

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

EXACTECH MASTER CASE

CASE NO.: 01-2022-CA-2670

ORDER COORDINATING EXACTECH HIP, KNEE, AND ANKLE IMPLANT CASES

Pursuant to the Order Setting Hearing on Motion for Pre-Trial Coordination of all Exactech Cases, and good cause appearing, the Court hereby ORDERS that said Motion is GRANTED as follows:

1. Plaintiff and Defendants introduced this proposed coordination to the Court via joint motion.

2. **Coordination:** The Court agrees with the Parties that the coordination of cases arising out of the implantation of hip, knee, and ankle implants manufactured and sold by the Defendant is in the interest of efficiency, consistency, and judicial economy.

3. **Coordination Process:** The above-captioned case and all other related cases filed in the Eighth Judicial Circuit of Florida, in Alachua County, Florida involving Exactech hip, knee, and ankle implants, including those listed below, and any other such cases filed before or after the date of this Order, are hereby required to be coordinated consistent with this Order before the Honorable Donna M. Keim.

- a. The Clerk is directed to automatically transfer all such cases to this Court.
- b. To the extent any such case is not automatically transferred by the Clerk prior to the filing of any answer by Defendant, Defendant is required to file, along with any answer in such case, a “Notice to Clerk: Coordinated Action.” Such Notice should indicate the existence of this Coordinated proceeding, provide a

copy of this Order, and indicate that the Clerk is to transfer such case in accordance with this Order. Upon filing of such Notice, the Clerk in such case is directed to immediately transfer such case to this Court.

- c. Any litigant who believes a case was transferred or coordinated in error may move this Court for relief.

4. Pending cases to be coordinated:

No.	Case No.	Plaintiff	Filed Date	Judge	Division
1	2021 CA 001555	Freeze	6/08/21	Keim	J
2	2021 CA 003369	Drohan	11/22/21	Keim	J
3	2022 CA 000690	McGraw, Shultz, Higgenbotham	3/9/22	Keim	J
4	2022 CA 000715	Rosati	3/10/22	Keim	J
5	2022 CA 000983	Walker	4/1/22	Keim	J
6	2022 CA 000984	Simon	4/1/22	Keim	J
7	2022 CA 000985	Newman	4/1/22	Keim	J
8	2022 CA 000986	Bearb	4/1/22	Keim	J
9	2022 CA 000987	Davee	4/5/22	Keim	J
10	2022 CA 000988	Abshire	4/1/22	Keim	J
11	2022 CA 000990	Khanna	4/1/22	Keim	J
12	2022 CA 000992	Tullier	4/1/22	Keim	J
13	2022 CA 000993	Pearson	4/1/22	Keim	J
14	2022 CA 001042	Hoover	4/8/22	Keim	J
15	2022 CA 001238	McCoppin	4/22/22	Keim	J
16	2022 CA 001274	Irby, Mounts	4/27/22	Keim	J
17	2022 CA 001651	Brodbeck	6/2/22	Keim	J
18	2022 CA 001673	Elder	6/6/22	Keim	J
19	2022 CA 001776	Groth	6/15/22	Keim	J
20	2022 CA 001777	Romero	6/15/22	Keim	J
21	2022 CA 001778	Olivier	6/15/22	Keim	J
22	2022 CA 001779	Mayeux	6/15/22	Keim	J
23	2022 CA 001787	McManus	6/15/22	Keim	J
24	2022 CA 001788	Salas	6/15/22	Keim	J
25	2022 CA 001790	Allen	6/15/22	Keim	J
26	2022 CA 001800	Perry	6/15/22	Keim	J
27	2022 CA 001813	Domengeaux	6/16/22	Keim	J
28	2022 CA 001876	Dalomba	6/22/22	Keim	J
29	2022 CA 002041	Steele	7/11/22	Keim	J
30	2022 CA 002121	Brunson	7/18/22	Keim	J
31	2022 CA 002305	LeBlanc	7/29/22	Keim	J

