

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
(Miami Division)

CASE NO. 1:11-cv-22025-AJ

SHANNON MCCONNELL,

Plaintiff,

v.

MARK DEBIASE, INC. d/b/a
JOINT VENTURE, INC.; DePUY
ORTHOPAEDICS, INC.; DEPUY INC.;
DEPUY INTERNATIONAL, LTD.; DEPUY
IRELAND, LTD.; JOHNSON & JOHNSON
MEDICAL, LTD.; JOHNSON & JOHNSON
INTERNATIONAL; and JOHNSON &
JOHNSON,

Defendants.

MOTION TO STAY PROCEEDINGS PENDING TRANSFER TO MDL NO. 2197 – *IN RE: DEPUY ORTHOPAEDICS, INC., ASR HIP IMPLANT PRODUCTS LIABILITY LITIGATION*

Defendants, DePuy Orthopaedics, Inc. (“DePuy”), DePuy, Inc., DePuy International Limited, DePuy (Ireland), Johnson & Johnson Medical Limited, Johnson & Johnson International, Johnson & Johnson¹, and Mark DeBiase, Inc. d/b/a Joint Venture, Inc. (“Joint Venture”) (collectively, “Defendants”), by counsel, move this Court to stay these proceedings pending their transfer by the Judicial Panel on Multidistrict Litigation to MDL No. 2197 in the Northern District of Ohio. In support of this motion, Defendants state as follows:

¹ This Court lacks personal jurisdiction over Defendants DePuy, Inc., DePuy International Limited, DePuy (Ireland), Johnson & Johnson Medical Limited, Johnson & Johnson International and Johnson & Johnson. These defendants are not proper parties to this litigation and appear specially herein with full reservation of all rights and defenses, including their lack-of-personal-jurisdiction defenses.

1. On April 29, 2011, Plaintiff filed her Complaint in the Fifteenth Judicial Circuit of the State of Florida in and for Palm Beach County, Florida bearing Case No. 50 2011 CA 006344, alleging injuries from a defective hip implant. Upon information and belief, the Complaint was served on Joint Venture on May 6, 2011, then on DePuy, Inc. and DePuy Orthopaedics, Inc. on May 13, 2011. Johnson & Johnson and Johnson & Johnson International were served on May 17, 2011. Upon information and belief, DePuy (Ireland) and Johnson & Johnson Medical Limited have not yet been properly served. On June 6, 2011, Defendants removed the case to this Court.

2. As set forth more fully in the accompanying Memorandum in Support of this Motion, Plaintiff's lawsuit is subject to transfer to MDL No. 2197, *In re: DePuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation*, pending before the United States District Court for the Northern District of Ohio, as the Complaint contains similar factual allegations as those claims which have already been transferred to MDL No. 2197.

3. On June 7, 2011, Defendants informed the JPML of this related "tag-along" action, as required under Rule 6.2 of the Rules of the Judicial Panel on Multidistrict Litigation.

4. Regardless of the pending transfer to MDL No. 2197, the requested stay is proper because this Court has original diversity of citizenship jurisdiction over this action pursuant to 28 U.S.C. §1332 as there is complete diversity of citizenship between the properly joined parties and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.

5. In addition, Defendants' requested stay serves the interests of judicial economy, fairness to the parties, and will prevent unnecessary costs and burden on the Court as Plaintiff's Complaint contains common pretrial issues with the related ASR™ Hip products liability suits in MDL No. 2197, thereby allowing an efficient administration of justice.

6. The undersigned has conferred with Plaintiff's counsel who objects to the relief sought in this motion.

WHEREFORE, Defendants DePuy Orthopaedics, Inc., DePuy, Inc., DePuy International Limited, DePuy (Ireland), Johnson & Johnson Medical Limited, Johnson & Johnson International, Johnson & Johnson, and Joint Venture respectfully request that this Court enter an Order granting its Motion to Stay Proceedings Pending Transfer to MDL No. 2197.

Dated: June 9, 2011

Respectfully submitted,

/s/ Neville M. Leslie

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by Notice of Electronic filing generated by CM/ECF or in some other authorized manner on June 9th, 2011, on all counsel of record on the Service List below:

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