

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CAROL RAGONESE,

Plaintiff,

vs.

STRYKER CORPORATION

Defendant.

CASE NO.

JUDGE

**NOTICE OF REMOVAL BY
DEFENDANT HOWMEDICA
OSTEONICS CORP., INCORRECTLY
IDENTIFIED IN PLAINTIFF'S
COMPLAINT AS STRYKER
CORPORATION**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, defendant, Howmedica Osteonics Corp. (hereinafter "HOC"), incorrectly identified in Plaintiff's Complaint as Stryker Corporation, by and through its undersigned counsel, hereby gives notice of removal of the above-captioned action, Case No. 2006 12 7967, pending in the Court of Common Pleas, Summit County, Ohio, to this Court. In support of removal, HOC states as follows:

1. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) in that this Notice of Removal has been filed within thirty (30) days after receipt of the Complaint by the first and only defendant in Case No. 2006 12 7967, pending in the Court of Common Pleas, Summit County, Ohio, to this Court. The Complaint in this matter was filed on December 7,

2006. HOC received a copy of this Complaint on January 29, 2007. It follows that the earliest possible deadline for this Notice of Removal is thirty (30) days after January 29, 2007, or February 28, 2007. This Notice of Removal is therefore timely filed.

2. The Court of Common Pleas in Summit County, Ohio is located within the Northern District of Ohio, Eastern Division.

3. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders received by HOC, which papers include the summons and Complaint, are attached hereto as Exhibit A. A copy of the certified mail return receipt card, which reflects the date on which HOC received the Complaint and summons, is attached as Exhibit B.

4. Diversity Jurisdiction: This Court has original jurisdiction over this action under 28 U.S.C. § 1332 and, therefore, this action is removable to this Court on that basis given that:

(a) Plaintiff is citizen of Ohio.

(b) HOC was never, at the time of the commencement of this action and all times thereafter through and including the present time, a corporation with its domicile and principal place of business in Ohio. Defendant, HOC, is a Michigan corporation with its domicile and principal place of business in Michigan. Accordingly, there is diversity of citizenship between the parties.

(c) HOC has filed this notice of removal in good faith and on a reasonable basis in law and in fact that the requisite amount in controversy is being sought in this action. HOC believes, in good faith and on a reasonable basis, that the amount in controversy in this matter exceeds \$75,000, exclusive of interest and costs. The Complaint alleges that HOC designed, manufactured, and sold a defective Long Gamma R 2.0. Plaintiff's alleged damages result from physical injuries and hospital and medical expenses. Further, plaintiff alleges that

HOC violated the Ohio Consumer Sales Practices Act and is seeking treble damages. (*See generally* Complaint.)

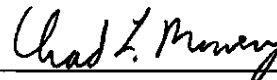
5. By removing this action to this Court, HOC does not waive any defenses available to it and expressly reserves the right to assert all such defenses in its responsive pleadings.

6. For the foregoing reasons, this Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332, and this action is properly removed pursuant to 28 U.S.C. §§ 1441 and 1446.

CONCLUSION

WHEREFORE, defendant, Howmedica Osteonics Corp., incorrectly identified in Plaintiff's Complaint as Stryker Corporation, prays that this notice of removal be filed; that this action, Case No. 2006 12 7967, pending in the Court of Common Pleas in Summit County, Ohio be removed to and proceed in this Court; and that no further proceedings be had in this case in the Court of Common Pleas in Summit County, Ohio.

Respectfully submitted,



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ATTORNEYS FOR DEFENDANT
HOWMEDICA OSTEONICS CORP.
(INCORRECTLY IDENTIFIED IN
PLAINTIFF'S COMPLAINT AS STRYKER
CORPORATION)

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of February, 2007, I did serve a true and correct copy of the foregoing via regular U.S. Mail upon the following:

Stanley P. Aronson
Theodore F. Scribner
ARONSON & ASSOCIATES
3085 W. Market Street, Suite 130
Akron, Ohio 44333
Counsel for Plaintiff, Carol Ragonese



Chad L. Mowery, Esq. (#0073034)