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MCCANN FITZGERALD

OUR REF

DFH/69032127

YOUR REF

DATE

6 December 2024

The Honourable Mr Justice Paul Coffey
The High Court
Four Courts
Inns Quay
Dublin 7

DePuy International Limited ("DePuy")
ASR ADR Process – Periodic Report

By hand and email

Dear Mr Justice Coffey

We write once more on behalf of DePuy pursuant to Clause 2.2 of the ADR Process, ahead of the Court's review of the ADR Process, which is listed for hearing before you on Tuesday, 10 December 2024. This is the 20th update to Court on the ADR Process. We are sending a copy of this letter by email today to all Plaintiffs' solicitors involved in the DePuy litigation and to the Chairman of the Evaluators. We will also put a copy on the ADR website (hipadr.ie), which is regularly updated by us on behalf of DePuy.

Summary of ASR litigation

1,173 High Court proceedings relating to the ASR prosthesis have been issued against DePuy. The cases break down as follows:

- 935 are resolved (including 78 in 2024);
- 59 are currently in the ADR Process;
- Outside of ADR, there are 81 claims involving revised Plaintiffs which are not resolved; and
- There are 100 remaining claims involving unrevised Plaintiffs.

There are no cases listed for hearing in 2025.

Stephen Holst (Managing Partner), Mark White (Chair), Kevin Kelly, Hilary Marren, Eamonn O'Hanrahan, Helen Kilroy, David Lydon, Colm Fanning, Paul Lavery, Alan Fuller, Michelle Doyle, Hugh Beattie, Fergus Gillen, Valerie Lawlor, Rosaleen Byrne, Eamon de Valera, Joe Fay, Ben Gaffikin, Donal O'Raghallaigh, Barrett Chapman, Mary Brassil, Audrey Byrne, Shane Fahy, Georgina O'Riordan, Adrian Farrell, Michael Murphy, Darragh Murphy, Brian Quigley, Stephen FitzSimons, Philip Murphy, Fiona O'Beirne, Garreth O'Brien, Gary McSharry, Alan Heuston, Josh Hogan, Richard Leonard, Rory O'Malley, Lisa Smyth, Brendan Slattery, Tom Dane, Catherine Derrig, Megan Hooper, Shane Sweeney, Adam Finlay, Iain Ferguson, Jennifer Halpin, Stuart McCarron, Stephen Proctor, Michael Coonan, Emily Mac Nicholas, Brendan Murphy, Shane O'Brien, Éamon Ó Cuív, Eleanor Cunningham, Gill Lohan, Ciara Ryan, Niall Best, Richard Gill, Douglas McMahon, Laura Treacy, Laura Deignan, Stephen Fuller, Niall McDowell, John Neeson, David O'Dea, Orlaith Sheehy, Sean Carr, Morgan Dunne, Donal Hamilton, Ian Payne, Bébhinn Bollard, Amy Brick, Jamie McGee, Ruairí Stewart, Deirdre Barnicle, Conor Cunningham, Paula Fearon, Clare Gillett, Aidan Gleeson, Sinead Martyn, Anna Moran, Ciara O'Herlihy, James Quirke, Gerard Sadlier, Simon Walsh.

Consultants: Catherine Austin, Seán Barton, Roderick Bourke, David Hurley, Eleanor MacDonagh (fca), Terence McCrann, Peter Osborne, Tony Spratt (ACA).
Company Secretarial and Compliance Services: Ray Hunt.

Update on ADR Process

Since the inception of the Scheme, we have received 303 Form Bs from 95 different solicitor firms and we have resolved 229 of those claims. 125 claims have been evaluated and we are expecting 4 more evaluations to be made.

Submissions have been filed by both parties in respect of 8 further cases and we now await the Plaintiff's further replies to DePuy's submissions in 3 of those cases. We are awaiting confirmation as to the Plaintiff's intention to prepare replying submissions, if considered necessary, in 2 further cases. In 1 case, the Plaintiff has confirmed their intention to file a further report. In 2 cases, the Defendants will file rejoinder submissions shortly.

DePuy has received Plaintiffs' submissions in no cases since the last report to Court.

