

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

IN RE: DEPUY ORTHOPAEDICS,	§	
INC. PINNACLE HIP IMPLANT	§	
PRODUCTS LIABILITY LITIGATION	§	MDL No. 3:11-MD-02244-K
	§	
JUDITH GARRIS,	§	
	§	
Plaintiff,	§	Civil Action No. 3:12-CV-1101-K
	§	
v.	§	
	§	
	§	
DEPUY ORTHOPAEDICS. INC.,	§	
et al.,	§	
Defendants.	§	

ORDER

On April 9, 2012, the Judicial Panel on Multidistrict Litigation entered an order conditionally transferring Civil Action No. 4:11-CV-0042 (E.D. of Virginia Case No.) from the Eastern District of Virginia for inclusion in the Multidistrict Litigation currently assigned to this Court. See *In Re: DePuy Orthopaedics, Inc. Pinnacle Hip Implant Products Liability Litigation*, 3:11-MD-2244 (N.D. Texas), MDL 2244.

In its original transfer order creating MDL 2244 and assigning it to this Court for future handling, the Judicial Panel on Multidistrict Litigation stated in pertinent part:

On the basis of the papers filed and the hearing session held, we find that these three actions involve common questions of fact, and that centralization under Section 1407 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The actions share factual questions as to whether DePuy's Pinnacle Acetabular Cup System, a device used in hip replacement surgery, was defectively designed and/or manufactured, and whether defendants failed

to provide adequate warnings concerning the device. Centralization under Section 1407 will eliminate duplicative discovery, prevent inconsistent pretrial rulings on discovery and other issues, and conserve the resources of the parties, their counsel and the judiciary. . . . "

Pursuant to the applicable rules for Multidistrict Litigation, if the transferee judge discovers that a transferred case is not related to the subject matter of the Multidistrict Litigation, it is appropriate for the transferee judge to suggest to the Judicial Panel on Multidistrict Litigation that the case be remanded to the transferor court pursuant to 28 U.S.C. § 1407. See 10.1, R.P.J.P.M.L.; *In re ClassicStar Mare Lease Litig*, 528 F.Supp.2d 1345, 1347 (J.P.M.L. 2007).

On April 27, 2012, Plaintiff amended her complaint (Doc. No. 39) which indicated the subject of her lawsuit involved a DePuy ASR Hip Implant Device, which is not the subject of MDL 2244. As the implant in Plaintiff's lawsuit is not an DePuy Pinnacle hip implant, the Court respectfully suggests a remand of this action pursuant to 28 U.S.C. § 1407 to the appropriate transferor court in accordance with Rule 10.1(b), R.P.J.P.M.L. The District Clerk is instructed to direct a copy of this Order to the Judicial Panel on Multidistrict Litigation forthwith.

SO ORDERED.

Signed May 7<sup>th</sup>, 2012.



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ED KINKEADE  
UNITED STATES DISTRICT JUDGE