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PARTIES AND JURISDICTION

1. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 and therefore denies them.

2. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 and therefore denies them.

3. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 and therefore denies them.

4. Paragraph 4 contains statements to which no response is required.

5. Defendant admits that DePuy Orthopaedics, Inc. ("DePuy") is an Indiana corporation with its principal place of business in the State of Indiana. Defendant denies the remaining allegations contained in Paragraph 5 as phrased.

6. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 and therefore denies them.

7. Defendant admits that DePuy's products are prescribed, sold, and used in the State of Nevada. Defendant denies the remaining allegations contained in Paragraph 7 as phrased.

8. Defendant admits that DePuy is the responsible U.S. entity for the design, manufacture, label, distribution, marketing, and sale of the ASR™ XL System and the ASR™ Surface Replacement femoral head component. Defendant denies the remaining allegations contained in Paragraph 8 as phrased, and incompletely and inaccurately presented.

1 9. Defendant lacks knowledge or information sufficient to form a
2 belief as to the truth of the allegations contained in Paragraph 9 and therefore
3 denies them.

4 10. Defendant admits that Precision Instruments, Inc. delivered
5 the ASR™ XL System and the ASR™ Surface Replacement femoral head
6 component. Defendant denies the remaining allegations contained in Paragraph
7 10 as phrased, and incompletely and inaccurately presented.

8 11. Defendant denies the allegations contained in Paragraph 11.

9 12. Defendant lacks knowledge or information sufficient to form a
10 belief as to whether ASR devices were implanted in Plaintiffs and therefore denies
11 those allegations. Defendant denies the remaining allegations contained in
12 Paragraph 12.

13 13. Defendant admits that Precision Instruments, Inc. delivered
14 the ASR™ XL System and the ASR™ Surface Replacement femoral head
15 component. Defendant denies the remaining allegations contained in Paragraph
16 13 as phrased, and incompletely and inaccurately presented.

17 14. Defendant denies the allegations contained in Paragraph 14 as
18 phrased, and incompletely and inaccurately presented.

19 15. Defendant lacks knowledge or information sufficient to form a
20 belief as to the truth of the allegations contained in Paragraph 15 and therefore
21 denies them.

22 16. Defendant denies the allegations contained in Paragraph 16 as
23 phrased, and incompletely and inaccurately presented.

24 17. Defendant lacks knowledge or information sufficient to form a
25 belief as to the truth of the allegations contained in Paragraph 17 and therefore
26 denies them.

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1 18. Defendant lacks knowledge or information sufficient to form a
2 belief as to the truth of the allegations contained in Paragraph 18 and therefore
3 denies them.

4 19. Paragraph 19 contains statements to which no response is
5 required.

6 **VENUE**

7 20. Defendant lacks knowledge or information sufficient to form a
8 belief as to the truth of the allegations contained in Paragraph 20 and therefore
9 denies them.

10 21. Defendant lacks knowledge or information sufficient to form a
11 belief as to Plaintiffs' medical history, diagnosis, or prognosis, and therefore denies
12 those allegations. Defendant denies any wrongdoing. Defendant denies the
13 remaining allegations contained in Paragraph 21 as phrased.

14 **FACTUAL BACKGROUND**

15 22. Defendant admits that DePuy began selling the ASR™ XL
16 System in 2005 and the ASR™ Surface Replacement femoral head component in
17 the United States in 2006, and that the ASR devices are used at the discretion of
18 surgeons for hip replacement procedures. Defendant denies the remaining
19 allegations contained in Paragraph 22.

20 23. Defendant admits that DePuy is the responsible U.S. entity for
21 the marketing of the ASR™ XL System and the ASR™ Surface Replacement
22 femoral head component. Defendant denies the remaining allegations contained
23 in Paragraph 23 as phrased, and incompletely and inaccurately presented.

24 24. Defendant denies the allegations contained in Paragraph 24 as
25 phrased, and incompletely and inaccurately presented.

26 25. Defendant states that DePuy's written communications about
27 its products speak for themselves. Defendant denies the remaining allegations
28 contained in Paragraph 25 as phrased.

1 26. Defendant states that DePuy's written communications about
2 its products speak for themselves. Defendant denies the remaining allegations
3 contained in Paragraph 26 as interpreted, phrased, and incompletely and
4 inaccurately presented.

5 27. Defendant states that DePuy's written communications about
6 its products speak for themselves. Defendant denies the remaining allegations
7 contained in Paragraph 27 as interpreted, phrased, and incompletely presented.

8 28. Defendant states that DePuy's written communications about
9 its products speak for themselves. Defendant denies the remaining allegations
10 contained in Paragraph 28 as interpreted, phrased, and incompletely and
11 inaccurately presented.

12 **Warnings from Independent Orthopedic Experts**

13 29. Defendant lacks knowledge or information sufficient to form a
14 belief as to what unidentified individuals said or believed at any given time and
15 therefore denies those allegations. Defendant denies the remaining allegations
16 contained in Paragraph 29, and expressly denies that the ASR devices are "flawed."

17 30. Defendant lacks knowledge or information sufficient to form a
18 belief as to what unidentified "orthopedic experts" said or believed at any given
19 time and therefore denies those allegations. Defendant denies the remaining
20 allegations contained in Paragraph 30, and expressly denies that the ASR devices
21 are faulty in any manner.

22 31. Defendant lacks knowledge or information sufficient to form a
23 belief as to what unidentified "orthopedic experts" said or believed at any given
24 time and therefore denies those allegations. Defendant denies the remaining
25 allegations contained in Paragraph 31, and expressly denies that the ASR devices
26 are faulty in any manner.

27 32. Defendant lacks knowledge or information sufficient to form a
28 belief as to what unidentified "orthopedic experts" said or believed at any given

1 time and therefore denies those allegations. Defendant denies the remaining
2 allegations contained in Paragraph 32, and expressly denies that the ASR devices
3 are faulty in any manner.

4 33. Defendant states that data from the Australian National Joint
5 Replacement Registry speaks for itself. Defendant denies the remaining
6 allegations contained in Paragraph 33 as phrased, and incompletely and
7 inaccurately presented.

8 34. Defendant states that DePuy's written communications about
9 its products speak for themselves. Defendant denies that the ASR devices are
10 "defective." Defendant denies the remaining allegations contained in Paragraph 34
11 as phrased, and incompletely and inaccurately presented.

