

CASE INFORMATION SHEET
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COUNTY AND COURT:

United States District Court for the Middle District of Florida,
Tampa Division

NAME OF CASE:

Paul E. Lederman v. Howmedica Osteonics Corp., Stryker
Orthopaedics Corp. d/b/a Stryker Corp. and Alan L. Valadie, M.D.

CASE DOCKET NO.: 8:13-cv-00506-JSM- **JUDGE:** Honorable James
AEP S. Moody, Jr.

PLAINTIFF ATTORNEY:

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MATTHEW ERJAVEC, P.A.
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Sarasota, Florida 34240

DEFENDANT(S) ATTORNEY:

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Counsel for Alan L. Valadie, M.D.

Counsel for Howmedica Osteonics
Corp. and Stryker Orthopaedics
Corp. d/b/a Stryker Corp.

AGE/SEX/OCCUPATION OF PLAINTIFF:

Paul E. Lederman is a 50 year-old, Caucasian male. He was
employed as a full time professional tennis instructor.

FOR WRONGFUL DEATH CASES, PLEASE GIVE AGE AND RELATIONSHIP OF SURVIVORS:

N/A

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

On August 30, 2004, Paul E. Lederman underwent a total hip replacement surgery performed by Dr. Alan L. Valadie, the operating surgeon, at Manatee Memorial Hospital in Bradenton, Florida during which Dr. Valadie implanted hip replacement components that had been designed, manufactured, distributed and sold by co-defendant, Howmedica/Stryker.

CAUSE OF INJURY:

Mr. Lederman alleged that the hip replacement components utilized by Dr. Valadie during the August 30, 2004 surgery were defective.

NATURE OF INJURY:

Mr. Lederman alleged that the defective hip replacement components caused structural damage to his right hip and leg. On December 5, 2011, he underwent a total right hip arthroplasty revision surgery. He claimed he continued to experience right hip pain and was told that an additional and more extensive revision surgery would be required should his symptoms persist.

PLAINTIFF'S EXPERT WITNESSES:

N/A

DEFENDANTS' EXPERT WITNESSES:

N/A

DISMISSAL:

On April 10, 2013, Judge Moody dismissed the claims against Dr. Valadie.

PLAINTIFF'S DEMAND:

N/A

DEFENDANT'S OFFER:

N/A

ATTORNEY'S COMMENTS:

Mr. Lederman originally filed this medical device product liability lawsuit in state court. The theories against Howmedica/Stryker included strict liability, negligence, breach of implied warranty and failure to warn. The theories against Dr. Valadie included strict liability, strict liability failure to warn and failure to take remedial measures, predicated upon Dr. Valadie allegedly acting as an "agent" of Howmedica/Stryker.

Howmedica/Stryker removed the case to federal court based on diversity jurisdiction on the grounds that Dr. Valadie had been fraudulently joined as a defendant. Howmedica/Stryker moved to dismiss the case based on federal preemption grounds under the Medical Device Amendments of 1976.

Dr. Valadie moved to dismiss the case on the grounds that a strict product liability theory does not lie against a physician for an allegedly defective product utilized for the primary purpose of the rendition of medical care and treatment. Dr. Valadie also moved to dismiss on the grounds that plaintiff's claims against Dr. Valadie sounded in alleged medical negligence, and plaintiff had failed to comply with the presuit requirements of Chapter 766, Fla. Stat.

Mr. Lederman moved to remand the case to state court, contending that Dr. Valadie could be held liable under a strict product liability theory as an "agent" of the manufacturer.

Judge Moody denied plaintiff's motion to remand and concluded that Dr. Valadie was not a properly joined defendant. The court held that a strict product liability claim against Dr. Valadie failed as a matter of law, as the relationship between Mr. Lederman and Dr. Valadie related predominantly to the rendering of medical care.

Judge Moody further held that plaintiff's claims against Dr. Valadie must arise under medical negligence. He held plaintiff impermissibly was circumventing the requirements and restrictions of the medical malpractice statute, with which plaintiff had not complied.

In denying plaintiff's motion to remand, Judge Moody dismissed the claims against Dr. Valadie and ordered the Clerk to dismiss Dr. Valadie as a defendant.

Submitted by: Bryan R. Snyder, Esquire **Date:** May 6, 2013

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BRS/