While DePuy has rejected 13 evaluations, all but 1 have been resolved. Only 4 claims remain unresolved where a Plaintiff rejected the evaluation.

Of the 74 claims where a Form B has been submitted, but has not been endorsed, 45 were resolved before endorsement and 20 were ineligible under the terms of the ADR Process. Of the 9 other claims that have not yet been endorsed, we either await further medical records, details of special damages or other information, before being able to determine eligibility.

There are currently 50 endorsed claims in the ADR Process that have not yet resolved. The cumulative numbers for the ADR Process at each review date are recorded in the appendix hereto.

Exclusionary criteria in ADR

We have received one ineligible application for ADR since our last report.

Priority cases

We give urgent attention to any case where the Plaintiff's solicitor marks the claim as "*expedited*" on the Form B. The Court has also said that it will hear applications for trial dates in exceptional cases.

Medical records

Where records cannot be found, or where Plaintiffs' solicitors are encountering other difficulties retrieving medical records, we discuss with them how the problem can be overcome. We also offer to collect medical records without expense to the Plaintiff, in cases that appear eligible for the ADR Process and where the Plaintiff's solicitor gives us authorisation(s) signed by the Plaintiff and addressed to the medical service provider(s). We copy collected records to Plaintiffs' solicitors.

Costs in ADR

The offer of €25,000 in respect of a Plaintiff's legal costs on account for any case resolved within the ADR Process, remains available. The offer is without prejudice to the right of a Plaintiff to seek higher costs by agreement or, if necessary, on adjudication.

Staffing for ADR

One Partner, one Consultant, two Senior Associates and two legal executives at McCann FitzGerald work on claims in the ADR Process. These solicitors, together with Barristers retained on behalf of DePuy in the litigation, are available to discuss with Plaintiffs' lawyers resolution of any eligible claim.

Information to Plaintiffs' representatives

We continue through the ADR website, hipadr.ie to draw the attention of Plaintiffs' representatives to the ADR Process and to our client's willingness to discuss resolution of all eligible claims.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'E. Cann FitzGerald', is written over the typed name.

McCann FitzGerald LLP

APPENDIX

The table shows the cumulative numbers for the ADR Process at each review date:

	27 Jul 2016	27 Sep 2016	06 Jan 2017	12 Apr 2017	03 Oct 2017	10 Apr 2018	24 Jul 2018	17 Dec 2018	22 Jul 2019	13 Dec 2019	21 Jul 2020	11 Dec 2020	26 Jul 2021	15 Nov 2021	08 Jul 2022	05 Dec 2022	28 Jul 2023	15 Dec 2023	10 July 2024	Dec 2024
Form Bs received	27	47	119	153	195	222	231	239	257	261	266	269	276	277	283	288	298	298	302	303
Plaintiff solicitor firms	18	27	33	48	58	69	72	74	78	80	81	82	86	86	88	89	91	91	94	95
Ineligible claims	3	5	11	15	17	19	20	20	20	20	20	20	21	21	18	18	19	19	20	20
Form Bs endorsed	7	9	76	95	129	153	160	173	184	191	196	201	206	207	209	213	220	222	225	229
Evaluations	0	2	7	14	25	36	44	53	66	70	80	84	95	100	105	107	112	115	119	125
Accepted by DePuy	-	2	7	14	24	36	42	47	58	63	72	76	86	91	95	97	101	104	106	110
Accepted by DePuy & Plaintiff	-	2	4	10	15	21	26	29	37	40	44	49	56	58	62	63	65	67	69	69
Rejected by Plaintiff	-	-	2	2	9	10	15	17	20	22	27	27	30	32	33	34	36	37	37	37
Rejected by DePuy	-	-	-	-	-	-	2	5	5	7	8	8	8	9	10	10	10	11	13	13
Awaiting Plaintiff decision	-	-	1	2	-	5	1	1	1	1	1	0	1	1	0	0	0	-	-	-
Awaiting decision of both	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-
Awaiting decision of DePuy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Resolved claims where Form B received	5	10	18	31	45	78	97	114	148	153	164	173	187	195	200	203	212	216	221	229