12 35. Defendant admits that Precision Instruments, Inc. delivered
13 ASR devices. Defendant states that DePuy's written communications about its
14 products speak for themselves. Defendant denies the remaining allegations
15 contained in Paragraph 35 as phrased, and incompletely and inaccurately
16 presented.

17 36. Defendant lacks knowledge or information sufficient to form a
18 belief as to what Precision Instruments, Inc.'s employees or agents knew at any
19 given time, or the nature or frequency of communications between Precision
20 Instruments, Inc. and implanting surgeons, and therefore denies those allegations.
21 Defendant denies the remaining allegations contained in Paragraph 36, and
22 expressly denies that the ASR devices failed.

23 **Suspension and Recall**

24 37. Defendant states that any unidentified complaints speak for
25 themselves. Defendant denies that the ASR devices failed. Defendant denies the
26 remaining allegations contained in Paragraph 37 as interpreted, phrased, and
27 incompletely and inaccurately presented.

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1 53. Defendant lacks knowledge or information sufficient to form a
2 belief as to the truth of the allegations contained in Paragraph 53 and therefore
3 denies them.

4 54. Defendant lacks knowledge or information sufficient to form a
5 belief as to the truth of the allegations contained in Paragraph 54 and therefore
6 denies them.

7 55. Defendant lacks knowledge or information sufficient to form a
8 belief as to the truth of the allegations contained in Paragraph 55 and therefore
9 denies them.

10 56. Defendant lacks knowledge or information sufficient to form a
11 belief as to the truth of the allegations contained in Paragraph 56 and therefore
12 denies them.

13 57. Defendant lacks knowledge or information sufficient to form a
14 belief as to the truth of the allegations contained in Paragraph 57 and therefore
15 denies them.

16 58. Defendant lacks knowledge or information sufficient to form a
17 belief as to the truth of the allegations contained in Paragraph 58 and therefore
18 denies them.

19 59. Defendant denies that the ASR devices are "defective."
20 Defendant lacks knowledge or information sufficient to form a belief as to the
21 truth of the remaining allegations contained in Paragraph 59 and therefore denies
22 them.

23 60. Defendant lacks knowledge or information sufficient to form a
24 belief as to Plaintiff Bender's medical history, diagnosis, or prognosis, and
25 therefore denies those allegations. Defendant denies the remaining allegations
26 contained in Paragraph 60, and expressly denies that the ASR devices "failed."
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Background of Plaintiff GUY

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61. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 61 and therefore denies them.

62. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 62 and therefore denies them.

63. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 63 and therefore denies them.

64. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 64 and therefore denies them.

65. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 65 and therefore denies them.

66. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 66 and therefore denies them.

67. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 67 and therefore denies them.

68. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 68 and therefore denies them.

69. Defendant denies that the ASR devices are "defective."
Defendant lacks knowledge or information sufficient to form a belief as to the

1 truth of the remaining allegations contained in Paragraph 69 and therefore denies
2 them.

3 70. Defendant lacks knowledge or information sufficient to form a
4 belief as to Plaintiff Guy's medical history, diagnosis, or prognosis, and therefore
5 denies those allegations. Defendant denies the remaining allegations contained in
6 Paragraph 70, and expressly denies that the ASR devices "failed."

7 71. Defendant denies the allegations contained in Paragraph 71.

8 **Effect on PLAINTIFFS**

9 72. Defendant admits that DePuy is the responsible U.S. entity for
10 the design, manufacture, label, distribution, marketing, and sale of the ASR™ XL
11 System and the ASR™ Surface Replacement femoral head component. Defendant
12 lacks knowledge or information sufficient to form a belief as to the truth of the
13 remaining allegations contained in Paragraph 72 and therefore denies them.

14 73. Defendant admits that Precision Instruments, Inc. delivered
15 the ASR™ XL System and the ASR™ Surface Replacement femoral head
16 component. Defendant lacks knowledge or information sufficient to form a belief
17 as to whether ASR devices were implanted in Plaintiffs, and therefore denies those
18 allegations. Defendant denies the remaining allegations contained in Paragraph 73
19 as phrased, and incompletely and inaccurately presented.

20 74. Defendant denies the allegations contained in Paragraph 74 as
21 phrased, and incompletely and inaccurately presented.

22 75. Defendant denies that the ASR devices are faulty in any
23 manner. Defendant lacks knowledge or information sufficient to form a belief as
24 to the truth the remaining allegations contained in Paragraph 75 and therefore
25 denies them.

26 76. Defendant denies that the ASR devices are faulty in any
27 manner. Defendant lacks knowledge or information sufficient to form a belief as
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1 to the truth the remaining allegations contained in Paragraph 76 and therefore
2 denies them.

3 77. Defendant denies the allegations contained in Paragraph 77,
4 and expressly denies any wrongdoing, and that the ASR devices "failed."

5 78. Defendant denies the allegations contained in Paragraph 78,
6 and expressly denies that the ASR devices "failed."

7 79. Defendant denies the allegations contained in Paragraph 79,
8 and expressly denies that the ASR devices failed or are "defective."

9 **FIRST CAUSE OF ACTION:**
10 **NEGLIGENCE OF DEPUY ORTHOPAEDICS, INC.**

11 80. Defendant incorporates by reference its responses to
12 Paragraphs 1 through 79 as if fully stated herein. Defendant denies the remaining
13 allegations contained in Paragraph 80.

14 81. Defendant admits that DePuy is the responsible U.S. entity for
15 the design, manufacture, label, distribution, marketing, and sale of the ASR™ XL
16 System and the ASR™ Surface Replacement femoral head component. The
17 remaining allegations contained in Paragraph 81 are legal statements or
18 conclusions to which no response is required. To the extent that a response is
19 required, Defendant denies that the remaining allegations contained in Paragraph
20 81 are an accurate and complete statement of the applicable law.

21 82. Defendant admits that DePuy is the responsible U.S. entity for
22 the design, manufacture, label, distribution, marketing, and sale of the ASR™ XL
23 System and the ASR™ Surface Replacement femoral head component. The
24 remaining allegations contained in Paragraph 82 are legal statements or
25 conclusions to which no response is required. To the extent that a response is
26 required, Defendant denies that the remaining allegations contained in Paragraph
27 82 are an accurate and complete statement of the applicable law.

28 83. Defendant denies the allegations contained in Paragraph 83.

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84. Defendant denies the allegations contained in Paragraph 84.

