

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

**IN RE: DEPUY ORTHOPAEDICS, INC., ASR HIP IMPLANT  
PRODUCTS LIABILITY LITIGATION**

MDL No. 2197

**TRANSFER ORDER**

**Before the Panel:**\* Pursuant to Panel Rule 7.1, plaintiff in the action (*Martinez*) listed on Schedule A moves to vacate our order that conditionally transferred her action to MDL No. 2197. Responding defendants<sup>1</sup> oppose the motion to vacate.

After considering all argument of counsel, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2197, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Moreover, transfer is warranted for reasons set out in our order directing centralization. In that order, we held that the Northern District of Ohio was an appropriate Section 1407 forum for actions sharing factual questions arising from alleged injuries from DePuy's recalled ASR XL Acetabular Hip System. *See In re: DePuy Orthopaedics, Inc., ASR Hip Implant Prods. Liab. Litig.*, 753 F.Supp.2d 1378 (J.P.M.L. 2010). This action involves injuries related to a DePuy ASR hip implant, and clearly falls within the MDL's ambit.

Plaintiff does not dispute that her action shares questions of fact with actions pending in MDL No. 2197. Plaintiff instead bases her arguments against transfer primarily on the pendency of her motion to remand the action to state court. Plaintiff can present the motion for remand to the transferee judge.<sup>2</sup> *See, e.g., In re Ivy*, 901 F.2d 7, 9 (2nd Cir. 1990); *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001).

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\* Judge Ellen Segal Huvelle took no part in the decision of this matter.

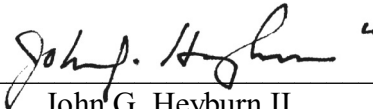
<sup>1</sup> DePuy Orthopaedics, Inc., and Gina Dillard.

<sup>2</sup> Panel Rule 2.1(d) expressly provides that the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date that transfer of the action to the MDL is finalized, a court wishing to rule upon the remand motion generally has adequate time in which to do so.

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IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the Northern District of Ohio and, with the consent of that court, assigned to the Honorable David A. Katz for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, appearing to read "John G. Heyburn II", is written above a horizontal line.

John G. Heyburn II  
Chairman

Marjorie O. Rendell  
Lewis A. Kaplan  
R. David Proctor

Charles R. Breyer  
Sarah S. Vance

**IN RE: DEPUY ORTHOPAEDICS, INC., ASR HIP IMPLANT  
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**SCHEDULE A**

District of New Mexico

MARTINEZ v. JOHNSON & JOHNSON, ET AL., C.A. No. 1:14-00316