32	2022 CA 002451	Checker	8/11/22	Keim	J
33	2022 CA 002452	Gola	8/11/22	Keim	J
34	2022 CA 002453	Greiner	8/11/22	Walker	J
35	2022 CA 002454	Gress	8/11/22	Keim	J
36	2022 CA 002455	Pulizzi	8/11/22	Keim	J
37	2022 CA 002456	Ryan	8/11/22	Keim	J
38	2022 CA 002457	Zurovchak	8/11/22	Keim	J
39	2022 CA 002525	Williams, Sr.	8/17/22	Keim	J
40	2022 CA 002652	Bretts	8/29/22	Keim	J
41	2022 CA 002659	Depew	8/31/22	Keim	J
42	2022 CA 002661	Karl	8/31/22	Keim	J
43	2022 CA 002662	Watkins	8/31/22	Keim	J
44	2022 CA 002670	Master Case No.	8/31/22	Keim	J
45	2022 CA 002696	Adams	8/31/22	Keim	J
46	2022 CA 002697	Arrington	8/31/22	Keim	J
47	2022 CA 002698	Aultman	8/31/22	Keim	J
48	2022 CA 002699	Daigle	8/31/22	Keim	J
49	2022 CA 002701	Granger	8/31/22	Keim	J
50	2022 CA 002702	Marceaux	8/31/22	Keim	J
51	2022 CA 002707	Karcher	9/2/22	Keim	J
52	2022 CA 002708	Donovan	9/2/22	Keim	J
53	2022 CA 002718	Miller	9/2/22	Keim	J
54	2022 CA 002746	Maurillo	9/2/22	Keim	J

5. **Master Docket:** The master caption and docket for the coordinated actions shall be styled as *Exactech Master Case v Exactech*, and assigned case number 01-2022-CA-002670. Each filed case shall continue to have its own caption and docket number.

a. The Parties and Court will utilize this Master Docket for any pleadings, motions or other filings which relate to all cases or to issues shared among multiple cases.

i. Any document filed in the Master Docket that relates to all coordinated cases should:

1. Identify the Master Docket Name and number in the style, and
2. Include the notation that such filing relates to “All Cases.”

3. Such documents will be deemed filed in every coordinated case.
- ii. If a document is filed in the Master Docket that relates to a group of specific cases, but not all cases, the Case Style should:
 1. Include the Master Docket name and number in the style, *and*
 2. Include the notation “Relates Specifically To” followed by the case numbers for the applicable cases.
 3. Such documents will be deemed filed in only the specifically identified cases.
- b. Filings that relate solely to such individual cases should not be filed in the Master Docket and should instead be filed only in the captioned individual case impacted by the filing.

6. Case Management Conferences: This Court will conduct monthly, one-hour, Case Management Conferences pursuant to the below schedule. The parties shall appear by zoom via the zoom link below for all Case Management Conferences. The Court may amend this schedule as needed.

- a. <https://zoom.us/j/91883402255?pwd=Z1FncEpIVWU3SUhkekoreFdJQVQ3QT09>
Meeting ID: 918 8340 2255
Passcode: 715012
Telephone No. 786 635 1003

September 23, 2022, at 9:00 am
October 21, 2022, at 9:00 am
November 17, 2022, at 9:00 am
December 29, 2022, at 9:00 am
January 30, 2023, at 9:00 am
February 28, 2023, at 9:00 am
March 28, 2023, at 9:00 am
April 28, 2023, at 9:00 am

May 24, 2023, at 9:00 am
June 29, 2023, at 9:00 am
July 28, 2023, at 9:00 am
August 29, 2023, at 9:00 am
September 28, 2023, at 9:00 am
October 30, 2023, at 9:00 am
November 29, 2023, at 9:00 am
December 28, 2023, at 9:00 am

- b. Discovery and substantive Motions may be considered at a Case Management Conference as long as the Motion may be heard within the one hour allotted, the Motion contains a good faith certification, and the Motion is filed at least 20 days prior to the Case Management Conference. A response to the Motion is due 10 days after the date on which the underlying motion is served, unless the response date falls on a weekend, in which case the response is due the following business day. The Court may choose not to hear such a Motion at a Case Management Conference and may require the parties to schedule separate hearing time for such Motion. The parties shall deliver hard copies of all case law relied upon to the Court no later than 7 days prior to the Case Management Conference
- c. The Court recognizes that its guidance may be necessary on certain issues to avoid motion practice. The Parties are therefore required to provide to the Court, at least seven days prior to any Case Management Conference, an Agenda of items for discussion, including any motions ripe for the Court's determination. Issues not identified on the Agenda will not be considered by the Court. Motions that are not ripe for the Court's determination may not be listed on an Agenda. If the issue which the parties wish for the Court to

address involves argument as to opposing legal positions, then the issue shall be raised in a Motion with supporting legal memorandum.