85. Defendant denies the allegations contained in Paragraph 85.

86. Defendant denies the allegations contained in Paragraph 86.

SECOND CAUSE OF ACTION:
STRICT LIABILITY OF DEPUY ORTHOPAEDICS, INC. – DESIGN DEFECT

87. Defendant incorporates by reference its responses to Paragraphs 1 through 86 as if fully stated herein. Defendant denies the remaining allegations contained in Paragraph 87.

88. Defendant denies the allegations contained in Paragraph 88.

89. Defendant denies the allegations contained in Paragraph 89.

90. Defendant lacks knowledge or information sufficient to form a belief as to the condition in which the ASR devices allegedly reached Plaintiffs and therefore denies those allegations. Defendant denies the remaining allegations contained in Paragraph 90 as phrased.

91. Defendant lacks knowledge or information sufficient to form a belief as to the truth the allegations contained in Paragraph 91 and therefore denies them.

92. Defendant denies the allegations contained in Paragraph 92, and expressly denies any wrongdoing, and that the ASR devices are "dangerous," "defective," or faulty in any manner.

93. Defendant denies the allegations contained in Paragraph 93, including subparts a-f.

94. Defendant denies the allegations contained in Paragraph 94.

95. Defendant lacks knowledge or information sufficient to form a belief as to the truth the allegations contained in Paragraph 95 and therefore denies them.

96. Defendant denies the allegations contained in Paragraph 96, and expressly denies that the ASR devices are "defective."

1 97. Defendant denies the allegations contained in Paragraph 97.

2 **THIRD CAUSE OF ACTION:**
3 **STRICT PRODUCT LIABILITY – FAILURE TO WARN**

4 98. Defendant incorporates by reference its responses to
5 Paragraphs 1 through 97 as if fully stated herein. Defendant denies the remaining
6 allegations contained in Paragraph 98.

7 99. Defendant denies the allegations contained in Paragraph 99.

8 100. Defendant denies the allegations contained in Paragraph 100,
9 and expressly denies that the ASR devices are "defective."

10 101. Defendant denies the allegations contained in Paragraph 101.

11 102. Defendant lacks knowledge or information sufficient to form a
12 belief as to Plaintiffs' state of knowledge at any given time and therefore denies
13 those allegations. Defendant denies the remaining allegations contained in
14 Paragraph 102, and expressly denies that the ASR devices are defective.

15 103. Defendant denies the allegations contained in Paragraph 103,
16 and expressly denies that the ASR devices are "defective."

17 **FOURTH CAUSE OF ACTION:**
18 **BREACH OF IMPLIED WARRANTY OF DEPUY ORTHOPAEDICS, INC.**

19 104. Defendant incorporates by reference its responses to
20 Paragraphs 1 through 103 as if fully stated herein. Defendant denies the
21 remaining allegations contained in Paragraph 104.

22 105. Defendant admits that DePuy is the responsible U.S. entity for
23 the design, manufacture, label, distribution, marketing, and sale of the ASR™ XL
24 System and the ASR™ Surface Replacement femoral head component. Defendant
25 lacks knowledge or information sufficient to form a belief as to the truth of the
26 remaining allegations contained in Paragraph 105 and therefore denies them.

27 106. The allegations contained in Paragraph 106 are legal
28 statements or conclusions to which no response is required. To the extent a

1 response is required, Defendant denies the allegations contained in Paragraph 106
2 as phrased.

3 107. Defendant lacks knowledge or information sufficient to form a
4 belief as to the truth of the allegations contained in Paragraph 107 and therefore
5 denies them.

6 108. Defendant lacks knowledge or information sufficient to form a
7 belief as to what Plaintiffs knew or relied upon at any given time and therefore
8 denies those allegations. Defendant denies the remaining allegations contained in
9 Paragraph 108.

10 109. Defendant admits that Precision Instruments, Inc. delivered
11 the ASR devices. Defendant denies the remaining allegations contained in
12 Paragraph 109.

13 110. Defendant denies the allegations contained in Paragraph 110,
14 and expressly denies that the ASR devices are "dangerous" or faulty in any
15 manner.

16 111. Defendant denies the allegations contained in Paragraph 111,
17 and expressly denies that the ASR devices "failed."

18 112. Defendant denies the allegations contained in Paragraph 112.

19 113. Defendant denies the allegations contained in Paragraph 113.

20 **FIFTH CAUSE OF ACTION:**
21 **BREACH OF EXPRESS WARRANTY OF DEPUY ORTHOPAEDICS, INC.**

22 114. Defendant incorporates by reference its responses to
23 Paragraphs 1 through 113 as if fully stated herein. Defendant denies the
24 remaining allegations contained in Paragraph 114.

25 115. Defendant admits that DePuy is the responsible U.S. entity for
26 the design, manufacture, label, distribution, marketing, and sale of the ASR™ XL
27 System and the ASR™ Surface Replacement femoral head component. Defendant
28

1 lacks knowledge or information sufficient to form a belief as to the truth of the
2 remaining allegations contained in Paragraph 115 and therefore denies them.

3 116. The allegations contained in Paragraph 116 are legal
4 statements or conclusions to which no response is required. To the extent a
5 response is required, Defendant denies the allegations contained in Paragraph 116
6 as phrased.

7 117. Defendant denies the allegations contained in Paragraph 117.

8 118. Defendant lacks knowledge or information sufficient to form a
9 belief as to the truth of the allegations contained in Paragraph 118 and therefore
10 denies them.

11 119. Defendant lacks knowledge or information sufficient to form a
12 belief as to the truth of the allegations contained in Paragraph 119 and therefore
13 denies them.

14 120. Defendant admits that Precision Instruments, Inc. delivered
15 the ASR devices. Defendant denies the remaining allegations contained in
16 Paragraph 120.

17 121. Defendant denies the allegations contained in Paragraph 121.

18 122. Defendant denies the allegations contained in Paragraph 122,
19 and expressly denies that the ASR devices "failed."

20 123. Defendant denies the allegations contained in Paragraph 123.

21 124. Defendant denies the allegations contained in Paragraph 124.

22 **SIXTH CAUSE OF ACTION:**
23 **DECEPTIVE TRADE PRACTICE ACT VIOLATION OF**
24 **DEPUY ORTHOPAEDICS, INC.**

25 125. Defendant incorporates by reference its responses to
26 Paragraphs 1 through 124 as if fully stated herein. Defendant denies the
27 remaining allegations contained in Paragraph 125.

