H2Y 2X8

**For Additional Information and a Copy of the Settlement Agreement:**

Class Counsel in the *Jones* and *McSherry* Actions

**Klein Lawyers LLP**  
Suite 400  
1385 West 8<sup>th</sup> Avenue  
Vancouver, BC V6H 3V9

Class Counsel in the *Major* Action:

**Trudel Johnston Lespérance**  
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750 Côte de la Place d'Armes  
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