

**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:**\* Plaintiff in a District of Colorado action (*Neely*) moves under Panel Rule 7.1 to vacate the Panel's order conditionally transferring her action, which is listed on the attached Schedule A, to MDL No. 2197. Defendants DePuy Orthopaedics, Inc., and Johnson & Johnson oppose the motion.

After considering the argument of counsel, we find that this action involves common questions of fact with the actions previously transferred to MDL No. 2197, and that transfer under 28 U.S.C. § 1407 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Transfer is warranted for reasons set out in our order centralizing this litigation. 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). *Neely* involves injuries arising from implantation of a DePuy ASR hip implant, and it clearly falls within the MDL's ambit.

Plaintiff acknowledges the factual overlap of her case with the MDL cases, but she argues that transfer will slow the resolution of her case. Plaintiff does not qualify for the MDL global settlements to date because she had her hip removed in October 2017. She wants to be allowed to proceed in the District of Colorado, where a trial ultimately would be held. We do not find these arguments persuasive in light of the significant factual overlap between *Neely* and the approximately 1,675 cases that remain in MDL No. 2197. Plaintiff's case will not be the only one not covered by the three previous settlements. In any event, we do not condition transfer to an MDL upon a given plaintiff's participation in a global settlement. Instead, we focus on the factual commonality among the actions and whether transfer will allow the parties as a whole to obtain the benefits of centralized proceedings. While MDL No. 2197 is nearing a point where it may begin winding down, it has not yet reached that point. All parties stand to benefit from the pretrial efficiencies transfer provides.

---

\* Judge Nathaniel M. Gorton did not participate in the decision of this matter.

-2-

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the Northern District of Ohio and, with the consent of that court, assigned to the Honorable Jeffrey J. Helmick for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



---

Sarah S. Vance  
Chair

Lewis A. Kaplan  
R. David Proctor  
Karen K. Caldwell

Ellen Segal Huvelle  
Catherine D. Perry

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

MDL No. 2197

**SCHEDULE A**

District of Colorado

NEELY v. DEPUY ORTHOPAEDICS, INC., ET AL., C.A. No. 1:18-02701