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1 126. Defendant denies the allegations contained in Paragraph 126,
2 including sub-parts 1-4, and expressly denies any wrongdoing.

3 127. Defendant denies the allegations contained in Paragraph 127.

4 **SEVENTH CAUSE OF ACTION:**
5 **DECEIT BY CONCEALMENT**

6 128. Defendant incorporates by reference its responses to
7 Paragraphs 1 through 127 as if fully stated herein. Defendant denies the
8 remaining allegations contained in Paragraph 128.

9 129. Paragraph 129 contains legal statements or conclusions
10 regarding Defendant's duties to which no response is required. To the extent a
11 response is required, Defendant denies that those allegations are an accurate and
12 complete statement of the applicable law. Defendant denies the remaining
13 allegations contained in Paragraph 129, and expressly denies any wrongdoing.

14 130. Defendant denies the allegations contained in Paragraph 130.

15 131. Defendant denies the allegations contained in Paragraph 131,
16 and expressly denies that the ASR devices are faulty in any manner.

17 132. Defendant denies the allegations contained in Paragraph 132,
18 and expressly denies any wrongdoing, and that the ASR devices are dangerous.

19 133. Defendant denies the allegations contained in Paragraph 133.

20 **EIGHTH CAUSE OF ACTION:**
21 **NEGLIGENT MISREPRESENTATION BY DEPUY**

22 134. Defendant incorporates by reference its responses to
23 Paragraphs 1 through 133 as if fully stated herein. Defendant denies the
24 remaining allegations contained in Paragraph 134.

25 135. Defendant denies the allegations contained in Paragraph 135,
26 and expressly denies any wrongdoing.

27 136. Defendant denies the allegations contained in Paragraph 136.

1 137. Defendant states that DePuy's written communications about
2 its products speak for themselves. Defendant denies the remaining allegations
3 contained in Paragraph 137, including subparts a-d.

4 138. Defendant denies the allegations contained in Paragraph 138,
5 including subparts a-f, and expressly denies any wrongdoing, and that the ASR
6 devices are faulty in any manner.

7 139. Defendant states that DePuy's written communications about
8 its products speak for themselves. Defendant denies the remaining allegations
9 contained in Paragraph 139, and expressly denies any wrongdoing.

10 140. Defendant denies the allegations contained in Paragraph 140,
11 and expressly denies any wrongdoing, and that the ASR devices are faulty in any
12 manner.

13 141. Defendant denies the allegations contained in Paragraph 141,
14 and expressly denies any wrongdoing.

15 142. Defendant denies the allegations contained in Paragraph 142,
16 and expressly denies any wrongdoing.

17 143. Defendant lacks knowledge or information sufficient to form a
18 belief as to what Plaintiffs or Plaintiffs' orthopedic surgeons would or would not
19 do under hypothetical scenarios, and therefore denies those allegations. Defendant
20 denies the remaining allegations contained in Paragraph 143, and expressly denies
21 any wrongdoing.

22 144. Defendant denies the allegations contained in Paragraph 144,
23 and expressly denies any wrongdoing.

24 145. Defendant denies the allegations contained in Paragraph 145.

25 **NINTH CAUSE OF ACTION:**
26 **NEGLIGENCE OF PRECISION INSTRUMENTS, INC.**

27 146. The allegations contained in Paragraph 146 are asserted
28 against individuals or entities other than this answering Defendant and therefore

1 require no response. To the extent a response is required, Defendant incorporates
2 by reference its responses to Paragraphs 1 through 145 as if fully stated herein.
3 Defendant denies the remaining allegations contained in Paragraph 146.

4 147. The allegations contained in Paragraph 147 are asserted
5 against individuals or entities other than this answering Defendant and therefore
6 require no response. To the extent a response is required, Paragraph 147 contains
7 legal statements or conclusions regarding Defendant's duties to which no response
8 is required. To the extent a response is required, Defendant denies that those
9 allegations are an accurate and complete statement of the applicable law.

10 Defendant admits that Precision Instruments, Inc. delivered the ASR devices.
11 Defendant denies the remaining allegations contained in Paragraph 147.

12 148. The allegations contained in Paragraph 148 are asserted
13 against individuals or entities other than this answering Defendant and therefore
14 require no response. To the extent a response is required, Paragraph 148 contains
15 legal statements or conclusions regarding Defendant's duties to which no response
16 is required. To the extent a response is required, Defendant denies that those
17 allegations are an accurate and complete statement of the applicable law.

18 Defendant admits that Precision Instruments, Inc. delivered the ASR devices.
19 Defendant denies the remaining allegations contained in Paragraph 148.

20 149. The allegations contained in Paragraph 149 are asserted
21 against individuals or entities other than this answering Defendant and therefore
22 require no response. To the extent a response is required, Paragraph 149 contains
23 legal statements or conclusions regarding Defendant's duties to which no response
24 is required. To the extent a response is required, Defendant denies that those
25 allegations are an accurate and complete statement of the applicable law.

26 Defendant admits that Precision Instruments, Inc. delivered the ASR devices.
27 Defendant denies the remaining allegations contained in Paragraph 149.

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1 150. The allegations contained in Paragraph 150 are asserted
2 against individuals or entities other than this answering Defendant and therefore
3 require no response. To the extent a response is required, Defendant denies the
4 allegations contained in Paragraph 150.

5 151. The allegations contained in Paragraph 151 are asserted
6 against individuals or entities other than this answering Defendant and therefore
7 require no response. To the extent a response is required, Defendant denies the
8 allegations contained in Paragraph 151.

9 152. The allegations contained in Paragraph 152 are asserted
10 against individuals or entities other than this answering Defendant and therefore
11 require no response. To the extent a response is required, Defendant denies the
12 allegations contained in Paragraph 152.

13 153. The allegations contained in Paragraph 153 are asserted
14 against individuals or entities other than this answering Defendant and therefore
15 require no response. To the extent a response is required, Defendant denies the
16 allegations contained in Paragraph 153.

17 154. The allegations contained in Paragraph 154 are asserted
18 against individuals or entities other than this answering Defendant and therefore
19 require no response. To the extent a response is required, Defendant denies the
20 allegations contained in Paragraph 154.

