

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 District of Massachusetts action listed on the attached Schedule A (*Vroman*) moves under Panel Rule 7.1 to vacate the Panel's order conditionally transferring her 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 as to 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). Plaintiff in *Vroman* claims that he suffered injuries related to the implantation of a DePuy Pinnacle Acetabular Cup System hip implant, which he alleges caused pain, high blood chromium and cobalt levels, and ultimately required revision surgery. *Vroman* thus falls within the MDL's ambit.

Plaintiff argues that transfer is inappropriate because federal jurisdiction is lacking over his action. The Panel consistently has held that the pendency of jurisdictional objections does not warrant vacatur. Plaintiff can present his motion for remand to the transferee judge.² *See, e.g., In re: Ivy*, 901

* Judge Karen K. Caldwell did not participate in the decision of this matter.

¹ Medical Device Business Services, Inc., formerly known as DePuy Orthopaedics, Inc., and DePuy Orthopaedics, Inc., now known as Medical Device Business Services, Inc.; DePuy International Limited; DePuy Synthes, Inc., formerly known as DePuy, Inc., and DePuy, Inc., now known as DePuy Synthes, Inc.; Johnson & Johnson Services, Inc.; Johnson & Johnson; and Johnson & Johnson International.

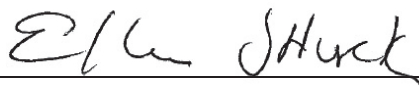
² Under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date that transfer of the action to the MDL is finalized, a court generally has adequate time to rule on a remand motion if it chooses to do so.

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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).

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



Ellen Segal Huvelle
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SCHEDULE A

District of Massachusetts

VROMAN v. DJD MEDICAL, INC., ET AL., C.A. No. 1:19-12314