



IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

EXACTECH MASTER CASE
This Order Applies To All Cases

Master Case No. 01-2022-CA-002670
Judge Donna Keim

**CASE MANAGEMENT ORDER FOR BELLWETHER
TRIAL SELECTION PROCESS**

This Court having considered the parties' argument, supporting documents, and proposed orders regarding a Bellwether Process, finds that a Case Management Order for Bellwether Trial Selection will assist in the timely resolution of cases and hereby enters this Case Management Order which shall govern the selection and scheduling of trial of representative cases:

1. Bellwether Selection Process Generally. The Court will use a hybrid bellwether selection process involving: (1) random sampling to identify an initial bellwether pool; (2) strikes by the parties to remove the most unrepresentative outlier cases from the bellwether pool; and (3) briefing from the parties for the Court's consideration and selection of representative bellwether cases for twelve (12) trials.

2. Bellwether Trial Eligibility. All hip and knee cases that have been scheduled for trial as of the date of the entry of this Order are eligible for bellwether trial selection. The Freeze v. Exactech case, case number 01-2021-CA-001555, shall be included in the bellwether trial selection process. In the event Freeze is designated as a bellwether case, it will be tried on the Feb. 2024 docket and the trial schedule designated below will be adjusted accordingly.

3. Initial Bellwether Pool. The initial bellwether case pool will consist of 30 cases selected randomly from the eligible cases. The cases selected will fall into two categories: 20 knee cases and 10 hip cases.

4. Random Sampling. The parties shall prepare two separate lists identifying all eligible knee and hip cases for bellwether trial consideration within five (5) days of the entry of this Order. The parties shall meet and confer to confirm the lists are complete and accurate within three (3) days of the exchange of the lists. The parties shall sequentially number each of the lists, assigning each Plaintiff a unique number, starting with the number 1. Within seven (7) days of confirming the lists are accurate, representative counsel for Plaintiffs and Defendants shall meet in person (or via zoom if the parties agree that the random selection process may be conducted remotely) and use a random number generator to identify the 30 cases in the initial bellwether pool. Specifically, the parties will randomly select 20 knee cases and 10 hip cases using <http://www.random.org> to generate random numbers within the range of unique numbers assigned to the bellwether pool.

5. Within three (3) days of the parties meeting to randomly select the Bellwether Pool, Counsel shall submit a Joint Notice of Initial Bellwether Pool which identifies the initial bellwether pool.

6. Within five (5) days of the filing of the Notice of Initial Bellwether Pool, counsel shall meet and confer in good faith to determine 1. Whether they agree to strike any of the cases in the initial bellwether pool and 2. Whether they can agree to the bellwether cases and priority of same without proceeding with the process of submitting strikes and briefs. If counsel agree to strike any cases, counsel shall file a Notice of Stipulation to Strike Case from the Initial Bellwether Pool and list the cases which they have agreed to strike and the reason for the agreement. Any agreement to strike shall reduce the number of strikes set forth in paragraph 7 below. If counsel agree to the Final Bellwether Pool, or to a portion of the Final Bellwether Pool, counsel shall file a Stipulation to Final Bellwether Pool or a portion of the Final Bellwether Pool

reflecting the cases agreed upon and the order for trials of same. If counsel are unable to reach an agreement, they shall file a Notice of Good Faith Conference reflecting they conducted a good faith conference and were unable to agree to strikes and/or final bellwether cases.

7. Within ten (10) days of the filing of the Notice of Initial Bellwether Pool, if the parties did not agree to any strikes, each side may submit 6 proposed strikes simultaneously by a confidential letter submission to the Court. If the parties agree upon strikes, the number of strikes allowed shall be reduced by the number of strikes agreed upon by the parties. Plaintiffs may move to strike 1 hip and 4 knee cases and Defendants may move to strike 1 hip and 4 knee cases. Neither side will use their strikes to eliminate more than 1 hip or more than 4 knees cases from the initial bellwether pool. If both parties strike the same case, the strike will count against both sides, and no additional strikes will be permitted. Each requested strike must specify, in detail, the reason for the strike. The confidential letters shall each include a proposed order titled, "Court Designation of Initial Bellwether Cases" reflecting the proposed initial bellwether cases assuming their respective proposed strikes are granted.