21 **TENTH CAUSE OF ACTION:**
22 **STRICT LIABILITY OF PRECISION INSTRUMENTS, INC. -**
23 **DESIGN DEFECT**

24 155. The allegations contained in Paragraph 155 are asserted
25 against individuals or entities other than this answering Defendant and therefore
26 require no response. To the extent a response is required, Defendant incorporates
27 by reference its responses to Paragraphs 1 through 154 as if fully stated herein.
28 Defendant denies the remaining allegations contained in Paragraph 155.

1 156. The allegations contained in Paragraph 156 are asserted
2 against individuals or entities other than this answering Defendant and therefore
3 require no response. To the extent a response is required, Defendant denies the
4 allegations contained in Paragraph 156.

5 157. The allegations contained in Paragraph 157 are asserted
6 against individuals or entities other than this answering Defendant and therefore
7 require no response. To the extent a response is required, Defendant denies the
8 allegations contained in Paragraph 157, and expressly denies that the ASR devices
9 are "defective."

10 158. The allegations contained in Paragraph 158 are asserted
11 against individuals or entities other than this answering Defendant and therefore
12 require no response. To the extent a response is required, Defendant lacks
13 knowledge or information sufficient to form a belief as to the condition in which
14 an ASR device allegedly reached Plaintiffs and therefore denies those allegations.
15 Defendant denies the remaining allegations contained in Paragraph 158 as
16 phrased.

17 159. The allegations contained in Paragraph 159 are asserted
18 against individuals or entities other than this answering Defendant and therefore
19 require no response. To the extent a response is required, Defendant lacks
20 knowledge or information sufficient to form a belief as to the truth the allegations
21 contained in Paragraph 159 and therefore denies them.

22 160. The allegations contained in Paragraph 160 are asserted
23 against individuals or entities other than this answering Defendant and therefore
24 require no response. To the extent a response is required, Defendant lacks
25 knowledge or information sufficient to form a belief as to what Precision
26 Instruments disclosed to Plaintiffs or Plaintiffs' orthopedic surgeons and therefore
27 denies those allegations. Defendant denies the remaining allegations contained in
28 Paragraph 160, and expressly denies that the ASR devices are "defective."

1 161. The allegations contained in Paragraph 161 are asserted
2 against individuals or entities other than this answering Defendant and therefore
3 require no response. To the extent a response is required, Defendant denies the
4 allegations contained in Paragraph 161, including subparts a-f, and expressly
5 denies that the ASR devices are "defective."

6 162. The allegations contained in Paragraph 162 are asserted
7 against individuals or entities other than this answering Defendant and therefore
8 require no response. To the extent a response is required, Defendant denies the
9 allegations contained in Paragraph 162.

10 163. The allegations contained in Paragraph 163 are asserted
11 against individuals or entities other than this answering Defendant and therefore
12 require no response. To the extent a response is required, Defendant lacks
13 knowledge or information sufficient to form a belief as to the truth the allegations
14 contained in Paragraph 163 and therefore denies them.

15 164. The allegations contained in Paragraph 164 are asserted
16 against individuals or entities other than this answering Defendant and therefore
17 require no response. To the extent a response is required, Defendant denies the
18 allegations contained in Paragraph 164, and expressly denies that the ASR devices
19 are "defective."

20 165. The allegations contained in Paragraph 165 are asserted
21 against individuals or entities other than this answering Defendant and therefore
22 require no response. To the extent a response is required, Defendant denies the
23 allegations contained in Paragraph 165.

24 **ELEVENTH CAUSE OF ACTION:**
25 **STRICT PRODUCTS LIABILITY: FAILURE TO WARN**

26 166. Defendant incorporates by reference its responses to
27 Paragraphs 1 through 165 as if fully stated herein. Defendant denies the
28 remaining allegations contained in Paragraph 166.

1 167. Defendant denies that the ASR devices are "defective,"
2 "dangerous," or faulty in any manner. The remaining allegations contained in
3 Paragraph 167 are asserted against individuals or entities other than this
4 answering Defendant and therefore require no response. To the extent a response
5 is required, Defendant denies the allegations contained in Paragraph 167.

6 168. Defendant denies that the ASR devices are "defective." The
7 remaining allegations contained in Paragraph 168 are asserted against individuals
8 or entities other than this answering Defendant and therefore require no response.
9 To the extent a response is required, Defendant denies the remaining allegations
10 contained in Paragraph 168.

11 169. Defendant denies that the ASR devices are "defective." The
12 remaining allegations contained in Paragraph 169 are asserted against individuals
13 or entities other than this answering Defendant and therefore require no response.
14 To the extent a response is required, Defendant lacks knowledge or information
15 sufficient to form a belief as to the truth of the remaining allegations contained in
16 Paragraph 169 and therefore denies them.

17 170. Defendant denies that the ASR devices are defective.
18 Defendant lacks knowledge or information sufficient to form a belief as to the
19 truth of the remaining allegations contained in Paragraph 170 and therefore denies
20 them.

21 171. Defendant denies the allegations contained in Paragraph 171,
22 and expressly denies that the ASR devices are "defective."

23 **TWELFTH CAUSE OF ACTION:**
24 **BREACH OF IMPLIED WARRANTY OF PRECISION INSTRUMENTS, INC.**

25 172. The allegations contained in Paragraph 172 are asserted
26 against individuals or entities other than this answering Defendant and therefore
27 require no response. To the extent a response is required, Defendant incorporates

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1 by reference its responses to Paragraphs 1 through 171 as if fully stated herein.
2 Defendant denies the remaining allegations contained in Paragraph 172.

3 173. The allegations contained in Paragraph 173 are asserted
4 against individuals or entities other than this answering Defendant and therefore
5 require no response. To the extent a response is required, Defendant admits that
6 Precision Instruments, Inc. delivered the ASR devices. Defendant denies the
7 remaining allegations contained in Paragraph 173.

8 174. The allegations contained in Paragraph 174 are asserted
9 against individuals or entities other than this answering Defendant and therefore
10 require no response. To the extent a response is required, the allegations
11 contained in Paragraph 174 are legal statements or conclusions to which no
12 response is required. To the extent a response is required, Defendant denies those
13 allegations.

14 175. The allegations contained in Paragraph 175 are asserted
15 against individuals or entities other than this answering Defendant and therefore
16 require no response. To the extent a response is required, Defendant lacks
17 knowledge or information sufficient to form a belief as to the truth of the
18 allegations contained in Paragraph 175 and therefore denies them.

