

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

|                                    |   |                |
|------------------------------------|---|----------------|
| IN RE: DEPUY ORTHOPAEDICS,         | § |                |
| INC. PINNACLE HIP IMPLANT          | § | MDL Docket No. |
| PRODUCTS LIABILITY                 | § |                |
| LITIGATION                         | § | 3:11-MD-2244-K |
|                                    | § |                |
| -----                              | § |                |
| This Document Relates to all Cases | § |                |
| -----                              | § |                |

**CASE MANAGEMENT ORDER #2**

On August 9, 2011 at 9:30 a.m., the Court held a hearing to solicit suggestions and concerns from counsel for plaintiffs and defendants. At the hearing, the Court invited all attorneys to send or e-mail further suggestions or information regarding attorney appointments to the Court for consideration. E-mails may be sent to kinkeade\_orders@txnd.uscourts.gov. Physical mail may be addressed to:

Judge Ed Kinkeade  
United States District Court for the Northern District of Texas, Dallas Division  
1100 Commerce Street, Room 1625  
Dallas, TX, 75242

Submissions on suggestions for conducting this litigation may include, but are not limited to, the following concerns articulated by the Court at the hearing on August 9, 2011:

Structure for counsel

- What type of plaintiffs’ counsel structure is desired?
- Would a lead counsel, liaison counsel, trial counsel, and committee structure fulfill the needs of this litigation?

- How important is geographic diversity of counsel? Firm size diversity?
- What qualifications are important for this type of litigation?
- Who has the time and resources to devote to taking a substantial role in this litigation?
- Will smaller firms, with fewer lawyers and resources, be able to commit to leadership positions in this type of case?
- Are there any agreements already in place among counsel regarding organizational structure?
- How detailed should the Court's order be concerning the responsibilities and powers delegated to counsel in leadership positions?
- Does everyone have a case pending in this MDL?

#### Previous experience

- Who has had experience working on MDL cases before?
- In what capacities in MDL cases?
- Who has experience in other complex litigation formats?
- In what capacities in other complex litigation cases?

#### Committees

- What types of committees will be required to assist in the speedy and just disposition of this case?
- What functions will these committees fulfill?
- How many attorneys are required on each committee?
- Who has a technical background or expertise which would be helpful in understanding the scientific parts of the case?
- Who can commit the time and resources necessary to be trial counsel if any bellwether trials are conducted?

#### Attorney compensation

- How will attorneys in leadership positions be compensated?
- If a percentage of recovery is used, what percentage?
- If an hourly rate is used, what rate?
- If an hourly rate is used, will the same rate be used for each attorney?
- What types of records will be used to verify billing and expenses from attorneys in leadership positions?
- How often should these records or reports be filed with the Court?
- Will there be a cap on the number of hours that can be billed for specific positions, or a total budget for administrative costs related to MDL matters?
- Are there any agreements already in place among counsel regarding compensation?

Scheduling issues

- Will a scheduling order assist in the disposition of this MDL proceeding?
- Which events should the scheduling order include (filing consolidated pleadings, amendments to pleadings, motions to dismiss, summary judgment, etc.)?
- How long will the parties need for discovery?
- What is an estimate on when we can get to trial? Eighteen months ? Two years? Three years?
- How often should the Court conduct status conferences?
- What should be covered at the status conferences?
- How should the status conferences be conducted?

Miscellaneous

- Would a special master assist in the disposition of this case?
- How can this Court, and the parties, use the discovery and other pretrial procedures already conducted in the DePuy ASR MDL in front of Judge Katz in the Northern District of Ohio?
- All attorneys must sign up for the Court's CM/ECF system. Failure to do so means you will be removed as an "Attorney to be Noticed" for filings.
- All filings shall be electronic through CM/ECF.

All submissions shall be made within thirty days of the date this order is signed.

As ordered by the Court at the hearing, all attorneys must sign up for the Northern District of Texas's Case Management/Electronic Case Filing system or the attorneys will be removed as "Attorneys to be Noticed" in the case. Also, all documents filed in this case must be filed electronically.

**SO ORDERED.**

Signed August 10<sup>th</sup>, 2011.



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ED KINKEADE  
UNITED STATES DISTRICT JUDGE