SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

FEB 27 2018

ENTERED

No. VLC-S-S-116652
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

THEODORE WILSON

Plaintiff

AND:

DEPUY INTERNATIONAL LTD., DEPUY ORTHOPAEDICS INC., DEPUY, INC., and JOHNSON & JOHNSON

Defendants

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE JUSTICE BRANCH	))))	Wednesday, the 21st day of February, 2018

ON THE APPLICATION of the Plaintiff coming on for hearing at the Courthouse at 800 Smithe Street in Vancouver, British Columbia on Wednesday, February 21, 2018, and on hearing, David Klein, counsel for the Plaintiff, and Robin Reinertson, counsel for the Defendants, and on reading the materials filed by the Plaintiff;

THIS COURT ORDERS that:

1. The motion for certification as a class proceeding for settlement purposes and for settlement approval for this proceeding shall be heard on Thursday, May 31, 2018 at the Court House, 800 Smithe Street, Vancouver, British Columbia (the "Approval Hearing").

2. Notice of Hearing on Class Certification and Settlement Approval is approved in substantially the form attached as Schedule A to this Order.

3. The Notice of Hearing on Class Certification and Settlement Approval shall be published in accordance with Schedule G of the Settlement Agreement.

4. The Notice of Hearing on Class Certification and Settlement Approval shall be translated and published in both the English and French languages.

5. The method of dissemination of the Notice of Hearing on Class Certification and Settlement Approval as set forth in paragraph 3 (the "Notice Plan") constitutes fair and reasonable notice of the Approval Hearing.

6. Publication of the Notice of Hearing on Class Certification and Settlement Approval as set out in paragraph 3 shall be made as soon as reasonably possible after the issuance of this Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

_____
Signature of lawyers for Plaintiff
David A. Klein

_____
Signature of lawyers for the Defendants
Robin L. Reinertson

By the Court.

_____
Registrar

Schedule A

NOTICE OF HEARING ON CLASS CERTIFICATION AND SETTLEMENT APPROVAL

Did you, or a family member, undergo a surgery to implant a DePuy ASR™ XL Acetabular Hip System or ASR™ Hip Resurfacing System in Canada?

This notice may affect your rights. Please read carefully.

A proposed class action lawsuit *Wilson v. DePuy International Ltd.* S-116652 was filed in the Supreme Court of British Columbia regarding allegations that the DePuy ASR™ XL Acetabular Hip System or ASR™ Hip Resurfacing System was defective, and that they failed prematurely, requiring revision surgery ("*Wilson* Action"). The Defendants, while not admitting liability, have agreed to consent to the certification of the *Wilson* Action as a class action for settlement purposes and has agreed to a settlement of the *Wilson* Action. For a copy of the settlement agreement, or for more information, please contact Class Counsel or the Claims Administrator listed below.

Who is a Class Member and Potentially Eligible to Participate in the Settlement?

The proposed class includes all persons resident in British Columbia, or elsewhere in Canada, who underwent the surgical implantation of the ASR™ XL Acetabular Hip System or ASR™ Hip Resurfacing System in a surgery occurring in Canada ("ASR Index Surgery").

The proposed class will have two subclasses: (i) BC residents with a right to Opt-Out of the class and settlement, and (ii) Non-BC residents who have the right to Opt-In to the class and settlement.

NOTE: If you are a member of an Ontario or Quebec class action related to the above ASR™ Systems, you may still be eligible to opt into the BC Class and participate in this settlement, although you will thereby waive any rights to recovery in the future, if any, in the Ontario and Quebec Class actions mentioned below.

The Terms of Settlement

The settlement provides certain compensation to class members who are or become Eligible Claimants and who timely submit all forms and documentation required under the Settlement Agreement, less deductions for legal fees. Class members who are eligible and submit approved claims could receive $100,000 if they have undergone a single revision or $120,000 if they have undergone a bilateral revision, subject to reductions for length of time the device was in place and other things as outlined in the settlement agreement. Eligible class members who have undergone either a single revision or bilateral revision and have experienced certain additional complications, including extraordinary income loss, may receive additional funds up to $40,000 as set out in the settlement agreement. Amounts may also be payable to spouses of approved claimants. Details on eligibility and the amounts approved claimants may receive are in the settlement agreement which can be viewed on class counsel's website. Please refer to the settlement agreement for specific terms and conditions.

Court Hearing and Your Right to Participate

Motions to authorize the *Wilson* Action as a class action and to approve the settlement agreement are scheduled to be heard by the British Columbia Court in Vancouver on **[date]** at **[time]** and at **[place]**. Class Counsel will also ask the court to approve a 25% award of fees and disbursements from Class Members for their work in connection with the *Wilson* Action during the hearing.

Persons who will be Class Members if the BC Court certifies the class action who do not oppose the settlement need not appear at the hearing or take any other action at this time to indicate their desire to participate in the settlement.

All persons who will be Class Members if the BC Court certifies the class action, including those who may opt in to the settlement, have the right to let the BC Court know about any objection they have to the settlement or the fees by delivering a letter to Class Counsel on or before **[date]**. A proposed class member who wishes to object to the settlement or the fees shall provide the following information in his or her letter:

(a) The full name, current mailing address, telephone number, and email address;

(b) A brief statement of the nature and reasons for the objection;

(c) A declaration that the person believes he or she will be a member of the proposed BC Class, and, if available, the catalogue and lot numbers of his/her ASR™ XL Acetabular Hip System or ASR™ Hip Resurfacing System;

(d) Whether the person intends to appear at the hearing on their own or through a lawyer and if by lawyer, the name, address, telephone number, and email address of the lawyer; and

(e) A statement that the foregoing information is true and correct.

Other Class Actions in Ontario and Quebec

There are currently other certified class actions involving the DePuy ASR™ XL Acetabular Hip System or ASR™ Hip Resurfacing System in Ontario (*Joseph Charles Crisante, Katherine Crisante, Lynne Slotek, and Larry Slotek v. DePuy Orthopaedics Inc., DePuy International Limited, DePuy Inc. and Johnson & Johnson Inc.*, Ontario Court File No. CV-10-415755-00CP) and Quebec (*Alan Dick* v. *Johnson & Johnson Inc. and DePuy Orthopaedics Inc.*, Quebec Court File No. 500-06-000550-109). These Ontario and Quebec lawsuits are ongoing. This proposed settlement deals only with this British Columbia lawsuit, and it only seeks to bind the rights of class members resident in British Columbia who do not opt out of this proposed class action, and class members resident elsewhere in Canada who timely and affirmatively opt into this proposed class action. Non-BC residents -- either individually or as a member of the Ontario, Quebec or other class action – whose claims concerning the ASR™ XL Acetabular Hip System or ASR™ Hip Resurfacing System become subject to a judgment or to a trial that has commenced will no longer be eligible to opt in to the Non-BC Resident Opt-In Subclass.

For Additional Information and a Copy of the Settlement Agreement:

The settlement agreement can be viewed at the following website: [www. XXX]

Please contact Class Counsel or the Claims Administrator below:

Class Counsel in *Wilson* Action:

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