19 176. The allegations contained in Paragraph 176 are asserted
20 against individuals or entities other than this answering Defendant and therefore
21 require no response. To the extent a response is required, Defendant lacks
22 knowledge or information sufficient to form a belief as to the truth of the
23 allegations contained in Paragraph 176 and therefore denies them.

24 177. The allegations contained in Paragraph 177 are asserted
25 against individuals or entities other than this answering Defendant and therefore
26 require no response. To the extent a response is required, Defendant admits that
27 Precision Instruments, Inc. delivered the ASR devices. Defendant denies the
28 remaining allegations contained in Paragraph 177.

1 178. The allegations contained in Paragraph 178 are asserted
2 against individuals or entities other than this answering Defendant and therefore
3 require no response. To the extent a response is required, Defendant denies the
4 allegations contained in Paragraph 178, and expressly denies that the ASR devices
5 are "dangerous" or faulty in any manner.

6 179. The allegations contained in Paragraph 179 are asserted
7 against individuals or entities other than this answering Defendant and therefore
8 require no response. To the extent a response is required, Defendant denies the
9 allegations contained in Paragraph 179, and expressly denies that the ASR devices
10 "failed."

11 180. The allegations contained in Paragraph 180 are asserted
12 against individuals or entities other than this answering Defendant and therefore
13 require no response. To the extent a response is required, Defendant denies the
14 allegations contained in Paragraph 180.

15 181. The allegations contained in Paragraph 181 are asserted
16 against individuals or entities other than this answering Defendant and therefore
17 require no response. To the extent a response is required, Defendant denies the
18 allegations contained in Paragraph 181.

19 **THIRTEENTH CAUSE OF ACTION:**
20 **BREACH OF EXPRESS WARRANTY OF PRECISION INSTRUMENTS, INC.**

21 182. The allegations contained in Paragraph 182 are asserted
22 against individuals or entities other than this answering Defendant and therefore
23 require no response. To the extent a response is required, Defendant incorporates
24 by reference its responses to Paragraphs 1 through 181 as if fully stated herein.
25 Defendant denies the remaining allegations contained in Paragraph 182.

26 183. The allegations contained in Paragraph 183 are asserted
27 against individuals or entities other than this answering Defendant and therefore
28 require no response. To the extent a response is required, Defendant admits that

1 Precision Instruments, Inc. delivered the ASR devices. Defendant denies the
2 remaining allegations contained in Paragraph 183.

3 184. The allegations contained in Paragraph 184 are asserted
4 against individuals or entities other than this answering Defendant and therefore
5 require no response. To the extent a response is required, the allegations
6 contained in Paragraph 184 are legal statements or conclusions to which no
7 response is required. To the extent a response is required, Defendant denies those
8 allegations.

9 185. The allegations contained in Paragraph 185 are asserted
10 against individuals or entities other than this answering Defendant and therefore
11 require no response. To the extent a response is required, Defendant lacks
12 knowledge or information sufficient to form a belief as to the truth of the
13 allegations contained in Paragraph 185 and therefore denies them.

14 186. The allegations contained in Paragraph 186 are asserted
15 against individuals or entities other than this answering Defendant and therefore
16 require no response. To the extent a response is required, Defendant lacks
17 knowledge or information sufficient to form a belief as to the truth of the
18 allegations contained in Paragraph 186 and therefore denies them.

19 187. The allegations contained in Paragraph 187 are asserted
20 against individuals or entities other than this answering Defendant and therefore
21 require no response. To the extent a response is required, Defendant lacks
22 knowledge or information sufficient to form a belief as to the truth of the
23 allegations contained in Paragraph 187 and therefore denies them.

24 188. The allegations contained in Paragraph 188 are asserted
25 against individuals or entities other than this answering Defendant and therefore
26 require no response. To the extent a response is required, Defendant admits that
27 Precision Instruments, Inc. delivered the ASR devices. Defendant denies the
28 remaining allegations contained in Paragraph 188.

1 189. The allegations contained in Paragraph 189 are asserted
2 against individuals or entities other than this answering Defendant and therefore
3 require no response. To the extent a response is required, Defendant denies the
4 allegations contained in Paragraph 189, and expressly denies that the ASR devices
5 are faulty in any manner.

6 190. The allegations contained in Paragraph 190 are asserted
7 against individuals or entities other than this answering Defendant and therefore
8 require no response. To the extent a response is required, Defendant denies the
9 allegations contained in Paragraph 190, and expressly denies that the ASR devices
10 "failed."

11 191. The allegations contained in Paragraph 191 are asserted
12 against individuals or entities other than this answering Defendant and therefore
13 require no response. To the extent a response is required, Defendant denies the
14 allegations contained in Paragraph 191.

15 192. The allegations contained in Paragraph 192 are asserted
16 against individuals or entities other than this answering Defendant and therefore
17 require no response. To the extent a response is required, Defendant denies the
18 allegations contained in Paragraph 192.

19 **FOURTEENTH CAUSE OF ACTION:**
20 **DECEPTIVE TRADE PRACTICE ACT VIOLATION OF**
21 **PRECISION INSTRUMENTS, INC.**

22 193. The allegations contained in Paragraph 193 are asserted
23 against individuals or entities other than this answering Defendant and therefore
24 require no response. To the extent a response is required, Defendant incorporates
25 by reference its responses to Paragraphs 1 through 192 as if fully stated herein.
26 Defendant denies the remaining allegations contained in Paragraph 193.

27 194. The allegations contained in Paragraph 194, including
28 subparts 1-4, are asserted against individuals or entities other than this answering

1 Defendant and therefore require no response. To the extent a response is required,
2 Defendant denies the allegations contained in Paragraph 194, including subparts
3 1-4.

4 195. The allegations contained in Paragraph 195 are asserted
5 against individuals or entities other than this answering Defendant and therefore
6 require no response. To the extent a response is required, Defendant denies the
7 allegations contained in Paragraph 195.

8 196. The allegations contained in Paragraph 196 are asserted
9 against individuals or entities other than this answering Defendant and therefore
10 require no response. To the extent a response is required, Defendant denies the
11 allegations contained in Paragraph 196.

12 **FIFTEENTH CAUSE OF ACTION:**
13 **DECEIT BY CONCEALMENT**

14 197. Defendant incorporates by reference its responses to
15 Paragraphs 1 through 196 as if fully stated herein. Defendant denies the
16 remaining allegations contained in Paragraph 197.

