

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

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

MDL No. 2244

TRANSFER ORDER

Before the Panel: Plaintiff in the Central District of California action listed on the attached Schedule A (*Patton*) moves under Panel Rule 7.1 to vacate the Panel's order conditionally transferring the action to MDL No. 2244. DePuy defendants¹ 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. 2244, 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 also is warranted for the reasons set out in our order directing centralization. In that order, we held that the Northern District of Texas was an appropriate Section 1407 forum for actions sharing factual questions arising from alleged injuries from DePuy's Pinnacle Acetabular Cup System hip implants. *See In re: DePuy Orthopaedics, Inc., Pinnacle Hip Implant Prods. Liab. Litig.*, 787 F.Supp. 2d 1358 (J.P.M.L. 2011). *Patton* involves injuries related to plaintiff's DePuy Pinnacle Acetabular Cup System hip implant and thus falls within the MDL's ambit.

Plaintiff argues against transfer based on his assertion that federal jurisdiction is lacking over *Patton*. Plaintiff can present his motion for remand, if he chooses to refile one following the transferor court's denial of his motion without prejudice, to the transferee judge.² *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).

While this MDL has substantially progressed to a point where potential settlements may resolve a large number of cases, there remain significant benefits to pretrial transfer of this unquestionably related action to the MDL. If the transferee judge determines that Section 1407 remand of this or any other action is appropriate, he can suggest remand with a minimum of delay. *See* Panel Rules 10.1-10.3.

¹ DePuy International, Ltd.; DePuy Orthopaedics, Inc.; Johnson & Johnson Services, Inc.; and Johnson & Johnson.

² Under Panel Rule 2.1(d), 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 generally has adequate time to rule on a remand motion if it chooses to do so.

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IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the Northern District of Texas and, with the consent of that court, assigned to the Honorable James E. Kinkeade 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
Nathaniel M. Gorton

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SCHEDULE A

Central District of California

PATTON v. DEPUY ORTHOPAEDICS, INC., ET AL., C.A. No. 2:19-81