- d. If no Agenda is provided to the Court at least seven days prior to any Case Management Conference, and the Court has not Ordered the Parties to appear at the Case Management Conference for any other reason, such Case Management Conference will be deemed unnecessary and will be cancelled.
- e. The Parties are directed to inform the Court as soon as practicable if any Case Management Conference should otherwise be cancelled.
- f. To the extent the parties wish to have a court reporter present for the Case Management Conference, they shall confer and agree on cost sharing associated with court reporter retention.

7. Plaintiff Leadership: The Court Orders the Plaintiffs in this coordinated litigation to appoint leadership counsel who will have authority to appear before this Court on behalf of all coordinated litigants. Notice of appointment of such leadership counsel must be filed no less than five days before the next Case Management Conference after entry of this Order.

8. Electronically-Stored Information (“ESI”):

- a. The Parties met and conferred on an ESI Protocol for use in this litigation and provided the Court with an ESI Protocol that is agreed upon except as to one issue: Whether PowerPoint files are to be produced natively. After reviewing the Parties’ proposed language and hearing arguments, the Court orders that PowerPoint files may be produced in .tiff format (non-natively) so long as Defendants identify, at the time of production, any PowerPoint files

containing animations. Plaintiffs may then request such PowerPoint files in native format.

- b. Consistent with the above ruling, the Parties are required to provide a Proposed Order on ESI Protocols within five days of this Order.

9. Protective Order:

- a. The Parties met and conferred on a Protective Order for use in this litigation and provided the Court with a Proposed Order with numerous areas of disagreement. The Court considered one such area of disagreement, namely whether the Protective Order should include provisions for both “Confidential” and “Highly Confidential” designations. After reviewing the Parties’ proposed language and hearing arguments, the Court orders that the Protective Order governing these coordinated cases will include a single level of confidentiality. The Parties may move the Court for leave for additional protection if needed.
- b. The Parties are otherwise directed to continue to meet and confer on the Protective Order in an attempt to resolve any identified disagreements that remain and to provide a Proposed Protective Order for the Court’s entry no later than five days prior to the next Case Management Conference. Any areas of disagreement that remain should be identified in similar fashion to what was previously provided to the Court. Such disagreements will be ripe for resolution by the Court at the next Case Management Conference.

10. Other Pre-Trial Orders: The Court is aware that the Parties have made significant efforts to agree on a variety of issues related to proposed orders regarding a pre-trial

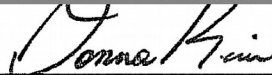
discovery process, scheduling order, mediation plan, and preservation order. The Parties are directed to continue to meet and confer to narrow any remaining disagreements ahead of the next Case Management Conference. All such proposed orders must be provided to the Court no less than 5 days before the next Case Management Conference, and thereafter shall be ripe for resolution by the Court at the next Case Management Conference.

11. Notice: Upon notification of the creation of the Exactech Master Case, all attorneys in the cases identified above shall file a notice of appearance in the Exactech Master Case for purposes of establishing an accurate e-service list in the master case. For any cases filed after the date of this order, upon receiving notification of the Exactech Master Case, counsel shall immediately file a notice of appearance in the Exactech Master Case which shall include the style and case number of the new case. In all Exactech cases filed after the entry of this Order by any counsel not served with this Order, counsel for Defendant shall file a “Notice of Master Case and Coordinating Order” contemporaneously with the filing of Defendant’s Answer or Notice of Appearance in the new case which shall 1. indicate the existence of this Coordinated proceeding, 2. provide a copy of this Order, and 3. notify new counsel of the requirement that they immediately file a Notice of Appearance in the Exactech Master Case.

12. First Trial: Phillip Bradley Freeze and Rachel Kelley Freeze vs. Exactech, Inc., has been scheduled for trial beginning Nov. 6, 2023.

DONE AND ORDERED in Chambers, Gainesville, Alachua County, Florida on this Wednesday, September 14, 2022.

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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 e-filed through the e-portal and a copy of same has been provided to the below parties on this Wednesday, September 14, 2022.

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A handwritten signature in black ink, appearing to read "Theresa Hall", written on a light-colored background.

Theresa Hall, Judicial Assistant

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