17 198. The allegations contained in Paragraph 198 are asserted
18 against individuals or entities other than this answering Defendant and therefore
19 require no response. To the extent a response is required, the allegations
20 contained in Paragraph 198 regarding Defendant's duties are legal statements or
21 conclusions to which no response is required. To the extent a response is required,
22 Defendant denies that those allegations are an accurate and complete statement of
23 the applicable law. Defendant denies the remaining allegations contained in
24 Paragraph 198.

25 199. The allegations contained in Paragraph 199 are asserted
26 against individuals or entities other than this answering Defendant and therefore
27 require no response. To the extent a response is required, Defendant denies the
28 allegations contained in Paragraph 199.

1 206. The allegations contained in Paragraph 206, including
2 subparts a-d, are asserted against individuals or entities other than this answering
3 Defendant and therefore require no response. To the extent a response is required,
4 Defendant denies the allegations contained in Paragraph 206, including subparts
5 a-d.

6 207. The allegations contained in Paragraph 207, including
7 subparts a-f, are asserted against individuals or entities other than this answering
8 Defendant and therefore require no response. To the extent a response is required,
9 Defendant denies the allegations contained in Paragraph 207, including subparts
10 a-f, and expressly denies that the ASR devices are "flawed" or faulty in any
11 manner.

12 208. The allegations contained in Paragraph 208 are asserted
13 against individuals or entities other than this answering Defendant and therefore
14 require no response. To the extent a response is required, Defendant denies the
15 allegations contained in Paragraph 208.

16 209. The allegations contained in Paragraph 209 are asserted
17 against individuals or entities other than this answering Defendant and therefore
18 require no response. To the extent a response is required, Defendant denies the
19 allegations contained in Paragraph 209, and expressly denies that the ASR devices
20 are "hazardous" or faulty in any manner.

21 210. The allegations contained in Paragraph 210 are asserted
22 against individuals or entities other than this answering Defendant and therefore
23 require no response. To the extent a response is required, Defendant lacks
24 knowledge or information sufficient to form a belief as to the truth of the
25 allegations contained in Paragraph 210 and therefore denies them.

26 211. The allegations contained in Paragraph 211 are asserted
27 against individuals or entities other than this answering Defendant and therefore
28 require no response. To the extent a response is required, Defendant lacks

1 knowledge or information sufficient to form a belief as to what Plaintiffs relied
2 upon at any given time and therefore denies those allegations. Defendant denies
3 the remaining allegations contained in Paragraph 211.

4 212. The allegations contained in Paragraph 212 are asserted
5 against individuals or entities other than this answering Defendant and therefore
6 require no response. To the extent a response is required, Defendant lacks
7 knowledge or information sufficient to form a belief as to what Plaintiffs would or
8 would not do under hypothetical scenarios and therefore denies those allegations.
9 Defendant denies the remaining allegations contained in Paragraph 212.

10 213. The allegations contained in Paragraph 213 are asserted
11 against individuals or entities other than this answering Defendant and therefore
12 require no response. To the extent a response is required, Defendant lacks
13 knowledge or information sufficient to form a belief as to what Plaintiffs relied
14 upon at any given time and therefore denies those allegations. Defendant denies
15 the remaining allegations contained in Paragraph 213.

16 214. The allegations contained in Paragraph 214 are asserted
17 against individuals or entities other than this answering Defendant and therefore
18 require no response. To the extent a response is required, Defendant denies the
19 allegations contained in Paragraph 214.

20 **PUNITIVE DAMAGES ALLEGATIONS**

21 215. Defendant incorporates by reference its responses to
22 Paragraphs 1 through 214 as if fully stated herein. Defendant denies the
23 remaining allegations contained in Paragraph 215.

24 216. Defendant denies the allegations contained in Paragraph 216.

25 217. Defendant denies the allegations contained in Paragraph 217.

26 218. Defendant denies the allegations contained in Paragraph 218,
27 and expressly denies that the ASR devices are "defective."

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FOURTH SEPARATE DEFENSE

226. Plaintiffs' alleged damages, if any, are barred in whole or in part by Plaintiffs' failure to mitigate such damages.

FIFTH SEPARATE DEFENSE

227. Plaintiffs' causes of action are barred by the applicable statutes of limitation, statutes of repose, and doctrine of laches.

SIXTH SEPARATE DEFENSE

228. At the time of sale or delivery, the products conformed to the state-of-the-art for such products at that time.

SEVENTH SEPARATE DEFENSE

229. Plaintiffs' claims should be diminished in whole or in part in the amount paid to Plaintiffs by any party or non-party with whom Plaintiffs have settled or may settle.

EIGHTH SEPARATE DEFENSE

230. Plaintiffs' damages, if any, are barred or limited by the payments received from collateral sources.

NINTH SEPARATE DEFENSE

231. Plaintiffs' causes of action are barred by the learned intermediary doctrine.

TENTH SEPARATE DEFENSE

232. Plaintiffs' claims are barred by the doctrines of informed consent, release, and waiver.

ELEVENTH SEPARATE DEFENSE

233. Any claim for punitive or exemplary damages against Defendant is unconstitutional in that recovery of punitive or exemplary damages in this case would violate Defendant's constitutional rights to due process and equal protection under the Fourteenth Amendment to the Constitution of the United States and similar protections afforded by the Nevada and Indiana state

1 constitutions, and any other state whose law is deemed to apply in this case, and
2 that any law of the states of Nevada or Indiana, whether enacted by that state's
3 legislature or founded upon a decision or decisions of the courts, or that of any
4 other state whose law is deemed to apply in this case, that would permit recovery
5 of punitive or exemplary damages, is unconstitutional under these provisions.

6 **TWELFTH SEPARATE DEFENSE**

7 234. Any claim for punitive or exemplary damages against
8 Defendant is unconstitutional in that the standards for granting and asserting
9 punitive or exemplary damages do not prohibit other plaintiffs from seeking and
10 recovering such damages against Defendant for the same allegations of defect in
11 the same products, and as such constitute multiple punishments for the same
12 alleged conduct resulting in deprivation of Defendant's property without due
13 process of law and will result in unjustified windfalls for Plaintiffs and Plaintiffs'
14 counsel, in violation of the Sixth, Eighth, and Fourteenth Amendments to the
15 Constitution of the United States and similar protections afforded by the Nevada
16 and Indiana state constitutions, and that of any other state whose law is deemed to
17 apply in this case.