8. Court Selection. Within ten (10) days of the entry of the Court Designation of Initial Bellwether Cases Order, each party shall file a Notice of Designation of Proposed Bellwether Trials reflecting 8 knee and 4 hip cases from the remaining cases in the Initial Bellwether Pool for the Court to consider for bellwether trial scheduling. The cases shall be listed in order of trial preference and the Notice of Designation shall include a short brief for each case (no more than one page per case) containing a succinct summary of facts and statement as to why the case is representative and why it should be placed in the requested order of trial preference as a bellwether trial. The Court will not hear argument on the briefs.

9. Upon receipt and review of the briefs, the Court will select 12 cases (8 knee and 4 hip) for bellwether trials and will enter orders scheduling jury trial for each case. At least one (1) bellwether case will be tried each month beginning in May, 2024 as set forth in detail below:

a. The knee case that the Court determines is the most representative knee case will be set as the first case on the May 2024 trial docket and the knee case that the Court determines is the second most representative knee case will be set as the second case on the May 2024 trial docket. If the second case is not tried in May 2024, it will roll over and become the first case to be tried on the June 2024 trial docket.

b. The hip case that the Court determines is the most representative hip case will be set as the first case on the July 2024 trial docket and the hip case that the Court determines is the second most representative hip case will be set as the second case on the July 2024 trial docket. If the second case is not tried in July 2024, it will roll over and become the first case on the Court's August 2024 trial docket.

c. The knee case that the Court determines is the third most representative knee case will be set as the first case to be tried on the September 2024 trial docket and the knee case that the Court determines is the fourth most representative knee case will be set as the second case to be tried on the September 2024 trial docket. If the second case is not tried in September 2024, it will roll over and become the first case on the October 2024 trial docket.

d. The hip case that the Court determines is the third most representative hip case will be set as the first case on the November 2024 trial docket and the hip case that the Court determines is the fourth most representative hip case will be set as the second case on the November 2024 trial docket. If the second case is not tried in November 2024, it will roll over and become the first case on the Court's December 2024 trial docket.

e. The knee case that the Court determines is the fifth most representative knee case will be set as the first trial on the January 2025 trial docket and the knee case that the Court determines is the sixth most representative knee case will be set as the second case on the January 2025 trial docket. In the event the second case is not tried in January, it will roll over and become the first case on the February 2025 trial docket.

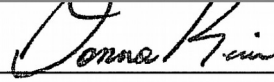
f. The knee case that the Court determines is the seventh most representative knee case will be set as the first case on the March 2025 trial docket and the eighth most representative knee case will be set as the second case on the March 2025 trial docket. If the second case is not tried in March 2025, it will roll over and become the first case on the Court's April 2025 trial docket.

10. Two Bellwether trials shall be ready to proceed for each trial setting. In the unlikely event neither bellwether trial set for a trial term proceeds, then the bellwether trials on the next trial docket shall be moved into the earlier trial term or the other previously set cases will proceed to trial in the priority which they were previously scheduled.

11. Preliminary Discovery for Initial Bellwether Pool. Within fifteen (15) days of being selected as a case in the Initial Bellwether Pool, Plaintiffs in the Initial Bellwether Pool shall submit to Defendants (1) medical authorizations, (2) Plaintiff Fact Sheets and (3) all medical records in Plaintiffs' possession, custody, or control. Within fifteen (15) days of receipt by Defendants of the discovery materials described above from Plaintiffs, Defendants shall produce a Defendant Fact Sheet for each case in the Initial Bellwether Pool. This timeframe does not extend the timeframe for producing discovery responses to discovery that has already been propounded or otherwise agreed to by the parties in any pending case. The Court expects the parties to continue to conduct discovery in ALL pending cases.

Done and Ordered in Chambers in Gainesville, Alachua County, Florida on this Thursday, July 6, 2023.

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Donna M. Keim, Circuit Judge
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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above has been served by e-portal or by First Class US Mail on this Thursday, July 6, 2023.

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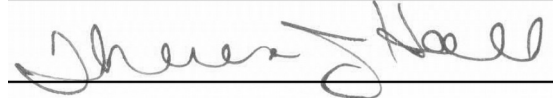
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A handwritten signature in black ink, appearing to read "Theresa Hall", written over a horizontal line.

Theresa Hall, Judicial Assistant
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