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13 **UNITED STATES DISTRICT COURT**
 14 **DISTRICT OF NEVADA**

16 REBECCA FRANKS,
 17 Plaintiff,
 18 vs.
 19 BIOMET, INC.; BIOMET
 20 ORTHOPEDICS, LLC,
 21 Defendants.

Case No.: 2:16-cv-00264-APG-BNW

Honorable Andrew P. Gordon
 Honorable Brenda Weksler

**STIPULATION TO AMEND
 SCHEDULING ORDER
 (First Request)**

Case Remanded: December 28, 2018

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10 BIOMET, INC. and

11 BIOMET ORTHOPEDICS, LLC

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1 Plaintiff Rebecca Franks (“Plaintiff”), together with Defendants Biomet Inc. and Biomet
2 Orthopedics, LLC (collectively, “Biomet,” and together with Plaintiff, the “Parties”), by and through
3 their respective undersigned counsel, respectfully move the Court for an extension of fact and expert
4 discovery deadlines to enable the Parties time to complete complex pretrial efforts and efficiently
5 explore options for resolving this case. In support of their stipulation, the Parties state as follows:

6 1. This case involves a variety of product liability claims against Biomet due to
7 Plaintiff’s use of the Biomet M2a Metal-on-Metal Hip Replacement System.

8 2. This case was consolidated into the United States District Court for the Northern
9 District of Indiana in the South Bend Division, where Judge Robert L. Miller, Jr. presides over *In*
10 *Re: Biomet M2a Magnum Hip Implant Products Liability Litigation* (MDL 2391), cause number:
11 3:12-MD-2391 (“Biomet M2a Magnum MDL”). Judge Miller remanded this case to this Court on
12 December 28, 2018. *See* Dkt. 18, MDL Conditional Remand Order Finalized, including the Second
13 Suggestion of Remand and Explanation to Transferor Courts (“Remand order”).

14 3. After remand, this Court issued a Scheduling Order on August 26, 2019, setting a
15 fact discovery deadline of February 28, 2020 and an expert discovery deadline of June 16, 2020,
16 among other pretrial dates. Dkt. No. 26.

17 4. Since remand, Biomet has actively engaged in discovery efforts while
18 simultaneously making good faith efforts to settle this case. However, as detailed below, additional
19 time is needed to potentially reach a resolution of this case and, alternatively, complete fact and
20 expert discovery due to the complexity of this litigation.

21 5. Biomet has requested medical records from subpoenaed Plaintiff’s medical records
22 from 15 medical providers. Thus far, Biomet has collected 2,611 pages of records but is still in the
23 process of completing case-specific record collection from Plaintiff’s remaining treating physicians
24 and facilities.

25 6. Biomet requires the medical records from Plaintiff’s treating physicians and facilities
26 in order to identify additional treaters, depose treating physicians and prepare expert witnesses.
27 This task has been laborious due to the large number of physicians and medical departments being
28 contacted. Once medical record collection is complete and Biomet has diligently reviewed the

1 produced documents, Biomet will propound written discovery requests and notice depositions of
2 Plaintiff's treating physicians to timely complete fact discovery.

3 7. The Parties have also been collaborating to locate Plaintiff's missing explanted hip
4 device at issue in this litigation. On November 26, 2019, Biomet subpoenaed the facility where
5 Plaintiff underwent a revision surgery to retrieve the explant device. Plaintiff intends to notice a
6 F.R.C.P. 30(b)(6) deposition to this facility in the event the facility does not produce the device. If
7 the explant is located and produced, the Parties must reach an agreement as to the protocol for
8 shipping, handling, and inspection of the explant device. Once Biomet is in possession of the
9 device, its experts will conduct an inspection that will take approximately six weeks to complete.
10 Biomet's inspection must be done in order to complete expert disclosures.

11 8. The Parties agree that continuing fact and expert discovery deadlines will allow them
12 the necessary time to engage in settlement negotiations, increase the likelihood of settlement, and
13 result in greater efficiencies and potential resolution of the case. In the event these negotiations are
14 unsuccessful, the Parties will still have sufficient time to complete pretrial efforts in advance of
15 deadlines.

16 9. Additional time to complete the above-described pretrial efforts would benefit both
17 sides and result in greater judicial efficiency.

18 10. This request does not affect a trial date, as one has not yet been set.

19 11. This is the Parties' first request for an extension of pretrial deadlines.

20 12. This request is not made for the purpose of delay.


21 **IT IS HEREBY STIPULATED AND REQUESTED**, by and between the Parties and their
22 respective counsel, that discovery and motion deadlines be extended as specified in this stipulation
23 as follows:

- 24 • Last date to complete case-specific fact discovery from February 28, 2020 to **July 3,**
25 **2020.**
- 26 • Last date for Plaintiff to designate and serve expert witness reports for case-specific
27 experts from April 14, 2020 to **August 19, 2020.**
- 28 • Last date for Defendants to designate and serve expert witness reports for case-specific
experts from May 12, 2020 to **September 24, 2020.**

- Last date to disclose rebuttal experts from June 2, 2020 to **October 2, 2020.**
- Last date to complete case-specific expert discovery from June 16, 2020 to **October 29, 2020.**
- Last date to file motions *in limine* and dispositive motions from July 27, 2020 to **December 4, 2020.**

Dated: February 7, 2020

FAEGRE DRINKER BIDDLE & REATH LLP

By: 
Tarifa B. Laddon (*Pro Hac Vice*)
Theodore O'Reilly (*Pro Hac Vice*)

Attorneys for Defendants
BIOMET, INC. and BIOMET ORTHOPEDICS,
LLC

Dated: January 27, 2020

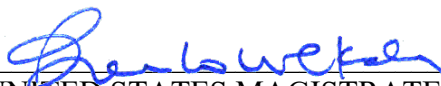
JAMES R. CHRISTENSEN P.C.

By: /s/James R. Christensen
James R. Christensen

Attorneys for Plaintiff
REBECCA FRANKS

IT IS SO ORDERED:

DATED: 2/11/2020


UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that service of the foregoing pleading or paper was sent via electronic service on February 7, 2020, to the following attorneys of record:

James R. Christensen
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/s/ 

Rosie Garcia-Zapatero

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