18 **THIRTEENTH SEPARATE DEFENSE**

19 235. Any claim for punitive damages against Defendant cannot be
20 maintained because an award of punitive damages under current Nevada and
21 Indiana law, and any other state's law deemed to apply to this action, would be
22 void for vagueness, both facially and as applied. Among other deficiencies, there
23 is an absence of adequate notice of what conduct is subject to punishment; an
24 absence of adequate notice of what punishment may be imposed; an absence of a
25 predetermined limit, such as a maximum multiple of compensatory damages or a
26 maximum amount, on the amount of punitive damages that a jury may impose; a
27 risk that punitive damages will be imposed retrospectively based on conduct that
28 was not deemed punishable at the time the conduct occurred; and it would permit

1 and encourage arbitrary and discriminatory enforcement, all in violation of the
2 due process clause of the Fifth and Fourteenth Amendments to the United States
3 Constitution, the due process provisions of the Nevada and Indiana state
4 constitutions, and the common law and public policies of the states of Nevada and
5 Indiana and similar protections afforded by any other state whose law is deemed
6 to apply in this case.

7 **FOURTEENTH SEPARATE DEFENSE**

8 236. To the extent that the laws of Nevada and Indiana, and any
9 other state whose law is deemed to apply in this case, permit punishment to be
10 measured by the net worth or financial status of Defendant and imposes greater
11 punishment on defendants with larger net worth, such an award would be
12 unconstitutional because it permits arbitrary, capricious, and fundamentally unfair
13 punishments, allows bias and prejudice to infect verdicts imposing punishment,
14 allows punishment to be imposed based on lawful profits and conduct of
15 Defendant in other states, and allows dissimilar treatment of similarly situated
16 defendants, in violation of the due process and equal protection provisions of the
17 Fourteenth Amendment to the United States Constitution, the Commerce Clause
18 of the United States Constitution, the state laws and constitutional provisions of
19 Nevada and Indiana and similar protections afforded by any other state whose
20 law is deemed to apply in this case.

21 **FIFTEENTH SEPARATE DEFENSE**

22 237. Plaintiffs' claim for punitive damages is barred by the Due
23 Process, Equal Protection, Double Jeopardy, Contract, and Excessive Fines Clauses
24 of the United States Constitution, as well as other provisions therein, and the
25 cognate provisions of the Nevada Constitution, to wit: Article 1, Sections 8 and 15.
26 Furthermore, NRS 42.500(2) impermissibly singles out and exempts products
27 liability cases from the limits otherwise imposed on the recovery of punitive
28 damages, leaving their assessment to the standardless discretion of the finder of

1 fact. Further, the statute and Nevada cases decided under it do not comply with
2 the minimum standards established by the United States Supreme Court in this
3 evolving area of law, and they improperly permit multiple awards of punitive
4 damages for the same alleged act or acts.

5 **SIXTEENTH SEPARATE DEFENSE**

6 238. Defendant is entitled to the protections and limitations
7 afforded under Nevada law.

8 **SEVENTEENTH SEPARATE DEFENSE**

9 239. Defendant is entitled to the protections and limitations
10 afforded under Ind. Code Ann. §§ 34-51-3-1, *et seq.*

11 **EIGHTEENTH SEPARATE DEFENSE**

12 240. Defendant is entitled to, and claim the benefits of, all defenses
13 and presumptions set forth in or arising from any rule of law or statute in any
14 state whose law is deemed to apply in this case.

15 **NINETEENTH SEPARATE DEFENSE**

16 241. Plaintiffs' claims should be dismissed, reduced, offset, or
17 barred in accordance with the principles of comparative negligence.

18 **TWENTIETH SEPARATE DEFENSE**

19 242. The injuries and damages claimed by Plaintiffs, if any, were
20 caused in whole or in part by the acts or omissions of persons over whom
21 Defendant has no control or right of control.

22 **TWENTY-FIRST SEPARATE DEFENSE**

23 243. Plaintiffs' claims are barred by the equitable doctrine of
24 estoppel.

25 **TWENTY-SECOND SEPARATE DEFENSE**

26 244. Upon information and belief, if the injuries were caused by
27 DePuy's products, which is denied, the injuries are the result of an idiosyncratic
28 reaction to the product.

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TWENTY-THIRD SEPARATE DEFENSE

245. Plaintiffs' alleged injuries are a result of pre-existing and/or unrelated medical conditions for which Defendant is not responsible.

TWENTY-FOURTH SEPARATE DEFENSE

246. To the extent Plaintiffs' claims are based on alleged misrepresentations or omissions made to the FDA, such claims are barred pursuant to *Buckman Co. v. Plaintiff's Legal Comm.*, 531 U.S. 341 (2001).

TWENTY-FIFTH SEPARATE DEFENSE

247. If DePuy's products are unsafe in any way, they are unavoidably unsafe. Plaintiffs' purported action is, therefore, barred by Comment k of § 402A of the Restatement (Second) of Torts and/or other applicable law.

TWENTY-SIXTH SEPARATE DEFENSE

248. Defendant did not make to Plaintiffs nor did it breach any express or implied warranties and/or breach any warranties created by law. To the extent that Plaintiffs rely on any theory of breach of warranty, such claims are barred by applicable law, and for lack of privity with Defendant and/or failure of Plaintiffs, or Plaintiffs' representatives, to give timely notice to Defendant of any alleged breach of warranty. Defendant further specifically pleads as to any breach of warranty claim all affirmative defenses under the Uniform Commercial Code existing and which may arise in the future.

TWENTY-SEVENTH SEPARATE DEFENSE

249. Plaintiffs have failed to plead allegations of fraud, mistake, or deception with the specificity or detail required by the Federal Rules of Civil Procedure.

TWENTY-EIGHTH SEPARATE DEFENSE

250. Defendant reserves it right to raise such further and additional defenses as may be available upon the facts to be developed in discovery and under other applicable substantive law.

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JURY DEMAND

251. Defendant requests a trial by jury on all issues so triable.

MORRIS PETERSON

By /s/Joni A. Jamison

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CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b) and Section IV of District of Nevada Electronic Filing Procedures, I certify that I am an employee of MORRIS PETERSON, and that the following documents were served via electronic service: **DEFENDANT DEPUY ORTHOPAEDICS, INC.'S ANSWER AND DEFENSES TO PLAINTIFFS' COMPLAINT**

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DATED this 28th day of April, 2011.

By /s/ Patricia Cannon