

DePuy ASR Litigation Update



A Message from
Pope, McGlamry,
Kilpatrick, Morrison &
Norwood, P.C.
- and -
Fox & Farley

Civil Action No.
1:10-md-2197

United States
District Court for
the Northern
District of Ohio,
Western Division

Judge David A Katz, presiding

AND

Judicial Council
Coordination
Proceeding No.
4649

Superior Court of
California, San
Francisco

Judge Richard A. Kramer, presiding

PMKM&N
POPE, MCGLAMRY, KILPATRICK, MORRISON & NORWOOD, P.C.
ATTORNEYS AT LAW

3455 Peachtree Road, Suite 925
Atlanta, Georgia 30326
404-523-7706
877-265-7656 tollfree

1111 Bay Avenue, Suite 450
Columbus, Georgia 31901
706-324-0050
877-265-7656 tollfree

www.PMKM.com

Johnson & Johnson subsidiary DePuy Orthopaedics has agreed to settle a DePuy ASR hip lawsuit days before what would have been the first bellwether trial in a California state court consolidation of ASR cases. This most recently settlement joins a growing list of current and potential ASR settlements.

Robert Eugene Ottman had alleged that his metal-on-metal ASR hip implant caused him to suffer from several side effects, including the need for revision surgery because of device failure. Ottman's case was to be the first trial in the California consolidation of ASR cases, set to begin in a couple weeks, according to court documents (*DePuy ASR Hip System Cases*; CJC-10-004649, San Francisco Superior Court, Calif.). Settlement details are not available.

Pope, McGlamry, Kilpatrick, Morrison & Norwood's DePuy ASR lawyers believe that the growing list of settlements is encouraging, and could potentially be a sign that DePuy and Johnson & Johnson are interested in settling these cases after more than 3 years since the August 2010 recall. However, a number of important trials are scheduled to get underway within the next few months in other DePuy ASR recall litigations that could provide important clues as to how juries might weigh claims in other lawsuits. Injured patients could potentially see money to compensate them for injuries much sooner than if each person has to take his or her case to trial individually. Of the several cases settled so far, all have been settled for a confidential amount. It is believed that between now and the end of the year, it is possible that a global settlement proposed by DePuy could be offered.

According to court documents, the newly settled California lawsuit was one of about 2,000 DePuy ASR recall claims pending in a coordinated litigation underway in California Superior Court. (*DePuy ASR HIP System Cases*, No. CJC-10-

004649; Calif. Super. Ct., San Francisco Cty.) Pope, McGlamry has one of the seven cases selected to go to trial in the next several months. Court filings indicate that Johnson & Johnson and its DePuy Orthopaedics unit are named in more than 11,500 DePuy ASR lawsuits. Most of those cases are pending in a federal multidistrict litigation underway in U.S. District Court, Northern District of Ohio. The first bellwether trial in that litigation was also scheduled to begin this month, but has been postponed for up to 90 days. (*In re: DePuy Orthopaedics, Inc. ASR Hip Implant Products Liability Litigation* - MDL 2197) Among the DePuy ASR side effects alleged is its components forming friction with each other, causing metal poisoning, or "metallosis," according to the U.S. Food and Drug Administration. Small heavy metal ions can break off into the implantee's bloodstream and cause neurological problems and other problems.

Two trials involving DePuy ASR lawsuits have already concluded at the state court level. In March, a plaintiff was awarded more than \$8 million after a Los Angeles Superior Court jury found that the hip implant was defectively designed. (*Kransky v. DePuy*, BC456086, California Superior Court, Los Angeles County) However, a jury in Chicago found for Johnson & Johnson in a second trial just one month later. (*Strum v. DePuy*, 2011-L-9352, Circuit Court of Cook County)

Victims of complications related to the DePuy ASR recall may be entitled to compensation for their medical bills, lost wages, pain and suffering, and other damages. As new developments related to DePuy ASR settlements occur, Pope, McGlamry will update their website at www.pmk.com as well as communicate directly with clients.

— October 15, 2013 —