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MCCANN FITZGERALD

OUR REF

YOUR REF

DATE

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17 December 2018

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

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

By Hand

Dear Mr Justice Cross

We write on behalf of DePuy under Clause 2.2 of the ADR Process and for the Court's review of the ADR Process on Wednesday, 19 December 2018. We will send a copy of this letter by email today to all plaintiffs' solicitors and to the chairman of the Evaluators. We will also put a copy on the ADR website (hipadr.ie).

The ADR Process continues to support the resolution of ASR claims. 100 settlements have been achieved to date in 2018. No ASR trial has opened before the Court in 2018.

Summary of ASR litigation

1112 High Court proceedings have been served on DePuy. Over 60% of cases involving revised plaintiffs have been resolved. The cases break down as follows:

- 572 resolved (including 100 to date in 2018, and 113 in 2017)
- 102 are currently in the ADR Process
- 7 are listed for trial
- 209 further cases involving revised plaintiffs are not resolved
- 222 plaintiffs have not undergone any revision surgery

Barry Devereux, Ronan Molony, John Cronin, Catherine Deane, Paul Heffernan, Terence McCrann, Roderick Bourke, Niall Powderly, Kevin Kelly, Hilary Marren, Eamonn O'Hanrahan, Roy Parker, Patricia Lawless, Helen Kilroy, Judith Lawless, James Murphy, David Lydon, David Byers, Seán Barton, Colm Fanning, Paul Lavery, Alan Fuller, Claire Lenny, Maureen Dolan, Michelle Doyle, Hugh Beattie, Fergus Gillen, Valerie Lawlor, Mark White, Eamon de Valera, Joe Fay, Ben Gaffikin, Donal O Raghallaigh, Karyn Harty, Philip Andrews, Barrett Chapman, Mary Brassil, Audrey Byrne, Shane Fahy, Georgina O'Riordan, Adrian Farrell, Michael Murphy, Aidan Lawlor, Darragh Murphy, Brian Quigley, Conor O'Dwyer, Stephen FitzSimons, David Hurley, Philip Murphy, Fiona O'Beirne, Garreth O'Brien, Gary McSharry, Alan Heuston, Josh Hogan, Richard Leonard, Jenny Mellerick, Rory O'Malley, Lisa Smyth, Tom Dane, Catherine Derrig, Megan Hooper, Shane Sweeney, Adam Finlay, Iain Ferguson, Jennifer Halpin, Stuart McCarron, Stephen Proctor, Michael Coonan, Stephen Holst, Emily Mac Nicholas, Brendan Murphy, Shane O'Brien, Éamon Ó Cuív.

Consultants: Rosaleen Byrne, David Clarke, Annette Hogan, Ambrose Loughlin, Eleanor MacDonagh (FCA), Lonan McDowell, Anna Moran, Peter Osborne, Michael Ryan (FCA), Tony Spratt (ACA).

Update on ADR Process

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

	27 July 2016	27 Sept 2016	6 Jan 2017	12 Apr 2017	3 Oct 2017	10 Apr 2018	24 July 2018	17 Dec 2018
Form Bs received	27	47	119	153	195	222	231	239
Plaintiff solicitor firms	18	27	33	48	58	69	72	74
Ineligible claims	3	5	11	15	17	19	20	20
Form Bs endorsed	7	9	76	95	129	153	160	173
Evaluations	0	2	7	14	25	36	44	53 (5 more awaited)
○ Accepted by DePuy	-	2	7	14	24	36	42	47
○ Accepted by DePuy and Plaintiff	-	2	4	10	15	21	26	29
○ Accepted by DePuy but rejected by Plaintiff	-	-	2	2	9	10	15	17
○ Rejected by DePuy	-	-	-	-	-	-	2	5
○ Awaiting Plaintiff decision	-	-	1	2	-	5	1	1
○ Awaiting decision by both parties	-	-	-	-	-	-	-	1
Resolved claims where Form B received	5	10	18	31	45	78	97	114

We have received 239 Form Bs from 74 different firms and we have resolved 114 of these claims. 53 claims have been evaluated and 5 more evaluations will be made shortly. DePuy has accepted all but five evaluations. Only seven claims where evaluations were rejected by either party remain unresolved to date.

Of the 66 claims where a Form B has been submitted but has not yet been endorsed, 20 were ineligible under the terms of the ADR Process and 31 were resolved before endorsement. Of the 15 other claims that are not endorsed, we have arranged or are seeking to arrange settlement discussions in five claims and in most of the other claims we either await further medical records or details of special damages before being able to endorse the claim.

There are 80 endorsed claims that have not yet resolved or gone to evaluation. Malcomson Law act in 59 of those claims. Since our last report, we received an evaluation in one Malcomson Law claim and the evaluation was accepted by both parties. However, we have not received a schedule of special damages or submissions in any of the other 59 Malcomson Law claims, despite in the vast majority of the claims having confirmed over 2 years ago that the claims are eligible for the ADR Process.

Exclusionary criteria in ADR

We have not received an application for ADR in an ineligible claim since our last report.

Priority cases

We give urgent attention to any case where the claimant'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 claimants' 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 claimant in cases that appear eligible for the ADR Process where the claimant's solicitor gives us signed authorisation(s) addressed to the medical service provider(s). We copy collected records to claimants' solicitors.

Costs in ADR

The offer of €25,000 in respect of a plaintiff's legal costs for any case settled within the ADR Process following endorsement of Form B remains available. The offer is without prejudice to any right of a plaintiff to seek higher costs by agreement or, if necessary, on taxation.

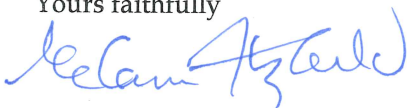
Staffing for ADR

Two McCann FitzGerald solicitors, supervised by a partner and supported by a team of legal executives, work full time on claims in the ADR Process. These solicitors, the other solicitors working on the DePuy litigation in this firm and 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 to draw plaintiffs' representatives' attention to the ADR Process, and to our client's willingness to discuss resolution of all eligible claims, through one-page advertisements since February 2017 in the Law Society Gazette and the Bar Review and through the ADR website.

Yours faithfully



McCann FitzGerald